

**SENATE JOURNAL**  
**SIXTY-SECOND LEGISLATURE**  
**STATE OF WASHINGTON**

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2010 Second Special Session Convened December 11, 2010*

*2011 Regular Session Convened January 10, 2011*

*Adjourned Sine Die April 22, 2011*

*2011 Special Session Convened April 26, 2011*

*Adjourned Sine Die May 25, 2011*

Official Record of All Senate Actions Compiled, Edited and Indexed  
Pursuant to Article II, Section 11 of the Constitution of the State of  
Washington, by Thomas Hoemann, Secretary of the Senate

**Volume 1**



Linda Jansson,  
Minute and Journal Clerk

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Lieutenant Governor Brad Owen, *President of the Senate*  
Senator Margarita Prentice, *President Pro Tempore*  
Senator Paull Shin, *Vice President Pro Tempore*

**SENATE CAUCUS OFFICERS**

**2010**

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*Majority Caucus Chair*.....Edward B. Murray  
*Majority Floor Leader* .....Tracey J. Eide  
*Majority Whip* .....Chris Marr  
*Majority Assistant Floor Leader*.....Joe McDermott  
*Majority Caucus Vice Chair* .....Debbie Regala  
*Majority Assistant Whip* .....Claudia Kauffman

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*Republican Caucus Chair* .....Linda Evans Parlette  
*Republican Floor Leader*.....Mark Schoesler  
*Republican Whip*.....Dale Brandland  
*Republican Deputy Leader*.....Mike Carrell  
*Republican Caucus Vice Chair*.....Cheryl Pflug  
*Republican Deputy Floor Leader*.....Jim Honeyford  
*Republican Deputy Whip*.....Jerome Delvin

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*Deputy Secretary* ..... Brad Hendrickson  
*Sergeant at Arms* ..... Jim Ruble  
*Minute and Journal Clerk* ..... Linda Jansson  
*Readers* ..... Joe Anderson and Kenneth Edmonds

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**FIRST DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Saturday, December 11, 2010

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brandland, Delvin, Fairly, Franklin, Holmquist, Kline, Kohl-Welles, McCaslin, Shin and Tom.

The Sergeant at Arms Color Guard consisting of Senate employees, Sara Bannister and Polly Rosmond, presented the Colors. Pastor Jim Erlandson of Community of Christ Church of Olympia offered the prayer.

**MOTION TO LIMIT DEBATE**

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through December 11, 2010."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through December 11, 2010 by voice vote.

**MOTION**

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

**MESSAGE FROM THE GOVERNOR**

**PROCLAMATION BY THE GOVERNOR**

**WHEREAS**, in accordance with Article II, Section 12 (Amendment 68) of the Washington State Constitution, the Legislature adjourned its 2010 regular session on March 11, 2011, the 60<sup>th</sup> day of the session; and

**WHEREAS**, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68) and Article III, Section 7 of the Washington State Constitution, I convened the Washington State Legislature in Special Session in the Capitol at Olympia on Monday, March 15, 2010, for the purpose of enacting legislation with respect to biennial operating and capital budgets and bills necessary to implement those budget; and

**WHEREAS**, the Washington State Legislature enacted legislation with respect to biennial operating and capital budgets and bills necessary to implement those budgets and the 2010 1<sup>st</sup> Special Session adjourned on April 12, 2010; and

**WHEREAS**, after the adjournment of the 2010 1<sup>st</sup> Special Session, the Economic and Revenue Forecast Council adopted a September 2011 official state economic and revenue forecast that reduced the revenue forecasted to collected in the 2009-11 biennium due to a slowdown in economic activity; and

**WHEREAS**, on September 13, 2010, I signed Executive Order 10-04 "Ordering Expenditure Reductions in Allotments of State General Fund Appropriations" instituting across-the-board reductions of allotments of appropriations to avoid a projected cast deficit at the end of the fiscal period; and

**WHEREAS**, the Economic and Revenue Forecast Council has adopted a November 2010 official state economic and revenue

forecast that has further lowered the revenue forecasted to be collected this biennium due to slower than anticipated economic recovery and as a result of the adoption of Initiative 1107; and **WHEREAS**, legislation action is needed to avoid a deficit in the State General Fund at the end of the current fiscal period on June 30, 2011 and

**WHEREAS**, time is of the essence to implement budget reductions and mitigate the severity of impacts of the revenue downturns on programs and benefits that are identified as the highest priorities;

**NOW, THEREFORE**, I, Christine O. Gregoire, Governor of the state of Washington, by virtue of the authority vested in me by Article II, Section 12 (Amendment 68) and Article III, Section 7 of the Washington State Constitution, do hereby convene the Washington State Legislature in Special Session in the Capitol at Olympia on Saturday, December 11, 2010 at 9 a.m., for the purpose of enacting legislation to reduce the projected deficit in the State General Fund for the current fiscal period.

Signed and sealed with the official seal of the state of Washington this 9<sup>th</sup> day of December, A.D., Two Thousand and Ten at Olympia, Washington.

(Seal)

CHRISTINE GREGOIRE  
Governor of Washington

BY THE GOVERNOR  
SAMI REED  
Secretary of State

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SB 6892 by Senator Murray

AN ACT Relating to establishing a temporary penalty and interest waiver program for certain penalties and interest on delinquent state and local sales and use taxes, state business and occupation taxes, and state public utility taxes; reenacting and amending RCW 82.32.080; adding a new section to chapter 82.32 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 6893 by Senator Murray

AN ACT Relating to suspending the child support pass through; amending RCW 26.23.035; and declaring an emergency.

Referred to Committee on Ways & Means.

**MOTION**

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

At 9:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:00 p.m. by President Owen.

MOTION

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

REPORTS OF STANDING COMMITTEES

December 11, 2010

SB 6892 Prime Sponsor, Senator Murray: Establishing a temporary penalty and interest waiver program for certain excise taxes administered by the department of revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6892 be substituted therefore, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Carrell; Hobbs; Honeyford; Keiser; Murray; Oemig; Parlette; Pflug; Regala; Rockefeller and Schoesler.

December 11, 2010

SB 6893 Prime Sponsor, Senator Murray: Suspending the child support pass through. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6893 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Zarelli; Carrell; Hewitt; Hobbs; Honeyford; Keiser; Murray; Parlette; Pflug; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Oemig.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Regala.

MOTION

On motion of Senator Eide, and under suspension of the rules the measures on the standing committee report were placed on the second reading calendar.

MOTION

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

MESSAGE FROM THE HOUSE

December 11, 2010

MR. PRESIDENT:  
The House has passed:  
HOUSE BILL NO. 3225.  
and the same is herewith transmitted.

MOTION

On motion of Senator Morton, Senator Roach was excused.

MOTION

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

SUPPLEMENTAL INTRODUCTION AND FIRST READING

SCR 8415 by Senators Brown and Hewitt

Adjourning the legislature Sine Die.

HB 3225 by Representatives Sullivan and Alexander

AN ACT Relating to fiscal matters; amending RCW 38.52.105, 38.52.106, 41.26.030, 41.32.010, 41.37.010, 41.40.010, and 43.43.120; amending 2010 sp.s. c 37 ss 101, 102, 104, 105, 108, 110, 111, 113, 114, 115, 116, 117, 119, 125, 129, 136, 152, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 214, 221, 223, 301, 302, 303, 304, 305, 306, 307, 308, 309, 311, 501, 502, 513, 603, 604, 605, 606, 607, 608, 609, and 803 (uncodified); amending 2009 c 564 s 110 (uncodified); and declaring an emergency.

MOTION

On motion of Senator Eide, under suspension of the rules Senate Concurrent Resolution No. 8415 and House Bill No. 3225 were placed on the second reading calendar.

MOTION

At 2:04 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 2:23 p.m. by President Owen.

MOTION

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

SECOND READING

SUBSTITUTE SENATE BILL NO. 6892, by Senate Committee on Ways & Means (originally sponsored by Senator Murray)

Establishing a temporary penalty and interest waiver program for certain excise taxes administered by the department of revenue.

MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 6892 was substituted for Substitute Senate Bill No. 6892 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 6892 was advanced to third reading,

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

Senator Rockefeller spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senators Fairley, Franklin, Kline, Kohl-Welles, Shin and Tom were excused.

MOTION

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6892.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6892 and the bill passed the Senate by the following vote: .Yeas, 38; Nays, 0; Absent, 0; Excused, 11.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Eide, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Litzow, Marr, McAuliffe, Morton, Murray, Nelson, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Brandland, Delvin, Fairley, Franklin, Holmquist, Kline, Kohl-Welles, McCaslin, Roach, Shin and Tom

SUBSTITUTE SENATE BILL NO. 6892, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 6892 was immediately transmitted to the House of Representatives.

SECOND READING

SUBSTITUTE SENATE BILL NO. 6893, by Senate Committee on Ways & Means (originally sponsored by Senator Murray)

Suspending the child support pass through. Revised for 1st Substitute: Suspending the child support pass through payment.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 6893 was substituted for Substitute Senate Bill No. 6893 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 6893 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

Senator Kastama spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6893.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6893 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 11; Absent, 0; Excused, 10.

Voting yea: Senators Becker, Benton, Carrell, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kilmer, King, Litzow, Marr, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Hargrove, Jacobsen, Kastama, Kauffman, Keiser, Oemig, Ranker and Regala

Excused: Senators Brandland, Delvin, Fairley, Franklin, Holmquist, Kline, Kohl-Welles, McCaslin, Shin and Tom

SUBSTITUTE SENATE BILL NO. 6893, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 6893 was immediately transmitted to the House of Representatives.

SECOND READING

HOUSE BILL NO. 3225, by Representatives Sullivan and Alexander

Making 2009-2011 supplemental operating appropriations.

The measure was read the second time.

MOTION

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

Beginning on page 114, line 32, strike all of section 502 and insert the following:

"Sec. 502. 2010 sp.s. c 37 s 502 (uncodified) is amended to read as follows:

SUPERINTENDENT OF PUBLIC INSTRUCTION||GENERAL APPOINTMENTFOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPOINTMENT

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....                            | \$5,126,153,000      |
| General Fund--State Appropriation (FY 2011) ( <del>(\$5,159,625,000)</del> ) |                      |
| .....  | \$4,951,527,000      |
| <u>General Fund--Federal Appropriation .....</u>                             | <u>\$208,098,000</u> |
| TOTAL APPROPRIATION .....  | \$10,285,778,000     |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) The appropriations in this section include federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund), which shall be used to support general apportionment program funding. In distributing general apportionment allocations under this section for the 2010-11 school year, the superintendent shall include the entire allocation from the federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund) as part of each district's general apportionment allocation.

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(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii)(A)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, as in effect on November 1, 2009, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(II) For all other districts, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182 as in effect on November 1, 2009: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the 2010-11 school year, forty-seven and forty-three one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the 2010-11 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of forty-seven and forty-three one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(iv) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

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(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students;

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection,

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nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 16.59 percent in the 2009-10 school year and 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each

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vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-10 school year and a maximum of \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of \$7,286,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of \$2,385,000 for the 2011 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(iii) A maximum of \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula

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staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing."

Senator Oemig spoke in favor of adoption of the amendment.

Senator Murray spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Oemig on page 114, line 32 to House Bill No. 3225.

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

## MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 3225 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murry and Zarelli spoke in favor of passage of the bill.

Senators Carrell, McAuliffe and Oemig spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3225.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3225 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 9; Absent, 0; Excused, 10.

Voting yea: Senators Becker, Berkey, Brown, Eide, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Marr, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Benton, Carrell, Jacobsen, Kauffman, Litzow, McAuliffe, Oemig, Ranker and Roach

Excused: Senators Brandland, Delvin, Fairley, Franklin, Holmquist, Kline, Kohl-Welles, McCaslin, Shin and Tom

HOUSE BILL NO. 3225, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8415, by Senators Brown and Hewitt

Adjourning the legislature Sine Die.

The measure was read the second time.

## MOTION

On motion of Senator Fairley, the rules were suspended, Senate Concurrent Resolution No. 8415 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8415.

SENATE CONCURRENT RESOLUTION NO. 8415, was adopted on third reading.

## MOTION

At 3:11 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:37 p.m. by President Owen.

## MOTION

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

## MESSAGE FROM THE HOUSE

December 11, 2010

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 6892,

SUBSTITUTE SENATE BILL NO. 6893.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

December 11, 2010

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8415.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The Speaker has signed:

HOUSE BILL NO. 3225.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 6892,

SUBSTITUTE SENATE BILL NO. 6893,

SENATE CONCURRENT RESOLUTION NO. 8415.

## SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 3225.

## MOTION

FIRST DAY, DECEMBER 11, 2010

2010 SECOND SPECIAL SESSION

On motion of Senator Eide, the Senate Journal for the First Day of the Second Special Session of the Sixty First Legislature was approved.

MESSAGE FROM THE HOUSE

December 11, 2010

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 6892,

SUBSTITUTE SENATE BILL NO. 6893.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

December 11, 2010

MR. PRESIDENT:

The Speaker has signed:

SENATE CONCURRENT RESOLUTION NO. 8415.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 3:59 p.m., on motion of Senator Eide, the Second Special Session of the Sixty First Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SENATE CAUCUS OFFICERS**

**2011**

**DEMOCRATIC CAUCUS**

*Majority Leader*.....Lisa Brown  
*Majority Caucus Chair*.....Karen Fraser  
*Majority Floor Leader* .....Tracey J. Eide  
*Majority Whip* .....Scott White  
*Majority Assistant Floor Leader*.....Phil Rockefeller  
*Majority Caucus Vice Chair* .....Debbie Regala  
*Majority Assistant Whip* .....Kevin Ranker

**REPUBLICAN CAUCUS**

*Republican Leader*.....Mike Hewitt  
*Republican Caucus Chair* .....Linda Evans Parlette  
*Republican Floor Leader*.....Mark Schoesler  
*Republican Whip*.....Doug Ericksen  
*Republican Deputy Leader*.....Mike Carrell  
*Republican Caucus Vice Chair*.....Dan Swecker  
*Republican Deputy Floor Leader*.....Jim Honeyford  
*Republican Deputy Whip*.....Jerome Delvin

=====

*Secretary of the Senate* ..... Thomas Hoemann  
*Deputy Secretary* ..... Brad Hendrickson  
*Sergeant at Arms* ..... Jim Ruble  
*Minute and Journal Clerk* ..... Linda Jansson  
*Readers* ..... Kenneth Edmonds and Dave Whitmore

FIRST DAY

NOON SESSION

Senate Chamber, Olympia, Monday, January 10, 2011

At 12:00 noon, pursuant to law, the Senate of the 2011 Regular Session of the Sixty-Second Legislature of the state of Washington assembled in the Senate Chamber at the State Capitol. Lieutenant Governor Brad Owen, President of the Senate, called the Senate to order.

The Washington State Patrol Honor Guard consisting of Trooper Brian Dorsey; Trooper Melissa Braaten; Trooper Peter Cozzitorto; Trooper Matt Fehler and Trooper Mike Kildow presented the colors.

The President led the Senate in the Pledge of Allegiance.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Natasha Coleman of West Seattle who performed the National Anthem.

Reverend Tony Irving, Deacon, St. Benedict’s Episcopal Church of Lacey offered the prayer.

REMARKS BY THE PRESIDENT

President Owen: “On Saturday morning a gunman attempted to assassinate Congresswoman Gabriel Giffords, a Representative of Tuscon and its surrounding area. Congresswoman Gifford remains in critical condition this morning hopefully recovering from a gunshot wound to the head. Twenty people were shot by the attacker, six of them died. They were: John M. Roll, a Federal District Court Judge; Gabe Zimmerman, an Aide to Representative Giffords; Dorwin Stoddard, who blocked gun fire aimed at his wife; Phyllis Schneck, a seventy-nine year old great-grandmother; Dorthy Morris, a seventy-six year attending the event with her husband and high school sweetheart; and Christina Taylor Green a nine year old with a budding interest in politics. She was born on September 11, 2001. I would ask that the members to stand for a moment of silence for these outstanding Americans and to pray for the recovery of those wounded in the attack.”

MOMENT OF SILENCE

The Senate observed a moment of silence in memory of those that lost their lives and those injured during the shooting in Arizona on January 8, 2011.

REMARKS BY THE PRESIDENT

President Owen: “Ladies and Gentleman, every year we are privileged to have the Lakefair Queen welcome us on the opening day of the Legislative Session. So, I’m pleased to ask Josephine Coury, this year’s Lakefair Queen to say a few words. Josephine is accompanied today by her brother Nick as well as her parents Bassam & Verena Coury who are seated in the south gallery and also the 2011 Capital Lakefair President Bob Barnes, his first Lady, Serry Barnes. Queen Coury, thank you very much for being here this morning and the microphone is yours.”

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss Josephine Coury, the 2011 Lakefair Queen, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Lakefair Queen Josephine Coury to address the Senate and welcome the Senators to Olympia.

REMARKS BY MISS JOSEPHINE COURY

Josephine Coury: “Hello everyone and welcome to the 2011 Senate Session in Olympia Washington. I hope you enjoy your stay in our beautiful capital city. My name is Josephine Coury and I am the reigning Capital Lakefair Queen. Capital Lakefair has incorporated components of my life from the debate club to my rich cultural background as a first generation American. After being crowned the fifty-second Queen I learned that in life what it comes down to is the content of your character. I appreciate the opportunity to give back to Olympia and feel honored to speak before you today. I am a senior at Capital High School and full international baccalaureate diploma candidate. Next year, I aspire to double major in biological sciences and pre-law during my high level education. Capital High School has significantly influenced who I am today, specifically the counselors and teachers. One of the most important people in my life is my school counselor, Jenny Morgan. She’s practically a second mother to me, always there for me when I need her. Actually she sparked and encouraged my interest in Capital Lakefair originally. All of my teachers this year and over the past years have been interesting and well qualified. My IB English teacher even memorized the entire ‘Romeo and Juliet’ play. If we say but one or two lines he can recite the scene. Thank you for providing our schools with caring supportive counselors and interesting intriguing teachers. International baccalaureate has given me an education with a global perspective and I truly enjoy every course that I have, even my seven a.m. philosophy class. Thank you on behalf of the students for giving students like me a hope for the future, for giving us the opportunity to be successful one day and for always considering and supporting education despite these hard times. Don’t let the chilly weather outside set the mood inside. I wish you a successful, memorable 2011 Session. Thank you.”

The Washington State Patrol Honor Guard retired from the chamber.

LETTERS OF RESIGNATION

WASHINGTON STATE SENATE  
Senator Joe McDermott  
34<sup>th</sup> Legislative District

December 1, 2010

The Honorable Christine Gregoire, Governor  
Office of the Governor  
P. O. Box 40002  
Olympia, WA 98504

Dear Governor Gregoire:

Pursuant to the Revised Code of Washington Chapter 42.12.020, I hereby notify you of my resignation from the

FIRST DAY, JANUARY 10, 2011

Washington State Senate – effective Thursday, December 2, 2010 at 4:01 pm.

It has been an honor serving the people of the 34<sup>th</sup> Legislative District and, as you aptly point out, the people of the *Great* State of Washington. I look forward to continuing my career in public service as a member of the King County Council, an office I assumed Wednesday, November 24, 2010.

Please allow me to note that serving with you has been a privilege and I look forward to continued cooperation on our mutual interests.

Sincerely,  
JOE MCDERMOTT, 34<sup>th</sup> Legislative District

January 4, 2011

The Honorable Christine Gregoire  
Office of the Governor  
Legislative Building  
Olympia, WA 98504

Dear Governor Gregoire:

After thirty years of service in the Washington State Senate, I find that due to continuing health concerns, I must submit my

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resignation. Therefore, pursuant to RCW 42.12.020, please accept my resignation from the Washington State Senate, effective Wednesday, January 5, 2011.

It has been my honor and pleasure to serve the people of the 4<sup>th</sup> Legislative District, and indeed all the fine people in Washington State.

I will miss all of my colleagues and many friends in Olympia that I have had the pleasure of working with these past thirty years, and I wish you well in the upcoming legislative session.

Very Sincerely,  
BOB MCCASLIN, 4<sup>th</sup> Legislative District

CC: Lieutenant Governor Brad Owen  
Senator Lisa Brown, Majority Leader  
Senator Mike Hewitt, Minority Leader  
Tom Hoemann, Secretary of the Senate

MOTION

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

MESSAGE FROM THE SECRETARY OF STATE

The Honorable  
President of the Senate  
The Legislature of the State of Washington  
Olympia, Washington

Mr. President:

I, Sam Reed, Secretary of State of the State of Washington, do hereby certify that the following is a full, true, and correct list of persons elected to the office of State Senator at the State General Election held in the State of Washington on the second day of November, 2010, as shown by the official returns of said election now on file in the office of the Secretary of State, together with a list of returning Senators whose terms expire in 2013.

SENATORS ELECTED NOVEMBER 2, 2010

| District | Counties Represented  | Name                | Party Preference         |
|----------|---|---------------------|--------------------------|
| 6        | Spokane*  | Michael Baumgartner | Prefers Republican Party |
| 7        | Ferry, Lincoln, Okanogan*,<br>Pend Oreille, Spokane*, Stevens | Bob Morton          | Prefers Republican Party |
| 8        | Benton*   | Jerome Delvin       | Prefers Republican Party |
| 13       | Grant*, Kittitas, Yakima*                                     | Janea Holmquist     | Prefers Republican Party |
| 15       | Clark*, Klickitat, Skamania*,<br>Yakima*                      | Jim Honeyford       | Prefers Republican Party |
| 21       | Snohomish*  | Paul Shin           | Prefers Democratic Party |
| 26       | Kitsap*, Pierce*  | Derek Kilmer        | Prefers Democratic Party |
| 29       | Pierce*   | Steve Conway        | Prefers Democratic Party |
| 30       | King*   | Tracey Eide         | Prefers Democratic Party |
| 31       | King*, Pierce*  | Pam Roach           | Prefers Republican Party |
| 32       | King*, Snohomish*   | Maralyn Chase       | Prefers Democratic Party |
| 33       | King*   | Karen Keiser        | Prefers Democratic Party |
| 34       | King*   | Sharon K. Nelson    | Prefers Democratic Party |
| 35       | Grays Harbor*, Kitsap*, Mason,<br>Thurston*                   | Tim Sheldon         | Prefers Democratic Party |
| 36       | King*   | Jeanne Kohl-Welles  | Prefers Democratic Party |
| 37       | King*   | Adam Kline          | Prefers Democratic Party |
| 38       | Snohomish*  | Nick Harper         | Prefers Democratic Party |
| 41       | King*   | Steve Litzow        | Prefers Republican Party |
| 42       | Whatcom*  | Doug Ericksen       | Prefers Republican Party |
| 43       | King*   | Ed Murray           | Prefers Democratic Party |
| 44       | Snohomish*  | Steve Hobbs         | Prefers Democratic Party |
| 45       | King*   | Andy Hill           | Prefers Republican Party |
| 46       | King*   | Scott White         | Prefers Democratic Party |
| 47       | King*   | Joe Fain            | Prefers Republican Party |
| 48       | King*   | Rodney Tom          | Prefers Democratic Party |

SENATORS WHOSE TERMS EXPIRE IN 2013

| District | Counties Represented                                     | Name                 |
|----------|--|----------------------|
| 1        | King*, Snohomish*  | Rosemary McAuliffe   |
| 2        | Pierce*, Thurston*                                       | Randi Becker         |
| 3        | Spokane*   | Lisa Brown           |
| 4        | Spokane*   | Bob McCaslin         |
| 5        | King*  | Cheryl Pflug         |
| 9        | Adams, Asotin, Franklin*, Garfield,<br>Spokane*, Whitman | Mark G. Schoesler    |
| 10       | Island, Skagit*, Snohomish*                              | Mary Margaret Haugen |
| 11       | King*  | Margarita Prentice   |
| 12       | Chelan, Douglas, Grant*, Okanogan*                       | Linda Evans Parlette |
| 14       | Yakima*  | Curtis King          |
| 16       | Benton*, Columbia, Franklin*, Walla Walla                | Mike Hewitt          |
| 17       | Clark*   | Don Benton           |
| 18       | Clark*, Cowlitz*   | Joseph Zarelli       |

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|    |   |                  |
|----|---|------------------|
| 19 | Cowlitz*, Grays Harbor*, Pacific, Wahkiakum | Brian Hatfield   |
| 20 | Lewis, Thurston*                            | Dan Swecker      |
| 22 | Thurston*                                   | Karen Fraser     |
| 23 | Kitsap*                                     | Phil Rockefeller |
| 24 | Clallam, Grays Harbor*, Jefferson           | Jim Hargrove     |
| 25 | Pierce*                                     | Jim Kastama      |
| 27 | Pierce*                                     | Debbie Regala    |
| 28 | Pierce*                                     | Mike Carrell     |
| 34 | King*                                       | Sharon K. Nelson |
| 39 | King*, Skagit*, Snohomish*, Whatcom*        | Val Stevens      |
| 41 | King*                                       | Steve Litzow     |
| 49 | Clark*                                      | Craig Pridemore  |

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed the Seal of the State of Washington at Olympia this 6th day of January, 2011.

SAM REED  
Secretary of State

(Seal)

The Secretary called the roll of the following holdover members of the Senate and all were present: Senators Becker, Benton, Brown, Carrell, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Kastama, King, McAuliffe, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Stevens, Swecker and Zarelli.

Justice Tom Chambers thereupon administrated the oath of office to each of the newly elected members.

The President presented each of the newly elected Senators a certificate of election.

The Sergeant at Arms escorted each of the newly elected members to their seats on the floor of the senate.

POINT OF ORDER

Senator Keiser: "Thank you, Mr. President, I didn't not hear my name read?"

The Secretary called the roll of the following member elected to fill an unexpired term and he was present: Steve Litzow.

The Sergeant at Arms escorted the member filling an unexpired term of the Senate to the rostrum of the Senate to receive the oath of office.

Justice Tom Chambers thereupon administrated the oath of office the newly elected member.

The President presented the newly elected Senator a certificate of election.

The Sergeant at Arms escorted the newly elected member to his seat on the floor of the senate.

REPLY BY THE PRESIDENT

President Owen: "Senator Keiser. Senator Keiser, um, I know how difficult elections that you have... and it may be because you're not hearing because you fail to recognize that you're not a holdover but you actually had an election this last year. We'll get to you in a couple of minutes, if that's all right."

The Secretary called the roll on the newly re-elected members of the Senate and all were present: Senators Delvin, Eide, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, Kline, Kohl-Welles, Morton, Murray, Roach, Sheldon, Shin and Tom.

APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Hatfield and Pflug to escort the Honorable Justice Tom Chambers to the rostrum.

The President welcomed and introduced the Honorable Tom Chambers, Justice of the Supreme Court of the state of Washington, who was present to administer the oath of office to the newly elected Senators.

The Sergeant at Arms escorted each of the newly re-elected members of the Senate to the rostrum of the Senate to receive their oath of office.

Justice Tom Chambers thereupon administrated the oath of office to the newly re-elected members.

The President presented the newly re-elected Senators a certificate of election.

The Sergeant at Arms escorted the newly re-elected members to their seats on the floor of the senate.

The Secretary called the roll on the following elected Senators filling Senate vacancies: Sharon Nelson and Scott White.

INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced the Honorable Sam Reed, Secretary of State who was seated at the rostrum.

The Secretary called the roll on the newly elected members of the Senate and all were present: Michael Baumgartner, Maralyn Chase, Steve Conway, Doug Ericksen, Joe Fain, Nick Harper and Andy Hill.

The Sergeant at Arms escorted each of the members filling Senate vacancies of the Senate to the rostrum of the Senate to receive the oath of office.

MOTION

Senator Kastama moved that the Senate immediately advanced to the eighth order of business for the purpose of considering Senate Resolution No. 8601.

#### REMARKS BY SENATOR KASTAMA

Senator Kastama: "Thank you Mr. President and I would appreciate the opportunity to speak to my colleagues why it's very important that right now we go to the eighth order to consider this resolution. My first point is that to do so is not a rebuke of Senator-elect Harper. I just talked with him on Saturday and we clearly understand between us that the issue is not him today; instead the issue is a conspiracy to deceive voters of the thirty-eighth district that changed the outcome of a senate primary.

Moxi Media, a political consulting firm in Washington State, illegally managed shell PACs, these are political action committees, to hide and conceal from the public the true donors of their campaign. So, you're probably asking how we know this? Well, they admitted it. In a hundred and thirty page investigative report by the Public Disclosure Commission where they provided sworn testimony and their own publication, they admitted that they set out to deceive the public. They also knew that if the public found out the entire campaign would back fire and, you know what? It worked. The candidate that they backed, Rod Reiger, had only raised eight hundred dollars. He was not endorsed by anyone, Republicans or Democrats. He did no door belling. There were no brochures. There were no signs and there were no mailings.

The evidence in the investigation indicates they knew Senator Berkey would win in the primary and they had to do something. This plot infused over ten times the amount of money that this person had raised into his campaign. They conducted robo-calls and two brochures and he won with the votes of sixty-two people. That was it. I ask you, if someone had inflated a campaign by ten times the amount of money and done two campaign brochures and a robo-call, do you think that that would add up to sixty-two additional voters going our way, Absolutely, beyond a reasonable doubt.

So disgusted with these actions of these individuals that the Public Disclosure Commission recommended criminal prosecution and I would say that no other case that people bring before you today to ask you not to go to the eighth order has this kind of evidence behind it, no other case.

My second point on why it's important to go to the eighth order right now is that this resolution, excuse me, motion is not about denying the people in the thirty-eighth district representation in the State Senate, it's about giving them a valid election with valid choices. You may hear that he won by sixty percent. Well, I can counter that argument with a lot of analogies but suffice to say, if you limit the people's choice in the general election you will limit the outcome.

Voters in the thirty-eighth district were actively deceived and persuaded to vote against their ideological interest in the primary not through skillful politicking but through illegal actions intended to hoodwink them. If we don't go to the eighth and consider this resolution what we're saying to the voters of the thirty-eighth and to every other district in the state of Washington is that no matter how bad the election was, no matter how corrupt it was we'll seat the person with the most votes. In other words the ends justify the means.

The same principle applies to the character of Nick Harper. Regardless of how you may feel about him and how blameless he is, he, nor anyone else in this body, can be the direct beneficiary

of a fixed election. If we do it strikes at the heart of representative democracy.

One final note on this point, the resolution that I hope we consider vacates the senate seat from the thirty-eighth. This does not bar Snohomish County from going through their procedure to seat someone, just in the case as Senator McCaslin, for example. If they did they could get representation within one to two weeks so this is not an issue. One or two weeks without representation is a small price to pay for integrity in the election.

Mr. President, my final point, by going to the eighth order is that it's not about over stepping our constitutional authority to do. Article two, Section eight of the State Constitution says that 'each house is the judge of the election returns and qualifications of its members.' Given the constitution as a whole it's clear that we here can be a judge of the elections. If we do not act, the court will see that we put our stamp of validity on the election. They will probably fine Moxi-Media and the other conspirators will never pay a price. It will be another cost of doing business. In fact, to my knowledge, not one of the conspirators that are in this report has been fired or lost their job, not one of them. I also guarantee you this, the very same people who are going to argue today that it is not our jurisdiction, that if we, in fact, put our stamp of validity, will be the ones that go to the court and say this is our business. We handle that in the legislature and they'll ask the courts not to intervene.

I learned early in my adult life that if you're given the responsibility and the authority to do the right thing and to right or wrong, don't expect that someone else will have the courage to make the tough decisions. Make them yourself. I have one question before this body, if not now, when? When is bad enough and let me finally conclude, it's been said that I will bring disharmony to the floor today by bringing this forward. It's not my intent. But if we claim to be for transparent elections, show the courage to act. Just as if we want a business climate for the twenty-first century we start building an economic support structure as innovative as our companies. If we claim to be for education reform, then stop excepting the status quo that places our state near the bottom of the Race to the Top.' If we claim to be for better government let's restructure agencies with performance standards and accountability and not just cut services. All of those hard decisions we have to make this session, let's start with this decision. We need courage and we need to right this wrong. Mr. President, I ask that we vote to go to the eighth order."

#### MOTION

Senator Kastama demanded a roll call vote.

The President declared that at least one-sixth of the sworn in members joined the demand and the demand was sustained.

Senator Eide objected to the motion to advancing to the eighth order of business.

#### REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. I am rising to object going to the eighth order for the purpose of consideration for this resolution. First of all and foremost, no one in this chamber condones what has happened in the thirty-eighth district. What happened to Senator Berkey was horrible. What Moxi-Media did was deplorable but this is not a standard that we as senators should be setting.

Being blamed for something that a third party has done is wrong. There's several PACs that were out this last session last

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campaign and no one condones them neither. ‘American Prosperity’ for example. I’ve got a list here; in the sixth district, in the forty-first district, in the forty-fifth district, in the forty-seventh district, in the forty-eighth district and ladies and gentlemen, in my district. They never filed a PDC report at all and we still do not know how much they have spent against us. We have PDC complaints and violations in the thirteenth district, two of them. We have district, two of them, district twenty-sixth, district thirty-one. I’m sorry, the list goes on and on, it’s done, I’ve done all the research, I’m not saying about you or me but I’m saying the principle of the matter. Think about this, we make laws ladies and gentlemen, we can strengthen the law, we can enhance the law and in fact the good Senator Pridemore is doing a great job on some great pieces of legislation to clamp down on some of this campaign finance reform. That’s the direction we need to go here today. We are not the judge and the jury. It is not our role as Senators to say who is guilty and who is not. There is a reason ladies and gentlemen of the Senate why we have three branches of government. This is the courts, justice will be served, justice shall be served but we in going to the eighth order on this resolution is opening up Pandora’s box because I tell you what with the list here we will have a hollow chamber because each and every one of us will be walking out the door if we go this route. Why should you or me be blamed for something that we had absolutely nothing to do nor did we have any knowledge about this. Why do you think that’s fair, I don’t. It’s like blaming your child for something the neighbor kid did which is absolutely wrong but this is more serious. Who are we here ladies and gentlemen of the Senate, who are we to tell the sixty percent yes, senator it is sixty percent over in the thirty-eighth district. Who are we to tell them that they didn’t know what in the world they were doing when they were voting. Why are we questioning their integrity, their vote. I don’t understand, no one absolutely no one has accused Senator elect Harper of any wrong doing. He has not broken the law, he has not done anything unethical. Ladies and gentleman, we are living in the United States of America, every man, woman and child is innocent until proven guilty. I’m asking you to vote no on going to the eighth order of business. Let justice in the court where it belongs be served.”

The President declared the question before the Senate to be the motion by Senator Kastama to advance to the eighth order of business.

The Secretary called the roll on the motion by Senator Kastama to advance to the eighth order of business and the motion failed by the following vote: Yeas, 18; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Carrell, Delvin, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Morton, Parlette, Pflug, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Eide, Fraser, Hargrove, Hatfield, Haugen, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Tom and White

The Sergeant at Arms escorted each of the newly elected members of the Senate to the rostrum of the Senate to receive their oath of office.

Justice Tom Chambers thereupon administered the oath of office the newly elected members.

The President presented the newly elected Senators a certificate of election.

The Sergeant at Arms escorted the newly elected members to their seats on the floor of the senate.

#### ELECTION OF PRESIDENT PRO TEMPORE

The President declared nominations to be open for the office of President Pro Tempore of the Senate.

#### REMARKS BY SENATOR FRASER

Senator Fraser: “Thank you Mr. President. I would like to place in nomination Senator Margarita Prentice to serve as President Pro Tempore.”

#### REMARKS BY SENATOR MORTON

Senator Morton: “Thank you Mr. President. Mr. President, we have a unique opportunity to elect Senator Prentice. I have found her to be a very consciousness and sincere and a companion to work with. I feel that she would do an impeccable job for all of us in presiding over the Senate. So, it is with those thoughts that I heartily second her nomination.”

#### REMARKS BY SENATOR FRASER

Senator Fraser: “Thank you Mr. President and I would like to thank Senator Morton for his very gracious seconding the nomination. I think his second shows how highly respected and appreciated Senator Prentice is in the Senate. She’s been a very long-time member of the Senate. She previously was a member of the House. She knows the Senate thoroughly. She’s chaired policy committees. She’s chaired Senate Ways & Means Committee. She’s well respected. She’s known to be ethical, tough but fair and she knows not only the Senate but she knows the members of the Senate very well and I think we can count on her to be very fair presiding in your absence.”

#### MOTION

On motion of Senator Eide, the nominations for the office of President Pro Tempore were closed.

#### ROLL CALL

The Secretary called the roll and Senator Margarita Prentice was elected President Pro Tempore: Yeas, 47; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Benton

#### APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Fraser and Morton to escort Senator Prentice to the rostrum.

Justice Tom Chambers thereupon administered the oath of office to Senator Prentice.

The committee of honor escorted Senator Prentice to her seat on the floor of the Senate.

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## ELECTION OF VICE PRESIDENT PRO TEMPORE

The President declared nominations to be open for the office of Vice President Pro Tempore of the Senate.

## REMARKS BY SENATOR ROCKEFELLER

Senator Rockefeller: "Mr. President, it gives me great pleasure to nominate one of our best known legislators, one the most respected legislators, a true ambassador for our state in other parts of the country and the world, Senator Paull Shin."

## REMARKS BY SENATOR DELVIN

Senator Delvin: "Thank you Mr. President. I rise to second the nomination of my honored colleague, Senator Paull Shin, and a good friend, as Vice President Pro Tempore."

## MOTION

On motion of Senator Eide, Senator Benton was excused.

## MOTION

On motion of Senator Eide, the nominations for the office of Vice President Pro Tempore were closed.

## ROLL CALL

The Secretary called the roll and Senator Paull Shin was elected Vice President Pro Tempore: Yeas, 47; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Benton

## APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Rockefeller and Delvin to escort Senator Shin to the rostrum.

Justice Tom Chambers thereupon administered the oath of office to Senator Shin.

The committee of honor escorted Senator Shin to his seat on the floor of the Senate.

## ELECTION OF SECRETARY OF THE SENATE

The President declared nominations to be open for the office of Secretary of the Senate.

## REMARKS BY SENATOR FRASER

Senator Fraser: "Thank you Mr. President. It's my privilege to place in nomination, Tom Hoemann, for the position of Secretary of the Senate. Thank you Mr. President. I think we, at least those of us who have served here in the Senate before, are very appreciative of the excellent work that Tom Hoemann currently does as Secretary of the Senate. A role he has served in since 2005. Administering a legislative body such as the Senate is exceptionally complex and dynamic and unique role and he's

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lived up to it well. He knows the Senate thoroughly. He's served in many professional positions in the Senate, prior to becoming Secretary of the Senate and, I think everybody here would concur, he does work to serve all members and to uphold the ideals of democracy. So it's my privilege to place his name in nomination."

## REMARKS BY SENATOR PARLETTE

Senator Parlette: "Thank you Mr. President. I would like to second the nomination and with my limited voice I give him the bump."

## MOTION

On motion of Senator Eide, the nominations for the office of Secretary of State were closed.

## MOTION

On motion of Senator Delvin, Senator Carrell was excused.

## ROLL CALL

The Secretary called the roll and Tom Hoemann was elected Secretary of the Senate: Yeas, 45; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Roach

Excused: Senators Benton and Carrell

## APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Fraser and Parlette to escort Secretary Hoemann to the rostrum.

Justice Tom Chambers thereupon administered the oath of office to Tom Hoemann.

The committee of honor escorted Secretary Hoemann to his seat on the rostrum.

## ELECTION OF SERGEANT AT ARMS

The President declared nominations to be open for the office of Sergeant at Arms.

## REMARKS BY SENATOR PRIDEMORE

Senator Pridemore: "Thank you Mr. President. Well, Jim Ruble is a well know institution here in Olympia. He was born and raised in Skagit County where he quickly developed an interest in politics, government and history and built on those interests to move on into becoming a teacher where he developed a long and distinguished career in the Puyallup School District. He's completed extensive research, edited books, written articles on history about the state and nation's past and about its governance. He was first elected to the position of Sergeant at Arms in January of 2005. This will be his fourth term in the position. He has gained tremendous respect and admiration around this body such that even Senator Kastama supports this nomination. Mr. President, it is my honor and privilege to

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nominate the once and future Sergeant at Arms for the Washington State Senate, Jim Ruble.”

Regular Session and the 2010 1st Special Session, be adopted as amended as the Rules of the Senate for the 2011 Regular Session of the 62nd Legislature, to read as follows:

REMARKS BY SENATOR SWECKER

Senator Swecker: “Thank you Mr. President. Well, I rise to second the nomination of Jim Ruble and I would be hard put to come up with a speech to follow that one so I will just thank him for his service and look forward to working with him in the future.”

PERMANENT RULES  
OF THE  
SENATE  
SIXTY-SECOND LEGISLATURE  
2011

MOTION

On motion of Senator Eide, the nominations for the office of Sergeant at Arms were closed.

ROLL CALL

The Secretary called the roll and Jim Ruble was elected as Sergeant at Arms: Yeas, 45; Nays, 0; Absent, 1; Excused, 2.

Voting yeas: Senators Baumgartner, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Roach

Excused: Senators Benton and Carrell

APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Pridmore and Swecker to escort Jim Ruble to the rostrum.

Justice Tom Chambers thereupon administered the oath of office to Jim Ruble.

The committee of honor escorted Jim Ruble to his seat on the rostrum.

REMARKS BY THE PRESIDENT

President Owen: “Justice, thank you very much for your patience, you did a great job and we appreciate it very much.”

APPOINTMENT OF SPECIAL COMMITTEE

The President of the Senate appointed a committee of honor consisting of Senators Hatfield and Pflug to escort Justice Tom Chambers from the Senate chamber.

MOTION

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

MOTION

Senator Murray moved adoption of the following resolution:

SENATE RESOLUTION  
8604

By Senators Eide and Schoesler

BE IT RESOLVED, That the Rules of the Senate for the 2009 Regular Session of the 61st Legislature, as amended in the 2009

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- Rule 2 President Pro Tempore
- Rule 3 Secretary of the Senate
- Rule 4 Sergeant at Arms
- Rule 5 Subordinate Officers
- Rule 6 Employees
- Rule 7 Conduct of Members and Officers

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- Rule 8 Payment of Expenses- Facilities and Operations
- Rule 9 Use of Senate Chambers
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- Rule 15 Time of Convening
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- Rule 18 Special Order
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- Rule 20 Motions and Senate Floor Resolutions (How Presented)
- Rule 21 Precedence of Motions
- Rule 22 Voting
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- Rule 25 One Subject in a Bill
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- Rule 27 Reading of Papers
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SECTION IV - PARLIAMENTARY PROCEDURE

- Rule 29 Rules of Debate
- Rule 30 Recognition by the President
- Rule 31 Call for Division of a Question
- Rule 32 Point of Order- Decision Appealable
- Rule 33 Question of Privilege
- Rule 34 Protests
- Rule 35 Suspension of Rules
- Rule 36 Previous Question
- Rule 37 Reconsideration
- Rule 38 Motion to adjourn
- Rule 39 Yeas and Nays- When Must be Taken
- Rule 40 Reed's Parliamentary Rules

SECTION V - COMMITTEES

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|----------------|--|
| <b>Rule 41</b> | Committees- Appointment and Confirmation |
| <b>Rule 42</b> | Subcommittees                            |
| <b>Rule 43</b> | Subpoena Power                           |
| <b>Rule 44</b> | Duties of Committees                     |
| <b>Rule 45</b> | Committee Rules                          |
| <b>Rule 46</b> | Committee Meetings During Sessions       |
| <b>Rule 47</b> | Reading of Reports                       |
| <b>Rule 48</b> | Recalling Bills from Committees          |
| <b>Rule 49</b> | Bills Referred to Rules Committee        |
| <b>Rule 50</b> | Rules Committee                          |
| <b>Rule 51</b> | Employment Committee                     |
| <b>Rule 52</b> | Committee of the Whole                   |
| <b>Rule 53</b> | Appropriation Budget Bills               |

#### SECTION VI - BILLS, RESOLUTIONS, MEMORIALS AND GUBERNATORIAL APPOINTMENTS

|                |   |
|----------------|---|
| <b>Rule 54</b> | Definitions   |
| <b>Rule 55</b> | Prefiling   |
| <b>Rule 56</b> | Introduction of Bills                                       |
| <b>Rule 57</b> | Amendatory Bills  |
| <b>Rule 58</b> | Joint Resolutions and Memorials                             |
| <b>Rule 59</b> | Senate Concurrent Resolutions                               |
| <b>Rule 60</b> | Committee Bills   |
| <b>Rule 61</b> | Committee Reference   |
| <b>Rule 62</b> | Reading of Bills  |
| <b>Rule 63</b> | First Reading   |
| <b>Rule 64</b> | Second Reading/Amendments                                   |
| <b>Rule 65</b> | Third Reading   |
| <b>Rule 66</b> | Scope and Object of Bill Not to be Changed                  |
| <b>Rule 67</b> | Matter Related to Disagreement Between the Senate and House |
| <b>Rule 68</b> | Bills Committed for Special Amendment                       |
| <b>Rule 69</b> | Confirmation of Gubernatorial Appointees                    |

#### SECTION I

#### OFFICERS-MEMBERS-EMPLOYEES

##### Duties of the President

**Rule 1.** 1. The president shall take the chair and call the senate to order precisely at the hour appointed for meeting, and, if a quorum be present, shall cause the journal of the preceding day to be read. (See also Art. 3, Sec. 16, State Constitution.)

2. The president shall preserve order and decorum, and in case of any disturbance or disorderly conduct within the chamber, legislative area, legislative offices or buildings, and legislative hearing and meeting rooms, shall order the sergeant at arms to suppress the same, and may order the arrest of any person creating any disturbance within the senate chamber. The use of cellular or digital telephones is prohibited within the senate chamber during floor session and within a hearing room during a committee hearing, and this prohibition shall be enforced in the same manner as any other breach of order and decorum.

3. The president shall have charge of and see that all officers and employees perform their respective duties, and shall have general control of the senate chamber and wings. (See also Art. 2, Sec. 10, State Constitution.)

4. The president may speak to points of order in preference to members, arising from the president's seat for that purpose, and shall

decide all questions of order subject to an appeal to the senate by any member, on which appeal no member shall speak more than once without leave of the senate.

5. The president shall, in open session, sign all acts, addresses and joint resolutions. The president shall sign all writs, warrants and subpoenas issued by order of the senate, all of which shall be attested by the secretary. (See also Art. 2, Sec. 32, State Constitution.)

6. The president shall appoint all conference, special, joint and hereinafter named standing committees on the part of the senate. The appointment of the conference, special, joint and standing committees shall be confirmed by the senate. In the event the senate refuses to confirm any conference, special, joint or standing committee or committees, such committee or committees shall be elected by the senate.

7. The president shall, on each day, announce to the senate the business in order, and no business shall be taken up or considered until the order to which it belongs shall be declared.

8. The president shall decide and announce the result of any vote taken.

9. When a vote of the senate is equally divided, the lieutenant governor, when presiding, shall have the deciding vote on questions other than the final passage of a bill. (See also Art. 2, Sec. 10 and 22, State Constitution.)

##### President Pro Tempore

**Rule 2.** 1. Upon the organization of the senate the members shall elect one of their number as president pro tempore who shall have all the powers and authority and who shall discharge all the duties of lieutenant governor acting as president during the lieutenant governor's absence. The senate shall also elect a vice-president pro tempore who will serve in the absence of the lieutenant governor and the president pro tempore. (See Art. 2, Sec. 10, State Constitution.)

2. In the absence of the president pro tempore, and vice president pro tempore, or with their consent, the president shall have the right to name any senator to perform the duties of the chair, but such substitution shall not extend beyond an adjournment, nor authorize the senator so substituted to sign any documents requiring the signature of the president.

##### Secretary of the Senate

**Rule 3.** 1. The senate shall elect a secretary, who shall appoint a deputy secretary, both of whom shall be officers of the senate and shall perform the usual duties pertaining to their offices, and they shall hold office until their successors have been elected or appointed.

2. The secretary is the Personnel Officer of the senate and shall appoint, subject to the approval of the senate, all other senate employees and the hours of duty and assignments of all senate employees shall be under the secretary's directions and instructions and they may be dismissed at the secretary's discretion.

3. The secretary of the senate, prior to the convening of the next regular session, shall prepare his office to receive bills which the holdover members and members-elect may desire to prefile

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commencing with the first Monday in December preceding any regular session or twenty days prior to any special session of the legislature.

Sergeant at Arms

**Rule 4.** 1. The senate shall elect a sergeant at arms who shall perform the usual duties pertaining to that office, and shall hold office until a successor has been elected.

2. The sergeant at arms shall not admit to the floor of the senate during the time the senate is not convened any person other than specifically requested by a senator, the president, or the secretary of the senate, in writing or when personally accompanied by a senator.

Subordinate Officers

**Rule 5.** The subordinate officers of the senate shall perform such duties as usually pertain to their respective positions in legislative bodies under the direction of the president, and such other duties as the senate may impose upon them. Under no circumstances shall the compensation of any employee be increased for past services. (See also Art. 2, Sec. 25, State Constitution.)

Employees

**Rule 6.** 1. No senate employee shall lobby in favor of or against any matter under consideration.

2. Senate employees are governed by joint rules and chapters 42.17 (the Public Disclosure Act) and 42.52 RCW (the Ethics in Public Service Act).

Conduct of Members and Officers

**Rule 7.** 1. Indecorous conduct, boisterous or unbecoming language will not be permitted in the senate at any time. The use of cellular or digital telephones is prohibited within the senate chamber during floor session and within a hearing room during a committee hearing.

2. In cases of breach of decorum or propriety, any senator, officer or other person shall be liable to such censure or punishment as the senate may deem proper, and if any senator be called to order for offensive or indecorous language or conduct, the person calling the senator to order shall report the language excepted to which shall be taken down or noted at the secretary's desk. No member shall be held to answer for any language used upon the floor of the senate if business has intervened before exception to the language was thus taken and noted.

3. If any senator in speaking, or otherwise, transgresses the rules of the senate, the president shall, or any senator may, call that senator to order, and a senator so called to order shall resume the senator's seat and not proceed without leave of the senate, which leave, if granted, shall be upon motion "that the senator be allowed to proceed in order," when, if carried, the senator shall speak to the question under consideration.

4. No senator shall be absent from the senate without leave, except in case of accident or sickness, and if any senator or officer shall be absent the senator's per diem shall not be allowed or paid, and no senator or officer shall obtain leave of absence or be excused from attendance without the consent of a majority of the members present.

5. In the event of a motion or resolution to censure or punish, or any procedural motion thereto involving a senator, that senator shall not vote thereon. The senator shall be allowed to answer to such motion or resolution. An election or vote by the senate on a motion to censure or punish a senator shall require the vote of a majority of all senators elected or appointed to the senate. A vote to expel a member shall require a two-thirds concurrence of all members elected or appointed to the senate. All votes shall be taken by yeas and nays and the votes shall be entered upon the journal. (See also Art. 2, Sec. 9, State Constitution.)

SECTION II

OPERATIONS AND MANAGEMENT

Payment of Expenses - Facilities and Operations

**Rule 8.** 1. After the reorganization caucuses of the Senate, the majority caucus shall designate four members and the minority caucus shall designate three members to serve on the Facilities and Operations Committee. The chair of the majority caucus shall be the chair of the Facilities and Operations Committee. The operation of the Senate shall transfer to the newly designated members after the reorganization caucuses of the Senate.

2. All necessary expenses of the senate incurred during the session shall be signed for by the secretary and approved by a majority of the committee on facilities and operations. The committee on facilities and operations shall carefully consider all items of expenditure ordered or contracted on the part of the senate, and report upon the same prior to the voucher being signed by the secretary of the senate authorizing the payment thereof. The committee on facilities and operations shall issue postage only as follows:

(a) To elected or appointed members of the senate in an amount sufficient to allow performance of their legislative duties.

(b) To the secretary of the senate in an amount sufficient to carry out the business of the senate.

Use of Senate Chambers

**Rule 9.** The senate chamber and its facilities shall not be used for any but legislative business, except by permission of the senate while in session, or by the facilities and operations committee when not in session.

Admission to the Senate

**Rule 10.** The sergeant at arms shall admit only the following individuals to the floor and adjacent areas of the senate for the period of time beginning one-half hour before convening and ending when the senate has adjourned or recessed for an hour or more:

- The governor and/or designees,
- Members of the house of representatives,
- State elected officials,
- Officers and authorized employees of the legislature,
- Honored guests being presented to the senate,
- Former members of the senate who are not registered lobbyists pursuant to chapter 42.17 RCW,
- Representatives of the press,
- Persons specifically requested by a senator to the president in writing or only as long as accompanied by a senator.

Printing of Bills

**Rule 11.** The number of bills printed and reprinted shall be at the discretion of the secretary of the senate, with the approval of the facilities and operations committee.

Furnishing Full File of Bills

**Rule 12.** Persons, firms, corporations and organizations within the state, desirous of receiving copies of all printed senate bills, shall make application therefor to the secretary of the senate. The bill clerk shall send copies of all printed senate bills to such persons, firms, corporations and organizations as may be ordered by the secretary of the senate. The secretary of the senate is authorized to recoup costs.

Regulation of Lobbyists

**Rule 13.** All persons who engage in lobbying of any kind as defined in chapter 42.17 RCW shall be subject to the rules of the senate and legislature when lobbying before the senate. Any person who fails to conform to the senate or joint rules may have their privilege to lobby and all other privileges revoked upon a majority vote of the committee on rules for such time as is deemed appropriate by the committee.

Any person registered as a lobbyist pursuant to chapter 42.17 RCW who intervenes in or attempts to influence any personnel decision of the senate regarding any employee may suffer an immediate revocation of all privileges before the senate or such other privileges and for such time as may be deemed appropriate by the senate committee on rules. This restriction shall not prohibit a registered lobbyist from making written recommendations for staff positions.

Security Management

**Rule 14.** The sergeant at arms may develop methods to protect the Senate, including its members, staff, and the visiting public, by establishing procedures to curtail the use or possession of any weapon in a manner that is prohibited by law or by the rules of the Department of General Administration.

SECTION III  
RULES AND ORDER

Time of Convening

**Rule 15.** The senate shall convene at 10:00 a.m. each working day, unless adjourned to a different hour. The senate shall adjourn not later than 10:00 p.m. of each working day. The senate shall recess ninety minutes for lunch each working day. When reconvening on the same day the senate shall recess ninety minutes for dinner each working evening. This rule may be suspended by a majority.

Quorum

**Rule 16.** A majority of all members elected or appointed to the senate shall be necessary to constitute a quorum to do business. Less than a quorum may adjourn from day to day until a quorum can be had. (See Art. 2, Sec. 8, State Constitution.)

Order of Business

**Rule 17.** After the roll is called and journal read and approved, business shall be disposed of in the following order:

- FIRST. Reports of standing committees.
- SECOND. Reports of select committees.
- THIRD. Messages from the governor and other state officers.
- FOURTH. Messages from the house of representatives.
- FIFTH. Introduction, first reading and reference of bills, joint memorials, joint resolutions and concurrent resolutions.
- SIXTH. Second reading of bills.
- SEVENTH. Third reading of bills.
- EIGHTH. Presentation of petitions, memorials and floor resolutions.
- NINTH. Presentation of motions.

The order of business established by this rule may be changed and any order of business already dealt with may be reverted or advanced to by a majority vote of those present.

All questions relating to the priority of business shall be decided without debate.

Messages from the governor, other state officers, and from the house of representatives may be considered at any time with the consent of the senate.

Special Order

**Rule 18.** The president shall call the senate to order at the hour fixed for the consideration of a special order, and announce that the special order is before the senate, which shall then be considered unless it is postponed by a majority vote of the members present, and any business before the senate at the time of the announcement of the special order shall take its regular position in the order of business, except that if a cutoff established by concurrent resolution occurs during the special order, the senate may complete the measure that was before the senate when consideration of the special order was commenced.

Unfinished Business

**Rule 19.** The unfinished business at the preceding adjournment shall have preference over all other matters, excepting special orders, and no motion or any other business shall be received without special leave of the senate until the former is disposed of.

Motions and Senate Floor Resolutions  
(How Presented)

**Rule 20.** 1. No motion shall be entertained or debated until announced by the president and every motion shall be deemed to have been seconded. It shall be reduced to writing and read by the secretary, if desired by the president or any senator, before it shall be debated, and by the consent of the senate may be withdrawn before amendment or action.

2. The Senate shall consider no more than one floor resolution per day in session: Provided, That this rule shall not apply to floor resolutions essential to the operation of the Senate; and further Provided, That there shall be no limit on the number of floor resolutions considered on Senate pro forma session days. Senate floor resolutions shall be acted upon in the same manner as motions.

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All senate floor resolutions shall be on the secretary's desk at least twenty-four hours prior to consideration. Members' names shall only be added to the resolution if the member signs the resolution. Members shall have until thirty minutes after the senate is convened the following day the senate is in a regular or pro forma session to add their names to the floor resolution. A motion may be made to close the period for signatures at an earlier time.

being called, nor change a vote after the result has been announced. (See also Art. 2, Secs. 27 and 30, State Constitution.)

Precedence of Motions

**Rule 21.** When a motion has been made and stated by the chair the following motions are in order, in the rank named:

PRIVILEGED MOTIONS

- Adjourn, recess, or go at ease
- Reconsider
- Demand for call of the senate
- Demand for roll call
- Demand for division
- Question of privilege
- Orders of the day

2. A member not voting by reason of personal or direct interest, or by reason of an excused absence, may explain the reason for not voting by a brief statement not to exceed fifty words in the journal.

3. The yeas and nays shall be taken when called for by one-sixth of all the senators present, and every senator within the bar of the senate shall vote unless excused by the unanimous vote of the members present, and the votes shall be entered upon the journal. (See also Art. 2, Sec. 21, State Constitution.)

When once begun the roll call may not be interrupted for any purpose other than to move a call of the senate. (See also Rule 24.)

4. A senator having been absent during roll call may ask to have his or her name called. Such a request must be made before the result of the roll call has been announced by the president.

5. The passage of a bill or action on a question is lost by a tie vote, but when a vote of the senate is equally divided, the lieutenant governor, when presiding, shall have the deciding vote on questions other than the final passage of a bill. (See also Art. 2, Secs. 10 and 22, State Constitution.)

INCIDENTAL MOTIONS

- Points of order and appeal
- Method of consideration
- Suspend the rules
- Reading papers
- Withdraw a motion
- Division of a question

6. The order of the names on the roll call shall be alphabetical by last name.

7. All votes in a committee shall be recorded, and the record shall be preserved as prescribed by the secretary of the senate. One-sixth of the committee may demand an oral roll call.

SUBSIDIARY MOTIONS

- 1st Rank: To lay on the table
- 2nd Rank: For the previous question
- 3rd Rank: To postpone to a day certain  
To commit or recommit  
To postpone indefinitely
- 4th Rank: To amend

8. If a member of the majority is going to be absent due to a health matter or other emergency, then a member of the minority may publicly announce on the floor of the senate that he or she will cast votes as he or she believes the absent member would have voted in order to avoid results that would only occur because of the unanticipated absence.

Announcement of Vote

**Rule 23.** The announcement of all votes shall be made by the president.

No motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall again be allowed on the same day and at the same stage of the proceedings, and when a question has been postponed indefinitely it shall not again be introduced during the session.

Call of the Senate

A motion to lay an amendment on the table shall not carry the main question with it unless so specified in the motion to table.

**Rule 24.** Although a roll call is in progress, a call of the senate may be moved by three senators, and if carried by a majority of all present the secretary shall call the roll, after which the names of the absentees shall again be called. The doors shall then be locked and the sergeant at arms directed to take into custody all who may be absent without leave, and all the senators so taken into custody shall be presented at the bar of the senate for such action as the senate may deem proper.

At no time shall the senate entertain a Question of Consideration.

Voting

One Subject in a Bill

**Rule 22.** 1. In all cases of election by the senate, the votes shall be taken by yeas and nays, and no senator or other person shall remain by the secretary's desk while the roll is being called or the votes are being counted. No senator shall be allowed to vote except when within the bar of the senate, or upon any question upon which he or she is in any way personally or directly interested, nor be allowed to explain a vote or discuss the question while the yeas and nays are

**Rule 25.** No bill shall embrace more than one subject and that shall be expressed in the title. (See also Art. 2, Sec. 19, State Constitution.)

No Amendment by Mere Reference to Title of Act

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**Rule 26.** No act shall ever be revised or amended by mere reference to its title, but the act revised or the section amended shall be set forth at full length. (See also Art. 2, Sec. 37, State Constitution.)

#### Reading of Papers

**Rule 27.** When the reading of any paper is called for, and is objected to by any senator, it shall be determined by a vote of the senate, without debate.

Any and all copies of reproductions of newspaper or magazine editorials, articles or cartoons or publications or material of any nature distributed to senators' desks must bear the name of at least one senator granting permission for the distribution. This shall not apply to materials normally distributed by the secretary of the senate or the majority or minority caucuses.

#### Comparing Enrolled and Engrossed Bills

**Rule 28.** Any senator shall have the right to compare an enrolled bill with the engrossed bill and may note any objections in the Journal.

### SECTION IV PARLIAMENTARY PROCEDURE Rules of Debate

**Rule 29.** When any senator is about to speak in debate, or submit any matter to the senate, the senator shall rise, and standing in place, respectfully address the President, and when recognized shall, in a courteous manner, speak to the question under debate, avoiding personalities; provided that a senator may refer to another member using the title "Senator" and the surname of the other member. No senator shall impeach the motives of any other member or speak more than twice (except for explanation) during the consideration of any one question, on the same day or a second time without leave, when others who have not spoken desire the floor, but incidental and subsidiary questions arising during the debate shall not be considered the same question. A majority of the members present may further limit the number of times a member may speak on any question and may limit the length of time a member may speak but, unless a demand for the previous question has been sustained, a member shall not be denied the right to speak at least once on each question, nor shall a member be limited to less than three minutes on each question. In any event, the senator who presents the motion may open and close debate on the question.

#### Recognition by the President

**Rule 30.** When two or more senators rise at the same time to address the chair, the president shall name the one who shall speak first, giving preference, when practicable, to the mover or introducer of the subject under consideration.

#### Call for Division of a Question

**Rule 31.** Any senator may call for a division of a question, which shall be divided if it embraces subjects so distinct that one being taken away a substantive proposition shall remain for the decision of the senate; but a motion to strike out and insert shall not be divided.

#### Point of Order - Decision Appealable

**Rule 32.** Every decision of points of order by the president shall be subject to appeal by any senator, and discussion of a question of order shall be allowed. In all cases of appeal the question shall be: "Shall the decision of the president stand as the judgment of the senate?"

#### Question of Privilege

**Rule 33.** Any senator may rise to a question of privilege and explain a personal matter by leave of the president, but shall not discuss any pending question in such explanations, nor shall any question of personal privilege permit any senator to introduce any person or persons in the galleries. The president upon notice received may acknowledge the presence of any distinguished person or persons.

A question of privilege shall involve only subject matter which affects the particular senator personally and in a manner unique and peculiar to that senator.

#### Protests

**Rule 34.** Any senator or senators may protest against the action of the senate upon any question. Such protest may be entered upon the journal if it does not exceed 200 words. The senator protesting shall file the protest with the secretary of the senate within 48 hours following the action protested.

#### Adoption and Suspension of Rules

**Rule 35.** 1. The permanent senate rules adopted at the first regular session during a legislative biennium shall govern any session subsequently convened during the same legislative biennium. Adoption of permanent rules may be by majority of the senate without notice and a majority of the senate may change a permanent rule without notice at the beginning of any session, as determined pursuant to Article 2, Section 12 of the State Constitution. No permanent rule or order of the senate shall be rescinded or changed without a majority vote of the members, and one day's notice of the motion.

2. A permanent rule or order may be temporarily suspended for a special purpose by a vote of two-thirds of the members present unless otherwise specified herein. When the suspension of a rule is called, and after due notice from the president no objection is offered, the president may announce the rule suspended, and the senate may proceed accordingly. Motion for suspension of the rules shall not be debatable, except, the mover of the motion may briefly explain the purpose of the motion and at the discretion of the president a rebuttal may be allowed.

#### Previous Question

**Rule 36.** The previous question shall not be put unless demanded by three senators, and it shall then be in this form: "Shall the main question be now put?" When sustained by a majority of senators present it shall preclude all debate, except the senator who presents the motion may open and close debate on the question and the vote shall be immediately taken on the question or questions pending before the senate, and all incidental question or questions of order arising after the motion is made shall be decided whether on appeal or otherwise without debate.

#### Reconsideration

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**Rule 37.** 1. After the final vote on any measure, before the adjournment of that day's session, any member who voted with the prevailing side may give notice of reconsideration unless a motion to immediately transmit the measure to the house has been decided in the affirmative. Such motion to reconsider shall be in order only under the order of motions of the day immediately following the day upon which such notice of reconsideration is given, and may be made by any member who voted with the prevailing side.

2. A motion to reconsider shall have precedence over every other motion, except a motion to adjourn; and when the senate adjourns while a motion to reconsider is pending or before passing the order of motions, the right to move a reconsideration shall continue to the next day of sitting. On and after the tenth day prior to adjournment sine die of any session, as determined pursuant to Article 2, Section 12, or concurrent resolution, or in the event that the measure is subject to a senate rule or resolution or a joint rule or concurrent resolution, which would preclude consideration on the next day of sitting a motion to reconsider shall only be in order on the same day upon which notice of reconsideration is given and may be made at any time that day. Motions to reconsider a vote upon amendments to any pending question may be made and decided at once.

Motion to Adjourn

**Rule 38.** Except when under call of the senate, a motion to adjourn shall always be in order. The name of the senator moving to adjourn and the time when the motion was made shall be entered upon the journal.

Yeas and Nays - When Must be Taken

**Rule 39.** The yeas and nays shall be taken when called for by one-sixth of all the senators present, and every senator within the bar of the senate shall vote unless excused by the unanimous vote of the members present, and the votes shall be entered upon the journal. (See also Art. 2, Sec. 21, State Constitution.)

When once begun the roll call may not be interrupted for any purpose other than to move a call of the senate. (See also Senate Rules 22 and 24.)

Reed's Parliamentary Rules

**Rule 40.** The rules of parliamentary practice as contained in Reed's Parliamentary Rules shall govern the senate in all cases to which they are applicable, and in which they are not inconsistent with the rules and orders of this senate and the joint rules of this senate and the house of representatives.

SECTION V  
COMMITTEES

Committees - Appointment and Confirmation

**Rule 41.** The president shall appoint all conference, special, joint and standing committees on the part of the senate. The appointment of the conference, special, joint and standing committees shall be confirmed by the senate.

In the event the senate shall refuse to confirm any conference, special, joint or standing committee or committees, such committee or committees shall be elected by the senate.

The following standing committees shall constitute the standing committees of the senate:

**Standing Committee**

|  |   |
|--|---|
| 1. Agriculture & Rural Economic Development .....                  | 8   |
| 2. Early Learning & K-12 Education .....                           | <del>((14))</del> 8                                 |
| 3. Economic Development, Trade & Innovation .....                  | <del>((7))</del> 9                                  |
| 4. Environment, Water & Energy .....                               | <del>((14))</del> 9                                 |
| 5. Financial Institutions, Housing & Insurance.....                | 7   |
| 6. Government Operations, Tribal Relations & Elections .....       | 7   |
| 7. Health & Long-Term Care.....                                    | 9   |
| 8. Higher Education & Workforce Development .....                  | <del>((10))</del> 9                                 |
| 9. Human Services & Corrections.....                               | 7   |
| 10. Judiciary .....  | <del>((8))</del> 9                                  |
| 11. Labor, Commerce & Consumer Protection.....                     | 7   |
| 12. Natural Resources(, Ocean & Recreation)) & Marine Waters ..... | <del>((8))</del> 7                                  |
| 13. Rules.....   | <del>((18))</del> 20 (plus the Lieutenant Governor) |
| 14. Transportation .....   | 16  |
| 15. Ways & Means.....  | <del>((22))</del> 20                                |

Subcommittees

**Rule 42.** Committee chairs may create subcommittees of the standing committee and designate subcommittee chairs thereof to study subjects within the jurisdiction of the standing committee. The committee chair shall approve the use of committee staff and equipment assigned to the subcommittee. Subcommittee activities shall further be subject to facilities and operations committee approval to the same extent as are the actions of the standing committee from which they derive their authority.

Subpoena Power

**Rule 43.** Any of the above referenced committees, including subcommittees thereof, or any special committees created by the senate, may have the powers of subpoena, the power to administer oaths, and the power to issue commissions for the examination of witnesses in accordance with the provisions of chapter 44.16 RCW. The committee chair shall file with the committee on rules, prior to issuance of any process, a statement of purpose setting forth the name or names of those subject to process. The rules committee shall consider every proposed issuance of process at a meeting of the rules committee immediately following the filing of the statement with the committee. The process shall not be issued prior to consideration by the rules committee. The process shall be limited to the named individuals and the committee on rules may overrule the service on an individual so named.

Duties of Committees

**Rule 44.** The several committees shall fully consider measures referred to them.

The committees shall acquaint themselves with the interest of the state specially represented by the committee, and from time to time present such bills and reports as in their judgment will advance the interests and promote the welfare of the people of the state: PROVIDED, That no executive action on bills may be taken during an interim.

Committee Rules

**Rule 45.** 1. At least five days notice shall be given of all public hearings held by any committee other than the rules committee. Such notice shall contain the date, time and place of such hearing together with the title and number of each bill, or identification of the subject matter, to be considered at such hearing. By a majority vote of the committee members present at any committee meeting such notice may be dispensed with. The reason for such action shall be set forth in a written statement preserved in the records of the meeting.

2. No committee may hold a public hearing during a regular or extraordinary session on a proposal identified as a draft unless the draft has been made available to the public at least twenty-four hours prior to the hearing. This rule does not apply during the five days prior to any cutoff established by concurrent resolution nor does it apply to any measure exempted from the resolution.

3. During its consideration of or vote on any bill, resolution or memorial, the deliberations of any committee or subcommittee of the senate shall be open to the public. In case of any disturbance or disorderly conduct at any such deliberations, the chair shall order the sergeant at arms to suppress the same and may order the meeting closed to any person or persons creating such disturbance.

4. No committee shall amend a measure, adopt a substitute bill, or vote upon any measure or appointment absent a quorum. A committee may conduct a hearing absent a quorum. A majority of any committee shall constitute a quorum and committees shall be considered to have a quorum present unless the question is raised. Any question as to quorum not raised at the time of the committee action is deemed waived.

5. Bills reported to the senate from a standing committee must have a majority report, which shall be prepared upon a printed standing committee report form; shall be adopted at a regularly or specially called meeting during a legislative session and shall be signed by a majority of the committee; and shall carry only one of the following recommendations:

- a. Do pass;
- b. Do pass as amended;
- c. That a substitute bill be substituted therefor, and the substitute bill do pass; or
- d. Without recommendation.

In addition to one of the above-listed recommendations, a report may also recommend that a bill be referred to another committee.

6. A majority report of a committee must carry the signatures of a majority of the members of the committee. In the event a committee has a quorum pursuant to subsection 4 of this rule, a majority of the members present may act on a measure, subject to obtaining the signatures of a majority of the members of the committee on the majority report.

7. Any measure, appointment, substitute bill, or amendment still within a committee's possession before it has been reported out to the full senate may be reconsidered to correct an error, change language, or otherwise accurately reflect the will of the committee in its majority and minority reports to the full senate. Any such reconsideration may be made at any time, by any member of the committee, provided that the committee has not yet reported the measure, appointment, substitute bill, or amendment out to the full senate. Any such reconsideration made after a vote has been taken

or signatures obtained will require a new vote and signature sheet. Any measure which does not receive a majority vote of the members present may be reconsidered at that meeting and may again be considered upon motion of any committee member if one day's notice of said motion is provided to all committee members. For purposes of this rule, a committee is deemed to have reported a measure, appointment, substitute bill, or amendment out when it has delivered its majority and minority reports to the senate workroom. After such delivery, the committee no longer has possession of the measure, appointment, substitute bill, or amendment and no further committee action, including reconsideration, may be taken.

8. Any member of the committee not concurring in the majority report may sign a minority report containing a recommendation of "do not pass" or "without recommendation," which shall be signed by those members of the committee subscribing thereto, and submitted with the majority report. In every case where a majority report form is circulated for signature, a minority report form shall also be circulated.

9. When a committee reports a substitute for an original bill with the recommendation that the substitute bill do pass, it shall be in order to read the substitute bill the first time and have the same ordered printed.

A motion for the substitution of the substitute bill for the original bill shall not be in order until the committee on rules places the original bill on the second reading calendar.

10. No vote in any committee shall be taken by secret ballot nor shall any committee have a policy of secrecy as to any vote on action taken in such committee.

11. All reports of standing committees must be on the secretary's desk one hour prior to convening of the session in order to be read at said session. During any special session of the legislature, this rule may be suspended by a majority vote.

#### Committee Meetings During Sessions

**Rule 46.** No committee shall sit during the daily session of the senate unless by special leave.

No committee shall sit during any scheduled caucus.

#### Reading of Reports

**Rule 47.** The majority report, and minority report, if there be one, together with the names of the signers thereof, shall be read by the secretary, unless the reading be dispensed with by the senate, and all committee reports shall be spread upon the journal.

#### Recalling Bills from Committees

**Rule 48.** Any standing committee of the senate may be relieved of further consideration of any bill, regardless of prior action of the committee, by a majority vote of the senators elected or appointed. The senate may then make such orderly disposition of the bill as they may direct by a majority vote of the members of the senate.

#### Bills Referred to Rules Committee

**Rule 49.** All bills reported by a committee to the senate shall then be referred to the committee on rules for second reading without action on the report unless otherwise ordered by the senate. (See also Rules 63 and 64.)

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Rules Committee

**Rule 50.** The lieutenant governor shall be a voting member and the chair of the committee on rules. The committee on rules shall have charge of the daily second and third reading calendar of the senate and shall direct the secretary of the senate the order in which the bills shall be considered by the senate and the committee on rules shall have the authority to directly refer any bill before them to any other standing committee. Such referral shall be reported out to the senate on the next day's business.

The senate may change the order of consideration of bills on the second or third reading calendar.

The calendar, except in emergent situations, as determined by the committee on rules, shall be on the desks and in the offices of the senators each day and shall cover the bills for consideration on the next following day.

Employment Committee

**Rule 51.** The employment committee for committee staff shall consist of five members, three from the majority party and two from the minority party. The chair shall be appointed by the majority leader. The committee shall, in addition to its other duties, appoint a staff director for committee services with the concurrence of four of its members. All other decisions shall be determined by majority vote. The committee shall operate within staffing, budget levels and guidelines as authorized and adopted by the facilities and operations committee.

Committee of the Whole

**Rule 52.** At no time shall the senate sit as a committee of the whole.

The senate may at any time, by the vote of the majority of the members present, sit as a body for the purpose of taking testimony on any measure before the senate.

Appropriation Budget Bills

**Rule 53.** No amendment to the budget, capital budget or supplemental budget, not incorporated in the bill as reported by the ways and means committee, shall be adopted except by the affirmative vote of sixty percent of the senators elected or appointed.

SECTION VI

BILLS, RESOLUTIONS, MEMORIALS AND GUBERNATORIAL APPOINTMENTS

Definitions

**Rule 54.** "Measure" means a bill, joint memorial, joint resolution, or concurrent resolution.

"Bill" when used alone means bill, joint memorial, joint resolution, or concurrent resolution.

"Majority" shall mean a majority of those members present unless otherwise stated.

Prefiling

**Rule 55.** Holdover members and members-elect to the senate may prefile bills with the secretary of the senate on any day commencing with the first Monday in December preceding any session year; or twenty days prior to any special session of the legislature. Such bills will be printed, distributed and prepared for introduction on the first legislative day. No bill, joint memorial or joint resolution shall be prefiled by title and/or preamble only. (See also Rule 3, Sub. 3.)

Introduction of Bills

**Rule 56.** All bills, joint resolutions and joint memorials introduced shall be endorsed with a statement of the title and the name of the member introducing the same. Any member desiring to introduce a bill, joint resolution or joint memorial shall file the same with the secretary of the senate by noon of the day before the convening of the session at which said bill, joint resolution or joint memorial is to be introduced.

After the expiration of deadlines for bill introductions provided for by resolution, no bill shall be introduced, except as the legislature shall direct by a vote of two-thirds of all the members elected to each house, said vote to be taken by yeas and nays and entered upon the journal, or unless the same be at a special session. The time limitation for introduction of bills shall not apply to substitute bills reported by standing committees for bills pending before such committees and general appropriation and revenue bills. (See also Art. 2, Sec. 36, State Constitution.)

Amendatory Bills

**Rule 57.** Bills introduced in the senate intended to amend existing statutes shall have the words which are amendatory to such existing statutes underlined. Any matter to be deleted from the existing statutes shall be indicated by setting such matter forth in full, enclosed by double parentheses, and such deleted matter shall be lined out with hyphens. No bill shall be printed or acted upon until the provisions of this rule shall have been complied with.

Sections added by amendatory bill to an existing act, or chapter of the official code, need not be underlined but shall be designated "NEW SECTION" in upper case type and such designation shall be underlined. New enactments need not be underlined.

When statutes are being repealed, the Revised Code of Washington section number to be repealed, the section caption and the session law history, from the most current to the original, shall be cited.

Joint Resolutions and Memorials

**Rule 58.** Joint resolutions and joint memorials, up to the signing thereof by the president of the senate, shall be subject to the rules governing the course of bills.

Senate Concurrent Resolutions

**Rule 59.** Concurrent resolutions shall be subject to the rules governing the course of bills and may be adopted without a roll call. Concurrent resolutions authorizing investigations and authorizing the expenditure or allocation of any money must be adopted by roll call and the yeas and nays recorded in the journal. Concurrent resolutions are subject to final passage on the day of the first reading without regard to Senate Rules 62, 63, and 64.

## Committee Bills

**Rule 60.** Committee bills introduced by a standing committee during a legislative session may be filed with the secretary of the senate and introduced, and the signature of each member of the committee shall be endorsed upon the cover of the original bill.

Committee bills shall be read the first time by title, ordered printed, and referred to the committee on rules for second reading.

## Committee Reference

**Rule 61.** When a motion is made to refer a subject, and different committees are proposed, the question shall be taken in the following order:

- FIRST: A standing committee.  
SECOND: A select committee.

## Reading of Bills

**Rule 62.** Every bill shall be read on three separate days unless the senate deems it expedient to suspend this rule. On and after the tenth day preceding adjournment sine die of any session, or three days prior to any cut-off date for consideration of bills, as determined pursuant to Article 2, Section 12 of the Constitution or concurrent resolution, or during any special session of the legislature, this rule may be suspended by a majority vote. (See also Rule 59).

## First Reading

**Rule 63.** The first reading of a bill shall be by title only, unless a majority of the members present demand a reading in full.

After the first reading, bills shall be referred to an appropriate committee pursuant to Rule 61.

Upon being reported back by committee, all bills shall be referred to the committee on rules for second reading, unless otherwise ordered by the senate. (See Rule 49.)

A bill shall be reported back by the committee chair upon written petition therefor signed by a majority of its members. The petition shall designate the recommendation as provided in Rule 45, Sub. 5.

No committee chair shall exercise a pocket veto of any bill.

Should there be a two-thirds majority report of the committee membership against the bill, a vote shall be immediately ordered for the indefinite postponement of the bill.

## Second Reading/Amendments

**Rule 64.** Upon second reading, the bill shall be read section by section, in full, and be subject to amendment.

Any member may, if sustained by three members, remove a bill from the consent calendar as constituted by the committee on rules. A bill removed from the consent calendar shall take its place as the last bill in the order of consideration of bills on the second reading calendar.

No amendment shall be considered by the senate until it shall have been sent to the secretary's desk in writing and read by the secretary.

All amendments adopted on the second reading shall then be securely fastened to the original bill.

All amendments rejected by the senate shall be spread upon the journal, and the journal shall show the disposition of all amendments.

When no further amendments shall be offered, the president shall declare the bill has passed its second reading, and shall be referred to the committee on rules for third reading.

## Third Reading

**Rule 65.** Bills on third reading shall be read in full by sections, and no amendment shall be entertained.

When a bill shall pass, it shall be certified to by the secretary, together with the vote upon final passage, noting the day of its passage thereon.

The vote must be taken by yeas and nays, the names of the senators voting for and against the same to be entered upon the journal and the majority of the members elected to the senate must be recorded thereon as voting in its favor to secure its passage by the senate.

## Scope and Object of Bill Not to be Changed

**Rule 66.** No amendment to any bill shall be allowed which shall change the scope and object of the bill. (See also Art. 2, Sec. 38, State Constitution.) Substitute bills shall be considered amendments for the purposes of this rule. A point of order raising the question of scope and object may be raised at any time during consideration of an amendment prior to voting on the amendment. A proposed amendment to an unamended title-only bill shall be within the scope and object of the bill if the subject of the amendment fits within the language in the title.

## Matters Related to Disagreement Between the Senate and House

**Rule 67.** When there is a disagreement between the senate and house on a measure before the senate, the senate may act upon the measure with the following motions which have priority in the following order:

- To concur
- To non-concur
- To recede
- To insist
- To adhere

These motions are in order as to any single amendment or to a series of amendments. (See Reed's Rules 247 through 254.)

A senate bill, passed by the house with amendment or amendments which shall change the scope and object of the bill, upon being received in the senate, shall be referred to an appropriate committee and shall take the same course as for original bills, unless a motion to ask the house to recede, to insist or to adhere is made prior to the measure being referred to committee.

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Bills Committed for Special Amendment

**Rule 68.** A bill may be committed with or without special instructions to amend at any time before taking the final vote.

Confirmation of Gubernatorial Appointees

**Rule 69.** When the names of appointees to state offices are transmitted to the Secretary of the Senate for senate confirmation, the communication from the governor shall be recorded and referred to the appropriate standing committee.

The standing committee, or subcommittee, pursuant to rule 42, shall require each appointee referred to the committee for consideration to complete the standard questionnaire to be used to ascertain the appointee's general background and qualifications. The committee may also require the appointee to complete a supplemental questionnaire related specifically to the qualifications for the position to which he has been appointed.

Any hearing on a gubernatorial appointment, held by the standing committee, or subcommittees, pursuant to rule 42, shall be a public hearing. The appointee may be required to appear before the committee on request. When appearing, the appointee shall be required to testify under oath or affirmation. The chair of the committee or the presiding member shall administer the oath or affirmation in accordance with RCW 44.16. (See also Article 2, Sec. 6 of the State Constitution.)

Nothing in this rule shall be construed to prevent a standing committee, or subcommittee, pursuant to rule 42, upon a two-thirds vote of its members, from holding executive sessions when considering an appointment.

When the committee on rules presents the report of the standing committee before the senate, the question shall be the confirmation of the name proposed, and the roll shall then be called and the yeas and nays entered upon the journal. In the event a message is received from the governor requesting return of an appointment or appointments to the office of the governor prior to confirmation, the senate shall vote upon the governor's request and the appointment or appointments shall be returned to the governor if the request is approved by a majority of the members elected or appointed. (Article 13 of the State Constitution.)

MOTION

Senator Murray moved that the following amendment by Senators Murray and Zarelli be adopted:

Strike all of Rule 53 and insert "**Rule 53. Reserved**"

Senators Murray, Hargrove, Zarelli and Sheldon spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Murray and Zarelli to Senate Resolution No. 8604.

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

MOTION

Senator Hobbs moved that Senate Rule 41 be amended to reflect the Committee on Early Learning & K-12 Education be set at ten members.

The President declared the question before the Senate to be the motion by Senator Hobbs that Senate Rule be amended to the amendment to add 'ten' members on the Committee on Early Learning & K-12.

The motion by Senator Hobbs carried by a voice vote.

Senator Brown spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Engrossed Senate Resolution No. 8604.

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

POINT OF INQUIRY

Senator Hewitt: "Would Senator Brown yield to a question? Thank you, Senator Brown, would you be willing to do that with Ways & Means as well? Even steven."

Senator Brown: "Pardon me?"

The President declared the question before the Senate to be the adoption of Engrossed Senate Resolution No. 8604.

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

MOTION

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

MESSAGE FROM THE HOUSE

January 10, 2011

MR. PRESIDENT:

The House has adopted:

- HOUSE CONCURRENT RESOLUTION NO. 4400,
- HOUSE CONCURRENT RESOLUTION NO. 4401,
- HOUSE CONCURRENT RESOLUTION NO. 4402,
- HOUSE CONCURRENT RESOLUTION NO. 4403.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5000 by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon and Kilmer

AN ACT Relating to mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence of alcohol or drugs or being in physical control of a vehicle while under the influence of alcohol or drugs; amending RCW 46.55.113; reenacting and amending RCW 46.55.113; adding new sections to chapter 46.55 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Judiciary.

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SB 5001 by Senators Stevens, Schoesler, Morton, Honeyford and Becker

AN ACT Relating to unappropriated public lands; adding a new chapter to Title 79 RCW; creating new sections; prescribing penalties; and providing a contingent effective date.

Referred to Committee on Natural Resources & Marine Waters.

SB 5002 by Senators Stevens, Morton, Honeyford, Becker and Roach

AN ACT Relating to acquisition of federal property by eminent domain; adding a new section to chapter 8.04 RCW; and adding a new section to chapter 8.26 RCW.

Referred to Committee on Natural Resources & Marine Waters.

SB 5003 by Senators Schoesler and Shin

AN ACT Relating to an addition to the scenic and recreational highway system; and amending RCW 47.39.020.

Referred to Committee on Transportation.

SB 5004 by Senator Pflug

AN ACT Relating to disclosure and regulation of criminal informant evidence and testimony; and adding a new chapter to Title 10 RCW.

Referred to Committee on Judiciary.

SB 5005 by Senators Keiser, Honeyford, Pflug, Becker, Regala, Carrell, Hobbs, Nelson, Rockefeller, Shin and Chase

AN ACT Relating to exemption from immunization; and amending RCW 28A.210.090.

Referred to Committee on Health & Long-Term Care.

SB 5006 by Senators Honeyford, Sheldon, Prentice, Stevens, Swecker, Becker, Carrell, Zarelli, King, Schoesler, Ericksen, Morton and Holmquist Newbry

AN ACT Relating to the issuance of drivers' licenses, permits, and identicards to persons who are not lawfully within the United States; amending RCW 46.20.021, 46.20.035, 46.20.065, 46.20.070, 46.20.117, 46.20.181, and 46.20.207; and adding new sections to chapter 46.20 RCW.

Referred to Committee on Transportation.

SB 5007 by Senators Honeyford, Swecker, Becker, Stevens, Schoesler and Morton

AN ACT Relating to the public inspection and copying of voter registration information of criminal justice agency employees or workers; and amending RCW 29A.08.710.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5008 by Senators Honeyford, Swecker, Stevens and Morton

AN ACT Relating to life insurance when an order regarding life sustaining treatment has been issued or implemented; adding a new section to chapter 48.23 RCW; and adding a new section to chapter 48.24 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5009 by Senators Kastama and Shin

AN ACT Relating to the authority of the department of information services to provide services to public agencies; and amending RCW 43.105.052.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5010 by Senators White, Kline, Kohl-Welles, Keiser, Tom, Murray, Chase, Nelson and Haugen

AN ACT Relating to public funding for supreme court campaigns; amending RCW 42.17.390 and 42.17A.750; reenacting and amending RCW 3.62.060; adding new sections to chapter 42.17 RCW; adding a new section to chapter 36.18 RCW; creating new sections; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5011 by Senators White, Kohl-Welles, Murray, Chase, Nelson and McAuliffe

AN ACT Relating to victimization of homeless persons; and reenacting and amending RCW 9.94A.535 and 9.94A.030.

Referred to Committee on Judiciary.

SB 5012 by Senators White and Kline

AN ACT Relating to the standard of review utilized by the growth management hearings board when hearing appeals under the growth management act; and amending RCW 36.70A.3201.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5013 by Senator White

AN ACT Relating to the use of hearing examiners or local planning officials in a quasi-judicial land use permit process; amending RCW 36.70B.060, 35.63.130, 35A.63.170, 36.70.970, and 58.17.330; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5014 by Senators White, Chase and Nelson

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AN ACT Relating to pro se defendants in criminal cases questioning victims; and creating a new section.

74.42.010; adding a new chapter to Title 18 RCW; and providing an effective date.

Referred to Committee on Judiciary.

Referred to Committee on Human Services & Corrections.

SB 5015 by Senators White, Kohl-Welles and Nelson

SB 5021 by Senators Pridemore, Kline, Kohl-Welles, Keiser, Prentice, Tom, Chase, White, Nelson, Haugen and McAuliffe

AN ACT Relating to ballot tabulation; and amending RCW 29A.40.110.

AN ACT Relating to enhancing election campaign disclosure requirements to promote greater transparency for the public; amending RCW 42.17.020, 42.17.040, 42.17.120, 42.17A.435, 42.17.3691, 42.17A.245, 42.17.390, 42.17A.750, 42.17.395, and 42.17A.755; reenacting and amending RCW 42.17A.005 and 42.17A.205; adding a new section to chapter 42.17 RCW; adding a new section to chapter 42.17A RCW; creating a new section; prescribing penalties; providing an effective date; and providing expiration dates.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5016 by Senators White, Shin, Kohl-Welles and Prentice

SB 5022 by Senators Kilmer, Regala, Pflug and Rockefeller

AN ACT Relating to operating a motor vehicle while smoking; adding a new section to chapter 46.61 RCW; creating a new section; prescribing penalties; and providing an effective date.

AN ACT Relating to clarifying the statute of limitations for any court action brought under RCW 42.56.550; reenacting and amending RCW 42.56.550; and creating a new section.

Referred to Committee on Transportation.

Referred to Committee on Judiciary.

SB 5017 by Senators Regala, Honeyford, Kastama, Pridemore, Delvin, Kilmer, Kline, Shin, Conway, Hewitt and Haugen

SB 5023 by Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase and Rockefeller

AN ACT Relating to providing a property tax exemption for property held under lease, sublease, or lease-purchase by a nonprofit organization that provides job training, placement, or preemployment services; adding a new section to chapter 84.36 RCW; and providing an effective date.

AN ACT Relating to nonlegal immigration-related services; amending RCW 19.154.010, 19.154.020, 19.154.060, 19.154.090, and 19.154.900; adding a new section to chapter 19.154 RCW; repealing RCW 19.154.030, 19.154.040, 19.154.050, 19.154.070, 19.154.080, and 19.154.902; and prescribing penalties.

Referred to Committee on Ways & Means.

Referred to Committee on Judiciary.

SB 5018 by Senators Keiser, Conway, Shin, Schoesler, Hobbs, Kline and McAuliffe

SB 5024 by Senators Hargrove, Sheldon, Becker, Litzow, Haugen, Carrell, King, Honeyford, Shin, Kilmer, Regala, Pflug, Parlette, Rockefeller and McAuliffe

AN ACT Relating to wound care management in occupational therapy; amending RCW 18.59.020 and 18.59.160; and adding a new section to chapter 18.59 RCW.

AN ACT Relating to restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Human Services & Corrections.

SB 5019 by Senators Regala, Kline, Harper and Kohl-Welles

SB 5025 by Senators Hargrove, Becker, Sheldon, Litzow, Haugen, Carrell, White, King, Honeyford, Shin, Kilmer, Regala, Parlette, Conway, Tom, Rockefeller, Roach and Holmquist Newbry

AN ACT Relating to privacy of nonconviction records; amending RCW 10.97.030, 10.97.040, and 10.97.060; adding a new section to chapter 26.50 RCW; and creating new sections.

AN ACT Relating to making requests by or on behalf of an inmate under the public records act ineligible for penalties; reenacting and amending RCW 42.56.550; creating a new section; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Human Services & Corrections.

SB 5020 by Senators Murray, Regala, Kohl-Welles, Prentice and Chase

AN ACT Relating to protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education; amending RCW 10.77.010, 13.34.260, 26.09.191, 26.10.160, 28A.170.080, 70.96A.037, 70.96B.010, 70.97.010, 70.126.020, 70.127.010, 71.32.020, 71.34.020, 74.13.029, and 74.34.020; reenacting and amending RCW 71.05.020 and

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SB 5026 by Senators Haugen, King, Schoesler, Hatfield, Shin, Hewitt, Roach and Holmquist Newbry

AN ACT Relating to clarifying the definition of "farm vehicle" to encourage similar recognition in federal tax law; amending RCW 46.04.181; and creating a new section.

Referred to Committee on Transportation.

SB 5027 by Senators Haugen, King and Holmquist Newbry

AN ACT Relating to requiring motorcycle manufacturers to indicate whether a motorcycle is for off-road use only; and adding a new section to chapter 46.70 RCW.

Referred to Committee on Transportation.

SB 5028 by Senators Haugen, Stevens, Harper and Shin

AN ACT Relating to triage facilities; amending RCW 71.05.153 and 10.31.110; and reenacting and amending RCW 71.05.020.

Referred to Committee on Human Services & Corrections.

SB 5029 by Senators Kohl-Welles, White, King, Honeyford, Holmquist Newbry, Kline, Conway, Tom, Chase, Hewitt, Harper, Nelson and McAuliffe

AN ACT Relating to beer and wine tasting at farmers markets; amending RCW 66.24.170 and 66.28.040; reenacting and amending RCW 66.24.244; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5030 by Senators Hewitt, Sheldon, Schoesler and Rockefeller

AN ACT Relating to civil judgments for assault; amending RCW 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 5031 by Senators Kline, Carrell, Conway, Sheldon and Roach

AN ACT Relating to including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions; and amending RCW 9.41.060 and 9.41.300.

Referred to Committee on Judiciary.

SB 5032 by Senators Pridemore, Swecker and Chase

AN ACT Relating to the membership of metropolitan water pollution abatement advisory committees; and amending RCW 35.58.210.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5033 by Senators Pridemore, Swecker, Chase and Nelson

AN ACT Relating to the sale of water-sewer district real property; and amending RCW 57.08.016.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5034 by Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway and Hewitt

AN ACT Relating to private infrastructure development; amending RCW 80.04.010, 80.04.110, 80.04.160, 80.04.250, 80.04.500, 80.28.010, 80.28.020, 80.28.030, 80.28.040, 80.28.050, 80.28.060, 80.28.080, 80.28.090, 80.28.100, 80.28.110, 80.28.120, 80.28.130, 80.28.185, 80.28.240, 80.28.270, 80.28.275, 7.60.025, and 36.94.110; adding new sections to chapter 80.28 RCW; adding a new section to chapter 80.04 RCW; creating new sections; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5035 by Senators Shin, Honeyford and Kohl-Welles

AN ACT Relating to the manufactured/mobile home landlord-tenant act; and adding a new section to chapter 59.20 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5036 by Senators Regala, Swecker and Fraser

AN ACT Relating to eliminating expiration dates for the derelict vessel and invasive species removal fee; and amending RCW 88.02.640 and 43.21A.667, 43.43.400, and 77.12.879.

Referred to Committee on Natural Resources & Marine Waters.

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING

HCR 4400 by Representatives Sullivan and Kretz

Notifying the Governor that the Legislature is ready to conduct business.

HCR 4401 by Representatives Sullivan and Kretz

Calling joint sessions for various purposes.

HCR 4402 by Representatives Sullivan and Kretz

Establishing cutoff dates.

HCR 4403 by Representatives Sullivan and Kretz

Adopting joint rules.

MOTION

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exceptions of Senate Bill No. 5028 which was referred to the Committee on Human Services & Corrections and House Concurrent Resolution No. 4400; House Concurrent Resolution No. 4401; House Concurrent Resolution No. 4402; and House Concurrent Resolution No. 4403 which placed on second the reading calendar under suspension of the rules.

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4401 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President declared the question before the Senate to be the adoption of House Concurrent Resolution No. 4401.

HOUSE CONCURRENT RESOLUTION NO. 4401, was adopted on third reading by voice vote.

MOTION

On motion of Senator Eide, House Concurrent Resolution No. 4402 was held on the second reading calendar.

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4403, by Representatives Sullivan and Kretz

Adopting joint rules.

The measure was read the second time.

MOTION

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

MOTION

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4400, by Representatives Sullivan and Kretz

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4403 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Notifying the Governor that the Legislature is ready to conduct business.

The President declared the question before the Senate to be the adoption of House Concurrent Resolution No. 4403.

HOUSE CONCURRENT RESOLUTION NO. 4403, was adopted on third reading by voice vote.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4400 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

STANDING COMMITTEE ASSIGNMENTS

The President announced the following 2011 Standing Committee assignments.

The President declared the question before the Senate to be the adoption of House Concurrent Resolution No. 4400.

HOUSE CONCURRENT RESOLUTION NO. 4400, was adopted on third reading by voice vote.

2011 PROPOSED SENATE STANDING COMMITTEE ASSIGNMENTS

Agriculture & Rural Economic Development (8) -- Hatfield, Chair; Shin, Vice Chair; \*Delvin; Becker; Haugen; Hobbs; Honeyford; Schoesler

Early Learning & K-12 Education (10) -- McAuliffe, Chair; Harper, Vice Chair; \*Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Tom

Economic Development, Trade & Innovation (9) -- Kastama, Chair; Chase, Vice Chair; \*Baumgartner; Benton; Hatfield; Holmquist Newbry; Kilmer; Shin; Zarelli

Environment, Water & Energy (9) -- Rockefeller, Chair; Nelson, Vice Chair; \*Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton; Ranker

APPOINTMENT OF SPECIAL COMMITTEE

In accordance with House Concurrent Resolution No. 4400, the President appointed Senators Parlette and Kilmer to notify the Governor that the Legislature was organized and ready to conduct business.

Financial Institutions, Housing & Insurance (7) -- Hobbs, Chair; Prentice, Vice Chair; \*Benton; Fain; Haugen; Keiser; Litzow

MOTION

On motion of Senator Eide, the appointments were confirmed.

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4401, by Representatives Sullivan and Kretz

Calling joint sessions for various purposes.

Government Operations, Tribal Relations & Elections (6) -- Pridemore, Chair; Prentice, Vice Chair; \*Swecker; Chase; Nelson; Roach

The measure was read the second time.

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Health & Long-Term Care (9) -- Keiser, Chair; Conway, Vice Chair; \*Becker; Carrell; Kline; Murray; Parlette; Pflug; Pridemore

Higher Education & Workforce Development (9) -- Tom, Chair; Shin, Vice Chair; \*Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer; White

Human Services & Corrections (7) -- Hargrove, Chair; Regala, Vice Chair; \*Stevens; Carrell; Ericksen; Harper; McAuliffe

Judiciary (8) -- Kline, Chair; Harper, Vice Chair; \*Pflug; Carrell; Hargrove; Kohl-Welles; Regala; Roach

Labor, Commerce & Consumer Protection (7) -- Kohl-Welles, Chair; Conway, Vice Chair; \*Holmquist Newbry; \*\*King; Hewitt; Keiser; Kline

Natural Resources & Marine Waters (7) -- Ranker, Chair; Regala, Vice Chair; \*Morton; Fraser; Hargrove; Stevens; Swecker

Rules (21) -- Lieutenant Governor, Chair; Prentice, Vice Chair; \*Hewitt; Brown; Carrell; Eide; Fraser; Harper; Haugen; Keiser; King; Kline; Kohl-Welles; McAuliffe; Parlette; Pflug; Rockefeller; Schoesler; Stevens; White; Zarelli

Transportation (16) -- Haugen, Chair; White, Vice Chair; \*King; \*\*Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin; Swecker

Ways & Means (21) -- Murray, Chair; Kilmer, Vice Chair Capital Budget; \*Zarelli; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Parlette; Pflug; Pridemore; Regala; Rockefeller; Schoesler; Tom

MOTION

On motion of Senator Eide, Senator Fain was added to the Committee on Early Learning & K-12 Education.

MOTION

Senator Eide moved that the appointments be confirmed.

MOTION

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

## MESSAGE FROM THE SECRETARY OF STATE

CANVASS OF THE RETURNS  
OF THE GENERAL ELECTION  
HELD ON NOVEMBER 2, 2010

I, Sam Reed, Secretary of State of the State of Washington, do hereby certify that according to the provisions of RCW 29A.60.250, I have canvassed the returns of the 2,565,589 votes cast by the 3,601,268 registered voters of the state for all federal and statewide offices, and those legislative and judicial offices whose jurisdiction encompasses more than one county in the general election held on the 2<sup>nd</sup> day of November, 2010, as received from the County Auditors, and that the votes cast for candidates for these offices are as follows:

**U.S. Senator**

|              |                            |           |
|--------------|----------------------------|-----------|
| Patty Murray | (Prefers Democratic Party) | 1,314,930 |
| Dino Rossi   | (Prefers Republican Party) | 1,196,164 |

**U.S. Congressional District 1 – Representative**

|               |                            |         |
|---------------|----------------------------|---------|
| Jay Inslee    | (Prefers Democratic Party) | 172,642 |
| James Watkins | (Prefers Republican Party) | 126,737 |

**U.S. Congressional District 2 – Representative**

|             |                            |         |
|-------------|----------------------------|---------|
| John Koster | (Prefers Republican Party) | 148,722 |
| Rick Larsen | (Prefers Democratic Party) | 155,241 |

**U.S. Congressional District 3 – Representative**

|               |                            |         |
|---------------|----------------------------|---------|
| Denny Heck    | (Prefers Democratic Party) | 135,654 |
| Jaime Herrera | (Prefers Republican Party) | 152,799 |

**U.S. Congressional District 4 – Representative**

|              |                            |         |
|--------------|----------------------------|---------|
| Doc Hastings | (Prefers Republican Party) | 156,726 |
| Jay Clough   | (Prefers Democratic Party) | 74,973  |

**U.S. Congressional District 5 – Representative**

|                        |                            |         |
|------------------------|----------------------------|---------|
| Cathy McMorris Rodgers | (Prefers Republican Party) | 177,235 |
| Daryl Romeyn           | (Prefers Democratic Party) | 101,146 |

**U.S. Congressional District 6 – Representative**

|            |                            |         |
|------------|----------------------------|---------|
| Norm Dicks | (Prefers Democratic Party) | 151,873 |
| Doug Cloud | (Prefers Republican Party) | 109,800 |

**U.S. Congressional District 7 – Representative**

|                      |                                  |         |
|----------------------|----------------------------------|---------|
| Jim McDermott        | (Prefers Democratic Party)       | 232,649 |
| Bob Jeffers-Schroder | (Prefers Independent – No Party) | 47,741  |

**U.S. Congressional District 8 – Representative**

|               |                            |         |
|---------------|----------------------------|---------|
| Dave Reichert | (Prefers Republican Party) | 161,296 |
| Suzan DelBene | (Prefers Democratic Party) | 148,581 |

**U.S. Congressional District 9 – Representative**

|                     |                            |         |
|---------------------|----------------------------|---------|
| Adam Smith          | (Prefers Democratic Party) | 123,743 |
| Richard (Dick) Muri | (Prefers Republican Party) | 101,851 |

**Legislative District 1 – State Representative Pos. 1**

|                |                            |        |
|----------------|----------------------------|--------|
| Derek Stanford | (Prefers Democratic Party) | 29,181 |
|----------------|----------------------------|--------|

|  |                            |        |
|--|----------------------------|--------|
| Dennis Richter   | (Prefers Republican Party) | 25,672 |
| <b>Legislative District 1 – State Representative Pos. 2</b>  |                            |        |
| Heidi Munson   | (Prefers Republican Party) | 26,704 |
| Luis Moscoso   | (Prefers Democratic Party) | 27,736 |
| <b>Legislative District 2 – State Representative Pos. 1</b>  |                            |        |
| Jim McCune   | (Prefers Republican Party) | 31,459 |
| Marilyn Rasmussen  | (Prefers Democratic Party) | 21,872 |
| <b>Legislative District 2 – State Representative Pos. 2</b>  |                            |        |
| J. T. Wilcox   | (Prefers Republican Party) | 29,995 |
| Tom Campbell   | (Prefers Republican Party) | 19,751 |
| <b>Legislative District 7 – State Senator</b>                |                            |        |
| Bob Morton   | (Prefers Republican Party) | 39,694 |
| Barbara Mowrey   | (Prefers Democratic Party) | 13,359 |
| <b>Legislative District 7 – State Representative Pos. 1</b>  |                            |        |
| Shelly Short   | (Prefers Republican Party) | 41,839 |
| <b>Legislative District 7 – State Representative Pos. 2</b>  |                            |        |
| Joel Kretz   | (Prefers Republican Party) | 41,998 |
| <b>Legislative District 9 – State Representative Pos. 1</b>  |                            |        |
| Susan Fagan  | (Prefers Republican Party) | 33,864 |
| <b>Legislative District 9 – State Representative Pos. 2</b>  |                            |        |
| Joe Schmick  | (Prefers Republican Party) | 29,056 |
| Glen R. Stockwell  | (Prefers Republican Party) | 8,275  |
| <b>Legislative District 10 – State Representative Pos. 1</b> |                            |        |
| Norma Smith  | (Prefers Republican Party) | 36,190 |
| Laura Lewis  | (Prefers Democratic Party) | 23,546 |
| <b>Legislative District 10 – State Representative Pos. 2</b> |                            |        |
| Barbara Bailey   | (Prefers Republican Party) | 34,700 |
| Tom Riggs  | (Prefers Democratic Party) | 25,175 |
| <b>Legislative District 12 – State Representative Pos. 1</b> |                            |        |
| Cary Condotta  | (Prefers Republican Party) | 35,630 |
| <b>Legislative District 12 – State Representative Pos. 2</b> |                            |        |
| Mike Armstrong   | (Prefers Republican Party) | 23,643 |
| Cliff Courtney   | (Prefers Republican Party) | 20,448 |
| <b>Legislative District 13 – State Senator</b>               |                            |        |
| Janéa Holmquist  | (Prefers Republican Party) | 35,432 |
| <b>Legislative District 13 – State Representative Pos. 1</b> |                            |        |
| Judith (Judy) Warnick  | (Prefers Republican Party) | 34,889 |
| <b>Legislative District 13 – State Representative Pos. 2</b> |                            |        |

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|--|------------------------------|--------|
| Bill Hinkle  | (Prefers Republican Party)   | 34,923 |
| Anthony (El Tigro) Novack                                    | (Prefers Bull Moose Party)   | 6,134  |
| <b>Legislative District 15 – State Senator</b>               |                              |        |
| Jim Honeyford  | (Prefers Republican Party)   | 25,864 |
| <b>Legislative District 15 – State Representative Pos. 1</b> |                              |        |
| Bruce Chandler   | (Prefers Republican Party)   | 20,712 |
| Paul Spencer   | (Prefers Democratic Party)   | 11,585 |
| <b>Legislative District 15 – State Representative Pos. 2</b> |                              |        |
| David Taylor   | (Prefers Republican Party)   | 19,951 |
| Thomas (Tom) T. Silva  | (Prefers Democratic Party)   | 11,970 |
| <b>Legislative District 16 – State Representative Pos. 1</b> |                              |        |
| Maureen Walsh  | (Prefers Republican Party)   | 33,793 |
| Brenda High  | (Prefers Constitution Party) | 9,736  |
| <b>Legislative District 16 – State Representative Pos. 2</b> |                              |        |
| Terry R. Nealey  | (Prefers Republican Party)   | 36,405 |
| <b>Legislative District 18 – State Representative Pos. 1</b> |                              |        |
| Dennis Kampe   | (Prefers Democratic Party)   | 24,717 |
| Ann Rivers   | (Prefers Republican Party)   | 37,317 |
| <b>Legislative District 18 – State Representative Pos. 2</b> |                              |        |
| Ed Orcutt  | (Prefers Republican Party)   | 47,595 |
| <b>Legislative District 19 – State Representative Pos. 1</b> |                              |        |
| Dean Takko   | (Prefers Democratic Party)   | 26,504 |
| Kurt Swanson   | (Prefers Republican Party)   | 18,118 |
| <b>Legislative District 19 – State Representative Pos. 2</b> |                              |        |
| Brian E. Blake   | (Prefers Democratic Party)   | 23,354 |
| Tim Sutinen  | (Prefers Lower Taxes Party)  | 21,201 |
| <b>Legislative District 20 – State Representative Pos. 1</b> |                              |        |
| Richard DeBolt   | (Prefers Republican Party)   | 36,363 |
| Corinne Tobeck   | (Prefers Democratic Party)   | 20,278 |
| <b>Legislative District 20 – State Representative Pos. 2</b> |                              |        |
| Gary Alexander   | (Prefers Republican Party)   | 44,715 |
| <b>Legislative District 24 – State Representative Pos. 1</b> |                              |        |
| Kevin Van De Wege  | (Prefers Democratic Party)   | 34,977 |
| Dan Gase   | (Prefers Republican Party)   | 27,277 |
| <b>Legislative District 24 – State Representative Pos. 2</b> |                              |        |
| Steve Tharinger  | (Prefers Democratic Party)   | 32,300 |
| Jim McEntire   | (Prefers Republican Party)   | 29,427 |
| <b>Legislative District 26 – State Senator</b>               |                              |        |

|  |                                  |        |
|--|----------------------------------|--------|
| Derek Kilmer   | (Prefers Democratic Party)       | 33,090 |
| Marty McClendon  | (Prefers Republican Party)       | 23,179 |
| <b>Legislative District 26 – State Representative Pos. 1</b> |                                  |        |
| Jan Angel  | (Prefers Republican Party)       | 33,716 |
| Sumner Schoenike   | (Prefers Democratic Party)       | 21,785 |
| <b>Legislative District 26 – State Representative Pos. 2</b> |                                  |        |
| Larry Seaquist   | (Prefers Democratic Party)       | 28,942 |
| Doug Richards  | (Prefers Republican Party)       | 26,535 |
| <b>Legislative District 31 – State Senator</b>               |                                  |        |
| Pam Roach  | (Prefers Republican Party)       | 29,374 |
| Matt Richardson  | (Prefers Republican Party)       | 14,661 |
| <b>Legislative District 31 – State Representative Pos. 1</b> |                                  |        |
| Cathy Dahlquist  | (Prefers Republican Party)       | 23,254 |
| Shawn Bunney   | (Prefers Republican Party)       | 20,479 |
| <b>Legislative District 31 – State Representative Pos. 2</b> |                                  |        |
| Christopher Hurst  | (Prefers Independent Dem. Party) | 27,396 |
| Patrick Reed   | (Prefers Republican Party)       | 19,815 |
| <b>Legislative District 32 – State Senator</b>               |                                  |        |
| Maralyn Chase  | (Prefers Democratic Party)       | 33,426 |
| David Baker  | (Prefers Republican Party)       | 21,775 |
| <b>Legislative District 32 – State Representative Pos. 1</b> |                                  |        |
| Cindy Ryu  | (Prefers Democratic Party)       | 33,550 |
| Art Coday  | (Prefers Republican Party)       | 21,314 |
| <b>Legislative District 32 – State Representative Pos. 2</b> |                                  |        |
| Ruth Kagi  | (Prefers Democratic Party)       | 35,344 |
| Gary (G) Gagliardi   | (Prefers Republican Party)       | 19,480 |
| <b>Legislative District 35 – State Senator</b>               |                                  |        |
| Tim Sheldon  | (Prefers Democratic Party)       | 34,130 |
| Nancy (grandma) Williams                                     | (Prefers Republican Party)       | 21,084 |
| <b>Legislative District 35 – State Representative Pos. 1</b> |                                  |        |
| Kathy Haigh  | (Prefers Democratic Party)       | 28,590 |
| Daniel (Dan) Griffey   | (Prefers Republican Party)       | 27,566 |
| <b>Legislative District 35 – State Representative Pos. 2</b> |                                  |        |
| Fred Finn  | (Prefers Democratic Party)       | 29,543 |
| Linda Simpson  | (Prefers Republican Party)       | 25,724 |
| <b>Legislative District 39 – State Representative Pos. 1</b> |                                  |        |
| Dan Kristiansen  | (Prefers Republican Party)       | 31,578 |
| Eleanor Walters  | (Prefers Democratic Party)       | 21,544 |
| <b>Legislative District 39 – State Representative Pos. 2</b> |                                  |        |

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|   |                            |           |
|---|----------------------------|-----------|
| Kirk Pearson  | (Prefers Republican Party) | 41,784    |
| <b>Legislative District 40 – State Representative Pos. 1</b>                  |                            |           |
| Kristine Lytton   | (Prefers Democratic Party) | 33,304    |
| Mike Newman   | (Prefers Republican Party) | 24,812    |
| <b>Legislative District 40 – State Representative Pos. 2</b>                  |                            |           |
| Jeff Morris   | (Prefers Democratic Party) | 33,064    |
| John Swapp  | (Prefers Republican Party) | 25,079    |
| <b>Supreme Court – Justice Position 1</b>                                     |                            |           |
| Jim Johnson   |                            | 1,631,550 |
| <b>Supreme Court – Justice Position 5</b>                                     |                            |           |
| Barbara Madsen  |                            | 1,597,645 |
| <b>Supreme Court – Justice Position 6</b>                                     |                            |           |
| Richard B. Sanders  |                            | 971,803   |
| Charlie Wiggins   |                            | 984,948   |
| <b>Court of Appeals, Division 2, District 3 – Judge Position 2</b>            |                            |           |
| Jill M. Johanson  |                            | 151,785   |
| <b>Court of Appeals, Division 3, District 1 – Judge Position 1</b>            |                            |           |
| Laurel Siddoway   |                            | 147,766   |
| <b>Court of Appeals, Division 3, District 2 – Judge Position 1</b>            |                            |           |
| Dennis Sweeney  |                            | 104,008   |
| <b>Superior Court, Judge Position 1<br/>(Klickitat and Skamania Counties)</b> |                            |           |
| Brian Altman  |                            | 8,325     |

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the state of Washington, this 2<sup>nd</sup> day of December 2010.

SAM REED  
Secretary of State

(Seal)

FIRST DAY, JANUARY 10, 2011  
MESSAGE FROM THE GOVERNOR

2011 REGULAR SESSION

May 4, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1)(r); 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill No.6444 entitled:

“AN ACT Relating to fiscal matters.”

I am vetoing the following appropriation items because of concerns with policy or technical issues relating to the legislative provisions:

**Section 109, page 10, Supreme Court, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduced appropriation to the Supreme Court in this section will impede the Court’s capacity to hear cases in a timely manner. The Court will work with the Legislature to implement budget reductions in the 2011 Supplemental Budget; therefore, I have vetoed Section 109.

**Section 117, page 17, lines 10-11, Lieutenant Governor, Reduction to Private/Local Appropriation**

The \$2,000 reduction in the existing private/local fund appropriation would require the agency to turn away grant funds from a local school district. For this reason, I have vetoed Section 117, lines 10-11.

**Section 127(27), page 30, Department of Commerce, Microenterprise Development Organizations**

This proviso prohibits the Department of Commerce from reducing the funding for microenterprise development organizations by more than ten percent this biennium. This restriction limits the agency’s ability to manage necessary budget reductions. For this reason, I have vetoed Section 127(27).

**Section 127(28), pages 30-31, Department of Commerce, Workgroup to Study Gaps in State Commercialization Programs**

This proviso requires the Department of Commerce to convene a work group to study the gaps and overlaps in programs that commercialize research and technology initiatives. This group must prepare a report to the Legislature no later than December 1, 2010, that identifies any gaps and overlaps, evaluates strategies to reduce administrative expenses, and recommends changes that would amplify and accelerate innovation-driver job creation in the state. No funding was provided for the review and study. For this reason, I have vetoed Section 127(28). However, I am directing the Department of Commerce to conduct as much of a

review as is possible within its existing resources because I believe the information required by the proviso will be useful.

**Section 127(31), pages 31-32, Department of Commerce, Separate Budget Request for the Economic Development Commission**

This proviso requires the Economic Development Commission, currently funded through the Department of Commerce, to develop a separate budget request and work plan. It also creates an account for the receipt of gifts, donations, sponsorships, or contributions from which only the Commission or its designee may authorize expenditures. Because the Economic Development Commission is part of the Department of Commerce, its budget and work plan is and should remain part of the Department’s budget requests. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(31).

**Section 127(36), page 34, Department of Commerce, New Account for Washington Technology Center**

This proviso creates the Investing in Innovation Account to be used only by the Washington Technology Center in carrying out the Investing in Innovation Grants Program and other innovation and commercialization activities. Since the Center is a non-profit organization, not a public agency, it cannot administer a state account. In addition, it is inappropriate to establish an account in an appropriations bill. For these reasons, I have vetoed Section 127(36).

**Section 127(38), page 34, Department of Commerce, Washington State Quality Award Training for Small Manufacturers and Other Businesses**

This subsection provides \$50,000 in General Fund-State funding for Washington State Quality Award Council training for small manufacturers and other businesses/organizations engaged in continuous quality improvement, performance measurements, strategic planning, and other approaches that enhance productivity. The state’s current and projected fiscal environment necessitates spending on only the most essential state programs and activities, and spending \$50,000 on this activity will provide minimal benefit to Washington’s small businesses. For this reason, I have vetoed Section 127(38).

**Section 127(39), page 34, Department of Commerce, Appropriation to Manufacturing Innovation and Modernization Account**

This subsection provides \$50,000 in General Fund-State funding for deposit into the Manufacturing Innovation and Modernization Account, which provides vouchers to small manufacturers to purchase consulting services from a qualified manufacturing extension partner affiliate. To date, no small manufacturers have taken advantage of this program, and approximately \$150,000 remains in the account. Given the state’s current and projected fiscal environment and the lack of demand for these services, an additional deposit of funds into this account does not seem warranted. For this reason, I have vetoed Section 127(39).

**Section 129, page 35, lines 19-20, Office of Financial Management, Change to Fiscal Year 2011 General Fund-State Appropriation**

The reduction to the Fiscal Year 2011 appropriation is vetoed in order to retain sufficient funds to conduct two critical budget-related studies; and independent assessment of placements in residential habilitation centers in Section 129(6)

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and an analysis and strategic business plan for the Consolidated State Data Center and Office in section 129(7). Insufficient funds were provided to prepare a valuable study, and no new funds were provided for the Date Center study. The agency will still implement all administrative reductions assumed in the budget as passed, and the additional spending authority will be used to accomplish the new work assigned to the agency. For these reasons, I have vetoed Section 129, line 19-20.

**Section 129(3), pages 36-37, Office of Financial Management, Washington State Quality Award Training**

This subsection provides \$25,000 in General Fund-State funding for the Office of Financial Management to contract with the Washington State Quality Award Program to provide training for state managers and employees. The state's current and projected fiscal environment necessitates spending on only the most essential requirements. For this reason, I have vetoed Section 129(3).

**Section 129(6), page 38, Office of Financial Management**

The \$200,000 appropriation for this study is divided between two fiscal years so the Office of Financial Management will not be able to use half of the money, making it impossible to satisfactorily complete the review as envisioned. Therefore, I am vetoing section 129(6). In order to assess the status of people who currently live in residential habilitation centers, I am directing the Department of Social and Health Services to conduct assessments in a similar manner as is done for people in community residential programs. The assessments shall include interviews with all residential habilitation center residents or guardians of residents to determine the optimum setting for these individuals and shall include the option and choice to remain in a residential habilitation center. The Office of Financial Management shall contract with an independent consultant to review the assessments and determine whether there are funded options available in the community for residential habilitation center residents who indicate an interest in moving to a community placement and whether appropriate services and resources in the community exist or can be developed to provide adequate care for people with developmental disabilities. The consultant shall provide a report to me and the Legislature by December 1, 2010. For these reasons, I have vetoed Section 129(6).

**Section 131(2), page 40, Department of Personnel, Employee Satisfaction Synopsis and Workforce Management Assessment**

This proviso requires the Department of Personnel to provide a synopsis of survey data regarding state employee satisfaction and an assessment of career and executive work force management concerns. There is a technical problem with an incorrect reference to Section 119(4) instead of Section 123(4). For this reason, I am vetoing Section 131(2), but directing the Department to comply with the intent of the proviso to the degree possible within existing resources.

**Section 201(7), page 58-59, Department of Social and Health Services, Audit and Oversight Improvement**

This proviso requires multiple changes to the Department's audit and oversight programs. This requirement would create a significant administrative burden, and no funding was provided for this purpose. For this reason, I have vetoed Section 201(7).

**Section 204(3)(f), pages 81-82, Department of Social and Health Services, Report on Mental Health Services for Children**

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The Department of Social and Health Services is directed to provide a report on improving services for children who are at greatest risk of requiring long-term inpatient and residential care due to the severity of their emotional impairments. The proviso requires the Family Policy Council to prepare an inventory of current publicly funded efforts in Washington to identify children at risk of emotional impairments and to provide intervention before a mental disorder manifests itself. In light of national health care reform and the state's efforts to reorganize in response, requiring that a report be prepared by October 1, 2010, will not give the Department sufficient time to respond to health care reform, formulate a redesigned plan to address children's mental health, and work with the federal government. As the Department is currently involved in litigation regarding children's mental health, and because I believe that all aspects of the public children's mental health system need to be evaluated in light of national health care reform and because a deadline of October 1 does not provide sufficient time to respond, I have vetoed Section 204(3)(f).

**Section 205(1)(m), page 88, Department of Social and Health Services, County Employment Funding**

This proviso prohibits the Department of Social and Health Services from reducing expenditures for contracts with counties for employment assistance for people with developmental disabilities. This restriction limits the Department's ability to manage necessary budget reductions. Therefore, I have vetoed Section 205(1)(m).

**Section 205(1)(n), page 88, Department of Social and Health Services Developmental Disabilities Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided for this purpose. Therefore, I have vetoed Section 205(1)(n).

**Section 205(1)(o), pages 88-89, Department of Social and Health Services Developmental Disabilities Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens on the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 205(1)(o).

**Section 205(1)(p), page 89, Department of Social and Health Services, Report on Placements for Residential Clients**

This proviso requires a quarterly report on all placements for residential clients in the community protection and expanded community programs in the Division of Developmental Disabilities. Because of the cost involved, I have vetoed Section 205(1)(p) and am directing the Department of Social and Health Services to continue providing the quarterly reports which cover only new residential clients added to the programs in the current biennium.

**Section 205(1)( r ), page 89, Department of Social and Health Services, Self-Advocate Support**

This proviso directs the Department of Social and Health Services to spend an additional \$100,000 to provide instruction in self-advocacy to families of individuals with developmental

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disabilities. In these difficult economic times, it is not prudent to expand services. For this reason, I have vetoed Section 205(1)(r).

**Section 205(1)(s), pages 89-90, Department of Social and Health Services, Community Support**

The Department of Social and Health Services is directed to spend an additional \$100,000 for parent-to-parent networks and community support groups for people with developmental disabilities. In a time when we are reducing other valuable core services of state government, we cannot afford to expand these services. For this reason, I have vetoed Section 205(1)(s).

**Section 206(20), page 97, Department of Social and Health Services Aging and Adult Services Program, Agency Provider Savings and Hourly Rates**

The Department of Social and Health Services is directed to report on the fiscal impact of Chapter 571, Laws of 2009 (Substitute House Bill No. 2361) and the relative hourly costs of agency providers and individual providers. However, no funding is provided. Therefore, I have vetoed Section (206)(20).

**Section 206(21), pages 97-98, Department of Social and Health Services Aging and Adult Services Program, Workgroup on Administrative Burdens for the Homecare Industry**

The Department of Social and Health Services is directed to convene a new work group to address administrative burdens for the homecare industry and to report on its findings. However, no funding is provided. Therefore, I have vetoed Section 206(21).

**Section 207(2), pages 101-102 Department of Social and Health Services, Subcabinet Report on WorkFirst**

This proviso directs the WorkFirst Subcabinet and Department of Social and Health Services to report on services provided and accessed by both general population clients and limited English proficiency clients. No funding is provided for this report. Therefore, I have vetoed Section 207(2).

**Section 207(11), page 106, Department of Social and Health Services, Limited English Proficiency Services**

This proviso reinstates a portion of the reduction taken in the 2009-11 enacted budget for limited English proficiency services. Given the budget context, it is not appropriate to restore this reduction. Therefore, I have vetoed Section 207(11).

**Section 209(14), page 112-113, Department of Social and Health Services, Disability Lifeline Report on Transition from Fee-for-Service to Managed Care**

This revised proviso requires the Department of Social and Health Services to report to the Legislature by November 1, 2010, on the impact of moving Lifeline medical clients from fee-for-service to managed care, and expands the outcomes to be included in the evaluation currently required. Since there is a lengthy lag period between when services are received by a client and when they are paid for by the state, there will not be sufficient data to report. For this reason, I have vetoed Section 209(14).

**Section 209(35), page 117, Department of Social and Health Services, Medication Therapy Management**

This proviso requires the Department of Social and Health Services to enter into a contract for medication therapy management services only if the contractor guarantees the program will generate savings. While there may be merit in this

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concept, no additional administrative resources were provided for implementation. For this reason, I have vetoed Section 209(35).

**Section 209(38), page 117, Department of Social and Health Services, Lowest Cost Prescription Drug Option**

This proviso requires the Department of Social and Health Services to purchase a brand-name drug if the drug, after rebates and discounts, is the lowest-cost drug option. The Department has made good progress in reducing the growth in drug costs for state-purchased health care. This has been done through establishing a preferred drug list and emphasizing generic substitutes when appropriate. The Department will continue to purchase the lowest-cost drugs possible. However, there are challenges with implementing this requirement as written. In addition, no funding has been provided for this report. For these reasons, I have vetoed Section 209(38).

**Section 209(39), page 117, Department of Social and Health Services, Report on new Prescription Drug Benchmark**

The Department of Social and Health Services is required to report to the Legislature concerning the establishment of a new benchmark for prescription drugs to replace the Average Wholesale Price. No funding has been provided for this report. For this reason, I have vetoed Section 209(39).

**Section 209(40), page 117, Department of Social and Health Services, School-based Medicaid Services**

The proviso declares that sufficient funding is provided in the Appropriations Act to fund medical services provided to Medicaid clients in a school setting. This proviso restricts the agency's ability to limit services in this area should be budget situation demand it. For this reason, I have vetoed Section 209(40).

**Section 209(41), page 118, Department of Social and Health Services, Pursuing and Reporting Drug Pricing Opportunities**

The Department of Social and Health Services is required to report on the opportunities available to the state through the federal 340B drug pricing program. This program provides certain federally supported program discounts on prescription drugs used for outpatient services. No, funding was provided for this report. For this reason, I have vetoed Section 209(41).

**Section 209(42), page 118, Department of Social and Health Services, Transition Plan to Move Fee-for-Service to Managed Care**

The Department of Social and Health Services is required to develop a transition plan for the state's aged, blind, and disabled clients to move from a fee-for-service medical delivery system to a managed care delivery system. Since no funding was provided for this transition plan, I have vetoed Section 209(42). However, I am directing the Secretary of the Department of Social and Health Services and Administrator of the Health Care Authority to continue to assess the feasibility and cost effectiveness of moving from fee-for-service to managed care plans.

**Section 209(47), pages 118-119, Department of Social and Health Services, Establishing Rates to Apple Health Managed Care**

This proviso establishes the method by which premiums for the Apple Health Program will be established for rates set after July 1, 2010. As we move to implement national health care reform, it will be imperative that we retain as much flexibility as possible to

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control the cost of purchasing health care. As written, the proviso limits the Department of Social and Health Service's ability to adjust premiums to reflect the actual cost of providing health care within individual plans. For this reason, I have vetoed Section 209(47).

**Section 212(6), page 121, Department of Social and Health Services, Governor's Juvenile Justice Advisory Committee**

This proviso limits any budget cuts to the Governor's Juvenile Justice Advisory Committee. In this budget environment, state government should not be restricted from any possible avenues to reduce spending. Therefore, I have vetoed Section 212(6).

**Section 212(7), pages 121-122, Department of Social and Health Services, Autism Health Coverage Study**

The Department of Social and Health Services is directed to report, in collaboration with the Health Care Authority, on the fiscal impact of state-purchased health care to cover autism spectrum disorder diagnosis and treatment for individuals younger than 21 years. This is not the time to engage in new studies to assess the expansion of state-paid services, no matter how worthy. Therefore, I have vetoed Section 212(7).

**Section 214(7), pages 124-125, Health Care Authority, Continuum of Care Pilot Project**

This proviso directs the Health Care Authority to establish two pilot projects for low-income adults who are waiting for health care coverage from the Basic Health Plan. We are in the earliest stages of implementing national health care reform. At the same time, we struggle to maintain the state safety net in very difficult budget times. I need the Health Care Authority to focus on these two tasks. For this reason, I have vetoed Section 214(7).

**Section 214(8), page 125, Health Care Authority, Nonsubsidized Basic Health Plan**

The proviso directs the Health Care Authority, should it offer Basic Health Plan coverage to non-subsidized clients, to provide information concerning other health care coverage options. This requirement creates an unfunded administrative burden. It also duplicates the provision of such information currently available from the Office of the Insurance Commissioner. For this reason, I have vetoed Section 214(8).

**Section 221(21), page 140, Department of Health, Funding for Nursing Commission Programs Related to Discipline, Impaired Practitioners and Expedited Credentials**

This proviso, in combination with Section 926, reduces the library access surcharge applied to certification fees for nursing professionals. The surcharge, which all health professions pay, is used to provide access to health care literature through the University of Washington. This critical resource allows providers the opportunity to learn of best practices used in their professions and furthers the ongoing education of all health care professionals. While I support the purposes for which this funding would have been diverted, this funding source should continue to be dedicated to advancing the use of evidence-based health care practices in Washington. For this reason, I have vetoed Section 221(21).

**Section 221(28), page 141, Department of Health, Tobacco Cessation Program Reductions**

This proviso requires ten percent of every tobacco cessation program contract be directed for addressing minority populations. This proviso is unnecessary because the Tobacco Cessation Program in the aggregate spends eighteen percent of its resources

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to serve these target populations. Therefore, I have vetoed Section 221(28).

**Section 223(2)(h), pages 144-145, Department of Corrections, Report on Earned Release Date**

This proviso directs the Department of Corrections to submit a report by June 1, 2010, addressing issues related to the release of offenders on the earned release date. This task cannot be completed in the short timeframe specified in the proviso. Therefore, I have vetoed Section 223(2)(h) and am directing the Department to submit its report to the Office of Financial Management and legislative fiscal committees by August 1, 2010. The Department will use this report to identify strategies to reduce the recent increase in the number of offenders held beyond their earned release dates, while maintaining public safety as a priority.

**Section 303(3), pages 160-161, State Parks and Recreation Commission, Park Closure Language**

Current budget language is revised to eliminate the provision that state parks may be closed if donation revenue is insufficient for ongoing operations. While this change does not appear to create an absolute prohibition on the closure of state parks, the revised language may create that impression. This would severely limit the agency's ability to manage state parks in the event that revenues drop below appropriated levels. For this reason, I have vetoed Section 303(3).

**Section 303(4), page 161, State Parks and Recreation Commission, Restriction Closure of Tolmie State Park**

This proviso prohibits the State Parks and Recreation Commission from closing Tolmie State Park. I have encouraged the Commission to continue pursuing the transfer of certain state parks in the event that revenues decrease to manage the statewide parks system within budget. The Commission needs to retain this flexibility. For these reasons, I have vetoed Section 303(4).

**Section 304(4), page 162, Recreation and Conservation Funding Board, Extension of the Biodiversity Council**

This proviso extends the Biodiversity Council for one year, through the end of Fiscal Year 2011. While I strongly support the work of the Biodiversity Council, I am asking the Natural Resources Cabinet to absorb the Council's oversight role. As we undergo the process of natural resources reform, the Natural Resources Cabinet will assume many leadership roles previously performed by other entities. For these reasons, I have vetoed Section 304(4).

**Section 306(2), page 163, State Conservation Commission, Infrastructure Improvements Related to Wildlife Habitat**

This proviso dedicates \$38,000 of the General Fund-State for improving infrastructure on state-owned lands in Kittitas County. While habitat improvements are an important step in managing the balance between wildlife conservation and grazing rights, funding for this endeavor can be pursued via other means, including State Conservation Commission grants, local conservation district funding, and private sources. The state's current and projected fiscal environment necessitates spending on essential services and programs. For these reason, I have vetoed Section 306(2).

**Section 308(15), page 173, Department of Natural Resources, Excluding Shellfish Growers from the Department's Aquatic Habitat Conservation Plan**

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This proviso requires the Department of Natural Resources to exclude shellfish growers from its aquatic Habitat Conservation Plan if those growers have been issued a federal nationwide or individual permit. The Department and the shellfish industry have signed a Memorandum of Understanding which requires the Department and shellfish growers to finalize an agreement on shellfish aquaculture activities before the aquatic Habitat Conservation Plan is finalized. Because this is a collaborative effort, it would be inappropriate for the proviso to place restrictions on the unfinished product. For this reason, I have vetoed Section 308(15).

**Section 501(1)(b), pages 182-183, Office of the Superintendent of Public Instruction, School District Reorganization Commission**

This proviso creates a statewide commission on school district reorganization. I want school districts to focus their maximum attention on the immediate priorities of improving student learning and successfully implementing the next phase of education reforms. The charge to the Commission created in this proviso is very broad, and funding provided to the Office of the Superintendent of Public Instruction is insufficient to achieve the mandates of the proviso. For these reasons, I have vetoed Section 501(1)(b). The Joint Legislative Audit and Review Committee is conducting a study of the relationship between the cost of school districts and their enrollment size. Upon completion of its report, I encourage the Legislature and the Office of the Superintendent to explore opportunities for a focused review of school district organization.

**Section 501(1)(f)(iv), page 185, Office of the Superintendent of Public Instruction, Exempting the Professional Educator Standards Board from Expenditure Restrictions**

This section exempts the Professional Educator Standards Board from the restrictions on travel allowances and meeting costs that apply to other boards and commissions under Chapter 7, Laws of 2010, First Extraordinary Session (Engrossed Second Substitute House Bill No. 2617). This law allows agencies to seek exceptions to the travel and meeting restrictions for critically necessary work. To maintain consistency in the application of these restrictions among state boards and commissions, I have vetoed Section 501(1)(f)(iv).

**Section 604(7), pages 243-244, University of Washington, Telecommunications Report**

This subsection provides \$183,000 to the Technology Law and Public Policy Center at the University of Washington School of Law to prepare a report analyzing trends in the telecommunications industry and pathways for telecommunications reform. This work overlaps with the functions of the state Utilities and Transportation Commission. This expenditure does not meet the highest priorities of state government at this time. therefore I have vetoed Section 604(7).

**Section 605(5), page 246, Washington State University, Business and Entrepreneurial Development Program Plan**

This subsection provides \$100,000 to the Small Business Development Center at Washington State University to develop a state plan for coordination of small business and entrepreneurial development programs. Expenditure of funds on this effort does not meet the highest priorities of state government at this time. Therefore I have vetoed Section 605(5).

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**Section 708, pages 270-271, Washington Management Service and Exempt Management Services Reductions**

This section ties to Section 2 of Engrossed Senate Bill No. 6503, which I have vetoed. The budget proviso assumes additional compensation reductions of \$10 million in General Fund-State funding from Washington Management Service and exempt managers, who comprise less than five percent of state employees. This cut would require that specified staff take nearly two weeks of temporary layoff time beyond the ten days included in ESB 6503. This inequity is likely to create problems in recruiting and retaining qualified and experienced workers, as well as be disruptive to normal state operations. Managers will be subject to temporary layoffs in the same proportion as all affected state employees. For these reasons, I have vetoed Section 708.

**Section 717, pages 276-278, Agency Reallocation and Realignment of Washington Commission**

Section 717 creates the Agency Reallocation and Realignment of Washington Commission. Its responsibilities would include examining current state operations and organization, and making proposals to reduce expenditures and to eliminate duplication and overlapping services. The sum of \$250,000 in General Fund-State dollars is provided for this purpose. While I strongly support these goals, there are programs that address the same concerns, most notably the Joint Legislative Audit and Review Committee, the Office of the State Auditor's performance audit program, the Governor's Government Management, Accountability, and Performance program, and the Office of Financial Management's Priorities of Government budget development process. I hope to have further discussions with legislative leadership to identify ways to address these issues within existing structures and resources. For these reasons, I have vetoed Section 717.

**Section 803, page 281, line 38, and page 282, lines 1-11, Transfers from the Tobacco Settlement Account to the General Fund and the Life Sciences Discovery Fund**

This transfer decreases funding for critical life sciences research by \$16.2 million, representing a 76 percent biennial reduction when coupled with the \$26 million reduction to the fund in the enacted 2009-11 biennial budget. In order to implement this level of reduction, the Life Sciences Discovery Authority would have to discontinue any future state grants for critical life sciences research. Funding at the current level is vital to accomplishing the state's Life Sciences Research and Development goal of tripling the State's life sciences research base and creating more than 20,000 new jobs. For this reason, I have vetoed Section 803, page 281, line 38, and page 282, lines 1 through 11.

**Section 803, page 283, lines 20-22, Transfer from the Budget Stabilization Account to the General Fund**

The transfers required by this budget appropriation were intended to take place if the Budget Stabilization Account transfers in House Bill 3197 did not occur. Since that measure passed and has been signed into law, the transfer is void. For this reason, I have vetoed Section 803, page 283, lines 20-22.

**Section 803, page 283, lines 23-27, Transfer from the Liquor Revolving Account to the General Fund**

This transfer is associated with a provision in Section 939 that allows restaurants and bars an exemption from paying a price increase on spirits. Since I have vetoed Section 939, I am also vetoing Section 803, page 283, lines 23-27.

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**Section 803, page 285, lines 28-31, Transfer from the Insurance Regulatory Account to the General Fund**

This appropriation implements the transfer of \$10 million from the Insurance Commissioner's Regulatory Account to the General Fund-State authorized in Section 937. This transfer would place the Insurance Commissioner's Regulatory Account into a cash deficit position beginning in Fiscal Year 2011. For this reason, I have vetoed Section 803, page 285, lines 28-31.

**Section 902, pages 289-290, Agency Staffing Report**

The agency staffing report required by Section 902 adds another layer of complexity to the data already required to be reported through allotment and accounting systems. The addition of monthly job class information adds immensely to agency workloads with seemingly minimal benefit. I am directing the Office of Financial Management to work with legislative fiscal staff to identify alternative reporting formats that can be useful without creating an unacceptable workload burden. For these reasons, I have vetoed Section 902.

**Section 908, page 294, Electronic Renewal Notices**

This proviso mandates that every state agency make all of its renewals electronic by July 1, 2012. While I support the customer convenience and potential cost savings from doing business by electronic means, we must first assess the question of whether agencies have the staffing and fiscal resources to accomplish this task. I will encourage all agencies to pursue electronic renewal options within their current budgets and to identify obstacles for possible consideration in the new biennial budget. For these reasons, I have vetoed Section 908.

**Section 920, pages 301-302, Washington State Quality Awards**

Section 920 accelerates the date by which agencies must apply to the Washington State quality Awards program. It also limits that requirement for agencies that have more than 300 full-time equivalent employees. A great deal of time and effort is required for a well-executed Washington State Quality Award application. The new date of June 30, 2010, is too short a timeframe, especially for large agencies that may have to submit multiple applications. For these reasons, I am vetoing Section 920, pages 301-302.

**Section 926, pages 306-307, Use of Surcharge for Nursing Professional Credentials**

Because I have vetoed the program enhancement (Section 221(21) supported by this funding, I am also vetoing Section 926, which authorizes the specific use of a portion of the existing surcharge on credential fees.

**Section 937, pages 318-320, Authority for Transfer from the Insurance Regulatory Account to the General Fund**

Section 937 amends RCW 48.02.190 and Section 1, Chapter 161, Laws of 2009, defining eligible uses of funds in the Insurance Commissioner's Regulatory Account, by permitting a current biennium transfer of excess fund balance to the General Fund-State. Since I have vetoed the transfer in Section 803, I am also vetoing the authorization in Section 937.

**Section 939, pages 323-324, Exemption for Restaurants and Bars from Temporary Mark-up on Spirits**

Section 939 exempts restaurants and bars from paying any price increase made by the Washington State Liquor Control Board during the 2009-11 Biennium if that increase relates to General Fund-State transfers or additional liquor profit distributions.

Exempting restaurants and bars would reduce budgeted revenue assumptions by \$11 million. Of this amount, \$5.5 million directly affects the General Fun-State and its programs. The remaining shortfall could necessitate an increase in the price consumers pay at liquor stores. Restaurant and bars already receive discounts in price and tax exemptions and it is inappropriate to provide additional discounts at the expense of state programs. For this reason, I have vetoed Section 939.

For these reasons, I have vetoed Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1) @; 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939 of Engrossed Substitute Senate Bill No.6444.

With the exception of Sections 109; 117, page 17, lines 10-11; 127(27); 127(28); 127(31); 127(36); 127(38); 127(39); 129, page 35, lines 19-20; 129(3); 129(6); 131(2); 201(7); 204(3)(f); 205(1)(m); 205(1)(n); 205(1)(o); 205(1)(p); 205(1) @; 205(1)(s); 206(20); 206(21); 207(2); 207(11); 209(14); 209(35); 209(38); 209(39); 209(40); 209(41); 209(42); 209(47); 212(6); 212(7); 214(7); 214(8); 221(21); 221(28); 223(2)(h); 303(3); 303(4); 304(4); 306(2); 308(15); 501(1)(b); 501(1)(f)(iv); 604(7); 605(5); 708; 717; 803, page 281, line 38, and page 282, lines 1-11; 803, page 283, lines 20-22; 803, page 283, lines 23-27; 803, page 285, lines 28-31; 902; 908; 920; 926; 937; and 939, Engrossed Substitute Senate Bill No.6444 is approved.

CHRISTINE O. GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

May 4, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 6, Engrossed Substitute Senate Bill No. 6872 entitled:

“AN ACT Relating to Medicaid nursing facility payments.”

This bill makes several changes to the nursing facility rate statute. Section 6 of this bill would reduce the financing allowance from 10 percent to 4 percent for assets purchased prior to May 17, 1999 and from 8.5 percent to 4 percent for assets purchased on or after May 17, 1999. These retroactive reductions in return on investments would apply to owners the state previously had urged to upgrade their facilities. Such changes could make additional needed investments unlikely.

For these reasons I have vetoed Section 6 of Engrossed Substitute Senate Bill No. 6872.

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With the exception of Section 6, Engrossed Substitute Senate Bill No. 6872 is approved.

CHRISTINE O. GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 27, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, Engrossed Substitute Senate Bill No. 6503 entitled:

“AN ACT Relating to the operations of state agencies.”

This bill directs state agencies to achieve reductions in employee compensation costs. Section 2 of this bill would require additional compensation reductions of \$10 million General Fund State from Washington Management Service and exempt manager, who comprise less than five percent of state employees. A cut of this size, over such a small base, is too large to be practical. For example, it would take nearly two weeks of temporary layoff – over and above the ten days of layoff due to agency closures included in this bill – to reach this level of compensation reduction.

Managers will be subject to the temporary layoffs in proportion to all staff. Imposing this added reduction would interfere with recruiting and retaining qualified and experienced workers. It would likely cause salary inversion, making it particularly hard to promote senior state employees with technical skills into management jobs.

For these reasons I have vetoed Section 2 of Engrossed Substitute Senate Bill No. 6503.

With the exception of Section 2 of Engrossed Substitute Senate Bill No. 6503 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 23, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Engrossed Second Substitute Senate Bill No. 6409 entitled:

“AN ACT Relating to creating the Washington opportunity pathways account.”

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This bill creates the Washington Opportunity Pathways Account and directs that beginning in Fiscal Year 2011 net revenues from in-state lottery games that are not otherwise dedicated will be placed in this new account.

Section 7 of this bill requires costly consultation and studies of areas of lottery operations that already receive significant oversight. The section directs the Joint Legislative Audit and Review Committee (JLARC) to study the marketing and vendor expenditures and incentive payment programs of the Commission by November 1, 2010. The estimated costs of the studies are not funded in the budget. In addition, the Executive Committee of JLARC has requested this section be vetoed and that the study take place next biennium. I agree with the need for the study and request the committee to include it in their future planning.

For these reasons I have vetoed Section 7 of Engrossed Second Substitute Senate Bill No. 6409.

With the exception of Section 7 of Engrossed Second Substitute Senate Bill No. 6409 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 2, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill 6343 entitled:

“AN ACT Relating to the establishment of the Washington Food policy forum.”

Improved coordination of efforts relating to our state food policy is needed. However, this bill identifies goals that overlap with existing state agency activities. This redundancy will lead to spending time and financial resources on issues already addressed by existing agency programs. In addition, this bill establishes a forum consisting of 25 representatives and charges the forum with addressing a broad range of food system goals over the next five years. Experience teaches that the large size of the forum combined with a broad range of issues diminishes the prospects for success.

While I have vetoed this bill, I am committed to a more focused examination of state food policy, food-related programs, and food-related issues. I intend to issue an executive order directing the Departments of Health, Agriculture, and Social and Health Services, along with a request to the Conservation Commission and the Office of Superintendent of Public Instruction, to work collaboratively with other agencies and non-governmental organizations, to:

- a. Pursue federal and other grant source funds to identify gaps and opportunities to address food security, nutrition, and health of Washington citizens;

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Governor of Washington

- b. Explore ways to promote nutrition, especially for those who are most in need;
- c. Help educate the public and policy makers on the status of hunger in Washington State, and the role they play in addressing issues of food security, nutrition and health; and
- d. Collaborate and coordinate with private, public and governmental organizations to support realistic solutions to improving food security, nutrition and health for all Washingtonians; and,
- e. Help educate the public and policy makers on the importance of farmland preservation and the importance of promoting Washington-grown products to farmers; markets, food banks, and institutions.

For these reasons I have vetoed Substitute Senate Bill 6343 in its entirety.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6726 entitled:

“AN ACT Relating to making the governor the public employer of language access providers.”

This bill provides for collective bargaining between the Governor and language access providers. Section 1 creates a new workgroup, directed by the Office of Financial Management, charged with developing a plan to improve the efficiency and effectiveness for interpreter service delivery for the Department of Social and Health Services. The Office of Financial Management is to report the findings of the workgroup to the Legislature no later than September 30, 2010.

Collective bargaining for language access providers working with the Department of Social and Health Services does not require a legislatively mandated workgroup to make recommendations on improvements to the delivery of services. I am directing the Office of Financial Management and the Department of Social and Health Services to conduct an internal review resulting in recommendations to improve administrative efficiency and effectiveness of language access services and, as part of the review, to seek input from the appropriate stakeholders.

For these reasons I have vetoed Section 1 of Engrossed Substitute Senate Bill 6726.

With the exception of Section 1 Engrossed Substitute Senate Bill 6726 is approved.

CHRISTINE GREGOIRE,

MESSAGE FROM THE GOVERNOR

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Second Substitute Senate Bill 6575 entitled:

“AN ACT Relating to recommendations of the joint legislative task force on the underground economy.”

Second Substitute Senate Bill 6575 is designed to limit the underground construction economy by requiring contractors who fail to register with the Department of Labor and Industries to enroll in a training class in addition to registering with the department. First-time offenders who do so would be eligible for reduced fines. Narrowing the underground economy is a laudable goal, and one that should be pursued with stronger legislation. Despite its benefits, this bill has one significant negative outcome that cannot be ignored. By creating a dedicated account for revenues from contractor registrations, renewals course fees, and penalties, this bill would reduce net revenues to the state’s general fund by more than \$2 million annually beginning in Fiscal Year 2012. In these difficult economic times, that reduction would have negative impacts greater than the benefits this legislation would provide. I would welcome similar legislation without the creation of a dedicated account. In addition, I am directing the Departments of Revenue, Labor and Industries, and Employment Security to continue interagency coordination of efforts with stakeholders to identify and sanction unregistered contractors.

For these reasons I have vetoed Second Substitute Senate Bill 6575 in its entirety.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 4 Engrossed Substitute Senate Bill 6476 entitled:

“AN ACT Relating to sex crimes involving minors.”

Section 4 requires the Department of Social and Health Services to provide a report to the relevant policy and fiscal committees of the Legislature by November 1, 2010, regarding the training needed to allow staff of the Children’s Administration and crisis residential centers to work effectively with sexually exploited youth. The report must identify the evidence-based training

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programs to be used and the cost of such training. This section would be codified in chapter 13.32A RCW.

The Department will make the information available. A statutorily required report is unnecessary.

For these reasons, I have vetoed Section 4 of Engrossed Substitute Senate Bill 6476.

With the exception of Section 4, Engrossed Substitute Senate Bill 6476 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

April 1, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 9, 10, 14 and 15, Engrossed Substitute Senate Bill 6267 entitled:

“AN ACT Relating to water right processing improvements.”

This bill provides applicants and the Department of Ecology with tools that can be used, when appropriate, to expedite the processing of water right applications.

Sections 9 and 10 define the original location of a well associated with a water right claim as the area located within a one-quarter mile radius of the current well or wells. The original location of a well is used to determine when a replacement well requires a formal change to the water right.

The specific definitions in Sections 9 and 10 would reduce the Department of Ecology’s flexibility and impair its current discretion to decide when a replacement well warrants formal review and approval. Such flexibility and discretion is needed when the impacts of a replacement well will depend on the circumstances. Sections 14 and 15 provide expiration and effective dates for Sections 9 and 10, respectively.

For these reasons, I have vetoed Section 9, 10, 14 and 15 of Engrossed Second Substitute Senate Bill 6267.

With the exception of Sections 9, 10, 14 and 15 Engrossed Second Substitute Senate Bill 6267 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

March 30, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

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Ladies and Gentlemen:

I am returning, without my approval as to Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, and 26-27; and 602 of Engrossed Substitute Senate Bill 6381 entitled:

“AN ACT Relating to transportation funding and appropriations.”

**Section 215(3), page 31, Department of Transportation**

This proviso ties the appropriation contained within this subsection to either the Joint Legislative Audit and Review Committee (JLARC) or the Joint Transportation Committee (JTC) conducting an analysis identified in Sections 108(4) and 204 of this bill. This action effectively delegates appropriation authority to either the JLARC or the JTC. I believe that this delegation of authority will be remedied in the operating budget. For this reason, I have vetoed Section 215(3).

**Section 215(5), page 32, Department of Transportation**

This proviso requires the Department of Transportation to finalize all pending equal value exchange activities for the construction or improvement of facilities. Thereafter, the Department may not pursue any other equal value exchanges except to replace the Mount Baker headquarters office. Equal value exchanges are important tools that the Department uses to fund high priority facility projects. For this reason, I have vetoed Section 215(5).

**Section 221(13), page 47, Department of Transportation**

This proviso requires the Department of Transportation to implement a pilot program for the remainder of the 2009-11 Biennium to expand the use of high occupancy vehicle lanes, transit-only lanes, and certain park and ride facilities to private transportation providers. The proviso requires transit agencies and other local jurisdictions to have a process to receive applications for the reasonable use of these facilities. If a private transportation provider demonstrates that the transit agency or local jurisdiction failed to consider an application in good faith, the Department may not award any grant funding.

This proviso conflicts with federal regulations due to its broad allowance of the private use of public facilities. The Federal Transit Authority (FTA) requires specific authorization before allowing private transportation uses in federally funded public facilities. In addition, the issuance of grants to local jurisdictions for vanpools, special needs transportation, and other facilities to improve regional mobility should not be based upon the outcome of negotiations between local jurisdictions and private transportation providers.

For these reasons, I have vetoed Section 221(13).

**Section 303(43), page 66, Department of Transportation**

**Section 304(15), page 72, Department of Transportation**

These provisos require that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. If such consultation is not feasible and Washington does not act quickly, we may lose the opportunity to receive redistributed federal funds. However, because input from the

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Legislature is important, I am directing the Department to consult with JTC members.

engineering standards, safety considerations permitting requirements, and state and federal law. Section 3 potentially prevents the Department of Transportation from complying with Coast Guard requirements and eliminates any possibility of adjusting the size of the facility based upon design or permitting needs. As a result, I am vetoing this section and directing the Department to continue to work with neighborhoods and local governments to refine the preferred alternative design.

For this reason, I have vetoed Section 303(43) and Section 304(15).

For these reasons, I have vetoed Sections 1 and 3 of Engrossed Substitute Senate Bill 6392.

**Section 401, page 89, lines 18-20, 23-25, and 26-27, State Treasurer**

This section provides for bond sale discounts and debt to be paid by the motor vehicle account and transportation fund revenue. Technical modeling problems resulted in some erroneous amounts.

With the exception of Sections 1 and 3, Engrossed Substitute Senate Bill 6392 is approved.

For this reason, I have vetoed line 18-20, 23-25, and 26-27 of Section 401.

CHRISTINE GREGOIRE,  
Governor of Washington

**Section 602, page 96, Department of Transportation**

This proviso requires that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects indentified in the project list in the 2010 supplemental budget. If these options are not feasible, the Department must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. For the same reason that I vetoed Section 303(43) and Section 304(15) above, I have vetoed Section 602.

MESSAGE FROM THE GOVERNOR

March 29, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

For these reasons, I have vetoed Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, 26-27 and 602, Engrossed Substitute Senate Bill 6381.

I am returning herewith, without my approval as to Section 2, Substitute Senate Bill 6572 entitled:

“AN ACT Relating to eliminating accounts.”

With the exception of Sections 215(3); 215(5); 221(13); 303(43); 304(15); 401, page 89, lines 18-20, 23-25, 26-27 and 602, Engrossed Substitute Senate Bill 6381 is approved.

This bill eliminates inactive state funds and accounts to simplify the state accounting process.

CHRISTINE GREGOIRE,  
Governor of Washington

Section 2 which amends a reference to the special purpose district research services account is also amended in Engrossed Second Substitute House Bill 2658 eliminating the Municipal Research Council and transferring its duties to the Department of Commerce. A veto of Section 2 eliminates this conflicting double amendment.

MESSAGE FROM THE GOVERNOR

March 30, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

For this reason, I have vetoed Section 2 of Substitute Senate Bill 6572.

Ladies and Gentlemen:

With the exception of Section 2, Substitute Senate Bill 6572 is approved.

I am returning herewith, without my approval as to Sections 1 and 3, Engrossed Substitute Senate Bill 6392 entitled:

“AN ACT Relating to the use of revenue generated from tolling the state route number 520 corridor.”

CHRISTINE O. GREGOIRE,  
Governor of Washington

Section 1 outlines legislative intent for the bill. I believe the legislation itself states clearly that improvements throughout the SR 520 corridor need to move forward, with the proper input from appropriate parties. However, Section 1 is vague and susceptible to conflicting interpretations, which I believe could hinder our ability to make progress on a project that is important to public safety and economic vitality.

MESSAGE FROM THE GOVERNOR

March 29, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

Section 3 requires that the SR 520 bridge be no higher than 20 feet. I recognize it is important to local communities that the bridge have as low a profile as possible. Decisions regarding the dimensions of a transportation facility must also be based on

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 6403 entitled:

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“AN ACT Relating to accountability and support for vulnerable students and dropouts, including prevention, intervention, and reengagement.”

Section 1 is an intent section including legislative findings and goals regarding the development of a dropout prevention program to serve vulnerable youth. The intent section could be read to conflict with the substantive description of the type of program to be developed as stated in Section 3. A veto if the intent section eliminates this potential conflict.

For this reason, I have vetoed Section 1 of Engrossed Substitute Senate Bill 6403.

With the exception of Section 1, Engrossed Substitute Senate Bill 6403 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

March 25, 2010

The Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2 of Senate Bill 6826.

“AN ACT Relating to subagent service fees.”

This bill authorizes a fee increase to help independent vehicle licensing subagents keep up with the cost of doing business and requires the Department of Licensing to implement a rotation of public and private vehicle service office listings on the Department’s website. For some time now the Department has been working with the Washington Association of Vehicle Subagents to redesign the website listings, so that the lookup function will allow a person to enter his or her zip code and receive a listing of licensing offices in order of proximity to that zip code. The Department has indicated to the Association that they will have this change completed by December 31, 2010. This proximity website feature will better serve the needs of the public and the subagents. Section 2 would not allow implementation of the proximity website feature requested by the subagents and planned by the Department.

For this reason I have vetoed Section 2 of Senate Bill 6826.

With the exception of Section 2, Senate Bill 6826 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

March 25, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

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Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Substitute Senate Bill 6207 entitled:

“AN ACT Relating to allowing local governments to create golf cart zones.”

The bill authorizes local jurisdictions to allow the use of golf carts on public roads that have speed limits of 25 miles per hour or less, under certain restrictions. The bill contains some important safety precautions, including requiring local jurisdictions to post signs identifying golf cart zones, and requiring that golf carts have seatbelts and proper lighting. Section 7 would exempt passengers under age 16 from the state’s seatbelt and child restraint requirements. I believe it is important these passenger safety provisions apply to the use of vehicles transporting a child on a public road.

For this reason, I have vetoed Section 7 of Substitute Senate Bill 6207.

With the exception of Section 7 of Substitute Senate Bill 6207 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

March 22, 2010

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 5, Substitute Senate Bill 6349 entitled:

“AN ACT Relating to a farm internship program.”

This bill provides a structure for agricultural education with oversight from the Department of Labor and Industries. Section 5 provides that appropriations made for purposes of this act must be from the state general fund. The Legislature can determine through the appropriation process how to fund this program, and does not require a separate statutory provision to determine how to fund the program. This bill creates the program in the Department of Labor and Industries and therefore appropriations made for purposes of this act should be from the departments funds dedicated to that purpose.

For this reason, I have vetoed Section 5 of Substitute Senate Bill 6349.

With the exception of Section 5, Substitute Senate Bill 6349 is approved.

CHRISTINE GREGOIRE,  
Governor of Washington

MESSAGE FROM THE GOVERNOR

FIRST DAY, JANUARY 10, 2011

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June 23, 2010

To the Honorable, the Senate  
Of the State of Washington

Ladies and Gentlemen:

In compliance with the provisions of Article III, Section 11, of the Constitution of the State of Washington, the Governor hereby submits her report of each case of reprieve, commutation or pardon that she has granted since her last report submitted on June 9, 2009, copies of which are attached.

Sincerely,  
Narda Pierce  
General Counsel

cc: Jay Manning, Chief of Staff

**FULL AND UNCONDITIONAL PARDON  
OF  
LINDA M. HOFER**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, in 1998 Joshua McAdams and Mitko Tanev were sailors stationed on the USS Kitty Hawk. Mr. McAdams and Mr. Tanev were visiting a nightclub in Seattle when they were approached by Linda Fromm (who later became known as Linda Hofer), age 19, and a juvenile co-defendant. Both women danced with Mr. McAdams and Mr. Tanev. At least one person saw Ms. Hofer stick her hand into the sailors' pockets. After a few minutes of dancing, Ms. Hofer and her companion suddenly stopped dancing and walked away. They danced with other men in a similar fashion. Witnesses saw the two women go into the restroom of the nightclub and hide money in their clothing.

WHEREAS, after witnesses alerted the nightclub's security to Ms. Hofer's suspicious behavior, security personnel detained Ms. Hofer and her companion. Mr. Tanev later identified Ms. Hofer as one of the women with whom he had been dancing before he noticed his wallet was missing. Seattle police arrested Ms. Hofer and her co-defendant.

WHEREAS, on September 2, 1998, Ms. Hofer was convicted of First Degree Theft and sentenced to 35 days home detention, 12 months community supervision and ordered to pay restitution. Ms. Hofer has complied with the terms of her sentence, paid all ordered restitution and a Certificate and Order of Discharge was issued on September 20, 2000.

WHEREAS, Ms. Hofer states that she is deeply ashamed and sorry for what she did. She realizes that she broke the trust that her victims had for people and states that she could never do such a despicable thing again.

WHEREAS, Ms. Hofer petitioned for pardon of her conviction and appeared before the Clemency and Pardon Board (Board). Ms. Hofer admitted to the Board that she made a terrible mistake. She assured the Board, however, that she is not the same person that committed the crime twelve years ago.

WHEREAS, Ms. Hofer was accepted into the nursing program at Peninsula College in the fall of 2008. She acknowledged her

conviction to the Nursing Advisor and explained that the conviction was clouding her ability to pursue her lifelong dream of working as a nurse. Ms. Hofer stated that she always enjoyed helping people and wanted nursing to be her career. She indicated a belief that she could make a better life for herself, her daughter, and her community by becoming a nurse. Faculty and staff rallied behind Ms. Hofer to support her in her goal. Ms. Hofer completed the nursing program in June of 2010.

WHEREAS, prior to committing the crime, Ms. Hofer was a Certified Nursing Assistant. Even though the conviction prevented her from working as a nursing assistant, she continued to renew her license every year in hopes that she could one day return to the nursing profession.

WHEREAS, Ms. Hofer's Petition for Clemency was supported by numerous letters of support, including letters from Marca Davis, Nursing Program Director at Peninsula College; Jeffrey E. Mauer, Ph.D., Anthropology and Sociology Instructor at Peninsula College; Kathleen Murphy-Carey, Peninsula College Counselor, and a large support group consisting of faculty and staff members of Peninsula College who appeared before the Board in support of Ms. Hofer's Petition. Each expressed their belief that Ms. Hofer was reliable, diligent and capable, and very much focused on pursuing her educational goals. When questioned, each faculty member acknowledged a willingness to put his or her personal and professional reputation on the line to support Ms. Hofer.

WHEREAS, Ms. Hofer's sole conviction twelve years ago provided the wake-up call that she needed as a young woman to get her life on track. She served her sentence, satisfied her financial obligations, expressed contrition for her actions and focused her energies on self-improvement. As a young mother, she enrolled in a nursing program and attracted the support of faculty and students at her school for her dedication and skill.

WHEREAS, the King County Prosecutor's Office took no position regarding Ms. Hofer's petition.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Linda M. Hofer, this full and unconditional pardon of her conviction of Theft in the First Degree so that she may pursue permanent and gainful employment.**

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 22<sup>nd</sup> day of June, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

FIRST DAY, JANUARY 10, 2011

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**FULL AND UNCONDITIONAL PARDON  
OF  
JOSE LOPEZ DOMINGUEZ**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, on July 5, 1988, at age 24, Jose Lopez Dominguez was convicted of Possession of a Controlled Substance: Cocaine and sentenced to 49 days confinement, with credit for 49 days served, and 12 months community supervision.

WHEREAS, in 1988, Mr. Dominguez applied for residency through the National Amnesty Program which was designed to give illegal alien farm workers a chance at American citizenship. At the time, Mr. Dominguez was working in the farmlands of Yakima Valley and residing with another farm worker in a small cabin in Yakima while sending money home to his family in Mexico.

WHEREAS, on the morning of May 18, 1988, within weeks of applying for his residency, Mr. Dominguez was shaving with the front door of his cabin open. He had \$778 in earnings saved and he was preparing to go play Bingo, his favorite pastime. Two men in plain street clothes appeared at his door and showed him their badges. They were accompanied by a uniformed Sheriff's Deputy. Mr. Dominguez did not understand much English at the time, and because he did not have anything to hide, he allowed the men to enter his cabin.

WHEREAS, the officers began searching everything in the cabin, dumping sugar and coffee canisters, and going through and emptying all of the cabinets and shelves. The two plain clothed officers found nothing and left the cabin, leaving the Sheriff's Deputy inside. A few moments later, the Sheriff's Deputy announced that one of the shelves that had already been emptied needed to be searched again because he thought he had seen something. The two plain clothes officers searched the shelf again and this time came up with a small pouch of white substance. Mr. Dominguez was immediately arrested and his \$778 was also confiscated. Mr. Dominguez states that he was confused and did not understand what he had done wrong.

WHEREAS, the events surrounding Mr. Dominguez's arrest raise a question regarding his conviction for possession of a controlled substance. Nothing in Mr. Dominguez's file indicates that law enforcement looked into the possibility that the drugs—found on a shelf that had been searched twice already—might have belonged to his roommate.

WHEREAS, after spending 49 days in jail awaiting trial on the charge of Possession of a Controlled Substance, Mr. Dominguez entered into an *Alford* plea at the urging of his court appointed attorney. Mr. Dominguez indicated a desire to tell the Court that he was innocent of the charges, but his attorney advised him that if he did so, he would go back to jail; whereas, if he entered into the *Alford* plea, he would be released immediately. Mr. Dominguez was not released, but instead detained and later deported.

WHEREAS, since marrying his wife, who is a United States citizen, Mr. Dominguez has attempted to apply for citizenship. Mrs. Dominguez's petition for him to immigrate to the United

States was approved. However, Mr. Dominguez's petition to adjust his status to that of a permanent resident was later denied based upon his 1988 conviction.

WHEREAS, Mr. Dominguez maintains that he has never used illegal drugs, or possessed, sold or offered for sale any illegal drugs. Mr. Dominguez had no offenses (drug related or otherwise) prior to his 1988 arrest nor in the subsequent twenty years. He has taught himself to read and speak English. He has been a very productive member of society, and he now faces being separated from his family by deportation because of a change in the immigration laws that came into effect after his 1988 conviction.

WHEREAS, August Hahn, a retired attorney from Yakima County addressed the Board in favor of Mr. Dominguez's Petition. Mr. Hahn relayed that during the time of Mr. Dominguez's conviction, Yakima County did not maintain a Public Defender's Office, but retained private counsel who received a monthly retainer to handle a certain number of cases no matter what the workload involved in any given case. Mr. Hahn was one such attorney at that time. Mr. Hahn stated that after reviewing all of the facts, he believes that Mr. Dominguez was railroaded into the conviction.

WHEREAS, Mr. Dominguez's stepson, Edwin Commet, also appeared on behalf of Mr. Dominguez. Mr. Commet has had 18 years of law enforcement experience in Yakima County since approximately 1987. During this time, Mr. Commet worked as a narcotics officer, among other assignments. Mr. Commet expressed to the Board that in all the years he has known Mr. Dominguez, he has never seen him angry, abuse alcohol, or use drugs of any sort. Mr. Dominguez's wife also spoke to the Board and described Mr. Dominguez as the gentlest man she has ever known. He is a grandfather and great-grandfather to her children.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I,** Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Jose Lopez Dominguez, this full and unconditional pardon of his conviction of Possession of a Controlled Substance: Cocaine so that he may live with his family in the United States and pursue permanent and gainful employment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 9<sup>th</sup> day of June, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed

FIRST DAY, JANUARY 10, 2011  
 Secretary of State

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**FULL AND UNCONDITIONAL PARDON  
 OF  
 CHAN LY**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, in 1995, at age 23, Chan Ly was employed as an assistant manager at a clothing store in Tacoma, Washington. In May 1995, a customer accidentally left her credit card behind after a purchase. During an internal investigation, it was discovered that Ms. Ly was ringing up sales using the credit card and two other sales clerks were signing the card owner's name on the charge slips. During the period of May 15, 1995, through May 24, 1995, the three employees made eight fraudulent credit card charges for a total of \$3,442.12 in store merchandise.

WHEREAS, One June 22, 1995, Ms. Ly was convicted of First Degree Theft and sentenced to 32 days total confinement, with 24 months community supervision, and 240 hours of community service. Ms. Ly has complied with the terms of her sentence, paid all ordered restitution and a Certificate and Order of Discharge was issued on May 21, 2007.

WHEREAS, Ms. Ly expressed that she is deeply remorseful for her crimes. Ms. Ly stated that the conviction has shaped her life and explained that with her family in mind, knowing how much they need her, she has gone on to better herself. Ms. Ly is the first person in her family to attend college, and she has chosen to pursue the profession of a registered nurse. Ms. Ly has excelled in her program, achieving a high honors GPA of 3.83. She has attended night school while maintaining a full-time work schedule.

WHEREAS, Ms. Ly is a single mother of three daughters and resides in the same house as her elderly parents who both suffer chronic medical conditions. In addition to caring for her three daughters and her elderly parents, Ms. Ly also cares for her niece and two nephews. Mr. Ly is the main financial provider and support system for her extended family.

WHEREAS, Ms. Ly is currently a lawful permanent resident of the United States. Her conviction falls under the mandatory removal offense of the Immigration and Customs Enforcement. Although removal proceedings have not been initiated, Ms. Ly must renew her Permanent Resident Card every 10 years.

WHEREAS, Ms. Ly's oldest daughter expressed how her mom has taught her to turn all choices into positive choices and how she cannot imagine not having her in her life. Nancy Novak, the Associate Dean of Nursing at Tacoma Community College (TCC) spoke to the Clemency & Pardons Board (Board) regarding the reasons she is supporting clemency for Ms. Ly. Ms. Novak said she was impressed by the fact that Ms. Ly owned up to her offense, did not attempt to justify it, and expressed extreme remorse for it. Ms. Novak told the Board that Ms. Ly had explained how it was critical to her that she be a positive role model for her family and children.

WHEREAS, Ms. Novak stated that although Ms. Ly has only completed one quarter of the nursing program, she has made a huge impression on the faculty, her colleagues, and staff at TCC. Ms. Novak explained that the nursing program is extremely competitive and she wants to see Ms. Ly in her program because

she has demonstrated that she is caring, competent, and compassionate; displaying the skills that she wants to see in a nurse graduating from TCC. Out of 126 applicants in 2007, Ms. Ly was one of only 24 individuals to be offered a spot in the program.

WHEREAS, Ms. Ly's Petition for Clemency was bolstered by numerous letters of support, including but not limited to letters from Julie Benson, Ms. Ly's Theory Instructor; Quahlee Lassila, Ms. Ly's clinical instructor; and Peggy Sargeant of Counseling, Advising and Transition Services; plus letters from many family members and friends.

WHEREAS, the Pierce County Prosecutor's Office took no position regarding Ms. Ly's petition.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I,** Christine O. Gregoire, by virtue of the power vested in me as Governor of the State of Washington, hereby grant to Chan Ly, this full and unconditional pardon of her conviction of Theft in the First Degree so that she may pursue permanent and gainful employment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 12<sup>th</sup> day of October, A.D., two thousand and nine.

Christine Gregoire  
 Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
 Secretary of State

MESSAGE FROM SECRETARY OF STATE

The Honorable Brad Owen  
 President of the State Senate  
 Legislature of the State of Washington  
 Olympia Washington 98504

Dear President Owen:

We respectfully transmit for your consideration the following regular session bills which were partially vetoed by the Governor, together with the official veto message setting forth her objection to the section or items of the bill, as required by Article III, section 12, of the Washington State Constitution:

- Substitute Senate Bill No. 6349,
- Substitute Senate Bill No. 6207,
- Senate Bill No. 6826,
- Engrossed Substitute Senate Bill No. 6403,
- Engrossed Substitute Senate Bill No. 6381,
- Engrossed Substitute Senate Bill No. 6392,
- Engrossed Second Substitute Senate Bill No. 6267,

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Engrossed Second Substitute Senate Bill No. 6467,  
Engrossed Substitute Senate Bill No. 6726,

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
affixed the seal of the State of Washington this 1<sup>st</sup> Day of  
December 2010.

SAM REED, Secretary of State

(Seal)

#### MOTION

On motion of Senator Eide, the vetoes and partial vetoes were  
held at the desk.

#### REPORT OF COMMITTEE

The Senate Committee composed of Senators Kilmer and  
Parlette appeared before the bar of the Senate and reported that  
the Governor had been notified under the provisions of House  
Concurrent Resolution No. 4400 that the Legislature was  
organized and ready to conduct business.

The President received the report of the committee and the  
committee was discharged.

#### MOTION

At 2:43 p.m., on motion of Senator Eide, the Senate adjourned  
until 11:15 a.m. Tuesday, January 11, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SECOND DAY**

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**MORNING SESSION**

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Senate Chamber, Olympia, Tuesday, January 11, 2011

The Senate was called to order at 11:15 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Morton, Stevens, Swecker and Zarelli.

**MOTION**

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

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SB 5037 by Senators Keiser, Pflug, Kohl-Welles and Shin

AN ACT Relating to creating the Washington state board of naturopathy; amending RCW 18.36A.020, 18.36A.030, 18.36A.060, 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, and 18.36A.120; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.36A RCW; and repealing RCW 18.36A.070.

Referred to Committee on Health & Long-Term Care.

SB 5038 by Senators Haugen, Ranker, Swecker, Stevens and Honeyford

AN ACT Relating to vehicle and vessel quick title; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 88.02 RCW; creating a new section; and providing an effective date.

Referred to Committee on Transportation.

SB 5039 by Senators Murray, Keiser, Hatfield, Pridemore, Conway and Chase

AN ACT Relating to insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law; adding new sections to chapter 48.43 RCW; creating a new section; and providing a contingent expiration date.

Referred to Committee on Health & Long-Term Care.

SB 5040 by Senator Swecker

AN ACT Relating to the personal use of state-provided electronic devices; and amending RCW 42.52.160.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5041 by Senator Keiser

AN ACT Relating to the direct care and financing allowance component rate allocations for medicaid nursing facilities; and amending RCW 74.46.437, 74.46.485, and 74.46.501.

Referred to Committee on Ways & Means.

SB 5042 by Senators Keiser, Pflug, Chase, Kohl-Welles, Conway, Roach, Shin and McAuliffe

AN ACT Relating to protection of vulnerable adults; amending RCW 74.34.020, 74.34.063, and 74.34.067; and repealing RCW 74.34.021.

Referred to Committee on Health & Long-Term Care.

SB 5043 by Senators Stevens, Regala, Roach and McAuliffe

AN ACT Relating to child fatality review in child welfare cases; amending RCW 74.13.640; and reenacting and amending RCW 68.50.105.

Referred to Committee on Human Services & Corrections.

**MOTION**

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5041 which was referred to the Committee on Ways & Means.

**MOTION**

At 11:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of Joint Session to receive the State of the State Address by Governor Gregoire.

**JOINT SESSION**

The Speaker (Representative Moeller presiding) called upon the President of the Senate to preside.

The President called the Joint Session to order. The clerk called the roll of House members. The Clerk called the roll of Senate members. A quorum of the Legislature was present.

President Owen: "The purpose of the Joint Session is to receive the state of the state message from Her Excellency, Governor Christine Gregoire."

The President appointed a special committee to escort the Supreme Court Justices to the House Chamber; Representatives Tharinger and Overstreet and Senators Harper and Fain.

The President appointed a special committee to escort the Statewide elected officials to the House Chamber: Representatives Orwall and Wilcox; Senators Litzow and White.

The President appointed a special committee to advise her Excellency, Governor Christine Gregoire, that the joint session

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had assembled and to escort her to the House Chamber; Representatives Dahlquist and Kenney; Senators Chase and Ericksen.

The Supreme Court Justices arrived, were escorted to the floor of the House Chamber and were introduced: Chief Justice Barbara Madsen, Justice Charles Johnson, Justice Gerry Alexander, Justice Tom Chambers, Justice Susan Owens, Justice Mary Fairhurst, Justice James Johnson, Justice Debra Stephens and Justice Charles Wiggins.

The Statewide elected officials arrived, were escorted to the floor of the House and were introduced: Secretary of State Sam Reed, State Auditor Brian Sonntag, Superintendent of Public Instruction Randy Dorn, Insurance Commissioner Mike Kreidler and Commissioner of Public Lands Peter Goldmark.

The President introduced the special guests of the Governor present in the Chambers: Mary Gregoire, Mother-in-Law, Dennis Gregoire and Barb Tennis, Brother and Sister in Law, Mike Tribble, Nephew, Drs. Phil and Susan Lindsey, daughter Courtney's in laws.

Former Governor Mike Lowry, Chair Maria Lopez from the Hoh Tribe, Hereditary Chair David Hudson from the Quileute Tribe, Chair Greg Abrahamson from the Spokane Tribe, Chair Mel Sheldon from the Tulalip Tribe, Chair Herman Dillon of the Puyallup Tribe, Council Member Charlotte Williams of the Muckleshoot Tribe and Council Member Maria Staff of the Muckleshoot Tribe.

The President introduced the members of the Consular Corps: Yury Gerasin, Dean of the Consular Corps, and Consul General of the Russian Federation; Helen Szablya, President, Consular Association of Washington, and Consul of Hungary; Ronald Masnik, Consul of Belgium; Pedro Augusto Costa, Consul of Brazil; Denis Stevens, Consul General of Canada; Jack Cowan, Consul of France; Petra Walker, Consul of Germany; John Keane, Consul of Ireland; Franco Tesorieri, Vice Consul of Italy; Kiyokazu Ota, Consul General of Japan; Haryong Lee, Consul General of the Republic of Korea; Stephen Zirschky, Consul of Latvia; Victor Lapatinskas, Consul of Lithuania; Alejandro Garcia Moreno, Consul of Mexico; Kim Nesselquist, Consul of Norway; Migueal Angel Velasques, Consul of Peru; Gary Furlong, Consul General of Uzbekistan, and Daniel Liao, Director General, Taipei Economic and Cultural Office.

Governor Christine Gregoire, her husband Mike Gregoire and her daughter Michelle Gregoire arrived, were escorted to the Rostrum and were introduced.

The flags were escorted to the rostrum by the Washington State Patrol Honor Guard. The National Anthem was performed by Kyra Smith. The President led the Chamber in the Pledge of Allegiance. The prayer was offered by Bill Robinson, President Emeritus of Whitworth University.

Bill Robinson: "In these chambers I'm sure that spontaneity is seldom a good thing but permit me to express deep appreciation to all of you, to you Governor, the 62<sup>nd</sup> Legislature, to all the public servants of this state for the work you do. I know I speak for the vast majority of Washingtonians and I know I speak for all the students in saying thank you. Please join me in prayer. Gracious God we pause at the start of this momentous occasion to offer thanksgiving and to invoke your blessing. First, we invoke

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your protection, keep safe our public servants and bring healing to Representative Giffords and all those in Arizona victimized by the tragic union of evil and lunacy. God help us. Now today we thank you for our magnificent state, for its sweeping plains, its verdant coasts, granite backbone, metallic veins and for its good, compassionate people. We are favored to call the State of Washington home. Our home, o Lord is troubled. Wounds to our economy threaten our most vulnerable citizens. Across the state escalating needs beg for diminishing resources. Grant this 62<sup>nd</sup> Legislature wisdom and courage as they confront the agonizing decisions they must make. Prevent us, the electorate from shirking our human responsibility to join our government in meeting this challenge. Often we have demanded the privileges of our citizenship. Today our governor calls us to the duties of our citizenship. Awaken us to the necessity of this call. Strengthen Governor Gregoire as she leads us in this call, protect her and this legislature as they rise to this call and give us no rest until we have answered this call. O God bless our state and bless all of its sons and daughters. I offer this prayer as a Christian but on behalf of those who worship you in synagogues, mosques, temples and the sanctuary of your creation, Amen."

The President introduced Governor Christine Gregoire.

#### REMARKS BY GOVERNOR GREGOIRE

Governor Gregoire: "Before I begin my prepared remarks and the business of our state, over the weekend our nation witnessed a terrible tragedy, the loss of lives and devastated injuries to some folks in Arizona. I would ask each of you and everyone in the state of Washington to join me in a moment of silence."

#### MOMENT OF SILENCE

The Washington State Legislature in Joint Session observed a moment of silence in memory of United States Representative Gabrielle Giffords and eighteen other people who were shot, six of them fatally, during an open meeting near Tucson, Arizona on January 8, 2011.

#### STATE OF THE STATE

Governor Gregoire: "Thank you, Bill Robinson. You know, I've been a friend of yours for a long time and admire your kind and guiding words are appreciated. Thank you.

Thank you, Kyra, I met you at ten years of age and Wow is all I got to say. Your performance of the national anthem, your voice your talent are truly inspiring. Thank you very, very much for being here and what you've done for us.

And in a few minutes you are going to hear from a young man by the name of Clarke Hallum, a very talented 11-year-old from Olympia. Get ready. Thanks to each of you all for joining us her today.

Mr. President, Mr. Speaker, Madam Chief Justice, justices of the court, former Governor Mike Lowry, honored officials, members of our Washington State Legislature, tribal leaders, local government officials, members of the Consular Association of Washington, my fellow citizens:

First of all — here's to being the home of the 2010 WNBA champs — the Seattle Storm!

Alright, how about those University of Washington Huskies! Big time underdogs, they came back, they won.

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And last Friday night here's to the Eastern Washington University Eagles, they trailed at half time 19-0 and they came back and won it 20-19. One of the most exciting games I've ever watched.

Alright, how about those Seahawks – look out Chicago, here we come, even when those athletes by the way were down those teams believed in themselves, they came back to win so never doubt our players in Washington State. Never doubt Washington State.

Harry Truman said if you want a friend in Washington, get a dog.

Well here in this Washington I have First Dog Trooper — but more importantly, I have two of four of my closest friends joining me today— my husband Mike and our daughter, Michelle. Our other daughter, Courtney, and son-in-law, Scott, could not join us but are diffidently here in spirit.

First Mike as you know is a first combat veteran and I'm proud of all the work that Mike does for our state on behalf of our veterans. It's especially important for those from earlier eras, but it's also important for those now returning from conflicts abroad. Mike does a great job, thank you Mike.

Brad introduced but I am proud to say Mikes mom, my mother-in-law is here today, she's a retired school teacher, she wouldn't want me to say this but we are going to celebrate her ninetieth birthday in June. She's brought with her family.

This summer Mike and I were fortunate, we joined Michelle, Courtney and Scott on a climb to Mt. Rainier. While the young ones charged right to the top, Mike and I are pretty pleased to report that we made it to Camp Muir — and then we quickly got the heck out of there!

But our hearts were with the kids as they unfurled the state flag on a snowy summit. From our perch at Camp Muir, I was struck by the absolute incredible view and reminded of the incredible riches of Washington State. I'm always proud to be a Washingtonian — but I was especially proud that day.

“Welcome members of the 62nd Washington State Legislature.

In particular, welcome to the 25 new members who are attending their first session.

You join a group who stands with long traditions of public service and dedication. You will come to know the selflessness of not only those who serve this body, but the thousands in our state who protect, serve and educate our citizens.

Our National Guard, our military men and women, our law enforcement members, our firefighters, our teachers and our state employees — you are my role models: Service above self at the risk of tremendous sacrifice. Thank you all for what you do on behalf of the State of Washington.

In the months ahead, all of us will be severely tested.

While there are signs of economic recovery around us, state government's budget remains in a deep freeze, and with a revenue shortfall unprecedented in state history, you will have extraordinarily difficult budget choices.

The tough times we are going through will demand equally tough decisions from all of us. You will have choices that seem unfair and unjust.

You will have to make decisions that will make life harder for the people back home.

And you will have to make decisions that may keep you awake at night, because in your heart, they just don't seem right.

I know this because I have had all those thoughts and I did so while drafting this budget that I have presented to you.

But just remember, our decisions aren't nearly as tough as those that are being made by too many of our friends and

neighbors who have been forced out of work, out of their homes, out of food and out of hope.

This is not the first difficult time in our history, nor will it be the last.

Here's some perspective. On October 29, 1929, after eight years of unprecedented growth, the stock market took a nosedive. Sound familiar?

Just like this recession, the fallout hit Washington State later than other states, but with equally devastating impact on virtually every sector of the economy.

With incomes declining 44 percent by 1932 and unemployment soaring well above the national average of 25 percent, poverty became a way of life for many.

Even the most fortunate were shocked and saddened by the faces of poverty they saw all around them.

The most enduring symbols were shantytowns called Hoovervilles. In Seattle, 639 men and women lived just south of Pioneer Square in 479 makeshift shanties made from packing boxes.

In 1933, the Unemployed Citizens League marched on Olympia. Nearly 1,200 unemployed men and women from Seattle were met here by 800 police and vigilantes.

The protesters wanted the Legislature to assess higher taxes, end foreclosures and provide hot meals for their children. Sound familiar?

In 1935, Governor Clarence Martin signed a revenue act that was the most comprehensive tax overhaul in the state's history.

After what was described as a “stormy” session, the bold reform passed and that reform has lasted for the last past 80 years.

I have no doubt that some, possibly many, at that time questioned our economic future.

Yet five companies survived the Depression and emerged as strong, international, Fortune 500 companies today.

In 1933, Boeing introduced the Boeing 247 — the first truly modern airliner, and today, amid another devastating economic downturn, it is introducing the 787.

Wallin & Nordstrom opened in 1901 as the shoe store, and on the eve of the Depression, held a grand opening to announce its new ownership and a name change to Nordstrom.

Weyerhaeuser began in 1900. Paccar began in 1905 and Safeco in 1923.

I remember the recession in the 1970s that crippled the region and prompted the billboard that read, “Will the last person leaving Seattle turn out the lights.”

The doomsayers writing us off didn't foresee a company called Microsoft, which was still four years away from being founded. Today they have nearly 89,000 employees and revenues of \$62 billion.

When the pessimists were wringing their hands in 1971, Starbucks had one but store — in Pike Place Market. Today the company has almost 17,000 stores in 50 countries.

These stories remind us that the people of Washington State are resilient.

We have been through tough times before, and we emerged stronger than ever.

Three years of discouraging news about employment and the economy may have dampened our outlook for the future. But nothing can dampen our resolve.

Let me be clear: Washington will rebound. We will come back stronger than ever and we will provide a brighter future for our children.

In America, back then as now, job prospects were dim, our optimism was shattered and people wondered if we would ever recover.

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Well, I am here today to confidently predict that just like back then, those who think America is in decline have overstated our problems, underestimated our resiliency and misjudged our potential. We will show them.

So let us go into this recession not with our confidence shattered and our hope for the future dimmed.

Let us go into this recession with the clear knowledge that we have an opportunity, like those who lived through the Great Depression, to be bold and help the people and businesses of Washington rebound and prosper.

As we do our work here, we can't forget the real work, the hard work, is being done back home.

Men and women are struggling to keep their jobs and house their families.

Businesses are worried about meeting payroll and keeping the doors open.

As they struggle, their view of government is pretty clear — they want government to stay focused on its core services, live within its means, and use every taxpayer's dollar efficiently and effectively.

So this year, this time, this session, amid the worst economic climate in eight decades, our challenge is to actually transform Washington State government.

I think each of you will find in the weeks ahead our budget crisis leaves us no other option.

It will take tough decisions but it will take wise decisions.

I've offered a path forward. Here it is:

1. We must create a stable, financially secure path for our future;

2. We must recognize government cannot do it all; and

3. We must transform government into a leaner, 21st century organization that is more effective and more efficient.

This session is not just about getting us through this crisis.

It's also about setting our state on a trajectory that ensures a strong financial foundation for our kids and our grandkids. This is a budget and agenda that build the platform for a better service and a better recovery in the years to come.

We need to use this economic crisis to get control of spending in two critical areas — pensions and health care costs.

In the past decade our health care costs has doubled to more than \$5 billion. In the next biennium alone our pension costs will double.

Every dollar that we spend on health care and pensions means we have one less dollar to educate our children.

I am proposing that we repeal a 1995 law which gave automatic benefit increases to retirees in the old PERS 1 and TRS 1 pension plans.

The pension law was well intended but it carries a staggering price tag and we simply cannot afford to continue it.

Pension reform will save \$2 billion over the next four years and over a \$11 billion during the next 25 years.

I am proposing we partner with the Center of Innovation at the U.S. Department of Health and Human Services to provide real health care reform in our state. As a state we should set a goal: Keep inflation at 4 percent over the next 10 years. We can save \$26 billion while increasing the quality of care.

We must get a grip on these two budget busters. Unless and until we do, we cannot invest like we must in the education of our children.

I have looked at every state program and asked if it can be provided by others, if users should pay for it or if there are better ways to deliver the service.

If the Legislature in 1935 — in the midst of the Great Depression — could enact landmark change that has lasted for 80

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years, then we, today, can transform Washington State government to better serve our people for the next 80 years.

Now is the time to challenge the status quo. Why, for instance, do we assume all taxpayers should pay for programs that benefit a few?

Should a small business owner in Spokane pay the cost of processing a water right for a landowner in the Yakima Valley?

Should a Bellingham family with young kids help pay for the license of an adult family home in Vancouver?

And what about our great state parks system. Should those who use the parks pay for their operation and maintenance?

Let's adopt a user pays policy so that when only a few benefit from the service, they pay for it.

I've asked you the past two years to reduce the number of boards and commissions. This year I'm asking you to reduce the number of state agencies.

I have sent you proposals that would reduce the number of natural resource agencies from 11 to five, cut the number of state central service agencies from five to two, and merge a number of small agencies into a new Office of Civil Rights.

These consolidation proposals will reduce these agencies from 21 to nine, eliminate duplication in back-office costs, save more than \$20 million a biennium and make our state government work smarter and better.

We must do everything we can to stimulate the economy and put Washington State back to work.

I propose cutting the unemployment insurance and workers compensation pay by more than \$1 billion to help our businesses and our unemployed get back to work.

We need to provide retraining to our unemployed workers whose jobs no longer exist. And we need to get injured workers healthy and back to work as soon as possible.

I'm asking you to get a bill to my desk by February 8 so more than 65,000 small businesses can receive a 48 percent reduction in their unemployment insurance rates. Those savings can help small businesses invest, expand and stimulate our economy growth in every community across the state.

Jobs are the way out of the recession, especially in one of the hardest hit areas — the construction sector. Through the capital and transportation budgets and the Public Works Trust Fund, we can start shovel-ready projects, modernize our infrastructure and put almost 40,000 people to work. As the construction industry goes, so goes our state budget.

Education, the number one duty of the state, is the key to the jobs of tomorrow.

Today we have eight education agencies with 14 plans. They spend critical time and resources trying to coordinate and provide an education system built in silos.

I propose we enact legislation creating one agency — the Department of Education — focused solely on student education with one plan for a seamless system from pre-school to Ph.D.

Our students deserve it and our parents demand it.

With that focus we can start by making the 12th grade relevant and exciting.

Twelfth grade should be the launch year of a career. We can give our students a leg up in the competitive world of tomorrow by ensuring that their senior year on their way is guaranteed they can get certificated, get apprenticeship or college credits.

In 2009, those with a bachelor's degree had an unemployment rate of 4.6 percent, while those with a high school diploma were unemployed at the rate of 10.5 percent.

We need to encourage every student to "complete to compete" — complete an AA, bachelor's or advanced degree so they can compete for the jobs of tomorrow.

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We need tuition flexibility at our colleges and universities to keep the doors of higher education open to all and to maintain a quality education in both good and bad times.

I will ask you to adopt the recommendations of the Higher Education Funding Task Force, which increases the number of graduates, require greater accountability from our colleges and universities, ensures stable funding, and establish a \$1 billion Washington Pledge Scholarship Program. Let's make these changes because.

Educating our students is their future; a world-class education system is our state's future.

I will also asked if someone else can manage the work better. I urge you to join me in providing 21st century management models for our state ferry system and information technology in state government.

Our ferry system, the largest in the nation, is in financial crisis.

More than 11 years ago, one-fifth of operating funds and three-quarters of the system's capital funding were eliminated. Ever since then we've been bailing out the ferry system, and there is simply no place to bail from any longer. We've gone after savings and have cut administrative costs by more than 28 million dollars.

For communities that rely on our ferries as much as others rely on our highways — for those 23 million passengers each year — we must find a better way.

I'm asking you to create a regional ferry district run by an elected board of directors to manage our ferry system. Funding would come from a state subsidy, fares and regional taxing authority to pay for the service the region decides it wants and needs.

Now, you may not agree with my solution, but I will tell you one thing — we cannot leave here without a solution, those people deserve it.

Secondly, taxpayers spend \$1 billion each year for information technology that processes hundreds of thousands of transactions a week.

Like large businesses, we are in the process of consolidating and modernizing. And I'm proud to report that our new data center is ahead of schedule and under budget.

I'm asking that we create a charter agency which can contract services with the private sector, just like a public utility would, to ensure reliable service at the lowest possible cost. It saves \$30 million over four years.

I know change is hard, especially here in Olympia where too many have become deeply invested in the status quo.

That's why it's easier to hear why change won't work than why it will.

I think voters are out ahead in understanding the need for change.

Our voters sent us here to lead, to solve problems, to work together, to get things done and to be bold.

Families, businesses and nonprofits across this state have been forced to change just to survive. We must do the same. Like the boldness of the 1935 Legislature in the midst of the Great Depression, we can set a path for success in our state.

There are those who say we won't be courageous. There are those who say we can't provide real change.

Well this year, let's prove the cynics and the skeptics wrong. Let's be bold. Let's stand up for change. Let's put state government on a new path, a 21st century path.

I stand ready to help, I'm here to support you and I will work with you.

But make no mistake: I expect you to make the make changes that will benefit the state today and for the next 80 years.

Last month this Legislature came together and passed a supplemental budget in one day. It was the first lame duck session in history, and it demonstrated what we can do when we put politics aside and work together as Washingtonians.

That was a great start, but we have unfinished work on the supplemental budget, and that has to be our first order of business.

Let's finish what we started and let's finish it together.

My friends, we are down, but we are not out by any means. We can take a page from those who lived during the Great Depression. Like them we accept the challenge. We are ready to do the hard work, we will make the tough decisions. We are hopeful. We will remain hopeful and optimistic. We will be bold and will lead us to a better tomorrow for the great State of Washington.

We are and we forever will be a great state. Make no mistake about it, to the six and half million Washingtonians. Our agricultural products from potatoes to cherries to wine are known for their high quality.

Our businesses, whether there a leading international company, a startup or a small local business, are the most innovative.

Our workers are the most skilled, educated and competitive. Our communities are compassionate. And we live in one of the most beautiful places in the world. No recession will take that away from us.

We are the proud people of the great State of Washington.

Thank you and God bless Washington State and all her people. And God bless America.

The President thanked the Governor for her remarks and introduced 11-year-old Clarke Hallum, a 6<sup>th</sup> grader at Washington Middle School of Olympia, who performed "God Bless America: accompanied on the piano by Mr. Troy Fisher.

The President asked the special committee to escort Governor Gregoire and her family from the House Chamber.

The President asked the special committee to escort the Statewide elected officials from the House Chamber.

The President asked the special committee to escort the Supreme Court Justices from the House Chamber.

#### MOTION

On motion of Representative Sullivan the Joint Session was dissolved.

The Speaker (Representative Moeller presiding) assumed the chair.

The Sergeant at Arms of the House and the Sergeant at Arms of the Senate escorted President of the Senate Owen, President Pro Tempore Margarita Prentice, Majority Caucus Chair Karen Fraser and Minority Whip Doug Ericksen and members of the Washington State Senate from the House Chamber.

#### AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by President Owen.

#### MOTION

SECOND DAY, JANUARY 11, 2011

2011 REGULAR SESSION

At 1:01 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, January 12, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, January 12, 2011

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

September 8, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

HAROLD J. ABBE, reappointed September 4, 2008, for the term ending June 12, 2012, as Member of the Columbia River Gorge Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

February 7, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RAUL ALMEIDA, reappointed February 7, 2008, for the term ending September 25, 2011, as Member of the Clemency and Pardons Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

October 18, 2011, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MAX D. ANDERSON, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 13 (Lower Columbia College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

February 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ROBERT C. ANDERSON, appointed February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

December 4, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SHERRY L. ARMIJO, appointed November 17, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Columbia Basin Community College District No. 19.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

September 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LOGAN M. BAHR, appointed September 8, 2010, for the term ending June 30, 2011, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

February 15, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

HARRY BARBER, reappointed February 15, 2010, for the term ending July 15, 2013, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

February 25, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

THIRD DAY, JANUARY 12, 2011

CHRISTOPHER P. BARRY, appointed February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BRUCE BECKER, appointed August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

September 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHARLEY BINGHAM, reappointed September 8, 2010, for the term ending June 30, 2014, as Member of the Higher Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LORI BLANCHARD, reappointed July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

August 9 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

NATHAN W. BROCKETT, appointed July 26, 2010, for the term ending June 30, 2011, as Member, Board of Trustees, The Evergreen State College.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 6, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

2011 REGULAR SESSION

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

MARTY BROWN, appointed April 16, 2010, for the term ending at the governor's pleasure, as Director of the Office of Financial Management.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations, Tribal Relations & Elections.

July 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JUNE CANTY, reappointed July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

October 18, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES CARVO, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 16 (Yakima Valley Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

March 22, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DR. ELIZABETH CHEN, appointed March 10, 2010, for the term ending April 3, 2013, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 6, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ERICKA CHRISTENSEN, appointed July 1, 2010, for the term ending June 30, 2011, as Member, Board of Regents, Washington State University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

April 9, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SONDRA L. CLARK, appointed March 29, 2010, for the term ending June 11, 2013, as Member of the Columbia River Gorge Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

October 20, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SUSAN COLE, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 21 (Whatcom Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 31, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DENISE COLLEY, reappointed July 23, 2009, for the term ending July 1, 2014, as Member, Board of Trustees, State School for the Blind.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

January 4, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES COOK, reappointed November 30, 2009, for the term ending October 1, 2013, as Member of the The Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

August 12, 2008  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JOHN COX, appointed August 12, 2008, for the term ending June 15, 2012, as Member of the Marine Employees' Commission.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Transportation.

December 13, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JUNE A. DARLING, appointed December 3, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 15 (Wenatchee Valley College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 19, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LYNNE DELANO, appointed January 1, 2009, for the term ending April 15, 2014, as Chair of the Indeterminate Sentence Review Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

October 22, 2008  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JIM DEPAEPE, appointed October 22, 2008, for the term ending June 30, 2012, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

April 10, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LARRY DITTMAN, appointed April 2, 2009, for the term ending June 17, 2011, as Member of the Board of Industrial Insurance Appeals.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

December 24, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

THIRD DAY, JANUARY 12, 2011

DAN DIXON, appointed November 5, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 16, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

GARY L. DOUVIA, appointed January 15, 2007, for the term ending December 31, 2012, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

October 29, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ELIZABETH B. DUNBAR, appointed October 15, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 22 (Tacoma Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

March 23, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

KIM A. EKKER, appointed March 2, 2010, for the term ending January 19, 2014, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

November 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RONALD P. ERICKSON, appointed October 27, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Central Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 11, 2010

2011 REGULAR SESSION

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RAMIRO ESPINOZA, reappointed July 26, 2010, for the term ending June 30, 2011, as Member, Board of Trustees, Western Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LENSA ETANA, appointed April 9, 2009, for the term ending December 5, 2012, as Member of the Eastern State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

September 2, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

COLLEEN FAIRCHILD, appointed August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

March 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SHARON FAIRCHILD, reappointed April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

June 8, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ELIZABETH FORD, reappointed June 16, 2006, for the term ending June 15, 2011, as Member of the Marine Employees' Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

March 18, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

GARY HARRIS, reappointed February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

October 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

KIRSTIN HAUGEN, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 30 (Cascadia Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DR. TONY HEY, reappointed November 30, 2009, for the term ending October 1, 2013, as Member of the The Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

July 31, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BETSY HOLLINGSWORTH, appointed September 1, 2007, for the term ending April 15, 2012, as Member of the Indeterminate Sentence Review Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

April 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

March 18, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

GARY HARRIS, reappointed February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

October 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

KIRSTIN HAUGEN, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 30 (Cascadia Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 4, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DR. TONY HEY, reappointed November 30, 2009, for the term ending October 1, 2013, as Member of the The Life Sciences Discovery Fund Authority Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

July 31, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BETSY HOLLINGSWORTH, appointed September 1, 2007, for the term ending April 15, 2012, as Member of the Indeterminate Sentence Review Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

April 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

June 16, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BETTI FUJIKADO, appointed May 20, 2009, for the term ending September 30, 2012, as Member, Board of Trustees, Western Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 28, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LAWRENCE M. GLENN, appointed October 6, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Peninsula Community College District No. 1.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 13, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES GROVES, appointed November 5, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Technical College District #25 (Bellingham).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

September 8, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MOLLY E. HAMAKER-TEALS, appointed August 12, 2009, for the term ending June 30, 2013, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

June 2, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

HAROLD W. HANSON, appointed May 16, 2010, for the term ending at the governor's pleasure, as Director of the Washington State Lottery Commission.

Sincerely,

THIRD DAY, JANUARY 12, 2011

H. JEFFERY HOWARD, appointed April 9, 2009, for the term ending December 5, 2012, as Member of the Eastern State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MIKE HUDSON, reappointed October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 20, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DR. KEITH HUNZIKER, appointed December 20, 2007, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

June 3, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ROGER JACKSON, appointed April 23, 2010, for the term ending December 5, 2012, as Member of the Western State Hospital Advisory Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

September 13, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ADDISON JACOBS, appointed September 13, 2010, for the term ending June 30, 2013, as Member of the Higher Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 6, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

2011 REGULAR SESSION

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

DAVID JENNINGS, appointed June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

March 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JEFF G. JOHNSON, reappointed April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

August 2, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MYRA JOHNSON, reappointed July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

June 25, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

STEPHEN L. JOHNSON, appointed May 1, 2009, for the term ending February 28, 2015, as Member of the Board of Tax Appeals.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

November 18, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ALLIE M. JOINER, reappointed October 21, 2010, for the term ending July 1, 2015, as Member of the State School for the Deaf Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

February 1, 2010

THIRD DAY, JANUARY 12, 2011  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

JENNIFER JOLY, appointed January 15, 2010, for the term ending December 31, 2014, as Member of the Public Disclosure Commission.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Government Operations, Tribal Relations & Elections.

April 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

JO ANN KAUFFMAN, reappointed March 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Eastern Washington University.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 21, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

EDMUND I. KILEY, appointed January 14, 2010, for the term ending December 26, 2013, as Member of the Board of Pilotage Commissioners.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

October 18, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

KRISTINE A. KLAVEANO, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 20 (Walla Walla Community College).

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

September 28, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

DENNIS KLOIDA, reappointed September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Sincerely,

2011 REGULAR SESSION

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

August 11, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

MARTHA KONGSGAARD, reappointed July 27, 2010, for the term ending June 25, 2014, as Chair of the Puget Sound Partnership.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

January 2, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

SHERYL A. LAMBERTON, reappointed January 3, 2008, for the term ending December 5, 2011, as Member of the Western State Hospital Advisory Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

December 9, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

JONATHAN M. LANE, appointed December 3, 2010, for the term ending September 30, 2011, as Member, Board of Trustees, Community College District No. 18 (Big Bend Community College).

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 13, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

KAREN LEE, appointed December 10, 2010, for the term ending September 30, 2016, as Member, Board of Trustees, Western Washington University.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON  
 Ladies and Gentlemen:

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

THIRD DAY, JANUARY 12, 2011

ROBERT W. LENIGAN, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Technical College District #29 (Clover Park).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 21, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JANET LEWIS, reappointed October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SHOUBEE LIAW, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 7 (Shoreline Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 16, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES LOWERY, appointed December 10, 2010, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 12 (Centralia College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

February 12, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MIKE D. MARAVE, reappointed February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

2011 REGULAR SESSION

November 9, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MARK MATTKE, appointed October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 19, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MARK MAYS, appointed March 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Eastern Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 28, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CATHY A. MCABEE, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Technical College District #27 (Renton).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 13, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JULIE MCCULLOCH, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 1 (Peninsula College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

February 15, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RICHARD F. MCCURDY, appointed March 1, 2010, for the term ending December 26, 2011, as Member of the Board of Pilotage Commissioners.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Transportation.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

February 5, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

October 26, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:  
I have the honor to submit the following reappointment,  
subject to your confirmation.  
PATRICK MCELLIGOT, reappointed January 1, 2010, for  
the term ending December 31, 2012, as Member of the  
Investment Board.

Ladies and Gentlemen:  
I have the honor to submit the following appointment, subject  
to your confirmation.  
DAVID L. MITCHELL, appointed October 15, 2010, for the  
term ending September 30, 2015, as Member, Board of Trustees,  
Community College District No. 19 (Columbia Basin College).

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Ways & Means.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

October 14, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

October 28, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:  
I have the honor to submit the following reappointment,  
subject to your confirmation.  
THOMAS W. MCLANE, reappointed September 9, 2009,  
for the term ending September 8, 2014, as Member of the Public  
Employment Relations Commission.

Ladies and Gentlemen:  
I have the honor to submit the following appointment, subject  
to your confirmation.  
DARRELL S. MITSUNAGA, appointed October 15, 2010,  
for the term ending September 30, 2015, as Member, Board of  
Trustees, Technical College District #26 (Lake Washington).

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Labor, Commerce & Consumer  
Protection.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

August 31, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

July 30, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:  
I have the honor to submit the following appointment, subject  
to your confirmation.  
GILBERT A. MENDOZA, appointed August 12, 2009, for  
the term ending June 30, 2011, as Member of the Professional  
Educator Standards Board.

Ladies and Gentlemen:  
I have the honor to submit the following reappointment,  
subject to your confirmation.  
KATHLEEN D. MIX, reappointed July 13, 2010, for the  
term ending June 30, 2016, as Member of the Pollution  
Control/Shorelines Hearings Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Early Learning & K-12 Education.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Environment, Water & Energy.

October 30, 2009  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

March 31, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:  
I have the honor to submit the following appointment, subject  
to your confirmation.  
JOHN M. MEYER, appointed October 27, 2009, for the term  
ending August 2, 2012, as Member of the Sentencing Guidelines  
Commission.

Ladies and Gentlemen:  
I have the honor to submit the following reappointment,  
subject to your confirmation.  
SID MORRISON, reappointed November 5, 2009, for the  
term ending September 30, 2015, as Member, Board of Trustees,  
Central Washington University.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Judiciary.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Higher Education & Workforce  
Development.

August 28, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

June 10, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:  
I have the honor to submit the following reappointment,  
subject to your confirmation.  
STEVE S. MILLER, reappointed October 4, 2010, for the  
term ending September 30, 2015, as Member, Board of Trustees,  
College District No. 8 (Bellevue College).

Ladies and Gentlemen:  
I have the honor to submit the following appointment, subject  
to your confirmation.

THIRD DAY, JANUARY 12, 2011

ROBERT OZUNA, appointed June 10, 2010, for the term ending September 30, 2013, as Member, Board of Trustees, Community College District No. 16 (Yakima Valley Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

December 9, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

THERESA PAN HOSLEY, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Technical College District #28, (Bates).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 23, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHARLOTTE PARSLEY, appointed March 16, 2007, for the term ending July 1, 2011, as Member, Board of Trustees, State School for the Deaf.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

January 7, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHUCK PERRY, reappointed January 1, 2007, for the term ending December 31, 2012, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

October 29, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BRIDGET O. PIPER, appointed October 15, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 17 (Spokane and Spokane Falls Community Colleges).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

2011 REGULAR SESSION

August 24, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ROYCE E. POLLARD, appointed July 27, 2010, for the term ending September 30, 2011, as Member, Board of Trustees, Clark Community College District No. 14.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

March 24, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

QUENTIN POWERS, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Edmonds Community College District No. 23.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 20, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CINDY ROAF, appointed October 17, 2008, for the term ending June 30, 2012, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

October 22, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHARLES ROBINSON, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 21 (Whatcom Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MARGARET ROJAS, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Skagit Valley Community College District No. 4.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce  
 Development.

TOM SAHLBERG, appointed August 1, 2007, for the term  
 ending April 15, 2012, as Member of the Indeterminate Sentence  
 Review Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Human Services & Corrections.

October 18, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment,  
 subject to your confirmation.

JADA RUPLEY, reappointed October 4, 2010, for the term  
 ending September 30, 2015, as Member, Board of Trustees,  
 Community College District No. 14 (Clark College).

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce  
 Development.

June 30, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

ROLAND SCHIRMAN, appointed June 22, 2009, for the  
 term ending September 30, 2013, as Member, Board of Trustees,  
 Walla Walla Community College District No. 20.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce  
 Development.

August 24, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment,  
 subject to your confirmation.

STEPHEN RUSHING, reappointed July 19, 2010, for the  
 term ending June 30, 2014, as Member of the Professional  
 Educator Standards Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Early Learning & K-12 Education.

July 6, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

ROLLAND A. SCHMITTEN, appointed June 18, 2009, for  
 the term ending December 31, 2014, as Member of the Fish and  
 Wildlife Commission.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Natural Resources & Marine  
 Waters.

December 13, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

ROBERT M. RYAN, appointed December 6, 2010, for the  
 term ending September 30, 2012, as Member, Board of Trustees,  
 Community College District No. 22 (Tacoma Community  
 College).

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce  
 Development.

November 9, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment,  
 subject to your confirmation.

FAOUZI SEFRIQUI, reappointed September 14, 2009, for  
 the term ending June 30, 2013, as Member of the Housing  
 Finance Commission.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Financial Institutions, Housing &  
 Insurance.

September 13, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

ANN E. RYHERD, appointed August 23, 2010, for the term  
 ending August 2, 2016, as Member of the Lottery Commission.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Labor, Commerce & Consumer  
 Protection.

September 9, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

SAMUEL H. SHADDOX, appointed September 8, 2010, for  
 the term ending June 30, 2011, as Member of the Higher  
 Education Coordinating Board.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce  
 Development.

July 31, 2007  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject  
 to your confirmation.

November 17, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF  
 WASHINGTON

THIRD DAY, JANUARY 12, 2011

Ladies and Gentlemen:

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

ALBERT SHEN, appointed October 26, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 6 (Seattle, So. Seattle, and No. Seattle Community Colleges).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

October 18, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES SHIPMAN, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 5 (Everett Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 14, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MANFORD R. SIMCOCK, reappointed April 1, 2010, for the term ending March 26, 2014, as Member of the Higher Education Facilities Authority.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 17, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

KATHY L. SMALL, appointed November 5, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Walla Walla Community College District No. 20.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

July 1, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BRADLEY F. SMITH, appointed June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

2011 REGULAR SESSION

Referred to Committee on Natural Resources & Marine Waters.

August 31, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

NANCY SMITH, appointed August 12, 2009, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

February 25, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

RONALD K. SPERLING, appointed February 11, 2009, for the term ending February 11, 2013, as Member of the Health Care Facilities Authority.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

August 12, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JOHN SWANSON, reappointed August 12, 2008, for the term ending June 15, 2013, as Chair of the Marine Employees' Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

August 20, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BARBARA A. TAYLOR, appointed August 12, 2009, for the term ending June 30, 2011, as Member of the Professional Educator Standards Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

July 23, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHERYL TERRY, reappointed July 6, 2009, for the term ending September 25, 2012, as Member of the Clemency and Pardons Board.

Sincerely,

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Human Services & Corrections.

JIM TIFFANY, reappointed October 1, 2009, for the term ending September 30, 2014, as Member, Board of Trustees, Wenatchee Valley Community College District No. 15.

February 15, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce Development.

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment, subject to your confirmation.

October 18, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

THE HONORABLE STEPHEN THARINGER, reappointed February 15, 2010, for the term ending July 15, 2013, as Chair of the Salmon Recovery Funding Board.

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject to your confirmation.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Natural Resources & Marine Waters.

PAUL TRAUSE, appointed October 1, 2010, for the term ending at the governor's pleasure, as Commissioner of the Employment Security Department.

April 8, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Labor, Commerce & Consumer Protection.

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment, subject to your confirmation.

August 11, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

DENNIS THAUT, reappointed April 16, 2010, for the term ending April 15, 2015, as Member of the Indeterminate Sentence Review Board.

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment, subject to your confirmation.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Human Services & Corrections.

JOHN TURNER, reappointed July 6, 2009, for the term ending September 25, 2012, as Member of the Clemency and Pardons Board.

March 17, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Human Services & Corrections.

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject to your confirmation.

November 29, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

DAVID THREEDY, appointed April 8, 2010, for the term ending June 17, 2015, as Chair of the Board of Industrial Insurance Appeals.

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject to your confirmation.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Labor, Commerce & Consumer Protection.

JOYCE TURNER, appointed April 1, 2010, for the term ending at the governor's pleasure, as Director of the Department of General Administration.

September 25, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Government Operations, Tribal Relations & Elections.

Ladies and Gentlemen:  
 I have the honor to submit the following appointment, subject to your confirmation.

October 19, 2010  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

PAMELA J. TIETZ, appointed October 1, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment, subject to your confirmation.

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Financial Institutions, Housing & Insurance.

RICHARD VAN HOLLEBEKE, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 23 (Edmonds Community College).

December 18, 2009  
 TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Sincerely,  
 CHRISTINE O. GREGOIRE, Governor  
 Referred to Committee on Higher Education & Workforce Development.

Ladies and Gentlemen:  
 I have the honor to submit the following reappointment, subject to your confirmation.

November 3, 2010

THIRD DAY, JANUARY 12, 2011  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

BRIAN VANCE, reappointed October 4, 2010, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 24 (South Puget Sound Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

LINDA VILLEGAS BREMER, appointed May 1, 2010, for the term ending January 15, 2011, as Member of the Liquor Control Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

April 24, 2009

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

LORNA WALSH, appointed April 9, 2009, for the term ending July 1, 2011, as Member, Board of Trustees, State School for the Blind.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

March 19, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

STEPHEN L. WARNER, appointed March 19, 2010, for the term ending September 30, 2013, as Member, Board of Trustees, Community College District No. 3 (Olympic Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

February 26, 2008

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

PATRICIA A. WARREN, appointed February 21, 2008, for the term ending June 15, 2011, as Member of the Marine Employees' Commission.

2011 REGULAR SESSION

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

December 19, 2006

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

MIRANDA WECKER, reappointed January 1, 2007, for the term ending December 31, 2012, as Member of the Fish and Wildlife Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

January 4, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

CINDY ZEHNDER, appointed May 4, 2010, for the term ending at the governor's pleasure, as Chair of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

November 9, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

AMANDA ZELLER, appointed October 22, 2010, for the term ending June 30, 2011, as Member, Board of Trustees, Eastern Washington University.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

#### MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated with the exception of Gubernatorial Appointment No. 9012, Marty Brown, which was placed on the confirmation calendar under suspension of the rules.

#### MOTION

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

#### INTRODUCTION AND FIRST READING

SB 5044

by Senators Rockefeller, Zarelli and Regala

AN ACT Relating to the tax preference review process; and amending RCW 43.136.045 and 43.136.055.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

Referred to Committee on Ways & Means.

**SB 5045** by Senators Kohl-Welles, Conway, Holmquist  
Newbry, Keiser, Kline, King and Chase

AN ACT Relating to making technical corrections to gender-based terms; amending RCW 1.08.007, 1.08.016, 1.08.026, 1.08.028, 1.08.033, 1.08.037, 1.20.010, 2.04.010, 2.04.031, 2.04.150, 2.06.050, 2.06.090, 2.08.080, 2.08.115, 2.08.140, 2.08.150, 2.08.170, 2.08.190, 2.08.200, 2.08.220, 2.08.240, 2.10.070, 2.10.090, 2.10.110, 2.10.120, 2.10.130, 2.10.140, 2.10.220, 2.12.010, 2.12.012, 2.12.015, 2.12.020, 2.12.035, 2.12.037, 2.12.040, 2.12.060, 2.12.100, 2.24.020, 2.28.030, 2.28.060, 2.28.090, 2.28.100, 2.28.120, 2.28.160, 2.32.050, 2.32.090, 2.32.110, 2.32.130, 2.32.140, 2.32.160, 2.32.200, 2.32.210, 2.32.220, 2.32.240, 2.32.260, 2.40.030, 2.44.010, 2.44.020, 2.44.030, 2.44.040, 2.44.050, 2.44.060, 2.48.080, 2.48.090, 2.48.150, 2.48.160, 2.48.170, 2.48.220, 2.50.070, 2.50.080, 2.56.070, 3.20.100, 3.30.090, 3.58.010, 4.08.150, 4.08.160, 4.08.170, 4.08.180, 4.12.030, 4.12.070, 4.14.020, 4.16.070, 4.16.080, 4.16.180, 4.16.200, 4.16.240, 4.16.250, 4.16.350, 4.20.010, 4.20.020, 4.20.050, 4.22.050, 4.24.060, 4.24.080, 4.24.115, 4.24.220, 4.28.100, 4.28.110, 4.28.140, 4.28.185, 4.28.200, 4.28.210, 4.28.325, 4.32.150, 4.36.080, 4.36.130, 4.36.140, 4.36.210, 4.56.060, 4.56.120, 4.60.010, 4.60.020, 4.60.060, 4.68.020, 4.68.030, 4.68.040, 4.68.050, 4.68.060, 4.72.020, 4.84.040, 4.84.050, 4.84.060, 4.84.090, 4.84.110, 4.84.120, 4.84.140, 4.84.150, 4.84.160, 4.84.220, 4.84.240, 4.84.330, 5.28.020, 5.28.030, 5.28.040, 5.28.050, 5.40.020, 5.40.040, 5.48.060, 5.52.010, 5.52.020, 5.56.010, 5.56.050, 5.56.060, 5.56.090, 6.23.040, 6.23.110, 6.25.030, 6.25.040, 6.32.030, 6.32.040, 6.32.050, 6.32.060, 6.32.070, 6.32.080, 6.32.090, 6.32.110, 6.32.140, 6.32.160, 6.32.170, 6.32.180, 6.32.190, 6.32.200, 6.36.160, 7.06.050, 7.16.180, 7.16.210, 7.16.260, 7.16.310, 7.25.020, 7.28.010, 7.28.110, 7.28.120, 7.28.130, 7.28.140, 7.28.150, 7.28.160, 7.28.180, 7.28.210, 7.28.230, 7.28.240, 7.28.250, 7.28.260, 7.28.270, 7.28.280, 7.36.010, 7.36.030, 7.36.050, 7.36.060, 7.36.070, 7.36.080, 7.36.090, 7.36.100, 7.36.190, 7.40.020, 7.40.090, 7.40.100, 7.40.110, 7.40.120, 7.40.130, 7.40.150, 7.40.160, 7.40.170, 7.42.020, 7.42.060, 7.44.010, 7.44.020, 7.44.021, 7.44.030, 7.44.031, 7.48.030, 7.48.040, 7.48.058, 7.48.076, 7.48.078, 7.48.085, 7.48.100, 7.48.110, 7.48.210, 7.48.230, 7.48.270, 7.52.030, 7.52.060, 7.52.120, 7.52.160, 7.52.180, 7.52.190, 7.52.200, 7.52.290, 7.52.390, 7.52.410, 7.52.430, 7.52.440, 7.52.450, 7.52.460, 7.52.470, 7.56.010, 7.56.020, 7.56.040, 7.56.060, 7.56.070, 7.56.090, 7.56.100, 7.56.130, 7.56.140, 7.56.150, 7.68.035, 7.68.050, 7.68.200, 7.68.240, 7.70.030, 7.70.040, 7.70.050, 8.04.090, 8.04.094, 8.04.140, 8.04.150, 8.04.170, 8.08.060, 8.08.080, 8.12.120, 8.12.200, 8.12.260, 8.12.270, 8.12.360, 8.12.370, 8.12.380, 8.12.430, 8.12.440, 8.12.450, 8.12.490, 8.12.500, 8.16.020, 8.16.060, 8.16.110, 8.16.130, 8.16.150, 8.20.010, 8.20.110, 8.20.120, 8.26.020, 8.26.085, 8.26.180, 8.26.190, 8.28.010, 9.01.110, 9.03.020, 9.03.040, 9.04.080, 9.16.060, 9.16.100, 9.16.110, 9.16.120, 9.16.130, 9.16.140, 9.18.080, 9.38.010, 9.44.080, 9.45.060, 9.45.080, 9.45.090, 9.45.100, 9.46.050, 9.46.130, 9.46.200, 9.46.250, 9.47.100, 9.47A.040, 9.51.020, 9.51.040, 9.51.050, 9.51.060, 9.54.130, 9.55.020, 9.61.190, 9.61.200, 9.61.240, 9.62.020, 9.68.070, 9.68.080, 9.68.090, 9.68.110, 9.68.130, 9.73.010, 9.73.060, 9.73.090, 9.73.130, 9.73.140, 9.81.090, 9.91.010, 9.92.062, 9.92.080, 9.92.110, 9.92.120, 9.94A.010, 9.94A.880, 9.95.003, 9.95.007, 9.95.030, 9.95.063, 9.95.200, 9.95.330, 9.96.010, 9.96.020, 9.96.030, 9.98.010, 9.100.070, 9A.04.050, 9A.04.070,

9A.04.100, 9A.04.110, 9A.08.020, 9A.08.030, 9A.12.010, 9A.16.050, 9A.16.090, 9A.28.030, 9A.32.060, 9A.32.070, 9A.36.031, 9A.36.060, 9A.36.070, 9A.36.090, 9A.40.010, 9A.40.020, 9A.40.040, 9A.48.030, 9A.48.040, 9A.48.050, 9A.52.010, 9A.52.030, 9A.52.060, 9A.52.070, 9A.52.080, 9A.52.090, 9A.52.095, 9A.52.100, 9A.56.120, 9A.56.180, 9A.56.190, 9A.56.210, 9A.60.010, 9A.60.020, 9A.60.030, 9A.60.050, 9A.64.010, 9A.68.010, 9A.68.020, 9A.68.030, 9A.68.040, 9A.68.050, 9A.72.020, 9A.72.040, 9A.72.060, 9A.72.080, 9A.72.130, 9A.72.140, 9A.72.150, 9A.76.030, 9A.76.040, 9A.76.050, 9A.76.090, 9A.76.100, 9A.76.130, 9A.76.140, 9A.76.150, 9A.76.160, 9A.76.180, 9A.80.010, 9A.83.040, 9A.84.020, 9A.84.040, 9A.88.060, 9A.88.080, 9A.88.090, 15.66.150, 15.80.420, 15.115.270, 16.04.020, 16.24.120, 16.24.180, 16.50.110, 16.50.120, 16.50.130, 16.52.110, 16.54.020, 16.60.020, 16.60.050, 16.60.060, 16.60.075, 16.60.080, 16.60.085, 16.60.090, 16.65.130, 16.65.330, 16.65.410, 16.67.090, 16.67.160, 16.68.010, 16.68.030, 16.68.080, 16.68.100, 16.68.110, 16.68.130, 16.68.140, 16.70.030, 17.04.070, 17.04.150, 17.04.190, 17.04.200, 17.04.210, 17.04.230, 17.04.280, 17.06.040, 17.06.050, 17.06.060, 17.10.280, 17.10.290, 17.12.060, 17.12.080, 17.21.170, 17.24.210, 17.28.030, 17.28.070, 17.28.090, 17.28.120, 17.28.130, 17.28.250, 17.28.258, 17.28.310, 17.28.430, 17.34.040, 17.34.050, 17.34.060, 18.27.080, 18.27.100, 18.28.210, 18.32.020, 18.32.735, 18.34.010, 18.43.010, 18.43.030, 18.43.070, 18.43.120, 18.44.500, 18.44.901, 18.51.060, 18.51.200, 18.52.040, 18.54.030, 18.54.040, 18.54.050, 18.59.120, 18.64.001, 18.64.050, 18.64.255, 18.71.011, 18.71.220, 18.74.125, 18.92.115, 18.92.150, 18.96.040, 18.100.070, 18.100.140, 18.106.030, 18.106.080, 18.106.130, 18.106.140, 19.09.230, 19.16.140, 19.16.150, 19.16.160, 19.16.170, 19.16.180, 19.16.190, 19.16.200, 19.16.210, 19.16.220, 19.16.230, 19.16.245, 19.16.260, 19.16.270, 19.16.280, 19.16.290, 19.16.300, 19.16.340, 19.16.430, 19.16.470, 19.28.311, 19.29.010, 19.31.020, 19.31.080, 19.31.090, 19.31.170, 19.31.180, 19.31.190, 19.31.210, 19.31.220, 19.31.240, 19.36.010, 19.48.070, 19.52.010, 19.64.010, 19.64.020, 19.68.030, 19.72.070, 19.72.090, 19.72.101, 19.72.130, 19.72.160, 19.77.030, 19.77.130, 19.83.020, 19.83.040, 19.84.030, 19.86.100, 19.86.110, 19.100.050, 19.100.120, 19.100.130, 19.100.160, 19.100.180, 19.100.190, 19.100.230, 19.100.250, 19.105.490, 19.120.090, 20.01.010, 20.01.020, 20.01.030, 20.01.100, 20.01.110, 20.01.120, 20.01.150, 20.01.170, 20.01.180, 20.01.190, 20.01.212, 20.01.240, 20.01.250, 20.01.260, 20.01.280, 20.01.310, 20.01.330, 20.01.340, 20.01.350, 20.01.390, 20.01.440, 20.01.510, 20.01.520, 20.01.530, 20.01.540, 20.01.550, 21.20.005, 21.20.050, 21.20.520, 21.30.090, 22.09.011, 22.09.020, 22.09.040, 22.09.045, 22.09.050, 22.09.055, 22.09.090, 22.09.100, 22.09.110, 22.09.130, 22.09.140, 22.09.150, 22.09.160, 22.09.170, 22.09.175, 22.09.180, 22.09.190, 22.09.230, 22.09.240, 22.09.250, 22.09.260, 22.09.290, 22.09.300, 22.09.320, 22.09.340, 22.09.345, 22.09.350, 22.09.361, 22.09.371, 22.09.381, 22.09.391, 22.09.416, 22.09.436, 22.09.441, 22.09.446, 22.09.451, 22.09.466, 22.09.471, 22.09.570, 22.09.580, 22.09.590, 22.09.600, 22.09.610, 22.09.615, 22.09.620, 22.09.660, 22.09.780, 22.09.790, 22.09.800, 22.09.810, 22.09.820, 22.09.860, 22.28.020, 22.28.040, 22.32.020, 22.32.030, 23.86.085, 24.03.105, 24.03.115, 24.03.230, 24.03.350, 24.03.415, 24.06.025, 24.06.055, 24.06.070, 24.06.080, 24.06.085, 24.06.130, 24.06.135, 24.06.145, 24.06.160, 24.06.470, 24.06.475, 24.12.010, 24.12.030, 24.28.040,

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

24.34.010, 24.34.020, 24.36.160, 24.36.170, 24.36.260,  
 24.36.270, 24.36.290, 24.36.440, 24.36.460, 25.12.060,  
 26.04.100, 26.04.150, 26.04.190, 26.04.220, 26.04.240,  
 26.04.250, 26.09.140, 26.09.270, 26.12.040, 26.26.134,  
 26.28.030, 26.28.040, 26.28.050, 26.28.070, 26.30.020,  
 26.40.080, 27.12.080, 27.12.160, 27.12.180, 27.12.210,  
 27.12.240, 27.18.030, 27.24.020, 27.40.034, 28A.320.430,  
 28B.10.310, 28B.10.510, 28B.10.520, 28B.10.528,  
 28B.10.567, 28B.10.844, 28B.14D.090, 28B.14G.080,  
 28B.20.105, 28B.20.110, 28B.20.328, 28B.20.456,  
 28B.30.125, 28B.30.130, 28B.30.135, 28B.30.325,  
 28B.31.090, 28B.35.105, 28B.35.110, 28B.35.120,  
 28B.35.230, 28B.35.310, 28B.35.730, 28B.40.105,  
 28B.40.110, 28B.40.120, 28B.40.195, 28B.40.230,  
 28B.40.310, 28B.50.060, 28B.50.100, 28B.50.350,  
 28B.50.856, 28B.50.860, 28B.50.863, 30.04.140, 30.04.300,  
 30.08.150, 30.22.040, 30.22.150, 30.49.050, 31.20.050,  
 32.12.120, 32.16.010, 32.16.012, 32.16.130, 32.32.025,  
 32.32.045, 33.16.020, 33.16.050, 33.16.090, 33.20.010,  
 33.20.040, 34.05.010, 34.12.060, 34.12.140, 37.12.021,  
 37.16.180, 38.24.050, 38.32.030, 38.38.328, 38.38.548,  
 38.38.552, 38.38.556, 38.38.580, 38.38.628, 38.38.632,  
 38.38.648, 38.38.664, 38.38.668, 38.38.676, 38.38.680,  
 38.38.692, 38.38.696, 38.38.704, 38.38.724, 38.38.732,  
 38.38.740, 38.38.764, 38.38.880, 38.52.040, 38.52.140,  
 38.52.180, 38.52.190, 38.52.195, 38.52.200, 38.52.220,  
 38.52.230, 38.52.260, 38.52.350, 38.52.380, 38.52.400,  
 38.52.920, 39.04.080, 39.04.120, 39.08.065, 39.34.150,  
 39.40.030, 39.44.102, 39.44.110, 39.44.120, 39.56.030,  
 39.62.020, 39.64.080, 39.72.020, 39.84.100, 39.88.020,  
 40.10.010, 40.14.030, 40.14.040, 40.14.110, 40.14.130,  
 40.14.140, 60.60.010, 62A.2-705, 62A.2A-526, 62A.7-102,  
 62A.7-201, 62A.7-202, 62A.7-204, 62A.7-205, 62A.7-206,  
 62A.7-207, 62A.7-209, 62A.7-210, 62A.7-401, 62A.7-403,  
 69.25.150, 69.41.030, 69.43.135, 69.50.302, and 70.74.300;  
 and reenacting and amending RCW 19.16.250.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5046 by Senators Kohl-Welles, Delvin and Roach

AN ACT Relating to adding court-related employees to the assault in the third degree statute; and amending RCW 9A.36.031.

Referred to Committee on Judiciary.

SB 5047 by Senators Kline, Chase, Harper, Nelson, Keiser and Shin

AN ACT Relating to prohibiting requests for waivers of rights of residents of long-term care facilities; and amending RCW 70.129.105.

Referred to Committee on Health & Long-Term Care.

SB 5048 by Senators Kline, Nelson and Chase

AN ACT Relating to enhanced intelligence in Washington state; and adding a new chapter to Title 42 RCW.

Referred to Committee on Judiciary.

SB 5049 by Senators Kline, Roach and Keiser

AN ACT Relating to implementing recommendations of the sunshine committee; amending RCW 13.34.100, 42.56.230, 42.56.330, 48.03.050, and 70.148.060; reenacting and amending RCW 42.56.250; adding a new section to chapter 42.56 RCW; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5050 by Senators Kline, Nelson, Harper, Keiser and Hatfield

AN ACT Relating to residential landlord/tenant security deposits; and amending RCW 59.18.270 and 59.18.280.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5051 by Senators Kline, Rockefeller, Nelson, Keiser, Ranker and Chase

AN ACT Relating to public notice of proposed settlements of environmental and public health enforcement actions; amending RCW 15.58.340, 70.94.211, 70.94.332, 70.95.315, 70.95J.050, 70.105.095, 70.118.130, 70.118B.050, 70.118B.060, 70.119.130, 70.119A.040, 76.09.140, 77.55.291, 88.46.070, 90.03.605, 90.14.200, 90.46.270, 90.48.037, 90.56.270, 90.58.230, 90.76.070, and 90.76.080; adding a new section to chapter 70.95 RCW; adding a new chapter to Title 70 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5052 by Senators Kline and Harper

AN ACT Relating to licensing court reporting firms or agencies; adding new sections to chapter 18.145 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5053 by Senators Kline, Hargrove, Nelson and Chase

AN ACT Relating to persistent offenders; amending RCW 9.94A.570, 9.95.425, 9.95.430, 9.95.435, and 9.95.440; adding a new section to chapter 9.94A RCW; adding new sections to chapter 9.95 RCW; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 5054 by Senators Kline and Harper

AN ACT Relating to legal proceedings involving public hazards; amending RCW 4.24.611 and 4.24.601; and creating a new section.

Referred to Committee on Judiciary.

SB 5055 by Senators Kline, Pflug, Kohl-Welles, Nelson, McAuliffe, Keiser, Chase, Fraser, Haugen, Prentice, Brown, Holmquist Newbry, Rockefeller and Shin

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AN ACT Relating to the notice of appointment of a personal representative in probate proceedings; and amending RCW 11.28.237.

Referred to Committee on Judiciary.

SB 5056 by Senators Kline, Carrell, Hargrove, Pflug, Nelson, Harper, Kohl-Welles, Regala and Roach

AN ACT Relating to bail and pretrial release practices; amending RCW 2.56.030, 10.19.090, 10.19.100, 10.19.160, 18.185.010, 18.185.020, 18.185.040, 18.185.050, 18.185.070, 18.185.100, 18.185.110, and 71.05.385; reenacting and amending RCW 42.56.360 and 71.05.390; adding a new section to chapter 2.56 RCW; adding a new section to chapter 10.16 RCW; adding new sections to chapter 10.19 RCW; adding a new section to chapter 10.31 RCW; adding a new section to chapter 18.185 RCW; creating new sections; and making appropriations.

Referred to Committee on Judiciary.

SB 5057 by Senators Pflug, Kline and Harper

AN ACT Relating to the income tax required to be paid by a trustee; and amending RCW 11.104A.290.

Referred to Committee on Judiciary.

SB 5058 by Senators Pflug, Kline and Harper

AN ACT Relating to receivership; and amending RCW 7.60.025, 7.60.055, 7.60.090, 7.60.110, 7.60.130, 7.60.190, 7.60.200, 7.60.230, and 7.60.260.

Referred to Committee on Judiciary.

SB 5059 by Senators Murray, Pflug, Brown, Kastama, Rockefeller, Shin, Hobbs, Delvin, Conway, Chase, Regala, Kline, Haugen, Kohl-Welles, Pridemore, Tom, Fraser, White, McAuliffe and Kilmer

AN ACT Relating to insurance coverage for autism spectrum disorders; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5060 by Senators Carrell, King, Litzow, Honeyford, Keiser, Kohl-Welles, Shin, Pflug, Holmquist Newbry and Roach

AN ACT Relating to mail theft; amending RCW 9A.56.010; reenacting and amending RCW 9.94A.515; adding new sections to chapter 9A.56 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5061 by Senators Swecker, Haugen, King and Shin

AN ACT Relating to reconciling changes made to vehicle and vessel registration and title provisions during the 2010 legislative sessions; amending RCW 4.24.210, 7.68.035,

18.27.100, 19.116.020, 19.118.170, 43.21A.667, 43.43.400, 43.121.100, 46.01.040, 46.04.1945, 46.04.1951, 46.04.249, 46.04.265, 46.04.3815, 46.04.429, 46.04.62260, 46.04.671, 46.04.691, 46.04.692, 46.04.705, 46.09.320, 46.09.400, 46.09.420, 46.09.450, 46.09.470, 46.09.490, 46.10.440, 46.10.470, 46.10.490, 46.10.500, 46.10.510, 46.12.550, 46.12.600, 46.12.630, 46.12.700, 46.12.730, 46.12.735, 46.12.740, 46.12.745, 46.16A.070, 46.16A.080, 46.16A.200, 46.16A.210, 46.16A.215, 46.16A.455, 46.16A.510, 46.16A.530, 46.16A.540, 46.16A.545, 46.17.040, 46.17.210, 46.17.220, 46.17.230, 46.17.355, 46.17.400, 46.18.010, 46.18.020, 46.18.200, 46.18.220, 46.18.255, 46.18.285, 46.18.295, 46.19.050, 46.19.060, 46.30.020, 46.32.080, 46.32.120, 46.37.010, 46.61.582, 46.61.710, 46.61.723, 46.61.725, 46.68.020, 46.68.030, 46.68.380, 46.68.420, 46.68.425, 46.68.455, 46.70.027, 46.70.101, 46.71.011, 46.71.080, 46.85.100, 46.87.010, 46.87.023, 46.87.080, 46.87.140, 46.87.230, 46.87.294, 46.87.296, 46.93.020, 47.01.440, 50.40.071, 64.44.050, 70.107.030, 70.120.010, 70.120.160, 70.120.170, 70.285.020, 77.12.170, 77.12.879, 79A.05.020, 79A.05.065, 79A.05.225, 79A.60.510, 79A.60.630, 79A.60.670, 82.08.020, 82.12.800, 82.12.801, 82.14.430, 82.50.250, 82.80.100, 84.36.080, 88.02.530, 88.02.560, 88.02.560, 88.02.590, 88.02.595, 88.02.610, 88.02.620, 88.02.640, and 88.02.650; amending 2010 c 161 s 438 (uncodified); reenacting and amending RCW 46.01.140, 46.04.670, 46.16A.030, 46.18.050, 46.18.060, 46.18.110, 46.18.130, and 48.110.020; creating a new section; recodifying RCW 46.04.391 and 46.16.900; repealing RCW 46.04.1961, 46.04.7051, 46.10.405, 46.16.30922, 46.18.030, and 88.02.655; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5062 by Senators Pridemore, Swecker, Hatfield, Becker, Kastama, White, Tom, Parlette, Shin, Chase, Pflug and Holmquist Newbry

AN ACT Relating to providing agencies notice of a dispute under the public records act and an opportunity to cure error in the production of public records; reenacting and amending RCW 42.56.550; adding a new section to chapter 42.56 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5063 by Senators Haugen, King and Shin

AN ACT Relating to special license plates for motorcycles; and amending RCW 46.04.437, 46.18.215, 46.18.225, 46.18.230, 46.18.235, 46.18.270, 46.18.280, and 46.18.290.

Referred to Committee on Transportation.

SB 5064 by Senator Nelson

AN ACT Relating to membership on the Washington citizens' commission on salaries for elected officials; and amending RCW 43.03.305.

Referred to Committee on Government Operations, Tribal Relations & Elections.

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SB 5065 by Senators Carrell, Kline, Kohl-Welles, Nelson, Delvin, Tom, Shin, McAuliffe and Kilmer

AN ACT Relating to prevention of animal cruelty; amending RCW 16.52.011, 16.52.085, 16.52.200, and 16.52.207; adding a new section to chapter 16.52 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5066 by Senators Conway, Kohl-Welles and Kline

AN ACT Relating to streamlining contractor appeals; and amending RCW 18.27.370.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5067 by Senators Keiser, Kohl-Welles, Conway and Chase

AN ACT Relating to changing the department of labor and industries certified and registered mail requirements; and amending RCW 18.27.060, 18.27.230, 18.27.370, 18.106.100, 18.106.180, 19.28.131, 19.28.271, 19.28.341, 19.28.490, 43.22.435, 43.22A.080, 43.22A.130, 49.17.140, 49.26.110, 49.40.060, 49.48.083, 70.79.320, 70.87.125, 70.87.185, and 70.87.205.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5068 by Senators Conway, Prentice and Kohl-Welles

AN ACT Relating to the abatement of violations of the Washington industrial safety and health act during an appeal; and amending RCW 49.17.140.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5069 by Senators Prentice, Kohl-Welles, Conway, Kline and Chase

AN ACT Relating to the creation of the farm labor account; and amending RCW 19.30.030.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5070 by Senators Conway, Kohl-Welles, Kline and Chase

AN ACT Relating to prevailing wage records requests; and adding a new section to chapter 39.12 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5071 by Senators Murray, Pflug, Keiser, Conway, Kline, Parlette and Roach

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AN ACT Relating to providing licensed midwives online access to the University of Washington health services library; and amending RCW 43.70.110.

Referred to Committee on Higher Education & Workforce Development.

SB 5072 by Senators Hatfield, Shin and Haugen

AN ACT Relating to the authority of the department of agriculture to accept and expend gifts; and adding a new section to chapter 43.23 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5073 by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe and Chase

AN ACT Relating to medical use of cannabis; amending RCW 69.51A.005, 69.51A.020, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.050, 69.51A.060, and 69.51A.900; adding new sections to chapter 69.51A RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 42.56 RCW; adding a new section to chapter 28B.20 RCW; creating a new section; repealing RCW 69.51A.080; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

SB 5074 by Senators Murray, Kohl-Welles, Rockefeller, Haugen, Keiser, Regala, Prentice, Hobbs and Parlette

AN ACT Relating to body art, body piercing, and tattooing; amending RCW 18.300.010, 18.300.020, 18.300.030, 18.300.050, 18.300.060, 18.300.070, 18.300.090, and 18.300.130; and adding new sections to chapter 18.300 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5075 by Senators Fain, Hobbs, Benton, Litzow, Keiser and Tom

AN ACT Relating to the expiration dates of the mortgage lending fraud prosecution account and its revenue source; amending RCW 43.320.140 and 36.22.181; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5076 by Senators Hobbs, Benton, Prentice, Keiser, Haugen, Tom, Shin, Kline and Roach

AN ACT Relating to the subpoena authority of the department of financial institutions; adding a new section to chapter 18.44 RCW; adding a new section to chapter 19.100 RCW; adding a new section to chapter 19.110 RCW; adding a new section to chapter 19.146 RCW; adding a new section to chapter 19.230 RCW; adding a new section to chapter

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21.20 RCW; adding a new section to chapter 21.30 RCW; adding a new section to chapter 31.04 RCW; adding a new section to chapter 31.45 RCW; and creating a new section.

Referred to Committee on Financial Institutions, Housing & Insurance.

#### MOTION

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

#### MOTION

At 10:07 a.m., pursuant to House Concurrent Resolution No. 4401, on motion of Senator Eide, the Senate was declared to be at ease for the purpose of a joint session to receive the State of the Judiciary address.

#### JOINT SESSION

The Speaker (Representative Moeller presiding) called the Joint Session to order. The Clerk called the roll of the House members. The Clerk called the roll of Senate members. A quorum of the Legislature was present.

The Speaker (Representative Moeller presiding) called upon President of the Senate Owen to preside.

The President appointed a special committee to escort the Supreme Court Justices to the Chamber: Representatives Rolfes and Hargrove; Senators Litzow and Rockefeller.

The President appointed a special committee to escort the statewide elected official to the Chamber: Representatives Ryu and Buys; Senators Hill and Pridemore.

The President appointed a special committee to advise Her Excellency, Governor Christine Gregoire that the joint session had assembled and to escort her to the chamber: Representatives Billig and Harris; Senators Baumgartner and Shin.

The President appointed a special committee to escort Chief Justice Barbara Madsen to the Chamber: Representatives Miloscia and Zeiger; Senators Fain and Kline.

The Supreme Court Justices arrived, were escorted to the front of the Chamber and were introduced: Justice Charles W. Johnson, Justice Gerry L. Alexander, Justice Tom Chambers, Justice Susan Owens, Justice Mary E. Fairhurst, Justice James M. Johnson, Justice Debra L. Stephens and Justice Charles K. Wiggins.

The statewide elected official arrived, was escorted to the front of the Chamber and was introduced: State Auditor Brian Sonntag.

Governor Christine Gregoire arrived and was escorted to the rostrum.

Supreme Court Chief Justice Barbara Madsen arrived, was escorted to the rostrum and was introduced.

The flags were escorted to the rostrum by the Columbia River Young Marines, Tri Cities. The President led the Chamber in

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the Pledge of Allegiance. The prayer was offered by Father Bernard Coughlin, Chancellor of Gonzaga University.

Father Bernard Coughlin: "Thank you, and I ask you to join me in prayer. Eternal God and Father, we ask that you assist with your guidance and love, Barbara A. Madsen, Chief Justice of the Supreme Court of the State of Washington. That your divine wisdom assists and guide her and her colleagues on this court in all their judicial decisions. We pray too for all judges throughout our state that you assist and guide them in discharging their duties with wisdom and honesty. We likewise commend to your unbounded mercy all citizens of our United States that we may be blessed in the knowledge and sanctified in the observance of your holy law. May we be preserved in that peace with which the world cannot give and after enjoying the blessings of this life, may we be admitted to those with which are eternal. We pray to you almighty Lord, God and Father forever and ever, Amen."

#### STATE OF THE JUDICIARY

Chief Justice Barbara Madsen: "Thank you. President Owen, Speaker Pro Tempore Moeller, Governor Gregoire, our Elected Official, my colleagues on the Supreme Court, my fellow judges who are in the gallery and Ladies and Gentlemen: I am here today on behalf of the Judicial Branch of Government of this State to present the State of the Judiciary Address. I particularly want to thank two people who are here with me today. First, I would like to thank my husband, Don Madsen, so worried about being called the lovely Mr. Madsen. He is the long-suffering man who listens to my speeches over and over and over again. Thank you. The second person I want to thank is Father Coughlin. Father Coughlin doesn't travel very much anymore but he did agree to be here to give the benediction. Father Coughlin became the President of Gonzaga University the year that I started law school there. He and Gonzaga have been there for me at the most important times of my career and so I want to thank Father Coughlin and my entire Gonzaga family for their unflinching support."

"The strength of our democracy is that our institutions of government are made up of our neighbors and friends. People who live among us and who themselves must depend on the same institutions that they serve. After listening to Speaker Chopp and Representative DeBolt on Monday and yesterday to our Governor, Chris Gregoire, I just want to share this observation: In my view, the people who have been chosen to lead at this very difficult time are people of good will. They want to do the very best that they can for the neighbors and friends and the communities that they serve. No one can envy the job facing our elected leaders this session. This is a year of unprecedented challenges but from where I stand I am confident that all of you in this room have brought the right stuff to do the job and I thank you. Because we know how much hard work lies ahead, my colleagues in the Judicial Branch and I are grateful to you for the opportunity to speak to you today as well as our elected officials and to the people of Washington."

"One of the hallmarks of a democracy is the right to access to courts. It is really the fact that our country has a democracy that drives the need for courts. Democracies rely on the rule of law and the protection of individual liberties. That is because in a democracy we have rights and these rights must be protected and vindicated and this is the role that we assign to our courts. The hallmark of our justice system is captured in the words that are etched in stone on many of our courthouses in Washington: 'Equal justice under law' and in our Pledge of Allegiance, the last line: 'With liberty and justice for all.' Our courts are here to

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ensure the basic rights and protections guaranteed by the Constitution and the laws of our Nation and of our State. We are charged with interpreting the laws that you right here in this chamber will create and have created and we are directed by our State Constitution to provide open, just and timely resolution of all matters that come before the courts. This is the core of what we do and it's how we fit into the democratic form of government. The true meaning, though, of the Judicial Branch can be seen every day in the thousands of pictures that make up a much broader mosaic, the millions of life stories of our neighbors and friends who use our courts."

"On this level, I can report to you that the state of Washington's judiciary remains strong but stretched thin. While the Legislative Branch deals with issues on a macro level, the Judicial Branch affects the lives and futures, the hopes and dreams of individual people on an individual basis. These stories that pull at our heart strings are played out every day in our courts across the state. From the San Juans to Spokane, issues that come before the courts have life-changing consequences. A typical day in our courthouses might see a victim of domestic violence seeking a protection order or it might see a civil dispute between owners of a small business trying to end their partnership but still keep their business afloat or it may see parents who are trying to adopt a child through the foster care system. Collectively, our courts hear more than two million filings a year. That is about one filing for every three citizens of our state. The vast number of these cases, more than one million and a half, are handled at limited-jurisdiction courts. I started my own career in the municipal court. I remember once that the fire department came and cleared my courtroom because we were exceeding courtroom capacity. In our limited-jurisdiction courts, judges handle misdemeanors and gross misdemeanors, traffic infractions, small claims and various civil actions. These are often referred to as the people's courts. At the superior court, judges must decide everything from child custody issues to dissolutions, felony criminal matters, land use disputes, recall petitions – heaven forbid, contract claims and many other civil disputes. At the appellate level, we have three courts of appeals in which, as a total, they receive an average of more than four thousand new filings annually. Now under our state's constitution, every one of those has to be heard by our courts of appeals. And in our supreme court, we are asked to hear petitions in over fifteen hundred cases a year. Over the last two years, the Supreme Court has worked hard to reduce the time that the parties have to wait to find out if the Court has accepted review. We've reduced this time from fourteen months down to four months, on an average. It took us a year to do that."

"As my colleagues can tell you, being a judge is a tremendous honor, but it also carries heavy responsibilities. I've had a chance in the past few weeks to meet with many of you, particularly those of you who are new, and I've tried to explain that our court system is a decentralized, non-unified system. So, in addition to hearing and deciding cases and managing their local courts, our judges also have to work at the state level to try to coordinate statewide policies and practices. They do this through participating in their judicial associations, on boards, on commissions, on committees and on taskforces that we create. Many of the leaders of our most visible associations are with us today and earlier President Owen introduced some of them: Judge Steve Warning who is the president judge of our Superior Courts Judges Association; and Judge Brown, who is the president of our District and Municipal Court Judges Association, but I would like to recognize that there are many other judges here today who serve on the Board for Judicial Administration.

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I'd like to have those members of the Board please stand and be recognized."

"The Board for Judicial Administration or, as we fondly call it, the BJA is the policy-setting body for the entire judiciary which is going to be meeting here today in Olympia after this session. I'm very proud of these judges and of the judicial officers that they represent from all four levels of our courts in Washington. A central focus for the BJA is maintaining fair and impartial courts throughout our state staffed by well-trained and professional judges. Independent judges are vital to our democracy. At the Supreme Court we often have visitors, judges from other countries that come to see our courthouse. On one such occasion a few years ago, a judge was touring our conference room where we make the decisions for the cases that we hear. He expressed surprise that we did not have a telephone in the conference room. He couldn't understand how we would get our directions from the governor without a telephone. – She's going to install one next week, right? – Well, we tried to explain about the independence of the judiciary."

"In the State of Washington, we have a long history of non-partisan election of judges. Yet, curiously, in some of our municipal courts – not all but in some, so-called people's courts, we give the city executive or the city Legislative Branch the exclusive right to decide who they will appoint as judges and how long those judges will serve. We will again be asking the Legislature this year to help us to assure that judges from all levels of court are elected by, and accountable to, the people that they serve. Last year when we were talking with you about this proposal, we provided some sample questions that were being asked to some judicial candidates in our municipal courts. In one example candidates were asked if they understood that sentencing offenders to jail would have a direct impact on the city's budget. Another question that they were asked was whether they understood that appointing attorneys for indigent clients would have a budgetary impact on the city. As the Olympian Editorial Board so cogently stated last year after hearing this information, 'The message sent to those seeking judicial appointment was clear: Dollars are more important than the fair administration of justice.' Where judges are not elected, there are troubling examples. Judges with legitimate disagreements with the city council, the mayor, or the city manager or even the chief of police or the prosecutor who have found themselves kicked out of office at the end of their term seemingly because they disagreed. Judges once served at the pleasure of the crown and they lost their positions if the crown were defeated or if there was a death of a ruler but in a democracy, judges are unique because they are given license to sit in judgment of the government itself. Because democracies rely on the rule of law and the protection of individual liberties, democracies require judges to make rulings that are often unpopular. Fair and impartial courts, free from undue influence and control by Legislative and Executive Branches, are fundamental to our democracy. Our proposal is not an indictment of municipal court judges. Nor is it an indictment of city council members or mayors, many of whom work very collaboratively and appropriately with the judges in their jurisdictions and with the courts but we must change the system that makes them answerable to the city and not to the people. I'm urging your support for our proposal again this year, in 2011."

"Another major initiative of the Judiciary is working to eliminate bias in the courts. In the 1980s this Legislature and our Judiciary became national leaders in examining and responding to bias in the courts. You provided funding for the Gender and

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Justice Commission and also for the Minority and Justice Commission and through these commissions we continue to aggressively, and with research, focus on eliminating bias and barriers to justice in our state. While it's impossible to report on all of the work of these Commissions, I do want to point out just a couple of examples. For example, our Minority and Justice Commission was receiving complaints that African-Americans were required to post bail to secure release from jail far more often than white defendants. The Commission partnered with the University of Washington to conduct a study of judges' release practices. We learned that the release criteria in our court rules was inherently biased. The Commission recommended a new court rule changing the criteria which the Supreme Court adopted. And then, just this past session, we worked, the Gender and Justice Commission, worked with community groups and key legislators here to pass legislation banning the practice of shackling women prisoners during labor and delivery."

"Our courts have spent enormous energy addressing bias and meaningful access to justice but we recognize the need to reassess our progress so, shortly after becoming Chief Justice, I convened a workforce, the Supreme Court Commissions, Boards and Taskforces Assessment Workgroup to take a hard look at our existing efforts and to make recommendations for modernizing and strengthening the justice system's ability to ensure fair treatment for all. We have learned a great deal from our work over the years on bias in the courts. We have learned that it's an extremely complex and nuanced issue. We as a Branch remain profoundly committed to discovering and eliminating barriers to equal justice. To that end, the Supreme Court will be hosting a racial bias roundtable on March 2nd with leaders from the Washington State Bar Association, minority bar associations from across the state, prosecutors, public defenders, legal educators and other stakeholders to look at needed reforms in the system."

"The core of what brings together our hundreds of courts everyday is the Judicial Information System (JIS). Essentially, JIS equals justice. Without JIS calendars the courts could not operate; money from traffic fines and fees would not be collected and delivered to the state; and judges would not have access to the criminal records of the defendants who appear in front of them. If you can imagine having someone appear in front of you for a critical bail decision and not have the criminal history to make that very important decision. You could not do it without the assistance of JIS. Our JIS capabilities and benefits are far-reaching: protecting victims of domestic violence; ensuring that judges, police, prosecutors, community corrections, probation officers get timely access to related court orders; and increasing the courts' ability to keep the records organized, accurate and readily accessible. It is a testament to the wisdom of this Legislature that you recognized our need and you created a separate funding stream to maintain and improve this System. A system that also provides essential information to the Washington State Patrol, the Department of Corrections, the Office of the Secretary of State, the Sentencing Guidelines Commission, the Department of Licensing, local law enforcement agencies, prosecutors and defense attorneys. We are requesting \$10 million this biennium from the dedicated JIS account to improve and enhance the information system which currently serves 16,000 court customers and 8,000 other users. These funds are critical to allow the courts to streamline services and to provide accurate and up-to-date information throughout our state. We have already seen what advantages can be gained by modernizing: specifically, the vehicles-related violations exchange that is under development will eliminate the need to

physically transfer paper tickets to the courts which, now, have to be reentered by hand."

"I also have some other good news on the technology front that I would like to report. This past year, the members of the Washington State Bar Association and the Access to Justice community worked to establish something called 'JusticeNet.' Sounds a little scary but it's not. It is an effort to use technology and broadband capability throughout the state to deliver information and services. With over sixty-five members, Justice Net includes courts, libraries, community centers, legal aid and defender organizations, the prosecutors association and the State Bar. Well, in September, the U.S. Department of Commerce approved a grant that was submitted by Justice Net. As a result, the State of Washington will receive \$4.1 million to establish and support an inter-connected system of public computing centers throughout the state. These will be located in public libraries, community centers, non-profit organizations, courthouses, low-income housing complexes. These computing centers will be connected to emerging networks of social services organizations, legal aid offices, courts and government services. Together we will transform our justice system using our resource wisely to meet the needs and the aspirations of all people to access to justice."

"As my predecessor, Gerry Alexander, our former Chief, has addressed you in the past in this body, the Judicial Branch has begun a far-reaching effort to address the state's legal obligation to provide access to justice across the State of Washington in every courthouse on an equal basis. Historically, this state has imposed a disproportionate responsibility for meeting essential law and justice responsibilities, including funding for the courts, at the local level. In fact, Washington continues its unfortunate ranking as fiftieth in the nation out of fifty states for the percentage of funding that it provides for the courts and for prosecution and criminal indigent defense. As a result, across the state, counties spend well in excess of two-thirds of their general revenues on law and justice functions while, at the state level, the courts comprise less than seven tenths of one percent of the state's operating budget."

"Since becoming Chief, I have been talking to trial judges about the impacts of the local budget cuts on their operations. One survey of the judges painted a rather bleak picture. Courts – not all but many, are losing their line staff, they are cutting hours of operation and eliminating all real people answering phones. Entire probation departments are being eliminated which means there is no follow up of any kind to ensure that the defendants meet their court-ordered obligations for treatment. Courthouse facilitators, which do not exist in every county all ready, are being reduced in the counties where they do exist meaning that there are more unrepresented litigants who are not prepared to go forward on their cases. There are couples who are living with temporary orders in dissolution cases because they can't get trial dates which means that they cannot move forward with their lives. Serious juvenile offenders are being released from detention early. Court clerks are struggling to update their records in a timely and accurate way. And, most remarkably, some Superior Courts are experiencing such significant delays in civil trials that their local bar associations have had to step forward and volunteer as pro tem judges to help to reduce the backlog. We have a stunning example of that in Yakima County where twenty-three attorneys stepped forward to volunteer to act as pro tem judges. Injustices are occurring and public safety is jeopardized as this continues."

"With this in mind, the BJA will be seeking legislation to extend the sunset provision on the filing fee surcharges that were added by this Legislature in 2009. The judicial system is a core function of government and, as such, we believe that it should be

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funded through general fund revenues and not user fees but we do understand, in the dire consequences of today's economy, that is not possible so we will ask you to extend these expiring surcharges and add traditional state and local government split of those filing fees in order to help weather this fiscal storm, both at the state and the county level."

"This upcoming legislative session will be especially trying for all of us as we strive to uphold the promise of our Constitution: justice administered in all cases, civil and criminal, openly and without unnecessary delay. For the past several months all agencies of the Judicial Branch, in cooperation with the Governor's office, have reduced our expenses and cut costs by more than \$4.3 million, in addition to cuts in the two previous legislative sessions of \$17.7 million. This has been especially felt in our Administrative Office of the Courts which experienced a 19.3 percent reduction to its operating budget last biennium. This has resulted, of course, in losing services to our appellate courts, our trial courts and, of course, to the citizens of our state. One particular program that we think is in danger this year of being eliminated is the Office of Public Guardianship, which was created by the Legislature in 2007 to assist the approximately 4,500 state residents who are incapacitated and need the help of a guardian to be able to live independently."

"Finally, let me say that it is important to note, in these tough times, that we are working hard not to abandon our state's most vulnerable residents: children in foster care; victims of domestic violence; senior citizens; and others who are vulnerable. Two agencies of our Branch are here to protect the liberties of our citizens every day, that is: the Office of Public Defense and the Office of Civil Legal Aid and they have agreed to withdraw their request for new funds this biennium and will do their very best to work within their current budgets. I am very proud of the work of the Office of Public Defense which is working to improve the standards of public defense in trial, juvenile and appellate courts. The majority of criminal cases in this state involve people who are indigent. Over 200,000 people a year are indigent in this state. Almost fifty years ago, in *Gideon versus Wainwright*, a United States Supreme Court case, it was established that the state has a constitutional obligation to ensure that people are provided with an attorney. It is one of the cornerstones of our promise of fairness and yet, in many of our jurisdictions, poor defendants traditionally have not been appointed adequate counsel. This is why, in 2006, the Legislature funded a six million dollar program to improve the capability of our public defenders in our municipal and superior courts. This critically important program is key to meeting the state's obligation under *Gideon*. OPD has also made incredible strides in a program that provides representation for parents who are facing dependency and termination cases. This is an area where the courts have found that such a fundamental right, the right to be a parent and to have the custody and the care of your children that the Constitution has been determined to mandate that attorneys be appointed in this area. Our studies show that under our OPD program, parents are actually, with the assistance of competent counsel and well-educated counsel, able to work through, using services that are offered by the state, work through their dependency and termination cases often times resulting in additional reunifications and less time in the court system."

"Similarly, our Office of Civil Legal Aid (OCLA) is our state's legal lifeline for civil equal justice. When there's nowhere else to turn, Civil Legal Aid steps in. All over Washington, Civil Legal Aid lawyers and volunteers are working together to provide critical legal help to those who cannot afford it on matters that touch on the very fundamental needs that people have: the need

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for safety; the need for security, housing and access to essential services and support. This need, given our current financial crisis, has increased tremendously. We are seeing many more middle-class citizens who have been caught up in the recession. These people are unable to pay their rent, their mortgage or their bills in the way that they used to be able to do. They come to court. They are embarrassed. They are distraught. And, usually, they are without counsel and without any idea how to proceed to protect themselves. Our state's civil legal aid system is struggling to meet the urgent civil needs of our newly poor and vulnerable. In King County alone, requests for legal assistance over the past years have risen dramatically. Foreclosures are up 291 percent. Claims for unemployment are up 498 percent. We've seen a rise in the requests for medical assistance of 290 percent. Public assistance claims, 148 percent and bankruptcy claims, 145 percent. The OCLA reports that there are similar conditions in counties all across our state. Our judges report that these people cannot bring effective appeals much less revision motions; recover money that is owing to them; or win the custody of their children when they are facing an opponent who is represented. They are routinely evicted, denied domestic violence orders, assessed large judgments they cannot pay and foreclosed out of their homes. Our laws guarantee basic rights and protections to all of us not just those who can afford a lawyer but there is an overwhelming civil justice gap between the legal needs of the economically disadvantaged and the legal help that they receive."

"In closing, on behalf of the dedicated judges of Washington State I would like to reinforce our commitment to the rule of law in our democracy. Your judges will steadfastly continue their efforts to ensure the promise of equal justice for all Washington citizens. In large part, the cornerstone of this commitment rests upon adequate and stable funding for trial courts and we pledge to stay the course in achieving this long-term goal. Together we have made great strides in the right direction for Washington courts and we are deeply grateful for the support you have shown us in the past. I would also like to express how honored I am to serve alongside of all of you as a leader in our separate, but equal Branch of Government. I'm particularly grateful to Governor Gregoire and to the many leaders in the House and Senate who have been so willing to listen to the concerns of our Branch in these difficult times. I want to thank you for the warm welcome you have given me and my colleagues today and I want to wish you all the best in these challenging times."

"Thank you."

The President thanked Chief Justice Madsen for her remarks.

The President asked the special committee to escort Chief Justice Madsen from the Rostrum.

The President asked the special committee to escort the Governor from the Rostrum.

The President asked the special committee to escort the Statewide Elected Official from the Chamber.

The President asked the special committee to escort the Supreme Court Justices from the Chamber.

MOTION

On motion of Representative Sullivan the Joint Session was dissolved.

THIRD DAY, JANUARY 12, 2011

2011 REGULAR SESSION

The Speaker (Representative Moeller presiding) assumed the chair.

The Sergeant at Arms of the House and the Sergeant at Arms of the Senate escorted President of the Senate Owen, President Pro Tempore Margarita Prentice, Majority Caucus Chair Karen Fraser and Minority Whip Doug Ericksen and members of the Washington State Senate from the House Chamber.

The Senate was called to order at 12:30 p.m. by President Owen.

MOTION

At 12:31 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 13, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FOURTH DAY

NOON SESSION

Senate Chamber, Olympia, Thursday, January 13, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

November 30, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

BETH THEW, reappointed November 30, 2010, for the term ending June 30, 2014, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5077 by Senators Pflug, Shin, Carrell, Swecker, Sheldon, Becker, Honeyford, Benton, Schoesler, Stevens, Delvin, Keiser, Hewitt, Roach and Holmquist Newbry

AN ACT Relating to prohibiting the use of eminent domain for economic development; and adding a new chapter to Title 8 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5078 by Senators Shin, Swecker, Becker, Benton, Honeyford, Schoesler, Stevens, Hewitt, Carrell and Roach

AN ACT Relating to conditions of threat to public health, safety, or welfare on real property; amending RCW 35.81.080; and adding a new section to chapter 35.81 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5079 by Senators Conway, Kline, Pflug, Kohl-Welles, Haugen, Fraser and Chase

AN ACT Relating to the consumer protection act; and amending RCW 19.86.080 and 19.86.010.

Referred to Committee on Judiciary.

SB 5080 by Senators Sheldon, Rockefeller, Shin and Chase

AN ACT Relating to control of water pollution; amending RCW 70.146.010, 70.146.030, 90.50A.005, and 90.50A.010; and reenacting and amending RCW 70.146.020.

Referred to Committee on Environment, Water & Energy.

SB 5081 by Senators Pridemore, Swecker, Shin, Sheldon and Chase

AN ACT Relating to making the office of the county auditor a nonpartisan office; and amending RCW 29A.04.110 and 29A.36.121.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5082 by Senators Pflug, Regala, White, Litzow and Tom

AN ACT Relating to the use of electronic signatures and notices; and amending RCW 19.09.085, 19.34.231, 23B.01.500, 23B.01.510, 24.03.400, 24.06.445, and 24.12.051.

Referred to Committee on Judiciary.

SB 5083 by Senators Ranker, Kilmer, Swecker, Hobbs, Holmquist Newbry, Zarelli, Hargrove, Eide, Harper, Tom, Honeyford, White, Parlette, Ericksen, Shin, Hewitt, Sheldon, Roach and Benton

AN ACT Relating to clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction; amending RCW 82.04.255; and creating new sections.

Referred to Committee on Ways & Means.

SB 5084 by Senators Regala, Morton and Chase

AN ACT Relating to sale, lease, and disposal of lands within the Seashore Conservation Area; and amending RCW 79A.05.630.

FOURTH DAY, JANUARY 13, 2011

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Referred to Committee on Natural Resources & Marine Waters.

49.86.190, 49.86.210, and 49.86.150; and providing an expiration date.

SB 5085 by Senator Kline

Referred to Committee on Labor, Commerce & Consumer Protection.

AN ACT Relating to modifying provisions on personal property exempt from execution, attachment, and garnishment; amending RCW 6.15.010, 6.15.020, and 48.18.430; and adding a new section to chapter 2.48 RCW.

SB 5092 by Senators Keiser and McAuliffe

AN ACT Relating to oversight of licensed or certified long-term care settings for vulnerable adults; amending RCW 70.128.005, 70.128.050, 70.128.065, 70.128.070, 70.128.120, 70.128.130, 70.128.140, 70.128.160, 70.128.220, 18.51.050, 18.20.050, and 70.128.060; adding new sections to chapter 74.39A RCW; creating new sections; repealing RCW 70.128.175; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5086 by Senators Kline, Rockefeller, Ranker, Harper, Honeyford and Chase

AN ACT Relating to the use of geothermal resources for commercial electricity production; amending RCW 78.60.040 and 78.60.060; and repealing RCW 43.140.900.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Environment, Water & Energy.

SB 5093 by Senators McAuliffe and Shin

SB 5087 by Senators Sheldon, Honeyford, Hatfield and Shin

AN ACT Relating to noxious weed lists; and amending RCW 17.10.007, 17.10.080, and 17.10.090.

AN ACT Relating to revising education provisions to implement budget reductions; amending RCW 28A.300.136, 28A.300.137, 28A.300.380, 28A.300.515, 28A.630.016, 28A.655.066, and 28A.500.030; providing expiration dates; and declaring an emergency.

Referred to Committee on Agriculture & Rural Economic Development.

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

SB 5088 by Senators Haugen, Swecker, Hobbs, Hatfield, Harper, Shin, Rockefeller, Parlette and Tom

AN ACT Relating to recovering costs of production and copying of public records; and amending RCW 42.56.120.

SB 5094 by Senators Murray, Zarelli, Kilmer and Parlette

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 28A.600.110, 28A.600.150, 28B.76.660, 28B.102.040, 28B.102.050, 28B.15.068, 28B.115.080, 28B.117.030, 28B.117.040, 28C.04.535, 38.52.540, 41.26.802, 41.50.110, 41.56.028, 41.56.029, 41.80.010, 41.80.020, 43.08.190, 43.09.412, 43.09.475, 43.19.501, 43.79.201, 43.76.465, 43.105.052, 43.135.045, 43.185C.060, 66.08.170, 66.08.235, 67.70.260, 70.93.180, 70.105D.070, 70.105D.130, 74.39A.300, 79.64.040, 79.105.150, and 86.26.007; reenacting and amending RCW 43.155.050 and 43.330.250; creating new sections; making appropriations; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Ways & Means.

SB 5089 by Senators Hatfield, Swecker, Harper, Nelson, Parlette and Chase

AN ACT Relating to conferences regarding public records requests disputes; and reenacting and amending RCW 42.56.550.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5090 by Senators Regala, Swecker, Fraser and Chase

AN ACT Relating to the expiration date of the invasive species council and account; amending RCW 79A.25.310 and 79A.25.370; creating a new section; repealing 2007 c 241 s 75 (uncodified); repealing 2006 c 152 s 10 (uncodified); and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

SB 5095 by Senators Murray, Zarelli, Kilmer and Parlette

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 18.04.105, 43.21A.660, 43.21A.667, 43.79.460, 43.79.465, 43.83B.430, 51.44.170, 66.08.235, 82.14.380, and 90.56.500; amending 2010 2nd sp.s. c 1 ss 106, 107, 108, 109, 114, 115, 116, 117, 118, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 302, 303, 304, 305, 306, 307, 308, 309, 310, 501, 502, 503, 601, 602, 603, 604, 605, 606, 607, and 801 (uncodified); amending 2010 1st sp.s. c 37 ss 106, 118, 120, 121, 123, 124, 126, 127, 128, 130, 133, 134, 138, 141, 142, 146, 148, 150, 151, 153, 201, 213, 215, 217, 218, 219, 220, 222, 224, 225, 226, 401, 402, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 514, 515, 516, 517, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 701, 702, 703, 705, 707, 709, 710, 711, and 801 (uncodified);

SB 5091 by Senators Keiser and Shin

AN ACT Relating to delaying the implementation of the family leave insurance program; amending RCW 49.86.030,

amending 2010 1st sp.s. c 32 s 3 (uncodified); amending 2010 1st sp.s. c 31 s 1 (uncodified); amending 2009 c 564 ss 711 and 719 (uncodified); adding new sections to 2009 c 564 (uncodified); repealing 2010 1st sp.s. c 37 s 802 (uncodified); making appropriations; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5096 by Senators Delvin, Honeyford, Morton and Holmquist Newbry

AN ACT Relating to withdrawing Washington state's participation in the western climate initiative; amending RCW 70.235.005 and 70.235.010; creating a new section; and repealing RCW 70.235.030.

Referred to Committee on Environment, Water & Energy.

SB 5097 by Senators Delvin, Kohl-Welles, McAuliffe and Chase

AN ACT Relating to juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails; creating new sections; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

SB 5098 by Senators Carrell and Chase

AN ACT Relating to exempting personal information of minors in parks and recreation programs from public inspection and copying; and amending RCW 42.56.230.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5099 by Senators Carrell and Delvin

AN ACT Relating to inspection or copying of nonexempt public records by persons incarcerated; and amending RCW 42.56.565.

Referred to Committee on Human Services & Corrections.

SB 5100 by Senators Carrell, Schoesler, Swecker, Benton, Stevens, Morton, King and Zarelli

AN ACT Relating to expenditures for works of art; amending RCW 43.17.200; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5101 by Senators Carrell, Schoesler, Delvin and Stevens

AN ACT Relating to placing certain synthetic cannabinoids into schedule I of the uniform controlled substances act; amending RCW 69.50.204; creating a new section; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5102 by Senators Carrell, Stevens, Schoesler, Pflug, Ericksen, Roach and Holmquist Newbry

AN ACT Relating to registered persons in adult family homes and boarding homes; amending RCW 18.20.190 and 70.128.160; adding a new section to chapter 9A.44 RCW; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 5103 by Senators Carrell, Pflug, Schoesler and Roach

AN ACT Relating to including persons acquitted by reason of insanity within the slayer statute; and amending RCW 11.84.010, 11.84.130, and 41.04.273.

Referred to Committee on Judiciary.

SB 5104 by Senators Carrell, Stevens and Schoesler

AN ACT Relating to criminal defendants who are guilty and mentally ill; amending RCW 10.77.040; reenacting and amending RCW 9.94A.501; and adding a new section to chapter 10.77 RCW.

Referred to Committee on Human Services & Corrections.

SB 5105 by Senators Carrell, Conway, Stevens, Schoesler, Becker and Shin

AN ACT Relating to the conditional release of persons committed as criminally insane to their county of origin; and adding a new section to chapter 10.77 RCW.

Referred to Committee on Human Services & Corrections.

SB 5106 by Senators Benton, Schoesler, Fain, Morton, Sheldon, Roach, Chase and Tom

AN ACT Relating to eliminating the periodic replacement requirement for license plates; amending RCW 46.16A.200, 46.17.200, and 46.68.380; and reenacting and amending RCW 46.18.130 and 46.18.140.

Referred to Committee on Transportation.

SB 5107 by Senators Benton and Morton

AN ACT Relating to creating efficiencies in the Washington state college and university system by consolidation; adding a new section to chapter 28B.10 RCW; adding a new chapter to Title 28B RCW; creating new sections; repealing RCW 28B.20.100, 28B.20.105, 28B.20.110, 28B.20.130, 28B.30.100, 28B.30.120, 28B.30.125, 28B.30.130, 28B.30.135, 28B.30.150, 28B.35.100, 28B.35.105, 28B.35.110, 28B.35.120, 28B.40.100, 28B.40.105, 28B.40.110, 28B.40.120, 28B.45.080, 28B.76.010, 28B.76.020, 28B.76.040, 28B.76.050, 28B.76.060, 28B.76.070, 28B.76.080, 28B.76.090, 28B.76.110, 28B.76.120, 28B.76.210, 28B.76.240, 28B.76.2401, 28B.76.500, 28B.76.510, 28B.76.520, 28B.76.530, 28B.76.540, 28B.76.640, 28B.76.645, 28B.76.650, 28B.76.660, 28B.76.665, 28C.18.005, 28C.18.010, 28C.18.020, 28C.18.030, 28C.18.040, 28C.18.050, and 28C.18.060; providing effective dates; and declaring an emergency.

FOURTH DAY, JANUARY 13, 2011

2011 REGULAR SESSION

Referred to Committee on Higher Education & Workforce Development.

SB 5108 by Senators Benton and Morton

AN ACT Relating to abolishing the council of presidents; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 5109 by Senators Benton, Carrell, Schoesler, Morton and Hewitt

AN ACT Relating to eliminating the requirement to purchase public art with appropriations made for construction of public buildings; and repealing RCW 43.17.200, 43.17.205, 43.17.210, 43.19.455, 28A.335.210, 28B.10.025, and 28B.10.027.

Referred to Committee on Ways & Means.

SB 5110 by Senators Kohl-Welles, Chase, Rockefeller, Kline, Ranker, Shin, Nelson, Fraser and White

AN ACT Relating to carpet stewardship; reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new chapter to Title 70 RCW; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5104 which was referred to the Committee on Human Services & Corrections.

#### MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, January 14, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Friday, January 14, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Hewitt, King, Parlette, Ranker, Regala, Swecker, Tom and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Hunter Lee Mixon and Lydia J. Moynihan, presented the Colors. Reverend Dr. Marilyn Cornwell of the Church of the Ascension in Seattle offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

January 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DEBRENA F. JACKSON GANDY, appointed October 15, 2010, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 9 (Highline Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LORRAINE LEE, appointed July 7, 2010, for the term ending June 30, 2015, as Member of the Office of Administrative Hearings.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

January 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ROBERT (BOB) A. ROEGNER, appointed January 3, 2011, for the term ending September 30, 2015, as Member, Board of

Trustees, Community College District No. 9 (Highline Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

**MOTION**

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

**MOTION**

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

**MESSAGE FROM THE HOUSE**

January 13, 2011

MR. PRESIDENT:

The Speaker has signed:

HOUSE CONCURRENT RESOLUTION NO. 4400,

HOUSE CONCURRENT RESOLUTION NO. 4401,

HOUSE CONCURRENT RESOLUTION NO. 4403.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

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

**INTRODUCTION AND FIRST READING**

**SB 5111** by Senators Sheldon, Rockefeller, King, Hobbs and Litzow

AN ACT Relating to privatizing the sale of liquor; amending RCW 66.08.030, 66.08.070, 66.08.130, 66.08.140, 66.08.150, 66.24.010, 66.24.012, 66.24.015, 66.24.025, 66.24.120, 66.44.200, 66.44.318, 66.44.340, 66.04.010, 66.08.012, 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.08.167, 66.16.110, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.145, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.400, 66.24.540, 66.24.590, 66.28.060, 66.32.010, 66.44.150, and 66.44.160; reenacting and amending RCW 66.04.010; adding new sections to chapter 66.08 RCW; creating a new section; recodifying RCW 66.16.110; repealing RCW 66.08.070, 66.08.160, 66.08.165, 66.08.166, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.120, and 66.28.180; providing effective dates; and providing for submission of this act to a vote of the people.

Referred to Committee on Labor, Commerce & Consumer Protection.

FIFTH DAY JANUARY 14, 2011

REGULAR SESSION

SB 5112 by Senators Hatfield, Honeyford, Sheldon and Schoesler

AN ACT Relating to firearm noise suppressors; and amending RCW 9.41.250.

Referred to Committee on Judiciary.

SB 5113 by Senator Hargrove

AN ACT Relating to reviewing discharges from state hospitals; and amending RCW 71.05.232.

Referred to Committee on Human Services & Corrections.

SB 5114 by Senator Hargrove

AN ACT Relating to streamlining competency evaluation and competency restoration procedures; amending RCW 10.77.060, 10.77.065, 10.77.084, 10.77.088, and 71.05.290; adding a new section to chapter 10.77 RCW; creating a new section; and repealing RCW 71.05.235.

Referred to Committee on Human Services & Corrections.

SB 5115 by Senators Harper, Pflug, Kline, Roach, Carrell and Kilmer

AN ACT Relating to private transfer fee obligations; adding a new chapter to Title 64 RCW; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5116 by Senators Swecker, Hatfield and Parlette

AN ACT Relating to public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property; and amending RCW 70.44.060.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5117 by Senators Haugen, Ranker, Stevens and Shin

AN ACT Relating to the population restrictions for a geographic area to qualify as a rural public hospital district; and amending RCW 70.44.460.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5118 by Senators Rockefeller, Ranker, Fraser and Kline

AN ACT Relating to output-based air emission standards; amending RCW 70.94.030; adding a new section to chapter 70.94 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5119 by Senators Pridemore and Kline

AN ACT Relating to cancellation of the 2012 presidential primary; amending RCW 29A.56.020; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5120 by Senators Keiser and Kline

AN ACT Relating to regulating insurance rates; amending RCW 48.02.120, 48.19.035, 48.19.040, and 48.29.147; and repealing RCW 48.43.0121.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5121 by Senator Hobbs

AN ACT Relating to adopting the investments of insurers model act; amending RCW 48.13.350; reenacting and amending RCW 42.56.400; adding new sections to chapter 48.13 RCW; repealing RCW 48.13.010, 48.13.020, 48.13.030, 48.13.040, 48.13.050, 48.13.060, 48.13.070, 48.13.080, 48.13.090, 48.13.100, 48.13.110, 48.13.120, 48.13.125, 48.13.130, 48.13.140, 48.13.150, 48.13.160, 48.13.170, 48.13.180, 48.13.190, 48.13.200, 48.13.210, 48.13.218, 48.13.220, 48.13.230, 48.13.240, 48.13.250, 48.13.260, 48.13.265, 48.13.270, 48.13.273, 48.13.275, 48.13.280, 48.13.285, 48.13.290, and 48.13.340; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5122 by Senators Keiser and Kline

AN ACT Relating to health care insurance; amending RCW 48.20.435, 48.21.270, 48.43.093, 48.43.530, 48.43.535, 48.44.215, 48.44.380, 48.46.325, 48.46.460, 48.20.025, 48.44.017, and 48.46.062; reenacting and amending RCW 48.43.005; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 5123 by Senators Ranker, Morton and Hargrove

AN ACT Relating to the institute of forest resources; amending RCW 76.44.030; adding new sections to chapter 76.44 RCW; and creating a new section.

Referred to Committee on Natural Resources & Marine Waters.

SB 5124 by Senators White, Pridemore, Fraser and Shin

AN ACT Relating to elections by mail; amending RCW 29A.04.008, 29A.04.013, 29A.04.019, 29A.04.031, 29A.04.216, 29A.04.220, 29A.04.235, 29A.04.540, 29A.04.580, 29A.04.611, 29A.08.130, 29A.08.140, 29A.08.440, 29A.08.620, 29A.08.720, 29A.08.775, 29A.08.810, 29A.08.820, 29A.12.085, 29A.12.110, 29A.12.120, 29A.12.160, 29A.16.040, 29A.24.081, 29A.28.061, 29A.32.260, 29A.36.115, 29A.36.131, 29A.36.220, 29A.40.010, 29A.40.020, 29A.40.050, 29A.40.100, 29A.40.110, 29A.40.130, 29A.46.260, 29A.60.040, 29A.60.050, 29A.60.060, 29A.60.080, 29A.60.110, 29A.60.120, 29A.60.160, 29A.60.160, 29A.60.170, 29A.60.180, 29A.60.195, 29A.60.200,

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29A.60.230, 29A.60.235, 29A.68.020, 29A.68.070,  
 29A.68.080, 29A.84.020, 29A.84.050, 29A.84.510,  
 29A.84.520, 29A.84.530, 29A.84.540, 29A.84.545,  
 29A.84.550, 29A.84.655, and 29A.84.730; reenacting and  
 amending RCW 29A.60.165 and 29A.84.680; adding a new  
 section to chapter 29A.44 RCW; adding a new section to  
 chapter 29A.52 RCW; adding a new section to chapter  
 29A.04 RCW; creating a new section; recodifying RCW  
 29A.46.260; repealing RCW 29A.04.049, 29A.04.115,  
 29A.04.128, 29A.08.430, 29A.12.090, 29A.16.010,  
 29A.16.020, 29A.16.030, 29A.16.060, 29A.16.110,  
 29A.16.120, 29A.16.130, 29A.16.140, 29A.16.150,  
 29A.16.160, 29A.16.170, 29A.24.151, 29A.24.161,  
 29A.40.030, 29A.40.040, 29A.40.061, 29A.40.061,  
 29A.40.080, 29A.40.120, 29A.40.140, 29A.44.010,  
 29A.44.020, 29A.44.030, 29A.44.040, 29A.44.045,  
 29A.44.050, 29A.44.060, 29A.44.070, 29A.44.080,  
 29A.44.090, 29A.44.110, 29A.44.120, 29A.44.130,  
 29A.44.140, 29A.44.150, 29A.44.160, 29A.44.170,  
 29A.44.180, 29A.44.190, 29A.44.201, 29A.44.205,  
 29A.44.207, 29A.44.210, 29A.44.221, 29A.44.225,  
 29A.44.231, 29A.44.240, 29A.44.250, 29A.44.260,  
 29A.44.265, 29A.44.270, 29A.44.280, 29A.44.290,  
 29A.44.310, 29A.44.320, 29A.44.330, 29A.44.340,  
 29A.44.350, 29A.44.410, 29A.44.420, 29A.44.430,  
 29A.44.440, 29A.44.450, 29A.44.460, 29A.44.470,  
 29A.44.480, 29A.44.490, 29A.44.500, 29A.44.510,  
 29A.44.520, 29A.44.530, 29A.46.010, 29A.46.020,  
 29A.46.030, 29A.46.110, 29A.46.120, 29A.46.130,  
 29A.48.010, 29A.48.020, 29A.48.030, 29A.48.040,  
 29A.48.050, 29A.48.060, 29A.52.311, 29A.52.351,  
 29A.60.030, 29A.84.525, 29A.84.670, 29A.84.670, and  
 29A.84.740; prescribing penalties; providing effective dates;  
 and providing an expiration date.

Referred to Committee on Government Operations, Tribal  
 Relations & Elections.

SB 5125 by Senators Becker, Swecker and King

AN ACT Relating to absentee ballots; amending RCW  
 29A.40.091, 29A.40.110, 29A.48.050, 29A.60.190, and  
 29A.60.190; adding a new section to chapter 29A.40 RCW;  
 providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal  
 Relations & Elections.

SB 5126 by Senators Kilmer, Tom, Murray, Kastama,  
 Rockefeller, Keiser, Conway, Regala, Hobbs, Shin and  
 McAuliffe

AN ACT Relating to compensation adjustments for  
 government officials; amending RCW 35.21.015, 36.17.024,  
 35.23.091, and 35A.13.040; and providing a contingent  
 effective date.

Referred to Committee on Ways & Means.

SB 5127 by Senators Kilmer, Parlette, Murray and  
 Zarelli

AN ACT Relating to state general obligation bonds and  
 related accounts; adding a new chapter to Title 43 RCW; and  
 declaring an emergency.

Referred to Committee on Ways & Means.

SB 5128 by Senators Haugen, King, White, Swecker,  
 Hobbs and Shin

AN ACT Relating to statewide transportation planning;  
 amending RCW 47.01.071, 47.01.075, 47.04.280, 47.06.140,  
 47.01.011, 47.01.300, 47.01.330, 47.05.010, 47.05.030,  
 47.80.023, 47.80.030, 47.82.010, 36.70A.070, 36.70A.085,  
 46.68.170, 47.60.290, 47.60.327, 47.76.210, and 47.79.020;  
 adding new sections to chapter 47.06 RCW; adding a new  
 chapter to Title 47 RCW; creating a new section; recodifying  
 RCW 47.01.051, 47.01.061, 47.01.071, 47.01.075,  
 47.01.420, 47.01.425, and 47.04.280; and repealing RCW  
 47.06.020, 47.06.040, 47.06.043, 47.06.045, 47.06.050,  
 47.06.060, 47.06.070, 47.06.080, 47.06.090, 47.06.100,  
 47.06.110, 47.06.120, 47.01.141, 47.60.286, 47.76.220,  
 47.79.040, and 47.80.070.

Referred to Committee on Transportation.

SB 5129 by Senator Haugen

AN ACT Relating to portions of state highways better served  
 by merged fire districts under certain circumstances;  
 amending RCW 47.48.031 and 52.06.090; and creating a new  
 section.

Referred to Committee on Transportation.

SB 5130 by Senators Haugen and Shin

AN ACT Relating to prohibiting commercial motor vehicles  
 in express lanes during peak hours; and adding a new section  
 to chapter 46.61 RCW.

Referred to Committee on Transportation.

SB 5131 by Senators Haugen, King and White

AN ACT Relating to expanding certain public facilities  
 eligible to be credited against the imposition of impact fees;  
 and reenacting and amending RCW 82.02.090.

Referred to Committee on Transportation.

SB 5132 by Senators Prentice, Tom and Kline

AN ACT Relating to residential habilitation centers;  
 amending RCW 71A.10.020, 71A.10.030, 71A.10.050,  
 71A.12.020, 71A.20.010, 71A.20.020, 71A.20.080,  
 71A.20.150, 71A.20.170, 72.01.050, 72.05.010, and  
 28A.190.020; repealing RCW 71A.20.070 and 28B.30.810;  
 and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 5133 by Senators Schoesler, Baumgartner and  
 Delvin

AN ACT Relating to using state correctional facility  
 populations to determine population thresholds for certain  
 local government purposes; and amending RCW 35A.12.010,  
 35A.13.010, and 47.26.345.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5134 by Senator Hatfield

AN ACT Relating to historic vessels; amending RCW 88.02.560, 88.02.560, and 82.49.010; reenacting and amending RCW 88.02.310; adding a new section to chapter 88.02 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

SB 5135 by Senators Kohl-Welles, Holmquist Newbry, King, Honeyford, Schoesler, Becker, Hobbs, Rockefeller, Baumgartner, Hill, Litzow and Benton

AN ACT Relating to responding to the current economic conditions by temporarily modifying the unemployment insurance program; amending RCW 50.22.010, 50.22.155, and 50.29.025; creating a new section; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5136 by Senators Kastama, Tom, Hobbs, Chase, Rockefeller, Haugen, McAuliffe, Shin, Hargrove, Harper, Hatfield, Zarelli and Litzow

AN ACT Relating to establishing the first Washington nonprofit online university; adding a new section to chapter 28B.76 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 5137 by Senators Pridemore, Swecker and Regala

AN ACT Relating to hearings for street vacations; and amending RCW 35.79.030.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SJR 8200 by Senators Shin, Chase, Hargrove, Harper, Prentice, Rockefeller, Holmquist Newbry, Fraser and Sheldon

Amending the Washington state Constitution so that judges may retire at the expiration of his or her term of office after attaining the mandatory retirement age.

Referred to Committee on Judiciary.

SJR 8201 by Senators Stevens, Schoesler, Morton and Honeyford

Amending Article XXVI of the state Constitution.

Referred to Committee on Natural Resources & Marine Waters.

SJR 8202 by Senators Zarelli, Benton, Murray and Kilmer

Authorizing the reduction of public officials' salaries.

Referred to Committee on Ways & Means.

SJR 8203 by Senators Kilmer, Zarelli, Tom, Murray, Kastama, Keiser, Rockefeller, Regala, Conway, Hobbs, Shin, McAuliffe and Litzow

Amending the Constitution to allow for public official salary reductions.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exceptions of Senate Bill No. 5126 which was referred to the Committee on Ways & Means; Senate Bill No. 5129 and Senate Bill No. 5131 which were referred to the Committee on Transportation; and Senate Bill No. 5132 which was referred to the Committee on Health & Long-Term Care.

MOTION

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

MOTION

Senator Kohl-Welles moved adoption of the following resolution:

SENATE RESOLUTION  
8605

By Senators Kohl-Welles, Eide, Delvin, Fraser, Regala, Kastama, Conway, Pridemore, Holmquist Newbry, Tom, Zarelli, Rockefeller, Chase, Brown, Kilmer, Murray, Parlette, Pflug, Schoesler, Stevens, Haugen, McAuliffe, White, Swecker, and Ranker

WHEREAS, President Obama has proclaimed January 2011 National Slavery and Human Trafficking Prevention month; and

WHEREAS, The United States Department of Health and Human Services and the United States Department of Justice estimates that between 14,500 and 17,500 people are trafficked into the United States each year, with 50 percent of those being children; and

WHEREAS, Of the people trafficked internationally, an estimated 46 percent of those are for the purpose of prostitution, 27 percent for domestic servitude, 10 percent to work in agriculture, and 5 percent to work in factories; and

WHEREAS, Human trafficking is not only an international problem with persons being smuggled into the United States or having received false promises about the work they will do, but also a domestic one that devastates the lives of women, children, and men in our own communities through labor and sex trafficking activities, often involving the commercial sexual abuse of minors; and

WHEREAS, Early awareness of this problem in Washington state came about because federal experts determined Seattle to be one of the ten human trafficking hotspots with people being

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smuggled into Seattle's ports in containerships from Asia for labor, and the high-profile murders of "mail-order brides" (Suzanna Remata Blackwell and Anastasia King) and the enforced servitude of another (Helen Clemente); and

WHEREAS, Washington state has been in the forefront, nationally, in the fight against human trafficking since 2001 under the leadership of former State Representative Velma Veloria working with community organizations, such as the Asian & Pacific Islander Women & Family Safety Center, in convening a conference on human trafficking with the University of Washington Women's Center, and, in 2002, leading the efforts in creating in statute the nation's first state task force against the trafficking of persons, and in 2003 in creating the crime of trafficking, the first in the United States; and

WHEREAS, In every legislative session since, funding has been made available and/or trafficking laws have been strengthened by specifying penalties for violations of the criminal trafficking statute; regulating the mail-order bride industry; establishing protocols for providing services to victims of trafficking; providing funds to be used in providing legal aid to undocumented immigrants who are victims of sexual assault, domestic violence, or human trafficking; restricting sex tourism; adding victims of trafficking to the Secretary of State's address confidentiality program; creating and strengthening penalties for a new criminal category for the commercial sexual abuse of a minor and for providing training for law enforcement officers through the Criminal Justice Training Commission; requiring domestic employers and international labor brokers to disclose federal and state labor laws to employees and requiring dissemination of information on trafficking to health care providers; and in authorizing antitrafficking posters to be placed in state highway rest stops; and

WHEREAS, Former Congresswoman Linda Smith, founder and President of Shared Hope International, is a strong advocate against human trafficking and the commercial sexual abuse of minors and leads the Protected Innocence Initiative, which utilizes a holistic strategy to promote zero tolerance for child sex trafficking; and

WHEREAS, Rani and Trong Hong, founders of the Tronie Foundation, were victims of sex trafficking, whose courage to tell their stories has raised awareness of issues of human trafficking in the United States Congress and in legislative bodies around the world, and who opened the state's first shelter for trafficking victims; and

WHEREAS, Human traffickers use many physical and psychological techniques to control their victims, including the use of violence or threats of violence against the victim or the victim's family, isolation from the public, isolation from the victim's family and religious or ethnic communities, language and cultural barriers, shame, control of the victim's possessions, confiscation of passports and other identification documents, and threats of arrest, deportation, or imprisonment if the victim attempts to reach out for assistance or leave; and

WHEREAS, Thursday, January 13, 2011, was Washington Antitrafficking Engagement Day, an event to raise awareness and encourage advocacy on the issue of human trafficking at the Washington State Legislature;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize those people and organizations that fight daily against the scourge of human trafficking, and encourage others to observe the National Slavery and Human Trafficking Prevention month with appropriate ceremonies and activities to combat human trafficking; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to former Representative Velma Veloria; the Asian & Pacific Islander Women

& Family Safety Center; the Department of Commerce's Office of Crime Victims Advocacy; Dr. Sutapa Basu, Executive Director of the University of Washington Center for Research on Women; the Washington Advisory Committee on Trafficking (WashACT); former State Senator Linda Smith and Shared Hope International; Attorney General Rob McKenna who convened summits in combating human trafficking in Washington; Seattle Against Slavery; the Refugee Women's Alliance; New Horizons Ministries; the City of Seattle Division of Violence & Sexual Assault Prevention; the Not for Sale Campaign; The Polaris Project; the Washington Anti-Trafficking Response Network; the National Human Trafficking Resource Center; Rani Hong with the Tronie Foundation; Soroptomists International; and the Seattle Bridge Program.

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

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8605.

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

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Rose Gunderson, Legislative Director, Washington Anti-Trafficking Engagement Day who was seated in the gallery.

#### SIGNED BY THE PRESIDENT

The President signed:

HOUSE CONCURRENT RESOLUTION NO. 4400,  
HOUSE CONCURRENT RESOLUTION NO. 4401,  
HOUSE CONCURRENT RESOLUTION NO. 4403.

#### MOTION

At 10:22 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, January 17, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, January 17, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 14, 2011

SB 5053 Prime Sponsor, Senator Kline: Authorizing community custody after fifteen years for specified persistent offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Harper and McAuliffe.

Passed to Committee on Judiciary.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 14, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LINDA S. COWAN, appointed January 3, 2011, for the term ending September 30, 2014, as Member, Board of Trustees, Community College District No. 10 (Green River Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

January 3, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

SUZAN DELBENE, appointed December 16, 2010, for the term ending at the governor's pleasure, as Director of the Department of Revenue.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

January 4, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DENNY HECK, appointed January 3, 2011, for the term ending September 30, 2016, as Member, Board of Trustees, The Evergreen State College.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5138 by Senators Hargrove and King

AN ACT Relating to driver's license and instruction permit application requirements; and amending RCW 46.20.091.

Referred to Committee on Transportation.

SB 5139 by Senators Hargrove and Shin

AN ACT Relating to creating a claim for wrongful conviction and imprisonment; adding a new section to chapter 72.09 RCW; and adding a new chapter to Title 4 RCW.

Referred to Committee on Human Services & Corrections.

SB 5140 by Senators Hargrove, Tom and King

AN ACT Relating to the deportation of criminal alien offenders; amending RCW 9.94A.685; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 5141 by Senators Rockefeller, Haugen, Delvin, Benton, Kilmer, Swecker, Hatfield, Sheldon, Shin and Roach

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AN ACT Relating to limiting the issuance of motorcycle instruction permits; and amending RCW 46.20.510.

Referred to Committee on Transportation.

SB 5142 by Senators Stevens, Hargrove, Nelson, Shin, Pflug, Sheldon, King and Roach

AN ACT Relating to alternative learning experiences; amending RCW 28A.320.092; and creating a new section.

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

SB 5143 by Senators McAuliffe and Shin

AN ACT Relating to the annexation of unincorporated areas served by fire protection districts; and amending RCW 35.13.238, 35A.14.480, and 36.93.105.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5144 by Senators McAuliffe, Kohl-Welles, Kline, Nelson, Keiser, Tom, Shin and Conway

AN ACT Relating to creation of an animal abuser registry; adding a new chapter to Title 16 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5145 by Senators White, Swecker, Shin, Nelson and Harper

AN ACT Relating to landscape conservation and local infrastructure; amending RCW 84.55.010, 84.55.120, and 36.70A.080; adding a new chapter to Title 39 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5146 by Senator Honeyford

AN ACT Relating to disclosure of production and export information on patented or trademarked fruit; and amending RCW 42.56.380.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5147 by Senators Hargrove and Shin

AN ACT Relating to eliminating the mandatory retirement age for judges; amending RCW 2.10.100; repealing RCW 3.74.030; and providing a contingent effective date.

Referred to Committee on Judiciary.

SB 5148 by Senators Keiser, Becker and Conway

AN ACT Relating to statutory changes needed to implement a waiver to receive federal assistance for certain state purchased health care programs; amending RCW 70.47.060; and reenacting and amending RCW 70.47.020 and 74.09.035.

Referred to Committee on Health & Long-Term Care.

SB 5149 by Senators Keiser, Becker, Kohl-Welles, Parlette, Conway and Kline

AN ACT Relating to requiring the department of health to collect current and past employment information in the cancer registry program; and amending RCW 70.54.240.

Referred to Committee on Health & Long-Term Care.

SB 5150 by Senators Kohl-Welles and Hewitt

AN ACT Relating to on-premise spirits sampling; amending RCW 66.16.070 and 66.28.040; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5151 by Senators Chase, Murray, Haugen, Nelson, Kline, Tom, Kohl-Welles, Shin and Conway

AN ACT Relating to local animal care and control functions; amending RCW 15.53.9018, 15.53.9044, and 18.92.260; adding a new chapter to Title 16 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5152 by Senators Pflug, Keiser and Kohl-Welles

AN ACT Relating to naturopathic physicians; and amending RCW 18.36A.020 and 18.36A.040.

Referred to Committee on Health & Long-Term Care.

SB 5153 by Senator Nelson

AN ACT Relating to candidates appearing on the general election ballot; and amending RCW 29A.52.112.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5154 by Senators Harper, Kline, Pflug, Hobbs, Ericksen, Rockefeller, Nelson and Roach

AN ACT Relating to vehicle prowling; amending RCW 9A.52.100; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5155 by Senators Prentice, Keiser and Chase

AN ACT Relating to regional public safety authorities; amending RCW 57.90.010, 84.09.030, 84.52.010, and 84.52.052; adding a new section to chapter 84.52 RCW; and adding a new chapter to Title 35 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

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SB 5156 by Senators Kohl-Welles, King, Keiser, Delvin and Conway

AN ACT Relating to airport lounges under the alcohol beverage control act; amending RCW 66.24.440, 66.20.310, 66.20.300, 66.08.180, 66.08.220, and 68.50.107; reenacting and amending RCW 66.04.010; and adding a new section to chapter 66.24 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5157 by Senators Murray, Prentice, White, Swecker, Delvin, Kohl-Welles and Shin

AN ACT Relating to the operation of foreign trade zones on property adjacent to but outside a port district; and amending RCW 53.08.030.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5158 by Senators Ericksen and Sheldon

AN ACT Relating to reform of the forest practices permitting system; and reenacting and amending RCW 76.09.060.

Referred to Committee on Natural Resources & Marine Waters.

SB 5159 by Senators Schoesler, Conway, Fain, Holmquist Newbry, Carrell, Murray, Becker, Haugen, Hobbs, Pridemore, Rockefeller, Roach, McAuliffe and Kilmer

AN ACT Relating to transferring service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and communications officers and then became commissioned troopers in the Washington state patrol; and adding a new section to chapter 41.40 RCW.

Referred to Committee on Transportation.

SB 5160 by Senators Conway, Kohl-Welles, Schoesler, Murray, Hobbs, Rockefeller and Kilmer

AN ACT Relating to increasing the duty-related death benefit for public employees; and amending RCW 41.04.017, 41.24.160, 41.32.053, 41.35.115, 41.37.110, 41.40.0931, and 41.40.0932.

Referred to Committee on Ways & Means.

SB 5161 by Senators Fain, Schoesler, Holmquist Newbry, Conway, Delvin, Carrell, Murray, Hobbs, Pridemore and Rockefeller

AN ACT Relating to public corrections entities formed by counties or cities under RCW 39.34.030; reenacting and amending RCW 41.37.010; and creating a new section.

Referred to Committee on Ways & Means.

SB 5162 by Senators Murray, Schoesler, Conway, Hobbs, Carrell and Rockefeller

AN ACT Relating to public employees' annuities and retirement plans; amending RCW 28B.10.400, 28B.10.423, and 41.40.037; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5163 by Senators Hobbs, Schoesler, Conway, Rockefeller, Murray, Kohl-Welles, Roach and Kilmer

AN ACT Relating to providing a partial lump sum benefit payment option for certain survivors of active members of the teachers' retirement system plan 1; and amending RCW 41.32.520.

Referred to Committee on Ways & Means.

SB 5164 by Senators Schoesler and Delvin

AN ACT Relating to registration of charitable organizations; and amending RCW 19.09.085.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5165 by Senators Schoesler, Pridemore and Holmquist Newbry

AN ACT Relating to limiting changes to commissioner districts during commissioner elections and election filing periods; and amending RCW 36.32.020.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5166 by Senators Schoesler, King, Hatfield, Morton, Honeyford, Hewitt and Roach

AN ACT Relating to allowing off-road vehicles on public highways in certain areas; and amending RCW 46.09.360.

Referred to Committee on Transportation.

SB 5167 by Senators Schoesler, Murray, Honeyford, Pridemore, Kilmer and Tom

AN ACT Relating to tax statute clarifications and technical corrections; amending RCW 82.04.290, 82.04.645, 82.08.0297, 82.12.0297, 84.36.381, 84.36.385, 35.102.150, 82.04.460, 82.08.806, 82.08.820, 82.08.820, 82.32.665, and 82.32.117; amending 2010 1st sp.s. c 23 s 101 (uncodified); reenacting and amending RCW 82.04.050 and 82.32.330; reenacting RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.022, 82.12.805, and 82.32.590; creating a new section; repealing RCW 82.32.115; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5168 by Senators Prentice, Kline, Regala, Chase and Kohl-Welles

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AN ACT Relating to reducing maximum sentences for gross misdemeanors by one day; reenacting and amending RCW 9A.20.021; and creating a new section.

Referred to Committee on Judiciary.

SB 5169 by Senators Rockefeller, Kilmer and Shin

AN ACT Relating to encouraging economic development by exempting certain counties from the forest land compensating tax; amending RCW 84.33.145; and reenacting and amending RCW 84.33.140.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5170 by Senators Holmquist Newbry, Parlette, Kohl-Welles and Kline

AN ACT Relating to increasing the number of judges to be elected in Grant county; and reenacting and amending RCW 3.34.010.

Referred to Committee on Judiciary.

SB 5171 by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe

AN ACT Relating to facilitating voting for service and overseas voters; amending RCW 29A.04.255, 29A.04.311, 29A.04.321, 29A.16.040, 29A.24.040, 29A.24.050, 29A.24.131, 29A.24.141, 29A.24.171, 29A.24.181, 29A.24.191, 29A.24.311, 29A.28.041, 29A.40.070, 29A.40.091, 29A.40.110, 29A.56.030, 29A.60.190, 29A.60.190, 29A.60.240, 29A.64.011, 29A.64.030, 29A.68.011, 29A.76.010, and 42.12.070; reenacting and amending RCW 29A.04.330, 29A.36.010, and 42.12.040; repealing RCW 29A.04.310, 29A.24.151, 29A.24.161, 29A.24.210, 29A.24.211, 29A.36.011, and 29A.40.150; prescribing penalties; providing effective dates; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5172 by Senators Brown, Harper, Baumgartner, Kohl-Welles, Keiser, McAuliffe and Kline

AN ACT Relating to authorizing the use of short-term, on-site child care for the children of facility employees; and reenacting and amending RCW 43.215.010.

Referred to Committee on Human Services & Corrections.

SB 5173 by Senators Honeyford, Kohl-Welles, Hewitt, King, Holmquist Newbry and Tom

AN ACT Relating to the waiver of restaurant corkage fees; amending RCW 66.28.295; reenacting and amending RCW 66.28.310; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5174 by Senators Chase, McAuliffe, Prentice, Nelson, Kohl-Welles, Shin and Kline

AN ACT Relating to encouraging instruction in the history of civil rights; adding a new section to chapter 28A.230 RCW; and creating a new section.

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

SB 5175 by Senators Haugen, King, White and Shin

AN ACT Relating to transportation funding and appropriations; amending 2010 c 247 ss 103, 104, 205, 209, 210, 211, 212, 213, 214, 215, 216, 218, 219, 220, 221, 222, 301, 302, 303, 304, 305, 307, 308, 401, 402, 403, 404, 405, and 406 (uncodified); amending 2009 c 470 s 305 (uncodified); amending 2010 c 283 s 19 (uncodified); amending 2010 1st sp.s. c 37 s 804 (uncodified); creating a new section; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency.

Referred to Committee on Transportation.

SB 5176 by Senators Haugen, King, White and Shin

AN ACT Relating to transportation funding and appropriations; amending RCW 43.19.642, 47.56.876, 46.68.320, 46.68.170, 47.12.244, 46.68.060, 46.16.685, 46.68.370, 47.12.340, 41.80.010, 41.80.020, 47.64.170, and 47.64.270; creating new sections; making appropriations and authorizing expenditures for capital improvements; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5177 by Senator Carrell

AN ACT Relating to the licensure of locksmiths; amending RCW 18.170.020, 18.170.030, 18.170.070, 18.170.120, 18.170.130, 18.170.140, 18.170.160, 18.170.164, 18.170.180, and 18.235.020; reenacting and amending RCW 18.170.010 and 43.24.150; adding a new section to chapter 18.170 RCW; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5178 by Senators Carrell and Stevens

AN ACT Relating to access to original birth certificates after adoption finalization; and amending RCW 26.33.345.

Referred to Committee on Human Services & Corrections.

SB 5179 by Senator Carrell

AN ACT Relating to real property transfer fees; adding new sections to chapter 64.04 RCW; and providing an effective date.

Referred to Committee on Judiciary.

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SB 5180 by Senators Prentice, Holmquist Newbry, Hatfield, Schoesler and Shin

AN ACT Relating to clarification of the method of calculating public port district commissioner compensation; and amending RCW 53.12.260.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5181 by Senators Parlette, Kilmer, Zarelli, Murray, Litzow, Rockefeller, Stevens, Becker, Baumgartner and Hill

AN ACT Relating to a limitation on state debts; and adding a new section to chapter 39.42 RCW.

Referred to Committee on Ways & Means.

SB 5182 by Senators White, Tom, Hill, Zarelli, Murray, Ericksen, Prentice, Hobbs and Nelson

AN ACT Relating to establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities; amending RCW 28B.76.010, 28B.76.020, 28B.76.090, 28B.76.120, 28B.76.500, 28B.76.505, 28B.76.510, 28B.76.520, 28B.76.525, 28B.76.540, 28B.76.560, 28B.76.565, 28B.76.570, 28B.76.575, 28B.76.605, 28B.76.610, 28B.76.615, 28B.76.620, 28B.76.640, 28B.76.645, 28B.76.650, 28B.76.660, 28B.76.670, 28B.76.690, 28A.600.120, 28A.600.130, 28A.600.140, 28A.600.150, 28A.230.125, 28A.600.285, 28A.630.400, 28A.650.015, 28A.660.050, 28B.04.080, 28B.07.020, 28B.07.030, 28B.10.786, 28B.10.790, 28B.10.792, 28B.10.840, 28B.12.030, 28B.12.040, 28B.12.050, 28B.12.055, 28B.12.060, 28B.12.070, 28B.15.012, 28B.15.013, 28B.15.015, 28B.15.100, 28B.15.543, 28B.15.732, 28B.15.752, 28B.15.760, 28B.15.762, 28B.50.272, 28B.92.020, 28B.92.040, 28B.92.050, 28B.92.060, 28B.92.084, 28B.92.120, 28B.92.130, 28B.92.140, 28B.92.150, 28B.92.020, 28B.95.025, 28B.95.030, 28B.95.040, 28B.95.060, 28B.95.160, 28B.97.010, 28B.97.020, 28B.102.020, 28B.102.030, 28B.102.040, 28B.102.050, 28B.102.055, 28B.102.060, 28B.102.080, 28B.105.020, 28B.105.040, 28B.105.050, 28B.105.070, 28B.105.100, 28B.105.110, 28B.106.010, 28B.106.070, 28B.108.010, 28B.108.020, 28B.108.030, 28B.108.060, 28B.109.010, 28B.109.020, 28B.109.030, 28B.109.040, 28B.109.050, 28B.109.060, 28B.109.070, 28B.109.080, 28B.115.020, 28B.115.030, 28B.115.050, 28B.115.070, 28B.115.080, 28B.115.090, 28B.115.120, 28B.115.130, 28B.115.140, 28B.116.010, 28B.116.020, 28B.116.030, 28B.116.050, 28B.116.060, 28B.116.070, 28B.117.020, 28B.117.030, 28B.117.040, 28B.117.050, 28B.117.060, 28B.117.070, 28B.118.010, 28B.118.020, 28B.118.040, 28B.118.050, 28B.118.060, 28B.119.010, 28B.119.020, 28B.119.030, 28B.119.050, 28B.120.010, 28B.120.020, 28B.120.025, 28B.120.030, 28B.120.040, 28B.133.030, 28B.133.040, 28B.133.050, 28B.135.010, 28B.135.030, 28B.135.040, 28C.18.166, 39.86.130, 42.17.2401, 42.17A.705, 43.41.400, 43.105.825, 74.13.570, 28B.76.210, 28B.76.290, 28B.76.300, 28B.76.310, 28B.76.340, 28B.10.020, 28B.15.460, 28B.15.465, 28B.20.130, 28B.20.280, 28B.30.150, 28B.30.500, 28B.35.120, 28B.35.205, 28B.35.215,

28B.38.010, 28B.40.120, 28B.40.206, 28B.45.014, 28B.45.020, 28B.45.030, 28B.45.040, 28B.45.060, 28B.50.140, 28B.50.810, 28B.65.050, 28B.85.010, 28B.85.020, 28B.85.030, 28B.85.040, 28B.85.050, 28B.85.060, 28B.85.070, 28B.85.080, 28B.85.090, 28B.85.100, 28B.85.130, 28B.85.170, 28B.110.030, 28B.110.040, 28B.90.010, 28B.90.020, 28B.90.030, 28B.76.110, 28B.76.320, 35.104.020, 35.104.040, 43.06.115, 9A.60.070, 18.260.110, 28A.600.280, 28A.600.290, 28A.600.310, 28A.600.390, 28A.700.020, 28A.700.060, 28B.07.040, 28B.10.056, 28B.10.125, 28B.10.5691, 28B.10.682, 28B.10.784, 28B.15.068, 28B.15.069, 28B.15.730, 28B.15.734, 28B.15.750, 28B.15.754, 28B.15.756, 28B.15.758, 28B.20.308, 28B.20.478, 28B.30.530, 28B.45.080, 28B.65.040, 28B.67.010, 28B.103.030, 28C.10.030, 28C.10.040, 28C.18.030, 28C.18.060, 28C.18.132, 28C.18.134, 43.09.440, 43.43.934, 43.43.938, 43.60A.151, 43.88.090, 43.88D.010, 43.105.400, 43.215.090, 43.330.310, 43.330.375, 47.80.090, and 70.180.110; reenacting and amending RCW 28B.50.030, 28B.92.030, 28B.115.110, 28A.230.100, and 43.330.280; adding new sections to chapter 43.41 RCW; adding a new section to chapter 28B.10 RCW; creating new sections; recodifying RCW 28B.76.210, 28B.76.290, 28B.76.300, 28B.76.310, and 28B.76.340; repealing RCW 28B.15.736, 28B.76.030, 28B.76.040, 28B.76.050, 28B.76.060, 28B.76.070, 28B.76.080, 28B.76.200, 28B.76.230, 28B.76.240, 28B.76.2401, 28B.76.250, 28B.76.260, 28B.76.270, 28B.76.280, 28B.76.330, 28B.76.530, 28B.115.060, 28B.10.922, 28B.76.335, and 28B.15.796; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Higher Education & Workforce Development.

SB 5183 by Senators White, Swecker, Prentice, Roach, Sheldon, Fain, Eide, Hobbs, Brown, Nelson, Haugen, Harper, Pridemore, Fraser, Kohl-Welles, Conway, Regala, Hatfield, Kastama, Rockefeller, Kline, Kilmer, Murray, Ranker, Keiser, Shin, Parlette and Hargrove

AN ACT Relating to recognizing "Native American Heritage Day"; reenacting and amending RCW 1.16.050; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5184 by Senators Schoesler, King, Carrell, Delvin and Holmquist Newbry

AN ACT Relating to second-class school districts and compliance reports; adding new sections to chapter 28A.330 RCW; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28A.155 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.165 RCW; adding a new section to chapter 28A.170 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.200 RCW; adding a new section to chapter 28A.210 RCW; adding a new section to chapter 28A.215 RCW; adding a new section to chapter 28A.220 RCW; adding a new

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section to chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW; adding a new section to chapter 28A.250 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.310 RCW; adding a new section to chapter 28A.315 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.323 RCW; adding a new section to chapter 28A.325 RCW; adding a new section to chapter 28A.335 RCW; adding a new section to chapter 28A.340 RCW; adding a new section to chapter 28A.343 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.415 RCW; adding a new section to chapter 28A.500 RCW; adding a new section to chapter 28A.505 RCW; adding a new section to chapter 28A.510 RCW; adding a new section to chapter 28A.515 RCW; adding a new section to chapter 28A.520 RCW; adding a new section to chapter 28A.525 RCW; adding a new section to chapter 28A.527 RCW; adding a new section to chapter 28A.530 RCW; adding a new section to chapter 28A.535 RCW; adding a new section to chapter 28A.540 RCW; adding a new section to chapter 28A.545 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.620 RCW; adding a new section to chapter 28A.623 RCW; adding a new section to chapter 28A.625 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.655 RCW; and creating a new section.

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

SB 5185 by Senators Delvin, Sheldon, Becker, Honeyford, Swecker, Stevens, Benton, Holmquist Newbry, Zarelli, Baumgartner, King, Schoesler, Hewitt, Ericksen and Roach

AN ACT Relating to temporarily suspending certain motorcycle rules when operating in parades or public demonstrations; and amending RCW 46.61.613.

Referred to Committee on Transportation.

SB 5186 by Senators Kastama, Delvin and Eide

AN ACT Relating to skiing in areas closed to skiing; amending RCW 79A.45.030; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

SB 5187 by Senators Becker, Keiser, Hargrove, Stevens and Carrell

AN ACT Relating to the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent- initiated mental health treatment; and amending RCW 18.130.180 and 71.34.375.

Referred to Committee on Human Services & Corrections.

SB 5188 by Senators Becker, Haugen, Swecker, Stevens, King, Fain, Delvin, Holmquist Newbry, Honeyford and Hewitt

AN ACT Relating to harmonizing certain traffic control signal provisions relative to yellow change intervals and certain fine amount limitations; amending RCW 46.63.170; adding a new section to chapter 47.36 RCW; and creating a new section.

Referred to Committee on Transportation.

SJR 8204 by Senators Hargrove, Rockefeller and Fraser

Eliminating the mandatory retirement age for judges.

Referred to Committee on Judiciary.

SJR 8205 by Senator Carrell

Repealing a conflicting residency requirement for voting in a presidential election.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5172 which was referred to the Committee on Human Services & Corrections.

The President announced the appointment of Senator Benton to the Committee on Government Operations, Tribal Relations & Elections.

#### MOTION

On motion of Senator Eide, the appointment was confirmed.

#### MOTION

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

#### MOTION

Senator White moved adoption of the following resolution:

#### SENATE RESOLUTION 8606

By Senators White, Prentice, Chase, Murray, Kilmer, Kohl-Welles, Rockefeller, Conway, Sheldon, McAuliffe, Keiser, Pridemore, Haugen, Tom, Kastama, Nelson, Harper, Hatfield, Shin, Regala, Fraser, Brown, Eide, Hobbs, and Kline

WHEREAS, Today we celebrate the life and legacy of Dr. Martin Luther King, Jr., whose moral courage, visionary leadership, and compassionate spirit have inspired generations and forever changed the world; and

WHEREAS, Dr. King once wisely said, "An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity"; and

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WHEREAS, Dr. King's example of dealing with the things that divide us along racial and cultural lines is one that we would do well to emulate today; and

WHEREAS, Dr. King and his followers helped change the status quo through nonviolent means, with peaceful protest and demonstration; and

WHEREAS, Dr. King's message of peaceful perseverance in the face of seemingly insurmountable obstacles to equality is still a source of inspiration and hope for many Americans; and

WHEREAS, In his life, Dr. King called on others to make a personal commitment to serve humanity by helping the less fortunate, uniting as a global family, and acting with kindness and compassion; and

WHEREAS, Service is a powerful way to commemorate not only the words and deeds of Dr. King, but to translate our reverence for his life and teachings into action to make our nation better; and

WHEREAS, Dr. King believed that a person's worth should not be measured by his or her color, culture, or class but rather by his or her commitment to making life better for all through service rendered to each other; and

WHEREAS, Residents of Washington can help make service the common duty of all Americans on this holiday by making it a day of action, not apathy;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate, on behalf of the people of the State of Washington, do, in recognition of the monumental leadership and courage demonstrated by Martin Luther King, Jr., honor his memory by urging all citizens of our state to make Martin Luther King, Jr. Day a day of service to our communities; and

BE IT FURTHER RESOLVED, That the members of the Washington State Senate honor Dr. King's commitment to bringing all people, regardless of race, creed, religion, or station in life, together to work towards a more civil, equal, and just society. Dr. King's legacy and message of peace should not only be remembered, but also replicated today and for generations to come.

Senator White spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8606.

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

#### MOTION

At 12:07 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, January 18, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINTH DAY

NOON SESSION

Senate Chamber, Olympia, Tuesday, January 18, 2011

The Senate was called to order at 12:00 noon by President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 17, 2011  
SB 5032 Prime Sponsor, Senator Pridemore: Changing qualifications for appointees to metropolitan water pollution abatement advisory committees. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

January 17, 2011  
SB 5033 Prime Sponsor, Senator Pridemore: Concerning the sale of water-sewer district real property. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 14, 2011  
TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

PHILIP JONES, reappointed January 13, 2011, for the term ending January 1, 2017, as Member of the Utilities and Transportation Commission.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Environment, Water & Energy.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5189 by Senators Hobbs, Swecker, Shin, Roach and Chase

AN ACT Relating to access to K-12 campuses for occupational or educational information; and amending RCW 28A.230.180.

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

SB 5190 by Senators Hobbs, Swecker, Shin and Roach

AN ACT Relating to the disposition of remains of persons who died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard; and amending RCW 68.50.160.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5191 by Senators Hobbs, King, Hewitt, Haugen, Ranker, Litzow, Kilmer, Hill, McAuliffe, Harper, White, Tom, Rockefeller, Becker and Parlette

AN ACT Relating to flexibility in the education system; amending RCW 28A.150.520, 28A.210.080, 28A.220.030, 28A.300.118, 28A.300.150, 28A.300.160, 28A.300.270, 28A.300.405, 28A.300.410, 28A.300.450, 28A.300.520, 28A.320.080, 28A.320.160, 28A.345.020, 28A.345.050, 28A.640.020, 28A.655.061, and 39.35D.040; repealing RCW 28A.210.130, 28A.220.050, 28A.220.080, 28A.220.085, 28A.230.150, 28A.300.280, and 28A.320.185; providing an expiration date; and declaring an emergency.

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

SB 5192 by Senators Nelson, Swecker and Chase

AN ACT Relating to provisions for notifications and appeals timelines under the shoreline management act; amending RCW 36.70A.290, 90.58.090, 90.58.140, and 90.58.180; and reenacting and amending RCW 90.58.190.

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Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5193 by Senators White, Kastama, Nelson, Prentice and Chase

AN ACT Relating to bicyclist and motorist mutual responsibilities; amending RCW 46.61.755, 46.61.770, 46.61.110, and 46.61.100; adding new sections to chapter 46.61 RCW; creating a new section; and recodifying RCW 46.61.755 and 46.61.770.

Referred to Committee on Transportation.

SB 5194 by Senators White, Rockefeller, Ranker, Litzow, Nelson, Brown, Fraser, Pridemore, Hobbs, Keiser, Kohl-Welles, Kline, Chase and Harper

AN ACT Relating to protecting lake water quality by reducing phosphorus from lawn fertilizer; and adding a new chapter to Title 90 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5195 by Senators Kline, Regala and Hargrove

AN ACT Relating to requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions; and amending RCW 10.37.015.

Referred to Committee on Judiciary.

SB 5196 by Senators Hatfield, Swecker, Hargrove and Haugen

AN ACT Relating to the operation of student transportation programs; and amending RCW 28A.160.010 and 28A.225.270.

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

SB 5197 by Senators Keiser and Pflug

AN ACT Relating to delegation to home care aides; amending RCW 18.79.260 and 74.39A.073; and adding new sections to chapter 18.88B RCW.

Referred to Committee on Health & Long-Term Care.

SB 5198 by Senators Pridemore, Swecker, Rockefeller, Zarelli and Shin

AN ACT Relating to the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services; amending RCW 4.96.010, 86.09.720, and 86.15.035; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.16 RCW; and adding a new chapter to Title 39 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5199 by Senator Murray

AN ACT Relating to transferring funds from the budget stabilization account to the general fund; and making appropriations.

Referred to Committee on Ways & Means.

SB 5200 by Senators Parlette, Pridemore and Rockefeller

AN ACT Relating to the office of regulatory assistance; creating a new section; and repealing RCW 43.131.401 and 43.131.402.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5201 by Senators Hargrove, Swecker, Regala, Fraser and Parlette

AN ACT Relating to fish and wildlife management; amending RCW 77.15.650, 77.15.110, 77.15.280, 77.08.010, 77.65.110, 77.65.130, 77.15.720, 77.15.130, 77.15.160, 77.95.090, 69.50.320, 77.04.080, 77.12.071, 77.12.154, 77.15.070, 77.15.075, 77.15.080, 77.15.085, 77.15.092, 77.15.094, 77.15.480, 77.15.710, 77.32.014, 77.75.110, and 77.75.120; adding new sections to chapter 77.15 RCW; adding a new section to chapter 77.12 RCW; adding a new section to chapter 77.08 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

SB 5202 by Senators Regala and Hargrove

AN ACT Relating to sexually violent predators; amending RCW 71.09.040, 71.09.050, 71.09.060, 71.09.070, 71.09.090, 71.09.094, and 71.09.098; adding new sections to chapter 71.09 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 5203 by Senators Regala, Hargrove, Stevens and Shin

AN ACT Relating to improving the administration and efficiency of sex and kidnapping offender registration; amending RCW 4.24.550, 9A.44.128, 9A.44.132, 9A.44.142, and 43.43.540; reenacting and amending RCW 9A.44.130; and adding a new section to chapter 9A.44 RCW.

Referred to Committee on Human Services & Corrections.

SB 5204 by Senators Regala, Hargrove and Stevens

AN ACT Relating to juveniles who have been adjudicated of a sex offense; amending RCW 9A.44.143, 13.40.160, 13.50.050, and 72.09.345; adding a new section to chapter 13.40 RCW; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 28A.320 RCW; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SB 5205 by Senators Kilmer, Sheldon, Rockefeller and White

AN ACT Relating to high capacity transportation system plan components and review; and amending RCW 81.104.100 and 81.104.110.

Referred to Committee on Transportation.

SB 5206 by Senators Kohl-Welles, Swecker, Nelson and Chase

AN ACT Relating to installation of residential fire sprinkler systems; amending RCW 18.160.050, 82.02.100, and 70.119A.180; adding a new section to chapter 70.119A RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5207 by Senators Pridemore, Nelson, Chase and Kline

AN ACT Relating to the international wildland urban interface code; and amending RCW 19.27.031.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5208 by Senators Chase, Swecker, Sheldon and Shin

AN ACT Relating to the sale, exchange, transfer, or lease of public property; and amending RCW 39.33.010.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5209 by Senators Delvin, Hatfield, Schoesler, Hewitt, Honeyford, Holmquist Newbry, Haugen, Hobbs, Morton and King

AN ACT Relating to extending the time period permitted to put water to beneficial use; amending RCW 90.03.380, 90.03.380, 90.14.031, 90.14.043, 90.14.130, 90.14.140, 90.14.160, 90.14.170, 90.14.180, and 90.92.070; reenacting and amending RCW 90.14.140; adding a new section to chapter 90.14 RCW; providing an effective date; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

SB 5210 by Senators Delvin, Hobbs, Honeyford, Morton, Holmquist Newbry, Zarelli, Haugen, King, Hewitt, Schoesler, Hatfield and Shin

AN ACT Relating to creating a water commission; and adding a new chapter to Title 90 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5211 by Senators Haugen, Swecker, Morton, Ranker and Hargrove

AN ACT Relating to forest practices applications leading to conversion of land for development purposes; and amending RCW 76.09.050, 76.09.240, and 43.21C.037.

Referred to Committee on Natural Resources & Marine Waters.

SB 5212 by Senators Hargrove and Conway

AN ACT Relating to presumptions of occupational disease for law enforcement officers and firefighters; amending RCW 51.32.185; adding a new section to chapter 51.32 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5213 by Senators Litzow and Hobbs

AN ACT Relating to insurance; amending RCW 4.28.080, 48.02.150, 48.02.190, 48.03.060, 48.05.200, 48.05.215, 48.10.170, 48.14.0201, 48.15.150, 48.17.380, 48.36A.350, 48.85.030, 48.94.010, 48.102.011, 48.102.021, 48.110.030, 48.110.055, and 48.155.020; and repealing RCW 48.05.210.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5214 by Senators Hobbs, Chase, Prentice, Regala and Kline

AN ACT Relating to the use of surplus property for the development of affordable housing; amending RCW 43.63A.510, 47.12.063, 47.12.063, 47.12.064, 43.20A.037, 72.09.055, 43.19.19201, 79A.05.170, 79A.05.175, 36.34.137, 35.21.687, 79.11.005, 79.22.060, 53.08.090, 54.16.180, 57.08.016, and 81.112.080; providing an effective date; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5215 by Senators Hobbs, Haugen, Schoesler, Hatfield, King and Delvin

AN ACT Relating to removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements; amending RCW 46.25.060; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5216 by Senators Shin and Chase

AN ACT Relating to changing the initiative and referendum filing fees; amending RCW 29A.72.010; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5217 by Senators Shin, White, Nelson, Sheldon, Murray, Delvin, Rockefeller, Harper, Kline, Keiser, Conway, Chase, Eide and Fraser

NINTH DAY, JANUARY 18, 2011

2011 REGULAR SESSION

AN ACT Relating to appointing student members on the board of trustees for community colleges; amending RCW 28B.50.100; adding a new section to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 5218 by Senators Shin, Rockefeller, Sheldon, Haugen, Delvin, Harper and McAuliffe

AN ACT Relating to commercial activity at state-owned safety rest areas; and adding a new section to chapter 47.38 RCW.

Referred to Committee on Transportation.

SB 5219 by Senators Shin, Tom, Delvin, Rockefeller and McAuliffe

AN ACT Relating to penalties for retail liquor licensees; adding a new section to chapter 66.44 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5220 by Senators Shin, Tom and McAuliffe

AN ACT Relating to advertising on school buses; and adding a new section to chapter 46.61 RCW.

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

SB 5221 by Senators Swecker, Prentice, Shin, King, Kastama, Nelson and Chase

AN ACT Relating to intrastate building safety mutual aid in the event of emergencies and other situations that temporarily render a jurisdiction incapable of providing required building safety services; adding a new chapter to Title 38 RCW; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5222 by Senators Kastama, Delvin, Eide, Honeyford, Hargrove, Haugen, Prentice, Hobbs, Shin and Chase

AN ACT Relating to increasing the flexibility for industrial development district levies for public port districts; amending RCW 53.36.100; adding a new section to chapter 84.55 RCW; and creating a new section.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5223 by Senators Benton, Fraser and Hobbs

AN ACT Relating to reserve accounts and studies for condominium and homeowners' associations; amending RCW 64.34.020, 64.34.308, 64.34.380, 64.34.382, 64.34.384, 64.38.010, and 64.38.025; reenacting and

amending RCW 64.34.010; and adding new sections to chapter 64.38 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5224 by Senators Hobbs and Fraser

AN ACT Relating to preparation charges for condominium resale certificates; and amending RCW 64.34.425.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5225 by Senators Murray, Kohl-Welles and Ranker

AN ACT Relating to soil and wetland scientists; amending RCW 18.235.020; reenacting and amending RCW 43.24.150; adding a new chapter to Title 18 RCW; creating a new section; providing effective dates; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5226 by Senators McAuliffe, King and Shin

AN ACT Relating to science end-of-course assessments; amending RCW 28A.655.061; and adding a new section to chapter 28A.655 RCW.

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

SB 5227 by Senators McAuliffe and King

AN ACT Relating to high school mathematics end-of-course assessments; amending RCW 28A.655.066; and creating a new section.

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

SB 5228 by Senators Rockefeller, Honeyford, Delvin, Kline and Chase

AN ACT Relating to small facility siting; amending RCW 80.50.040, 80.50.060, 80.50.071, and 80.50.100; reenacting and amending RCW 80.50.020 and 80.50.090; adding new sections to chapter 80.50 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Environment, Water & Energy.

SB 5229 by Senators Hobbs, Carrell, Hatfield, Zarelli, Parlette and McAuliffe

AN ACT Relating to creating an exemption from preferred drug substitution for atypical antipsychotic drugs; and amending RCW 69.41.190.

Referred to Committee on Health & Long-Term Care.

SB 5230 by Senators Ranker, Swecker, Litzow, Rockefeller, Regala, Kohl-Welles, Hargrove, Kline, Conway, Fraser, Nelson, Hobbs, Shin and Harper

NINTH DAY, JANUARY 18, 2011

AN ACT Relating to establishing the Puget Sound corps while reforming the state's conservation corps programs; amending RCW 43.220.020, 43.220.060, 43.220.070, 43.220.170, 43.220.231, 43.220.250, 43.60A.152, and 79A.05.545; reenacting and amending RCW 43.220.040 and 77.85.130; adding new sections to chapter 43.220 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and repealing RCW 43.220.010, 43.220.030, 43.220.080, 43.220.090, 43.220.120, 43.220.130, 43.220.160, 43.220.180, 43.220.190, and 43.220.210.

Referred to Committee on Natural Resources & Marine Waters.

SB 5231 by Senators Nelson, Swecker, Rockefeller, Ranker, Chase, Regala, Kohl-Welles and Kline

AN ACT Relating to children's safe products; amending RCW 70.240.010 and 70.240.040; reenacting and amending RCW 43.21B.110 and 43.21B.110; adding new sections to chapter 70.240 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5232 by Senators Kilmer, Hobbs, Carrell, Keiser and Kohl-Welles

AN ACT Relating to prize-linked savings deposits; amending RCW 9.46.0356 and 19.170.020; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5233 by Senators Prentice, Benton, Keiser, Kline and Conway

AN ACT Relating to increasing the permissible deposit of public funds with credit unions and authorizing the deposit of public funds at federally chartered credit unions; and amending RCW 39.58.240.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5234 by Senators Kline, Swecker, Keiser, Rockefeller, Shin, Conway, Pridemore, Ranker, Pflug, Nelson, Chase, Kohl-Welles, Haugen, White, Regala, Murray and Fraser

AN ACT Relating to providing safe collection and disposal of unwanted drugs from residential sources through a producer-provided and funded product stewardship program; amending RCW 69.41.030 and 18.64.005; adding a new section to chapter 42.56 RCW; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

SB 5235 by Senators Schoesler, Hatfield, Delvin, Honeyford, Hobbs and Conway

AN ACT Relating to animal health inspections; amending RCW 16.36.040, 16.36.050, 16.36.113, 16.36.140,

16.57.160, and 16.57.360; adding a new section to chapter 16.57 RCW; and prescribing penalties.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5236 by Senators Kline and Kohl-Welles

AN ACT Relating to persistent offenders; amending RCW 9.94A.570 and 9.95.435; adding a new section to chapter 9.94A RCW; adding a new section to chapter 9.95 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

#### MOTION

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

#### MOTION

At 12:02 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, January 19, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, January 19, 2011

The Senate was called to order at 10:00 a.m. by President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Benton, Carrell, Erickson, Hobbs, Ranker and Roach.

The Sergeant at Arms Color Guard consisting of Pages Brayden Irons Hisaw and Chelsea U. Nnanabu, presented the Colors. Pastor Steven Mulkey of Mars Hill Church of Olympia offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 4, 2011

SB 5046 Prime Sponsor, Senator Kohl-Welles: Adding court-related employees to the assault in the third degree statute. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

January 18, 2011

SB 5057 Prime Sponsor, Senator Pflug: Concerning the income tax required to be paid by a trustee. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

January 18, 2011

SB 5058 Prime Sponsor, Senator Pflug: Addressing receiverships. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 18, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

GEORGE MASTEN, reappointed January 1, 2011, for the term ending December 31, 2013, as Member of the Investment Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5237 by Senators White, Swecker, Morton, Pridemore, Kilmer, Sheldon and Shin

AN ACT Relating to creating the office of open records; amending RCW 34.05.030; adding new sections to chapter 42.56 RCW; and providing an effective date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5238 by Senators Prentice and Conway

AN ACT Relating to establishing the Washington investment trust; amending RCW 42.56.270; reenacting and amending RCW 42.56.400; adding a new section to chapter 39.58 RCW; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5239 by Senators Honeyford, Morton, Swecker and Becker

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AN ACT Relating to the allocation method used for the distribution of federal forest revenue to public schools; amending RCW 28A.520.020; and providing an effective date.

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

SB 5240 by Senators Fraser, Roach, Delvin, Rockefeller, Ranker, Chase, Prentice, Keiser, Shin, King, Schoesler and Honeyford

AN ACT Relating to submission of DNA markers to a database accessible only to qualified laboratory personnel; amending RCW 43.43.753, 43.43.735, 43.43.740, 43.43.754, 46.63.110, 43.43.690, and 43.43.7541; adding a new section to chapter 43.43 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5241 by Senators Roach and Tom

AN ACT Relating to the authority of a watershed management partnership; and amending RCW 39.34.215.

Referred to Committee on Environment, Water & Energy.

SB 5242 by Senators Hargrove, Pflug, Kline, Regala, Harper, Carrell, Keiser, Nelson, Sheldon, Conway and Shin

AN ACT Relating to motorcycle profiling; and adding a new section to chapter 43.101 RCW.

Referred to Committee on Judiciary.

SB 5243 by Senators Tom, Prentice, Shin, Nelson, Chase and Kline

AN ACT Relating to the establishment of a process to support local jurisdictions for outstanding progress in implementing the growth management act; adding new sections to chapter 36.70A RCW; and creating new sections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5244 by Senators Fraser, Nelson and Delvin

AN ACT Relating to law enforcement crime prevention efforts regarding security alarm systems and crime watch programs for residential and commercial locations; and reenacting and amending RCW 42.56.240.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5245 by Senators Regala, Shin and McAuliffe

AN ACT Relating to extended foster care services; amending RCW 13.04.011 and 74.13.020; reenacting and amending RCW 13.34.030, 74.13.031, and 13.34.145; adding a new section to chapter 13.34 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5246 by Senators Chase, Harper, White and Nelson

AN ACT Relating to employer review of abstracts of driving records; and amending RCW 46.52.130.

Referred to Committee on Transportation.

SB 5247 by Senators Conway, Keiser and Kline

AN ACT Relating to health insurance rates; adding a new section to chapter 48.43 RCW; creating a new section; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 5248 by Senators Hobbs, Chase and Harper

AN ACT Relating to the negotiated sale and conveyance of all or part of water systems owned by a municipal corporation; and amending RCW 54.16.180 and 35.92.070.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5249 by Senators Haugen, Swecker and Shin

AN ACT Relating to consolidating fish and wildlife officers into the Washington state patrol; adding new sections to chapter 43.43 RCW; adding a new section to chapter 77.15 RCW; creating new sections; and providing an effective date.

Referred to Committee on Transportation.

SB 5250 by Senators Haugen, King, White and Swecker

AN ACT Relating to the design-build procedure for certain projects; and amending RCW 47.20.780 and 47.20.785.

Referred to Committee on Transportation.

SB 5251 by Senators Haugen, Swecker, Sheldon, Hobbs and White

AN ACT Relating to electric vehicle license fees; adding a new section to chapter 46.17 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 5252 by Senator Haugen

AN ACT Relating to streamlining the process applicable to reducing speed limits on state highways; and amending RCW 46.61.405.

Referred to Committee on Transportation.

SB 5253 by Senators White, Swecker, Nelson, Litzow and Harper

AN ACT Relating to landscape conservation and local infrastructure; amending RCW 84.55.120 and 36.70A.080; adding a new chapter to Title 39 RCW; and creating a new section.

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Referred to Committee on Government Operations, Tribal Relations & Elections.

AN ACT Relating to combination of vehicles; and amending RCW 46.44.037.

SB 5254 by Senators Schoesler, Hatfield, King, Hewitt, Carrell, Delvin, Pridemore, Baumgartner, Holmquist Newbry and Conway

Referred to Committee on Transportation.

AN ACT Relating to the licensing of explosive dealers, manufacturers, sellers, and storage; and amending RCW 70.74.120, 70.74.137, 70.74.140, 70.74.142, 70.74.144, 70.74.146, 70.74.150, 70.74.360, and 70.74.380.

SB 5261 by Senators Hobbs, Schoesler, Benton, Hill, Honeyford and Shin

AN ACT Relating to developing training for manufactured housing community managers; adding a new chapter to Title 59 RCW; prescribing penalties; providing an effective date; and providing a contingent effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5255 by Senators Haugen and Delvin

AN ACT Relating to interagency agreements between the Washington state patrol and the Washington state department of transportation and other government entities for police services for projects involving state highway routes and public safety services; and amending RCW 43.43.120.

SB 5262 by Senators Keiser, Pridemore, Nelson, Prentice, Murray and Chase

AN ACT Relating to providing patients with information on options for breast reconstruction; adding a new section to chapter 70.41 RCW; and adding a new section to chapter 70.230 RCW.

Referred to Committee on Transportation.

Referred to Committee on Health & Long-Term Care.

SB 5256 by Senators Kline, Honeyford and Schoesler

AN ACT Relating to wine shipments; and amending RCW 66.20.360, 66.20.365, 66.20.370, 66.20.375, 66.20.380, 66.20.385, 66.20.390, and 66.24.210.

SB 5263 by Senators Keiser, Kohl-Welles and Conway

AN ACT Relating to leave enforcement under the family care act; and amending RCW 49.12.280 and 49.12.285.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5257 by Senators Kline, Honeyford and Schoesler

AN ACT Relating to craft wine and wineries; and adding a new chapter to Title 66 RCW.

SB 5264 by Senators Swecker and Sheldon

AN ACT Relating to Mazama pocket gophers; creating new sections; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Natural Resources & Marine Waters.

SB 5258 by Senators Kline, Honeyford, Holmquist Newbry and Schoesler

AN ACT Relating to methods of payment for purposes of the alcohol beverage control statutes; and amending RCW 66.28.270.

SB 5265 by Senators Swecker, Pridemore and Prentice

AN ACT Relating to flood control zone districts; amending RCW 36.93.020, 86.15.010, 86.15.035, and 86.15.080; and adding a new section to chapter 86.15 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5259 by Senators Kline, Honeyford, Kohl-Welles, Carrell and Schoesler

AN ACT Relating to the tax payment and reporting requirements of small wineries; and amending RCW 66.24.230 and 66.24.210.

SB 5266 by Senator Swecker

AN ACT Relating to providing certain state agencies the authority to improve the permitting process; adding a new section to chapter 43.21A RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Natural Resources & Marine Waters.

SB 5260 by Senators King, Haugen, Eide, Swecker, Delvin, Hobbs and Ericksen

SB 5267 by Senator Swecker

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AN ACT Relating to providing fairness in government regulation of property; adding new sections to chapter 64.40 RCW; adding a new section to chapter 36.70A RCW; and creating new sections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5268 by Senator Pridemore

AN ACT Relating to efficiencies and savings in higher education; amending RCW 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; amending 2010 c 3 ss 602, 603, and 604 (uncodified); amending 2010 1st sp.s. c 37 s 901 (uncodified); creating new sections; and declaring an emergency.

Referred to Committee on Higher Education & Workforce Development.

SB 5269 by Senators Hobbs, Delvin, Hatfield, Haugen, Kastama and Kline

AN ACT Relating to child care center subsidies; amending RCW 74.12.010; adding new sections to chapter 74.08A RCW; adding a new section to chapter 74.12 RCW; adding a new section to chapter 43.215 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5270 by Senator Kline

AN ACT Relating to inquests for deaths involving a member of a law enforcement agency; amending RCW 36.24.020; adding a new section to chapter 36.24 RCW; and creating a new section.

Referred to Committee on Judiciary.

SB 5271 by Senators Rockefeller, Swecker, Ranker, Morton, Sheldon, Delvin, Schoesler, Regala, Nelson, Fraser, Kilmer, Shin and Kline

AN ACT Relating to abandoned or derelict vessels; and amending RCW 79.100.110, 79.100.130, 53.08.320, and 79.100.030.

Referred to Committee on Natural Resources & Marine Waters.

SB 5272 by Senators Fraser, Swecker, Hargrove, Regala, Sheldon, Nelson and Ranker

AN ACT Relating to providing the authority to create a community forest trust to be managed by the department of natural resources; amending RCW 79.17.210, 43.30.385, 79.64.020, and 79.64.040; reenacting and amending RCW 79.02.010; and adding a new chapter to Title 79 RCW.

Referred to Committee on Natural Resources & Marine Waters.

SB 5273 by Senators Hargrove, Swecker, Rockefeller, Schoesler, Ranker, Morton, Hatfield, Delvin, Sheldon, Regala and Hewitt

AN ACT Relating to authorizing the department of natural resources to conduct a forest biomass to aviation fuel demonstration project to facilitate Washington leading the nation in aviation biofuel production; and creating new sections.

Referred to Committee on Natural Resources & Marine Waters.

SB 5274 by Senators Ranker, Pridemore, Kohl-Welles, Tom, Haugen, Nelson, Keiser, White, Harper, Regala, Murray, Fraser, Chase, Kline, Prentice, Conway and McAuliffe

AN ACT Relating to limited service pregnancy centers; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

SB 5275 by Senators Kline, Haugen, Kohl-Welles, Hargrove, Rockefeller, Nelson, Ranker, Keiser, Swecker, White, Conway, Hobbs, Chase, Harper, Kilmer, Prentice, Shin, Murray, Fraser and McAuliffe

AN ACT Relating to protecting and assisting homeowners from unnecessary foreclosures; amending RCW 61.24.030, 61.24.031, 61.24.040, 61.24.135, and 82.45.010; reenacting and amending RCW 61.24.005; adding new sections to chapter 61.24 RCW; adding a new section to chapter 36.22 RCW; creating new sections; and repealing 2009 c 292 s 13 (uncodified).

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5276 by Senators Holmquist Newbry, King, Schoesler, Honeyford and Hewitt

AN ACT Relating to repealing the family and medical leave insurance act; amending RCW 51.44.033; reenacting and amending RCW 43.79A.040; repealing RCW 49.86.005, 49.86.010, 49.86.020, 49.86.030, 49.86.040, 49.86.050, 49.86.060, 49.86.070, 49.86.080, 49.86.090, 49.86.100, 49.86.110, 49.86.120, 49.86.130, 49.86.140, 49.86.150, 49.86.160, 49.86.170, 49.86.180, 49.86.190, 49.86.200, 49.86.210, 49.86.900, 49.86.901, 49.86.902, and 49.86.903; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5277 by Senators Holmquist Newbry, King and Parlette

AN ACT Relating to adjusting workers' compensation premium rates; amending RCW 51.16.035; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

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SB 5278 by Senators Holmquist Newbry and King

AN ACT Relating to information contained in rate notices under the industrial insurance laws; and amending RCW 51.16.105.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5279 by Senators Holmquist Newbry and King

AN ACT Relating to defining recovery for purposes of legal actions under the industrial insurance statutes; and amending RCW 51.24.030.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5280 by Senators Holmquist Newbry, King, Hewitt, Hill, Stevens, Honeyford, Baumgartner and Parlette

AN ACT Relating to voluntary settlement agreements under industrial insurance laws; and adding new sections to chapter 51.04 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5273 which was referred to the Committee on Natural Resources & Marine Waters.

MOTION

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

MOTION

Senator Fraser moved adoption of the following resolution:

SENATE RESOLUTION  
8607

By Senators Fraser, Hewitt, Regala, Brown, Kilmer, Parlette, Schoesler, Honeyford, Holmquist Newbry, Baumgartner, Conway, Kohl-Welles, Tom, Eide, Rockefeller, Keiser, and Kastama

WHEREAS, Polly Rosmond is retiring today from the Senate after thirty-one years of faithful service, including nearly three thousand days of session; and

WHEREAS, Polly, a native Washingtonian, was born and raised in Forks where her father and uncles founded the *Rosmond Brothers Sawmill*, long before the town was inhabited by vampires and werewolves; and

WHEREAS, After graduating from high school and leaving the thriving metropolis of Forks, Polly moved to the small hamlet of Seattle to attend the University of Washington, graduating in 1971; and

WHEREAS, After receiving her degree Polly headed for the slopes of Vail, Colorado, to explore life as a semi-professional Ski Bum; and

WHEREAS, She began her career in the Senate in January of 1980 as a secretary for the Energy & Utilities Committee before moving on to the Senate Democratic Caucus staff in November of 1985 and eventually the Secretary of the Senate's office in December of 1998; and

WHEREAS, Over this time Polly has become an indispensable part of Senate operations in both the Secretary's office and Workroom; and

WHEREAS, Polly has professionally and skillfully served seven Secretaries of the Senate, including: Sid Snyder, Gordon Golob, Marty Brown, Mike O'Connell, Tony Cook, Milt Doumit, and Tom Hoemann; and

WHEREAS, Through her work in the Senate for more than three decades, Polly has witnessed and played a part in many significant chapters of Washington's history; and

WHEREAS, After all her hard work Polly has earned the right to sleep in and relax in her new home with her husband Phil; and

WHEREAS, She will be dearly missed by members, coworkers, and friends alike here at the Legislature; and

WHEREAS, In an effort to save her coworkers money on gifts, cake, and cards Polly also arranged to be born on this day;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Polly Rosmond for all her work, dedication, and contributions to this institution; and

BE IT FURTHER RESOLVED, That the Senate wish Polly a very Happy Birthday!; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by Polly to herself as her last official duty.

Senators Fraser and Sheldon spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8607.

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

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Phil Smith, husband of Polly Rosmond; sister, Julie Rosmond; and her cousin Kathy who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Madam President. Asking for a moment of silent prayer for Bob McCaslin. He's in surgery now. He's having his leg amputated below his knee due to circulation problem due to a broken blood vessel and also for Senator Deccio. He suffered a fall in his home and apparently nothing broken but he hasn't been to the doctor yet. So, I'd like to remember those two members."

MOMENT OF SILENCE

The Senate observed a moment of silence for Senator McCaslin and Senator Deccio.

MOTION

At 10:16 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 20, 2011.

TENTH DAY, JANUARY 19, 2011

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**ELEVENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, January 20, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 18, 2011

SB 5003 Prime Sponsor, Senator Schoesler: Adding to the scenic and recreational highway system. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5003 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Sheldon and Shin.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5005 Prime Sponsor, Senator Keiser: Concerning exemption from immunization. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

January 18, 2011

SB 5015 Prime Sponsor, Senator White: Modifying ballot tabulation provisions. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5018 Prime Sponsor, Senator Keiser: Including wound care management in occupational therapy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5018 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5037 Prime Sponsor, Senator Keiser: Creating the Washington state board of naturopathy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

January 18, 2011

SB 5061 Prime Sponsor, Senator Swecker: Reconciling changes made to vehicle and vessel registration and title provisions during the 2010 legislative sessions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Sheldon and Shin.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 18, 2011

SGA 9055 JENNIFER JOLY, appointed on January 15, 2010, for the term ending December 31, 2014, as Member of the Public Disclosure Commission. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

January 18, 2011

SGA 9119 JOYCE TURNER, appointed on April 1, 2010, for the term ending at the Governor's pleasure, as Director of the Department of General Administration. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 19, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

LOUIS A. MENDOZA, appointed January 3, 2011, for the term ending September 30, 2011, as Member, Board of Trustees, Community College District No. 30 (Cascadia Community College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5281 by Senators Hobbs, Holmquist Newbry, Hatfield, Haugen and Harper

AN ACT Relating to public utility districts and deferred compensation and supplemental savings plans; amending RCW 54.04.050; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5282 by Senators Chase, Prentice, Swecker and Nelson

AN ACT Relating to archaeological investigations on private land; amending RCW 27.53.030; and reenacting and amending RCW 27.53.070.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5283 by Senators Hobbs, Benton, Schoesler, Honeyford, Zarelli, Prentice and Shin

AN ACT Relating to cost-saving measures and allocation of vouchers in awarding resources for low-income housing; amending RCW 36.22.178, 36.22.179, 36.22.1791, 43.185.020, and 43.185.050; adding a new section to chapter 43.185 RCW; and adding new sections to chapter 36.01 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5284 by Senators Hobbs, Benton, Kastama, Tom, Litzow, Hatfield, Schoesler, Hill, Honeyford, Holmquist Newbry and Roach

AN ACT Relating to state agency debt collection; amending RCW 41.40.037; adding a new section to chapter 43.17 RCW; and adding a new section to chapter 41.40 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5285 by Senator Ranker

AN ACT Relating to the issuance of liquor licenses for businesses located near schools; and amending RCW 66.24.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5286 by Senator Nelson

AN ACT Relating to on-site wastewater treatment systems designer licensing; amending RCW 18.210.020, 18.210.030, 18.210.050, 18.210.080, 18.210.100, 18.210.120, 18.210.140, 18.210.160, 18.210.170, 18.210.180, and 18.210.190; reenacting and amending RCW 18.210.010; and repealing RCW 18.210.090 and 18.210.210.

Referred to Committee on Environment, Water & Energy.

SB 5287 by Senators Hobbs, Shin and Haugen

AN ACT Relating to creating an independent four-year polytechnical college and authorizing an investment district to provide financing for the college; adding a new chapter to Title 36 RCW; adding a new chapter to Title 28B RCW; and providing a contingent expiration date.

Referred to Committee on Higher Education & Workforce Development.

SB 5288 by Senators McAuliffe, Rockefeller, Prentice, Chase, Kline, Shin and Fraser

AN ACT Relating to providing the department of revenue with additional flexibility to achieve operational efficiencies through the expanded use of electronic means to remit and report taxes; amending RCW 82.32.085 and 82.32.090; reenacting and amending RCW 82.32.080; and creating a new section.

Referred to Committee on Ways & Means.

SB 5289 by Senators Murray and Zarelli

AN ACT Relating to a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions; adding a new section to chapter 82.04 RCW; creating a new section; and repealing RCW 82.04.394.

ELEVENTH DAY, JANUARY 20, 2011

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Referred to Committee on Ways & Means.

SB 5290 by Senators Hatfield and Schoesler

AN ACT Relating to a sales and use tax exemption for bait used by a fishing charter business; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5291 by Senators Swecker, Rockefeller, Ranker, Fraser, Stevens, Nelson, Kohl-Welles and Conway

AN ACT Relating to recreational fishing opportunities; amending RCW 77.105.005, 77.105.020, 77.105.030, 77.105.050, and 77.105.160; adding a new section to chapter 77.105 RCW; and repealing RCW 77.105.040, 77.105.060, 77.105.070, 77.105.080, 77.105.090, 77.105.100, 77.105.110, 77.105.120, and 77.105.130.

Referred to Committee on Natural Resources & Marine Waters.

SB 5292 by Senators Honeyford, Schoesler, Swecker, Holmquist Newbry and Roach

AN ACT Relating to exempting irrigation and drainage ditches from the definition of critical areas; and reenacting and amending RCW 36.70A.030.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5293 by Senators Schoesler, Swecker, Holmquist Newbry and Honeyford

AN ACT Relating to water delivered from the federal Columbia basin project; and amending RCW 90.44.510.

Referred to Committee on Environment, Water & Energy.

SB 5294 by Senators Swecker, Schoesler, Holmquist Newbry, Delvin and Honeyford

AN ACT Relating to hours of availability for inspection and copying of public records; and amending RCW 42.56.090.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5295 by Senators Delvin, Swecker, Schoesler, Holmquist Newbry, Honeyford and Hewitt

AN ACT Relating to leases of irrigation district property; and amending RCW 87.03.136.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5296 by Senators Keiser, Pflug and Conway

AN ACT Relating to public employee benefits law; amending RCW 41.05.009, 41.05.011, 41.05.065, 41.05.066, and 41.05.195; reenacting and amending RCW 41.05.080; and repealing RCW 41.05.095.

Referred to Committee on Health & Long-Term Care.

SB 5297 by Senators Nelson, Conway, Harper, Chase, White, Kohl-Welles, Kline, Keiser, Prentice and Shin

AN ACT Relating to signature gathering; amending RCW 29A.72.010, 29A.72.110, 29A.72.120, and 29A.72.130; reenacting and amending RCW 42.17A.005; adding new sections to chapter 42.17A RCW; adding new sections to chapter 29A.72 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5298 by Senators White, Ericksen, Carrell, Shin, Ranker, Hill and Conway

AN ACT Relating to authorizing the use of digital outdoor advertising signs to expand the state's emergency messaging capabilities; amending RCW 47.42.062; adding new sections to chapter 47.42 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 5299 by Senators Hargrove and Ranker

AN ACT Relating to expediting appeals to the shoreline hearings board and pollution control hearings board; adding a new section to chapter 43.21B RCW; adding a new section to chapter 90.58 RCW; and declaring an emergency.

Referred to Committee on Environment, Water & Energy.

SB 5300 by Senators Hargrove and Ranker

AN ACT Relating to enhancing the use of Washington natural resources in public buildings; amending RCW 39.35D.010, 39.35D.020, 39.35D.030, 39.35D.040, 39.35D.060, and 39.35D.080; and repealing RCW 39.35D.070 and 39.35D.090.

Referred to Committee on Natural Resources & Marine Waters.

SB 5301 by Senators Regala and Carrell

AN ACT Relating to promoting traffic safety at certain intersections and on certain streets through the regulation of yellow change intervals, right turn movements, and signage and the provision of jurisdictional analysis, accident reporting, and infraction warnings; amending RCW 46.63.170; and adding a new section to chapter 47.36 RCW.

Referred to Committee on Transportation.

SB 5302 by Senators Kohl-Welles, Holmquist Newbry, Conway, King and Hewitt

ELEVENTH DAY, JANUARY 20, 2011

AN ACT Relating to liquor permits and licenses; and amending RCW 66.20.010 and 66.24.400.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5303 by Senators Rockefeller, White, Tom, Nelson, Shin, Keiser, Fraser, Parlette and Kline

AN ACT Relating to loans made under the consumer loan act; and reenacting and amending RCW 31.04.025.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5304 by Senators Kilmer, Brown, Rockefeller, Tom, Murray, McAuliffe and Shin

AN ACT Relating to forecasting the caseloads of the state need grant program and the Washington college bound scholarship program; amending RCW 43.88C.010; adding a new section to chapter 28B.92 RCW; and adding a new section to chapter 28B.118 RCW.

Referred to Committee on Ways & Means.

SB 5305 by Senators Chase and Swecker

AN ACT Relating to subjecting federally recognized Indian tribes to the same conditions as state and local governments for property owned exclusively by the tribe; amending RCW 82.29A.010, 82.29A.020, 84.36.010, 84.36.451, and 84.40.230; and adding a new section to chapter 52.30 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5306 by Senators Chase, Swecker and Roach

AN ACT Relating to permitting federally recognized Indian tribes to certify counselors as agency affiliated counselors; and amending RCW 18.19.020.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5307 by Senators Kilmer, Hewitt, Regala, Conway, Kastama, Hobbs, King, Rockefeller, Swecker and Roach

AN ACT Relating to evaluating military training and experience toward meeting licensing requirements in medical professions; adding a new section to chapter 18.29 RCW; adding a new section to chapter 18.34 RCW; adding a new section to chapter 18.55 RCW; adding a new section to chapter 18.64A RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.73 RCW; adding a new section to chapter 18.79 RCW; adding a new section to chapter 18.84 RCW; adding a new section to chapter 18.88A RCW; adding a new section to chapter 18.89 RCW; adding a new section to chapter 18.135 RCW; adding a new section to chapter 18.215 RCW; and adding a new section to chapter 18.260 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5308 by Senators Kilmer, Hewitt, Regala, Conway, Kastama, Hobbs, King, Rockefeller, Swecker and Roach

AN ACT Relating to evaluating military training and experience toward meeting licensing requirements; adding a new section to chapter 18.16 RCW; adding a new section to chapter 18.43 RCW; and adding a new section to chapter 18.170 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5309 by Senators Kline, Pflug and Keiser

AN ACT Relating to modifying certain deeds of trust provisions; and amending RCW 61.24.030, 61.24.050, 61.24.127, 61.24.130, and 61.24.135.

Referred to Committee on Judiciary.

SB 5310 by Senators Kline, Pflug and Keiser

AN ACT Relating to false claims against the government; adding a new chapter to Title 4 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5311 by Senators Kline, Conway, Prentice, Chase, Kohl-Welles, Shin, Kastama and Keiser

AN ACT Relating to clarifying agency relationships in reconveyances of deeds of trust; and amending RCW 61.24.110.

Referred to Committee on Judiciary.

SB 5312 by Senators Kline, Kohl-Welles, Chase, Conway and Keiser

AN ACT Relating to the publication of tax data to ensure the transparency of Washington's tax preferences and structure to the public while protecting confidential taxpayer information; amending RCW 43.06.400 and 84.08.210; reenacting and amending RCW 82.32.330; and adding a new section to chapter 43.06 RCW.

Referred to Committee on Ways & Means.

SB 5313 by Senators Kline, Carrell and Pflug

AN ACT Relating to juvenile firearms and weapons crimes; amending RCW 13.40.127 and 13.40.193; and reenacting and amending RCW 13.40.0357.

Referred to Committee on Judiciary.

SB 5314 by Senators Nelson, Carrell and McAuliffe

AN ACT Relating to the public disclosure of information relating to child care and early learning services; and amending RCW 42.56.230.

Referred to Committee on Government Operations, Tribal Relations & Elections.

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SB 5315 by Senators Becker, Pridemore, Delvin, Kastama, McAuliffe, Regala, Zarelli, Kilmer, Conway, Shin, Tom and Rockefeller

AN ACT Relating to the provision of doctorate programs at the research university branch campuses in Washington; and amending RCW 28B.45.014.

Referred to Committee on Higher Education & Workforce Development.

SB 5316 by Senators Zarelli and Hewitt

AN ACT Relating to establishing the Washington competition council; and adding a new chapter to Title 43 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5317 by Senator Kastama

AN ACT Relating to shared parenting and its impact on youth school dropout and crime prevention; amending RCW 26.09.002 and 26.09.187; reenacting and amending RCW 26.09.004; adding a new section to chapter 26.09 RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

SB 5318 by Senators Eide, Kastama, Rockefeller and Shin

AN ACT Relating to the office of regulatory assistance; amending RCW 34.05.328; repealing RCW 43.131.401 and 43.131.402; providing an effective date; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5319 by Senators Kastama, Chase, Shin, Kilmer and Conway

AN ACT Relating to providing that the manufacturing innovation and modernization extension service program is not to sunset; and repealing RCW 43.131.409 and 43.131.410.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5320 by Senators Chase, Kastama and Shin

AN ACT Relating to prioritizing infrastructure projects; and amending RCW 43.330.100 and 43.160.060.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5321 by Senators Chase, Kastama and Shin

AN ACT Relating to the responsibilities of the department of commerce and associate development organizations;

amending RCW 43.330.080; and adding a new section to chapter 43.330 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5322 by Senators Kastama, Chase and Hatfield

AN ACT Relating to restructuring state government; amending RCW 42.30.110; adding a new section to chapter 44.04 RCW; adding a new section to chapter 42.56 RCW; making an appropriation; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5323 by Senators Shin, Swecker, Kastama, Hatfield, Delvin, Honeyford, Holmquist Newbry and Sheldon

AN ACT Relating to retirement of judges; and amending RCW 2.10.100.

Referred to Committee on Judiciary.

SB 5324 by Senators Shin, Kastama, Kilmer, Nelson, Haugen, Hobbs, Sheldon, McAuliffe and Conway

AN ACT Relating to extending the Washington customized employment training program; reenacting and amending RCW 28B.67.020; and repealing RCW 28B.67.902.

Referred to Committee on Higher Education & Workforce Development.

SB 5325 by Senators Shin, Hobbs, Nelson and Sheldon

AN ACT Relating to trade promotion; amending RCW 53.08.245, 43.31.805, 43.31.810, 43.31.820, 43.31.830, 43.31.832, 43.31.840, and 43.31.850; and repealing RCW 43.31.833 and 43.31.834.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5326 by Senators Kline, Zarelli, Kohl-Welles, Nelson, Rockefeller and White

AN ACT Relating to negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way; reenacting and amending RCW 46.20.342; adding a new section to chapter 46.61 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Judiciary.

SB 5327 by Senators Carrell, Zarelli, Becker, Stevens, Baumgartner, Hewitt, King, Schoesler and Swecker

AN ACT Relating to limiting the use of public assistance electronic benefit cards; amending RCW 74.08.580; adding a new section to chapter 74.08 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Human Services & Corrections.

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SB 5328 by Senators Zarelli, Carrell, Hewitt, King, Schoesler, Stevens and Swecker

AN ACT Relating to verification of public assistance eligibility; adding a new section to chapter 43.20A RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

SB 5329 by Senators Carrell, Zarelli, Stevens, Becker, Baumgartner, Hewitt, King, Swecker and Holmquist Newbry

AN ACT Relating to the creation of the division of special investigations within the office of the state auditor; and adding new sections to chapter 43.09 RCW.

Referred to Committee on Human Services & Corrections.

SB 5330 by Senators Zarelli, Carrell, Murray, Stevens, Shin, Baumgartner, Hewitt, King, Schoesler, Swecker and Holmquist Newbry

AN ACT Relating to ensuring temporary assistance for needy family grants are used for the benefit of children; and amending RCW 74.12.260 and 74.08A.020.

Referred to Committee on Human Services & Corrections.

SB 5331 by Senators Carrell, Zarelli, Becker, Stevens, Baumgartner, Hewitt, King, Schoesler, Swecker and Holmquist Newbry

AN ACT Relating to conducting attendance and financial audits of child care providers receiving working connections child care subsidies; amending RCW 43.215.135; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5332 by Senators Rockefeller, Chase, Harper, Nelson, Prentice and Kline

AN ACT Relating to requiring the state to retrocede civil jurisdiction over Indians and Indian territory, reservations, country, and lands to the United States; and adding a new section to chapter 37.12 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5333 by Senators Stevens, Benton, Carrell, Becker, Swecker, Delvin and Schoesler

AN ACT Relating to verifying citizenship or lawful presence of individuals upon the renewal of their state issued driver's license or permit or identicard; and adding a new section to chapter 46.20 RCW.

Referred to Committee on Transportation.

SB 5334 by Senators Stevens, Benton, Morton, Swecker and Roach

AN ACT Relating to requiring lawful presence in the United States for financial aid programs; amending RCW 28B.12.060, 28B.50.272, 28B.76.660, 28B.76.670, 28B.92.080, 28B.101.020, 28B.102.020, 28B.105.030, 28B.115.020, 28B.116.010, 28B.117.030, 28B.118.010, and 28B.119.010; and providing expiration dates.

Referred to Committee on Higher Education & Workforce Development.

SB 5335 by Senators Stevens, Benton, Carrell, Becker, Morton, Delvin, Swecker, Ericksen and Schoesler

AN ACT Relating to the verification that applicants for driver's licenses, permits, and identicards are lawfully within the United States; amending RCW 46.20.031, 46.20.055, 46.20.070, 46.20.117, 46.20.181, and 46.20.207; and adding new sections to chapter 46.20 RCW.

Referred to Committee on Transportation.

SB 5336 by Senators Stevens, Becker, Holmquist Newbry, Swecker, Roach, Carrell, Zarelli, Hargrove, Honeyford, Morton, Delvin, Ericksen, Parlette, Baumgartner and Hewitt

AN ACT Relating to limiting public funding for abortions; amending RCW 9.02.100, 9.02.110, and 9.02.140; adding a new section to chapter 9.02 RCW; repealing RCW 9.02.160; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 5337 by Senators Stevens, Pflug, Honeyford, Swecker and Roach

AN ACT Relating to financial assistance to privately owned airports available for general use of the public; and amending RCW 47.68.090.

Referred to Committee on Transportation.

SB 5338 by Senators Stevens, Benton, Swecker, Carrell, Delvin and Ericksen

AN ACT Relating to lawful legal presence in the United States; amending RCW 46.20.031, 74.08.025, and 74.08A.110; reenacting and amending RCW 70.47.020; adding a new section to chapter 9A.76 RCW; adding a new section to chapter 70.48 RCW; adding a new section to chapter 41.04 RCW; adding a new section to chapter 74.08 RCW; repealing RCW 74.08A.100 and 74.08A.120; and prescribing penalties.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5339 by Senators Nelson, Rockefeller, Ranker, Hobbs, White and Kline

AN ACT Relating to the environmental impact of certain gas and electrical company activities; amending RCW 80.04.250; and adding a new section to chapter 80.01 RCW.

Referred to Committee on Environment, Water & Energy.

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SB 5340 by Senators Keiser, Pflug and Conway

AN ACT Relating to restraining health care costs and promoting necessary, effective care; amending RCW 70.38.115; and adding a new section to chapter 70.38 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5341 by Senators Keiser, Conway, Kohl-Welles and Kline

AN ACT Relating to notice to injured workers by self-insured employers; adding new sections to chapter 51.14 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5342 by Senators Haugen, Fain, Murray, Harper and Shin

AN ACT Relating to the standard of evidence for appeals of valuation of property for purposes of taxation; amending RCW 84.40.0301; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5343 by Senators Haugen, Delvin, Hatfield, Honeyford, Becker, Shin and Schoesler

AN ACT Relating to air emissions from anaerobic digesters; reenacting and amending RCW 70.94.152; and adding a new section to chapter 70.94 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SJM 8000 by Senator Stevens

Requesting that unemployment insurance modernization funding be dispersed to states without requiring an expansion of state laws.

Referred to Committee on Labor, Commerce & Consumer Protection.

SJM 8001 by Senators Stevens, Carrell, Benton, Becker and Swecker

Calling on the President to adopt certain procedures if Congress makes any grants of money conditional on the voluntary adoption of new voter registration or voting procedures.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SJR 8206 by Senators Zarelli, Brown, Pridemore, Tom, Kilmer, White and Parlette

Requiring extraordinary revenue growth to be transferred to the budget stabilization account.

Referred to Committee on Ways & Means.

SJR 8207 by Senators Stevens, Benton, Becker, Carrell, Swecker and Ericksen

Declaring that English must be the language of all official proceedings.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SJR 8208 by Senators Stevens, Swecker, Schoesler, Delvin, Ericksen and Hewitt

Concerning health care services.

Referred to Committee on Health & Long-Term Care.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5295 which was referred to the Committee on Agriculture & Rural Economic Development.

MOTION

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

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION  
8610

By Senators Hewitt, Brown, Eide, Regala, Kohl-Welles, Prentice, Fraser, Pridemore, Delvin, Parlette, Schoesler, Swecker, Morton, Honeyford, Hill, Benton, Pflug, Stevens, Sheldon, Carrell, Baumgartner, Fain, McAuliffe, and Becker

WHEREAS, We are here today to celebrate a long career in public service; and

WHEREAS, Valoria Loveland began her career in the Franklin County Treasurer's Office, eventually serving as the treasurer for ten years; and

WHEREAS, From 1993 to 2001, Valoria Loveland served as a State Senator from the 16th legislative district, which includes Franklin, Walla Walla, Columbia, Garfield, and Asotin counties. While in the Senate, Senator Loveland served as chair of the Senate Ways & Means Committee and vice chair of the Senate Agriculture Committee; and

WHEREAS, In 2002, Valoria Loveland was appointed by Governor Gary Locke as the director of the Department of Agriculture. As the director of the Department of Agriculture, Valoria Loveland oversaw an agency responsible for animal health, water quality, plant inspections, food safety, fruit and grain inspection and certification, and marketing the state's agricultural products regionally and internationally. Valoria Loveland was reappointed as the director by Governor Christine Gregoire in April 2005 and served until 2008; and

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WHEREAS, Valoria Loveland has also served as chair of the Public Disclosure Commission and as a member of the Nuclear Waste Advisory Council; and

WHEREAS, In 2009, Governor Christine Gregoire appointed Valoria Loveland to the Washington Lottery Commission;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and celebrate the long service of Valoria Loveland, especially noting her contribution to the Washington State agriculture industry; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Valoria Loveland in time for her presentation of the Visionary Award at the Mid-Columbia Agriculture Hall of Fame event in Pasco, Washington on Thursday, January 20, 2011.

Senators Honeyford and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8610.

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

## MOTION

Senator Hargrove moved adoption of the following resolution:

SENATE RESOLUTION  
8612

By Senators Hargrove, Sheldon, and Ericksen

WHEREAS, Lloyd and Catherine Beebe, residents of Sequim, Washington, were married for 71 years, displaying the lifelong commitment that marriage is; and

WHEREAS, They accomplished and built their dream together, showing true entrepreneurial spirit and that with dedication the American dream is attainable; and

WHEREAS, Lloyd and Catherine Beebe together built Olympic Game Farm in Sequim with the Disney Company to train and film animals; and

WHEREAS, The Olympic Game Farm and its animals were used in many films and television shows, including "The Incredible Journey," "Charlie the Lonesome Cougar," "Grizzly Adams," and "Never Cry Wolf"; and

WHEREAS, The Beebes convinced the Disney Company to first allow visitors to the Olympic Game Farm in 1972, creating one of the top attractions on the Olympic Peninsula; and

WHEREAS, The Olympic Game Farm continues to contribute to the economy and incredible landscape of Clallam County, drawing visitors from all around the country and the world and creating lifelong memories for thousands of families; and

WHEREAS, The Olympic Game Farm has provided an opportunity for school children from all over the Pacific Northwest to learn about and observe wildlife, igniting countless imaginations and encouraging the continued stewardship of our land and animals; and

WHEREAS, The Beebes brought attention to conservation issues and the wildlife of the State of Washington; and

WHEREAS, The Beebes, for decades, assisted the state with the conservation and rehabilitation of wildlife; and

WHEREAS, These visionaries of Sequim, after 71 years together, passed away this month within two days of each other, leaving Sequim and the 24th district less for it; and

WHEREAS, The Beebes have left a rich legacy to the people of Clallam County, the 24th district, and the State of Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Lloyd and Catherine Beebe for their lifelong commitment to each other, their children, grandchildren, great-grandchildren, their animals, and the betterment of the Olympic Peninsula.

Senator Hargrove spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8612.

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

## MOTION

At 12:08 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, January 21, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWELFTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, January 21, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner, Benton, Eide, Ranker, Roach, Sheldon and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Gentry May Turk and McKall Helen Turk, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 20, 2011

SB 5029 Prime Sponsor, Senator Kohl-Welles: Concerning beer and wine tasting at farmers markets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5029 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5035 Prime Sponsor, Senator Shin: Requiring landlords to provide tenants with written receipts upon request under the manufactured/mobile home landlord-tenant act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

January 20, 2011

SB 5045 Prime Sponsor, Senator Kohl-Welles: Making technical corrections to gender-based terms. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 20, 2011

SB 5064 Prime Sponsor, Senator Nelson: Changing membership provisions relating to the Washington citizens' commission on salaries for elected officials. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Roach.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5075 Prime Sponsor, Senator Fain: Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5076 Prime Sponsor, Senator Hobbs: Addressing the subpoena authority of the department of financial institutions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

January 20, 2011

SB 5091 Prime Sponsor, Senator Keiser: Delaying the implementation of the family leave insurance program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5091 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

January 19, 2011

SB 5120 Prime Sponsor, Senator Keiser: Regulating insurance rates. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Hobbs, Chair;

Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Referred to Committee on Labor, Commerce & Consumer Protection.

Passed to Committee on Health & Long-Term Care.

SB 5348 by Senators Nelson and Delvin

January 19, 2011

SB 5213 Prime Sponsor, Senator Litzow: Addressing insurance statutes, generally. Reported by Committee on Financial Institutions, Housing & Insurance

AN ACT Relating to the taxation of prepaid wireless telecommunications service; amending RCW 82.14B.030; reenacting and amending RCW 82.14B.020; adding a new chapter to Title 82 RCW; and providing an effective date.

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Referred to Committee on Environment, Water & Energy.

Passed to Committee on Rules for second reading.

SB 5349 by Senators Honeyford, Swecker, Morton and Hewitt

MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

AN ACT Relating to collective bargaining under state law; amending RCW 41.06.022, 41.06.170, 41.06.340, and 41.56.465; reenacting and amending RCW 41.06.133; creating new sections; repealing RCW 41.80.001, 41.80.002, 41.80.005, 41.80.010, 41.80.020, 41.80.030, 41.80.040, 41.80.050, 41.80.060, 41.80.070, 41.80.080, 41.80.090, 41.80.100, 41.80.110, 41.80.120, 41.80.130, 41.80.140, 41.80.900, 41.80.901, 41.80.902, 41.80.903, 41.80.904, 41.80.905, 41.80.907, 41.80.908, 41.80.909, 41.80.910, 47.64.005, 47.64.006, 47.64.011, 47.64.090, 47.64.120, 47.64.130, 47.64.140, 47.64.150, 47.64.160, 47.64.170, 47.64.175, 47.64.200, 47.64.210, 47.64.230, 47.64.250, 47.64.260, 47.64.270, 47.64.280, 47.64.290, 47.64.300, 47.64.310, 47.64.320, 47.64.330, 47.64.900, 47.64.910, 41.56.021, 41.56.026, 41.56.027, 41.56.028, 41.56.029, 41.56.113, 41.56.203, 41.56.205, 41.56.473, 41.56.475, 41.56.510, 74.39A.270, 74.39A.300, and 74.39A.310; and declaring an emergency.

MOTION

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

Referred to Committee on Labor, Commerce & Consumer Protection.

INTRODUCTION AND FIRST READING

SB 5344 by Senators Kastama, Chase, Sheldon, Hobbs, Conway, Keiser and Shin

AN ACT Relating to an assessment of the department of transportation's management, accountability, and performance system; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 5350 by Senators Honeyford, Morton, Swecker, Delvin and Schoesler

SB 5345 by Senators Swecker, Honeyford, Ericksen and Hewitt

AN ACT Relating to collective bargaining; amending RCW 41.80.020; and creating a new section.

AN ACT Relating to the unlawful dumping of solid waste; and amending RCW 70.95.240.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Environment, Water & Energy.

SB 5346 by Senators Swecker and Benton

AN ACT Relating to education vouchers; and adding a new section to chapter 28A.150 RCW.

SB 5351 by Senators Honeyford, Swecker and Schoesler

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

AN ACT Relating to prohibiting certain registered sex offenders from entering school grounds; amending RCW 9A.44.190, 9A.44.193, and 9A.44.196; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9A.44 RCW; creating a new section; and prescribing penalties.

SB 5347 by Senators Swecker, Honeyford and Hewitt

AN ACT Relating to protecting the right to work; amending RCW 28B.52.020, 28B.52.025, 28B.52.045, 41.56.113, 41.56.122, 41.59.060, 41.59.140, 41.76.045, 41.80.050, 41.80.100, 47.64.130, 49.66.010, and 49.66.050; adding new sections to chapter 49.36 RCW; creating a new section; repealing RCW 41.56.100 and 47.64.160; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

SB 5352 by Senators Honeyford, Regala and Swecker

AN ACT Relating to providing eyeglasses for medicaid enrollees; and amending RCW 72.09.100.

Referred to Committee on Human Services & Corrections.

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SB 5353 by Senators Conway, Delvin, Kilmer and McAuliffe

Referred to Committee on Agriculture & Rural Economic Development.

AN ACT Relating to the benefits of a surviving spouse of a member of the law enforcement officers' and firefighters' retirement system or Washington state patrol retirement system; and amending RCW 51.32.050.

SB 5360 by Senators Swecker, Pridemore, Zarelli, Hatfield, Benton, Fraser, Haugen, Sheldon, Hobbs, Roach, Prentice, Fain, Shin, Parlette and Hewitt

Referred to Committee on Ways & Means.

AN ACT Relating to fiscal relief for cities and counties during periods of economic downturn by delaying or modifying certain regulatory and statutory requirements; amending RCW 35.22.288, 35A.12.160, 36.70A.215, 43.19.648, 43.325.080, 46.68.113, 70.95.110, 82.02.070, 82.02.080, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section.

SB 5354 by Senators Hargrove, Roach, Kilmer, Keiser, Kohl-Welles, McAuliffe and Conway

AN ACT Relating to presumptions of occupational disease for law enforcement officers and firefighters; amending RCW 51.32.185; adding a new section to chapter 51.32 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5361 by Senators Chase, Kastama, Shin, Nelson, Prentice and Conway

SB 5355 by Senators Morton, Swecker and Honeyford

AN ACT Relating to special meetings; and amending RCW 42.30.080.

AN ACT Relating to the obligations of associate development organizations and the department of commerce; and amending RCW 43.330.080.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5356 by Senators Morton, Swecker, Ericksen, Schoesler, Delvin, Hatfield and Roach

AN ACT Relating to allowing the use of dogs to hunt cougars; amending RCW 77.15.245; adding a new section to chapter 77.36 RCW; and creating new sections.

SB 5362 by Senators Chase, Prentice, White, Nelson, Kastama, Fraser, Shin, Harper, Hatfield, Conway, McAuliffe and Kohl-Welles

AN ACT Relating to authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills; and amending RCW 54.52.010.

Referred to Committee on Natural Resources & Marine Waters.

Referred to Committee on Environment, Water & Energy.

SB 5357 by Senators Morton and Baumgartner

AN ACT Relating to clarifying the definition of qualifying utility in the energy independence act; and amending RCW 19.285.030.

SB 5363 by Senators Hobbs, Zarelli, Kline and Shin

AN ACT Relating to a business and occupation tax deduction for certified community development financial institutions; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5358 by Senators Morton, Swecker, Honeyford and Delvin

AN ACT Relating to the prevailing rate of wage for public building service maintenance contracts; and amending RCW 39.12.020.

SB 5364 by Senators Swecker, Pridemore, Fraser, Nelson, Honeyford, Shin and Morton

AN ACT Relating to public water system operating permits; and amending RCW 70.119A.110.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Environment, Water & Energy.

SB 5359 by Senators Morton, Swecker, Honeyford and Schoesler

AN ACT Relating to contiguous land under current use open space property tax programs; and amending RCW 84.34.020, 84.33.035, 84.33.078, and 82.04.333.

SB 5365 by Senators Nelson and Kohl-Welles

AN ACT Relating to the purchase of retirement pension coverage by certain volunteer firefighters and reserve officers; and adding a new section to chapter 41.24 RCW.

Referred to Committee on Ways & Means.

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SB 5366 by Senators Delvin, Hewitt and Stevens

AN ACT Relating to authorizing the use of four-wheel, all-terrain vehicles on public roadways under certain conditions; adding a new section to chapter 46.61 RCW; and prescribing penalties.

Referred to Committee on Transportation.

SB 5367 by Senators Kastama, Chase, Holmquist Newbry, Shin and Kilmer

AN ACT Relating to authorizing the economic development finance authority to continue issuing bonds; and amending RCW 43.163.130.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5368 by Senators Kohl-Welles, Zarelli, Chase, Nelson, Keiser and Conway

AN ACT Relating to the public employees' collective bargaining act as applied to certain juvenile court services and department of corrections employees; amending RCW 41.80.020; reenacting and amending RCW 41.56.030; and adding new sections to chapter 41.56 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5369 by Senators Regala, Swecker, Fraser, Morton, Ranker, Hargrove and Shin

AN ACT Relating to commercial shellfish enforcement; amending RCW 69.30.010, 69.30.020, 69.30.030, 69.30.050, 69.30.060, 69.30.080, 69.30.085, 69.30.110, and 69.30.140; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

SB 5370 by Senators Keiser and Conway

AN ACT Relating to the adverse health events and incident reporting system; amending RCW 70.56.020 and 18.130.080; reenacting and amending RCW 70.56.030; and adding a new section to chapter 70.56 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5371 by Senators Keiser and Conway

AN ACT Relating to guaranteed issue health insurance for persons under age nineteen; amending RCW 48.43.012 and 48.41.100; reenacting and amending RCW 48.43.005 and 48.41.110; adding a new section to chapter 48.43 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5372 by Senators Prentice, Honeyford, Fraser, Delvin, Murray and Shin

AN ACT Relating to the taxation and permitting of vessels in Washington; amending RCW 82.08.0266, 82.08.02665, 82.08.700, 82.12.700, 88.02.570, 88.02.610, 88.02.620, 88.02.640, and 82.49.020; adding a new section to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new section to chapter 82.14 RCW; adding new sections to chapter 88.02 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5373 by Senators Chase, Prentice, Shin and Nelson

AN ACT Relating to fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction; reenacting and amending RCW 64.06.015 and 64.06.020; adding a new section to chapter 52.12 RCW; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5374 by Senators Becker and Hobbs

AN ACT Relating to making technical, nonsubstantive changes to department of agriculture-related sections; amending RCW 15.26.120, 15.30.200, 90.64.030, 15.48.280, 15.60.065, 15.60.085, 15.60.095, 15.65.375, 15.66.245, 15.76.115, 16.24.120, 17.21.150, 17.26.020, 15.65.280, 15.66.140, 15.89.070, 15.115.140, 15.65.243, 15.65.510, 15.65.550, 15.66.113, 20.01.205, 15.65.033, 15.66.010, 15.66.017, 15.24.900, 15.28.015, 15.44.015, 15.88.025, 15.89.025, 15.92.010, 15.115.020, 16.67.035, 15.58.030, 17.15.030, 17.21.100, 19.94.015, 20.01.010, 20.01.475, 20.01.510, 20.01.520, and 17.24.210; reenacting and amending RCW 15.65.020; creating a new section; and repealing RCW 15.58.380.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5375 by Senators Hobbs and Benton

AN ACT Relating to the department of financial institutions' regulation of trust companies; and amending RCW 30.08.025.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5376 by Senators Morton, Swecker, Schoesler, Parlette and Stevens

AN ACT Relating to disposal of lands by natural resource agencies; amending RCW 79.64.030, 79A.05.215, and 77.12.170; and creating new sections.

Referred to Committee on Natural Resources & Marine Waters.

SB 5377 by Senators Morton, Swecker and Stevens

AN ACT Relating to homeowners' associations; amending RCW 64.38.010 and 64.38.025; adding new sections to chapter 64.38 RCW; and providing an effective date.

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Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5378 by Senators Prentice, Swecker, Hargrove, Stevens and Regala

AN ACT Relating to cause of death information for purposes of the death with dignity act; and amending RCW 70.245.040 and 70.245.180.

Referred to Committee on Health & Long-Term Care.

SB 5379 by Senators Benton, Hewitt, Stevens and Carrell

AN ACT Relating to identifying and incentivizing taxpayer savings and efficient delivery of government services; adding a new section to chapter 42.52 RCW; adding a new chapter to Title 4 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SJR 8209 by Senators Shin and Keiser

Amending the Constitution to allow salary reductions for public officials during an economic crisis.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Rockefeller, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5352 which was referred to the Committee on Human Services & Corrections and Senate Bill No. 5359 which was referred to the Committee on Agriculture & Rural Economic Development.

MOTION

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

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4402, by Representatives Sullivan and Kretz

Establishing cutoff dates.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following amendment by Senators Brown and Hewitt be adopted:

Beginning on page 1, after line 9, strike the remainder of the resolution and insert the following:

"(1) Monday, February 21, 2011, the forty-third day, will be the final day to read in committee reports in the house of origin, with the exception of reports from the Senate Ways and Means, Senate Transportation, and House of Representatives fiscal committees;

(2) Friday, February 25, 2011, the forty-seventh day, will be the final day to read in Senate Ways and Means, Senate Transportation, and House of Representatives fiscal committee

reports in the house of origin;

(3) Monday, March 7, 2011, the fifty-seventh day, at 5:00 p.m., will be the final time to consider bills in their house of origin;

(4) Friday, March 25, 2011, the seventy-fifth day, will be the final day to read in committee reports on bills from the opposite house with the exception of reports from the Senate Ways and Means, Senate Transportation, and House of Representatives fiscal committees;

(5) Friday, April 1, 2011, the eighty-second day, will be the final day to read in Senate Ways and Means, Senate Transportation, and House of Representatives fiscal committee reports on bills from the opposite house; and

BE IT FURTHER RESOLVED, That after 5:00 p.m. on Tuesday, April 12, 2011, the ninety-third day, neither house may consider any bills, memorials, or joint resolutions except initiatives to the legislature and alternatives to such initiatives, budgets and matters necessary to implement budgets, messages pertaining to amendments, matters of differences between the two houses, and matters incident to the interim and to the closing of the business of the 2011 Regular Session of the Legislature."

Senator Rockefeller spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and Hewitt on page 1, after line 9 to House Concurrent Resolution No. 4402.

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

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed House Concurrent Resolution No. 4402 as amended by the Senate was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final adoption.

The President declared the question before the Senate to be the adoption of Engrossed House Concurrent Resolution No. 4402 as amended by the Senate.

ENGROSSED HOUSE CONCURRENT RESOLUTION NO. 4402 as amended by the Senate was adopted on third reading by voice vote.

MOTION

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

MOTION

Senator Rockefeller moved adoption of the following resolution:

SENATE RESOLUTION

8611

By Senators Eide and Schoesler

WHEREAS, The Senate adopted permanent rules for the 2011-2013 biennium under Engrossed Senate Resolution 8604; and WHEREAS, The notice requirements set forth in Senate Rule 35 have been satisfied; and

WHEREAS, The Senate desires to add one (1) additional member to the Committee on Early Learning & K-12 Education, bringing its total membership up to eleven (11) members;

TWELFTH DAY, JANUARY 21, 2011

NOW, THEREFORE, BE IT RESOLVED, That Rule 41 is amended as follows:

"Rule 41. The president shall appoint all conference, special, joint and standing committees on the part of the senate. The appointment of the conference, special, joint and standing committees shall be confirmed by the senate.

In the event the senate shall refuse to confirm any conference, special, joint or standing committee or committees, such committee or committees shall be elected by the senate.

The following standing committees shall constitute the standing committees of the Senate.

**Standing Committee**

- 1. Agriculture & Rural Economic Development ..... 8
- 2. Early Learning & K-12 Education .....((10)) 11
- 3. Economic Development, Trade & Innovation ..... 9
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- 5. Financial Institutions, Housing & Insurance..... 7
- 6. Government Operations, Tribal Relations & Elections ..... 7
- 7. Health & Long-Term Care ..... 9
- 8. Higher Education & Workforce Development ..... 9
- 9. Human Services & Corrections..... 7
- 10. Judiciary ..... 9
- 11. Labor, Commerce & Consumer Protection..... 7
- 12. Natural Resources & Marine Waters ..... 7
- 13. Rules20 (plus the Lieutenant Governor)
- 14. Transportation ..... 16
- 15. Ways & Means..... 20"

Senator Rockefeller spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8611.

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

The President announced the appointment of Senator Rockefeller to the Committee on Early Learning & K-12 Education.

**MOTION**

On motion of Senator Rockefeller the appointment was confirmed.

**MOTION**

Senator Schoesler moved adoption of the following resolution:

**SENATE RESOLUTION  
8600**

By Senators Honeyford, Delvin, Fraser, Parlette, Brown, Carrell, Ranker, Hewitt, Schoesler, Pflug, King, Hobbs, Becker, Prentice, Morton, Zarelli, Eide, Litzow, Regala, Chase, White, Keiser, Murray, Haugen, Hargrove, Hatfield, Kohl-Welles, Pridemore, Kastama, Nelson, Harper, Stevens, Rockefeller, Baumgartner, Tom, Hill, Kilmer, McAuliffe, Swecker, Conway, Ericksen, and Shin

WHEREAS, Senator Bob McCaslin was elected to the Senate in 1980 and in January 1981 he began a 30-year run in the Senate, one of the longest in Washington State's history; and

WHEREAS, Senator McCaslin has endeared himself not only to his faithful constituents and Senate Republican Caucus staff, but to Senators on both sides of the aisle, as they recall how he often lightened the tone with his wit and wisdom during heated Senate floor debates; and

WHEREAS, Senator McCaslin has always displayed equal amounts of compassion and strength with regard to the issues, while keeping in mind, and working toward, the needs and betterment of the 4th Legislative District and the entire State of Washington; and

WHEREAS, Senator McCaslin is a friend to all, confidante of many, and trustworthy advisor to his colleagues; and

WHEREAS, Senator McCaslin served in the United States Navy during World War II, after which he spent 17 years in production management at Kaiser Aluminum and Chemical Corporation, and for another 17 years owned his own real estate company in the Spokane Valley; and

WHEREAS, Senator McCaslin, during his time in the Senate, has been passionately involved in growth management issues, and currently serves as the Ranking Republican Member of the Senate Judiciary Committee, and as a Member of the Senate Economic Development, Trade and Innovation Committee; and

WHEREAS, Senator McCaslin was a source of constant moral support to his colleagues, a stalwart conscience who would, when a colleague changed positions on a bill, wonder aloud if the colleague were as firm on this new position as on the prior one; and

WHEREAS, Senator McCaslin's institutional knowledge and parliamentary prowess were legendary, and he is credited with establishing a tremendous body of precedent in the form of rulings by the President of the Senate, such as at least one ruling which established that a bill cannot be outside the scope and object of itself; and

WHEREAS, Even when Senator McCaslin did not completely achieve his parliamentary aims on the full floor of the Senate, his tireless crusade to establish a breakfast break for those early Saturday morning sessions, his constant battle to ensure that the President knew he was handsome and wise before he ruled on a particular matter, and his dogged quest to check with the rostrum to make sure the clock measuring the three minute rule was working properly were a source of constant inspiration; and

WHEREAS, He steadfastly opposed tax increases throughout his illustrious career, but could be overheard from time to time wondering if the state might solve its fiscal problems once and for all by charging fees for floor speeches; and

WHEREAS, On those rare and frustrating times when the Senate's business took the members deep into the dark of night, Senator McCaslin's sage advice as he put on his coat carried great weight with his colleagues, as he wished them all the best on their fruitless endeavors and hoped that they would turn the lights off when they left, as he was making for the elevator; and

WHEREAS, Senator McCaslin, due to health reasons, has made the decision to retire, leaving an indelible mark on Olympia and this great institution; he will be greatly missed by all of us who know and love him;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and congratulate Senator McCaslin for his thirty years of dedication to the citizens of the State of Washington; and

BE IT FURTHER RESOLVED, That a copy of this resolution honoring him be immediately transmitted by the Secretary of the Senate to Washington State Senator Bob McCaslin.

Senators Schoesler, Fraser, Hewitt, Hargrove, Delvin, Kastama, Regala, Parlette, Haugen, King, Brown, Carrell,

TWELFTH DAY, JANUARY 21, 2011

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Kohl-Welles, Becker, Shin, Stevens, Kline and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8600.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Senator McCaslin's family who were seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President introduced Michael McCliment, Legislative Assistant to Senator McCaslin who was seated in the gallery.

#### REMARKS BY THE PRESIDENT

President Owen: "The President would make just one comment and that is Senator McCaslin was the only person so far, that the only Senator so far that I know that could affectively tell the President that he was wrong without the President knowing until he got back to his office, avoiding the gavel."

#### MOTION

Senator Hargrove moved to add all members to Senate Resolution No. 8600.

#### REMARKS BY THE PRESIDENT

President Owen: "Senator Hargrove, I get confused with the size of the neck and all that. The Senate has made the decision in the past that it is up to the members to come up and sign on to the resolution rather than have it as a motion on the floor."

#### PARLIAMENTARY INQUIRY

Senator Hargrove: "Well this would be a special opportunity to uniquely do that then."

#### REMARKS BY THE PRESIDENT

President Owen: "You can make that motion. I don't think you have it in the rules."

#### MOTION

Senator Hargrove moved that the rules be suspended and that all members' names be added to Senate Resolution No. 8600.

The President declared the question before the Senate to be the motion by Senator Hargrove that the rules be suspended and all members' names be added to Senate Resolution No. 8600.

The motion by Senator Hargrove carried by voice vote.

#### MOTION

At 10:58 a.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Monday, January 24, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## FIFTEENTH DAY

## NOON SESSION

Senate Chamber, Olympia, Monday, January 24, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

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

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5380 by Senators White, Harper, Pridemore, Kline, Nelson, Kohl-Welles and Tom

AN ACT Relating to regulation of tobacco products; amending RCW 70.155.030 and 70.155.130; adding new sections to chapter 70.155 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5381 by Senators Prentice and Regala

AN ACT Relating to adjusting voting requirements for emergency medical service levies; and amending RCW 84.52.069.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5382 by Senators Regala, Carrell, Kastama, Parlette and Shin

AN ACT Relating to a business and occupation tax deduction for amounts received with respect to mental health services; amending RCW 82.04.4297 and 82.04.431; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5383 by Senators Conway, Benton and Hobbs

AN ACT Relating to clarifying the manufactured housing and mobile home program functions and account; amending RCW 59.22.050, 59.22.070, 46.17.150, 59.20.300, and 59.22.020; adding a new section to chapter 43.22A RCW; and recodifying RCW 59.22.070.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5384 by Senators Haugen, King and Shin

AN ACT Relating to admissibility in a civil action of failing to wear safety belt assemblies and failing to use child restraint systems; amending RCW 46.61.687; and reenacting and amending RCW 46.61.688.

Referred to Committee on Judiciary.

SB 5385 by Senators Regala, Ranker, Rockefeller and Fraser

AN ACT Relating to increasing revenue to the state wildlife account; amending RCW 77.08.045, 77.12.170, 77.12.177, 77.32.050, 77.32.240, 77.32.350, 77.32.370, 77.32.430, 77.32.450, 77.32.460, 77.32.470, 77.32.520, 77.32.580, 77.65.020, 77.65.090, 77.65.110, 77.65.150, 77.65.160, 77.65.170, 77.65.190, 77.65.200, 77.65.210, 77.65.220, 77.65.280, 77.65.340, 77.65.390, 77.65.440, 77.65.450, 77.65.480, 77.65.510, 77.70.080, 77.70.190, 77.70.220, 77.70.260, 77.70.490, and 77.115.040; reenacting and amending RCW 43.84.092; repealing RCW 77.32.510; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5386 by Senator Pridemore

AN ACT Relating to establishing a work group to increase organ donation in Washington state; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5387 by Senators Hobbs, Litzow and Haugen

AN ACT Relating to additional requirements for the oversight of regulated self-insurance programs by the state risk manager; amending RCW 48.62.011, 48.62.031, 48.62.061, 48.62.071, 48.62.091, 48.62.121, 48.62.161, and 48.62.171; and adding new sections to chapter 48.62 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5388 by Senators Parlette, Regala, Holmquist Newbry, Hatfield and Honeyford

AN ACT Relating to the liability of owners of recreational land and water areas; and amending RCW 4.24.210.

Referred to Committee on Natural Resources & Marine Waters.

SB 5389 by Senators McAuliffe and Shin

AN ACT Relating to the membership of the early learning advisory council; reenacting and amending RCW 43.215.090; and creating a new section.

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

SB 5390 by Senators Prentice, Becker, Pridemore, Conway, Keiser, Pflug, Parlette and Tom

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AN ACT Relating to authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states; and amending RCW 69.50.101.

Referred to Committee on Health & Long-Term Care.

SB 5391 by Senator Kohl-Welles

AN ACT Relating to the excise taxation of zoos; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5392 by Senators McAuliffe, Litzow, Fain, Nelson, Hill, Harper, Eide, Shin, Kohl-Welles, Tom and Roach

AN ACT Relating to including technology as an educational core concept and principle; amending RCW 28A.150.210; creating a new section; and providing an effective date.

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

SB 5393 by Senators Hargrove, Stevens, Harper, Regala, White, Carrell, McAuliffe, Shin and Tom

AN ACT Relating to unannounced monthly visits to persons providing care to children in the dependency system; and reenacting and amending RCW 74.13.031.

Referred to Committee on Human Services & Corrections.

SB 5394 by Senators Keiser, Becker, Pflug, Conway, Kline and Parlette

AN ACT Relating to primary care health homes and chronic care management; amending RCW 43.70.533, 70.47.100, and 41.05.021; reenacting and amending RCW 74.09.010 and 74.09.522; adding a new section to chapter 74.09 RCW; adding a new section to chapter 41.05 RCW; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5395 by Senators Hargrove and Stevens

AN ACT Relating to domestic violence fatality review panels; and amending RCW 43.235.020, 43.235.030, and 43.235.800.

Referred to Committee on Human Services & Corrections.

SB 5396 by Senators Murray, Keiser and Prentice

AN ACT Relating to employment of physicians by nursing homes; and adding a new section to chapter 18.51 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5397 by Senators Benton, Hobbs and Shin

AN ACT Relating to unauthorized insurance; amending RCW 48.15.040, 48.15.040, 48.15.090, 48.15.110, and 48.15.120; adding new sections to chapter 48.15 RCW; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5398 by Senators Keiser and Kline

AN ACT Relating to the insurance commissioner's authority to review and disapprove rates for certain insurance products; and repealing RCW 48.43.0121.

Referred to Committee on Health & Long-Term Care.

SB 5399 by Senators Tom, Litzow, Hill, Hobbs, King, Hargrove, Sheldon, Ranker and Shin

AN ACT Relating to school employee workforce reductions and assignments; amending RCW 28A.405.210 and 28A.405.300; adding new sections to chapter 28A.405 RCW; and creating a new section.

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

SB 5400 by Senator Prentice

AN ACT Relating to manufactured/mobile home park rent adjustment; amending RCW 35.21.830; adding a new chapter to Title 59 RCW; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5401 by Senators Chase, Kastama and McAuliffe

AN ACT Relating to authorizing use of sales and use tax proceeds for certain public facilities in innovation partnership zones for economic development purposes; and amending RCW 82.14.370.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5402 by Senators Chase, Kastama, Hatfield, Shin, Hobbs, Prentice, Pridemore and McAuliffe

AN ACT Relating to tax deferrals for economic development investment projects in innovation partnership zones; and amending RCW 82.60.020.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5403 by Senators Chase, Kastama, Shin, Prentice, McAuliffe and Pridemore

AN ACT Relating to authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development; and amending RCW 35.43.040.

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Referred to Committee on Economic Development, Trade & Innovation.

SB 5404 by Senators Chase, Kastama, Hatfield, Shin, Prentice, McAuliffe, Kohl-Welles, Conway and Keiser

AN ACT Relating to authorizing community economic revitalization board funding to benefit innovation partnership zones; and amending RCW 43.160.010 and 43.160.020.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5405 by Senators Haugen, King, Sheldon, Fain, Hargrove, Becker, Prentice, Shin and Tom

AN ACT Relating to promoting efficiency in the Washington state ferry system through personnel and administration reforms; amending RCW 47.64.120, 47.64.170, 47.64.011, 47.64.210, 47.64.150, and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070; adding a new section to chapter 47.64 RCW; creating new sections; repealing RCW 47.64.080, 47.64.200, 47.64.230, 47.64.280, 47.64.300, 47.64.310, 47.64.320, and 47.64.330; and declaring an emergency.

Referred to Committee on Transportation.

SB 5406 by Senators Haugen, Sheldon, Hobbs, Prentice and Shin

AN ACT Relating to improving and measuring performance of the management of the state ferry system; adding new sections to chapter 47.60 RCW; adding a new section to chapter 47.64 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 5407 by Senators Haugen, King, Becker, Prentice, Honeyford and Hargrove

AN ACT Relating to the issuance of drivers' licenses, drivers' instruction permits, juvenile agricultural driving permits, and identicards; amending RCW 46.20.035, 46.20.091, 46.20.105, 46.20.161, and 46.20.181; reenacting and amending RCW 66.16.040; adding new sections to chapter 46.20 RCW; creating a new section; repealing RCW 46.20.117; and providing an effective date.

Referred to Committee on Transportation.

SB 5408 by Senators King, Haugen, Becker and Prentice

AN ACT Relating to Washington state ferry system personnel and projects; amending RCW 47.64.011, 47.64.210, 47.64.150, 41.58.060, 39.04.320, 4.92.090, and 51.12.100; reenacting and amending RCW 47.64.090 and 41.06.070; creating a new section; and repealing RCW 47.64.280.

Referred to Committee on Transportation.

SB 5409 by Senators King and Haugen

AN ACT Relating to removing commercial ferries operating in Puget Sound from the jurisdiction of the utilities and transportation commission; amending RCW 81.84.010, 81.84.020, 81.84.060, and 47.60.115; and repealing RCW 47.60.120.

Referred to Committee on Transportation.

SB 5410 by Senators Fraser, Honeyford, Kohl-Welles and Shin

AN ACT Relating to time for payment by a scrap metal business; and amending RCW 19.290.030.

Referred to Committee on Judiciary.

SB 5411 by Senators Kilmer, Fain, Hill, Tom, Kastama, Hobbs, Hatfield and Shin

AN ACT Relating to fiscal note instructions; and creating a new section.

Referred to Committee on Ways & Means.

SB 5412 by Senators Keiser, Kohl-Welles, Kline, Roach, Conway, Hobbs and Chase

AN ACT Relating to whistleblowing in the conveyance workplace; amending RCW 70.87.020; reenacting and amending RCW 70.87.010; and adding a new section to chapter 70.87 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5413 by Senators Kilmer and Swecker

AN ACT Relating to allowing a majority of landowners to petition the county legislative authority to vacate and abandon the frontage of a county road; and amending RCW 36.87.020.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### MOTION

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

#### MOTION

At 12:01 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, January 25, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTEENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, January 25, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 24, 2011

SB 5066 Prime Sponsor, Senator Conway: Regarding the streamlining of contractor appeals. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5066 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5067 Prime Sponsor, Senator Keiser: Changing the department of labor and industries certified and registered mail requirements. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5067 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5069 Prime Sponsor, Senator Prentice: Creating the farm labor account. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5069 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5070 Prime Sponsor, Senator Conway: Regarding records requests relating to prevailing wage investigations.

Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5070 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5072 Prime Sponsor, Senator Hatfield: Authorizing the department of agriculture to accept and expend gifts. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5072 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5119 Prime Sponsor, Senator Pridemore: Canceling the 2012 presidential primary. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5197 Prime Sponsor, Senator Keiser: Concerning the delegation of nursing care tasks to home care aides. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Murray; Parlette; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

January 21, 2011

SB 5309 Prime Sponsor, Senator Kline: Modifying certain deeds of trust provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Roach.

Passed to Committee on Financial Institutions, Housing & Insurance.

SIXTEENTH DAY, JANUARY 25, 2011

2011 REGULAR SESSION

## MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5119 which was referred to the Committee on Ways & Means.

## MOTION

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

## MESSAGE FROM THE HOUSE

January 24, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5414 by Senators Becker, Benton, Holmquist Newbry, Hatfield, Pflug, Delvin, Stevens, Sheldon, Honeyford, Morton, King, Ericksen, Schoesler, Kilmer, Tom, Parlette and Roach

AN ACT Relating to the periodic replacement of license plates; amending RCW 46.16A.200, 46.17.200, and 46.68.380; reenacting and amending RCW 46.18.130 and 46.18.140; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5415 by Senators Becker, Swecker, Stevens and Honeyford

AN ACT Relating to the lawful operation of a motor vehicle and up to two trailers; and amending RCW 46.44.037.

Referred to Committee on Transportation.

SB 5416 by Senators Becker, Haugen, Benton, King, Stevens, Carrell, Delvin, Holmquist Newbry, Hatfield, Hobbs, Honeyford, Ericksen and Sheldon

AN ACT Relating to the use of toll revenue from eligible toll facilities; and amending RCW 47.56.820.

Referred to Committee on Transportation.

SB 5417 by Senators Becker, Swecker, Benton, Stevens, Delvin, Honeyford, Sheldon, Hatfield, Hobbs, Shin, Roach and Kline

AN ACT Relating to the distribution of legislators' contact cards, newsletters, government guides, or similar printed materials produced with legislative resources; and amending RCW 42.52.180.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5418 by Senators Becker, Benton, Stevens, Sheldon, Schoesler, Delvin, Morton and Honeyford

AN ACT Relating to the use of force in self-defense; amending RCW 9A.16.020 and 9A.16.050; and adding new sections to chapter 9A.16 RCW.

Referred to Committee on Judiciary.

SB 5419 by Senators Becker, Swecker, Delvin, Benton, Stevens, Holmquist Newbry, Honeyford, King, Sheldon and Roach

AN ACT Relating to providing mandatory notice and waiting periods before legislative action; and adding a new section to chapter 44.04 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5420 by Senators Hobbs, Swecker, Pridemore, Kastama, Tom and White

AN ACT Relating to intrastate mutual aid in the event of emergencies; amending RCW 38.52.040; and adding a new chapter to Title 38 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5421 by Senators Chase, Shin and McAuliffe

AN ACT Relating to land use planning in qualifying unincorporated portions of urban growth areas; and amending RCW 36.70A.110.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5422 by Senators Regala, Honeyford, Kastama, Becker, Parlette, Ericksen, Hatfield, Nelson, Harper, Tom, White, McAuliffe, Prentice and Shin

AN ACT Relating to the taxation of amusement and recreation services involving amateur sports; reenacting and amending RCW 82.04.050; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5423 by Senators Regala, Hargrove, Chase and Kline

AN ACT Relating to legal financial obligations; amending RCW 10.82.090; and creating a new section.

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Referred to Committee on Human Services & Corrections.

SB 5424 by Senators Rockefeller, Chase, Nelson, Fraser and White

AN ACT Relating to integrated resource plans; amending RCW 19.280.020 and 19.280.040; and adding a new section to chapter 19.280 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5425 by Senators Hobbs, Shin, Harper and McAuliffe

AN ACT Relating to the authorization of a sustainable development alternative for managing residential development in rural areas using transferable development rights; amending RCW 36.70A.011, 43.21C.031, 36.145.020, and 36.145.100; reenacting and amending RCW 36.70A.030; adding a new section to chapter 36.70A RCW; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5426 by Senators Kohl-Welles, Tom and McAuliffe

AN ACT Relating to allowing the department of early learning and the department of social and health services to share background check information; and amending RCW 43.20A.710, 43.43.837, 43.215.200, and 43.215.215.

Referred to Committee on Human Services & Corrections.

SB 5427 by Senator McAuliffe

AN ACT Relating to the assessment of students in state-funded full-day kindergarten classrooms; amending RCW 28A.150.315; and providing an effective date.

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

SB 5428 by Senators McAuliffe, Harper, Hargrove, Stevens, Zarelli, Pridemore, Shin and Roach

AN ACT Relating to notification to schools regarding the release of certain offenders; and amending RCW 4.24.550.

Referred to Committee on Human Services & Corrections.

SB 5429 by Senator Chase

AN ACT Relating to protecting residents of state facilities during discharges and reductions in service, ensuring admissions pursuant to federal law; amending RCW 71A.20.020; and adding a new chapter to Title 71A RCW.

Referred to Committee on Health & Long-Term Care.

SB 5430 by Senators McAuliffe and Haugen

AN ACT Relating to state route number 527; and amending RCW 47.17.745.

Referred to Committee on Transportation.

SB 5431 by Senators Rockefeller and Nelson

AN ACT Relating to null generation electricity; amending RCW 19.29A.010, 19.29A.060, and 80.80.040; and reenacting and amending RCW 80.80.010.

Referred to Committee on Environment, Water & Energy.

SB 5432 by Senators Regala, Chase, Fraser, Rockefeller and Nelson

AN ACT Relating to reducing pollution from wood stoves; amending RCW 70.94.473; adding new sections to chapter 70.94 RCW; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

SB 5433 by Senators Fraser, Conway, Kastama, Keiser, Chase, Rockefeller, McAuliffe and Nelson

AN ACT Relating to protecting consumers who live in manufactured/mobile home communities by modifying the manufactured/mobile home landlord-tenant act; and amending RCW 59.20.030, 59.20.045, 59.20.080, 59.20.130, and 59.20.135.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5434 by Senators Conway, Kohl-Welles, Nelson, Keiser and Chase

AN ACT Relating to modifying collective bargaining law to authorize providing additional compensation to academic employees at community and technical colleges; and amending RCW 28B.52.035 and 28B.50.140.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5435 by Senators Hargrove, Pflug, Kline, Fraser, Shin, Kohl-Welles and Roach

AN ACT Relating to background investigations for peace officers and reserve officers; and amending RCW 43.101.080, 43.101.095, and 43.101.105.

Referred to Committee on Human Services & Corrections.

SB 5436 by Senators Ranker, Shin, Litzow, Swecker, Tom, Harper, Nelson, Hobbs, Fraser, Rockefeller, White, Kilmer, Conway and Kline

AN ACT Relating to reducing copper in antifouling paints used on recreational water vessels; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

SB 5437 by Senators Morton, Schoesler and Hatfield

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AN ACT Relating to members of the fish and wildlife commission; and amending RCW 77.04.030.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Natural Resources & Marine Waters.

SB 5444 by Senators Conway and Haugen

AN ACT Relating to the construction of a state boundary bridge; and amending RCW 47.56.042.

SB 5438 by Senators Morton, Schoesler, Swecker, Hewitt, Becker, Stevens, Honeyford and Roach

Referred to Committee on Transportation.

AN ACT Relating to the sale of timber from lands managed by the department of fish and wildlife; and amending RCW 77.12.210.

SB 5445 by Senators Keiser, Pflug, White, Conway and Kline

Referred to Committee on Natural Resources & Marine Waters.

AN ACT Relating to the creation of a health benefit exchange; adding a new section to chapter 41.05 RCW; and creating new sections.

SB 5439 by Senators Ranker, Rockefeller, Nelson, Regala, Hargrove, Hobbs, Fraser, White, Conway and Kline

Referred to Committee on Health & Long-Term Care.

AN ACT Relating to oil spills; amending RCW 88.46.060, 88.46.100, 88.46.090, 90.48.366, and 90.56.370; reenacting and amending RCW 88.46.010; adding new sections to chapter 88.46 RCW; creating new sections; and prescribing penalties.

SJR 8210 by Senators Becker, Benton, Delvin, Stevens, Sheldon, Holmquist Newbry, Honeyford, Carrell, Morton, Ericksen and Schoesler

Amending the Constitution to include toll revenue to be used exclusively for highway purposes.

Referred to Committee on Natural Resources & Marine Waters.

Referred to Committee on Transportation.

SB 5440 by Senators Rockefeller, Nelson, Ranker, Honeyford, Chase, Delvin, Fraser, Morton, Kastama, Holmquist Newbry and Kline

SJR 8211 by Senators Morton, Swecker, Honeyford, Ericksen, Delvin, Becker and Stevens

AN ACT Relating to electric vehicle battery charging facilities; amending RCW 80.04.010; and adding a new section to chapter 80.28 RCW.

Amending the Constitution to allow for adjournment after cutoff during the regular session.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5441 by Senators Prentice, Nelson, Haugen, White and Kline

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

AN ACT Relating to creating a county utility tax option; and adding a new chapter to Title 82 RCW.

ESHB 1086 by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

Referred to Committee on Government Operations, Tribal Relations & Elections.

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 18.04.105, 43.03.220, 43.03.230, 43.03.240, 43.03.250, 43.03.265, 43.21A.660, 43.21A.667, 43.79.460, 43.79.465, 43.83B.430, 43.105.080, 43.330.094, 43.336.050, 46.66.080, 43.350.070, 51.44.170, 66.08.235, and 82.14.380; amending 2010 2nd sp.s. c 1 ss 109, 115, 117, 118, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 302, 303, 304, 307, 308, 309, 310, 501, 502, 503, 602, 603, and 801 (uncodified); amending 2010 1st sp.s. c 37 ss 103, 106, 107, 112, 118, 120, 121, 123, 124, 126, 127, 128, 130, 133, 134, 138, 141, 142, 146, 148, 150, 151, 153, 213, 215, 217, 218, 219, 220, 224, 225, 226, 401, 402, 504, 505, 506, 507, 508, 511, 610, 612, 613, 614, 615, 616, 617, 618, 619, 705, 707, and 711 (uncodified); amending 2010 1st sp.s. c 32 s 3 (uncodified); amending 2010 1st sp.s. c 31 s 1 (uncodified); amending 2009 c 564 s 711 (uncodified); adding new sections to 2009 c 564 (uncodified); making appropriations; and declaring an emergency.

SB 5442 by Senators Shin, Tom, Kilmer, White and Chase

AN ACT Relating to an accelerated baccalaureate degree program; adding a new section to chapter 28B.10 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Ways & Means.

SB 5443 by Senators Chase, Shin, McAuliffe and Kline

AN ACT Relating to encouraging training for medical students, nurses, and medical technicians and assistants to work with adult patients with developmental disabilities; and adding a new section to chapter 28B.115 RCW.

MOTION

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

MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, January 26, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SEVENTEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, January 26, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Ranker and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Andrew Dwight Field and Marisa Christine Konen, presented the Colors. Pastor Mark Van Haitisma of Olympia Christian Reformed Church offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 24, 2011

SB 5026 Prime Sponsor, Senator Haugen: Clarifying the definition of "farm vehicle" to encourage similar recognition in federal tax law. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5027 Prime Sponsor, Senator Haugen: Requiring motorcycle manufacturers to indicate whether a motorcycle is for off-road use only. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5027 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5141 Prime Sponsor, Senator Rockefeller: Limiting the issuance of motorcycle instruction permits. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

January 24, 2011

SB 5185 Prime Sponsor, Senator Delvin: Temporarily suspending certain motorcycle rules when operating in parades or public demonstrations. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5185 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

January 26, 2011

MR. PRESIDENT:  
The House concurred in the Senate amendment to HOUSE CONCURRENT RESOLUTION NO. 4402 and passed the bill as amended by the Senate.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5446 by Senators Shin and Hobbs

AN ACT Relating to the entry or removal of certain homes, models, or vehicles in manufactured housing communities with a nonconforming use status; and amending RCW 35.63.161, 35A.63.146, and 36.70.493.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5447 by Senators Shin, Roach and Hobbs

AN ACT Relating to utility rates and charges for unoccupied mobile home lots in manufactured housing communities; and amending RCW 35.23.535, 35.58.220, 35.67.020, 35.92.010, 35.92.020, 36.89.080, 36.94.140, 54.24.080, and 57.08.081.

Referred to Committee on Financial Institutions, Housing & Insurance.

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SB 5448 by Senators Schoesler and Shin

AN ACT Relating to conforming certain manufactured/mobile home dispute resolution program definitions with certain manufactured/mobile home landlord-tenant act definitions; and amending RCW 59.30.020.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5449 by Senators Brown, Pflug, Carrell, Harper, Murray, Hobbs, Fain, Delvin, Roach, Ericksen, Shin, Tom, Kohl-Welles and Kilmer

AN ACT Relating to the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5450 by Senator Hargrove

AN ACT Relating to creating a local mineral severance tax; reenacting and amending RCW 43.84.092; and adding a new chapter to Title 82 RCW.

Referred to Committee on Ways & Means.

SB 5451 by Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin

AN ACT Relating to shoreline structures in a master program adopted under the shoreline management act; adding a new section to chapter 90.58 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5452 by Senators Hargrove, Stevens and Haugen

AN ACT Relating to improving communication, collaboration, and expedited medicaid attainment with regard to persons diverted, arrested, confined or to be released from confinement or commitment who have mental health or chemical dependency disorders; amending RCW 71.05.190, 71.05.385, 71.05.425, 10.77.165, 10.31.110, 70.96B.045, 71.05.153, 71.34.340, 71.05.232, and 70.02.900; reenacting and amending RCW 71.05.390; adding a new section to chapter 74.09 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5453 by Senators Fraser, Swecker, Regala, Morton, Rockefeller, Hargrove, Ranker, Stevens, Sheldon and Shin

AN ACT Relating to investing in the economy of the state of Washington by creating a mechanism to enhance the production of Pacific salmon in waters located east of Cape Flattery and subject to the agreements made by the state government, the federal government, and tribal governments relating to the cooperative management of the resource;

amending RCW 82.27.010, 82.27.030, 82.27.050, 82.27.060, 82.27.070, and 77.12.459; adding a new section to chapter 82.27 RCW; and adding new sections to chapter 77.95 RCW.

Referred to Committee on Natural Resources & Marine Waters.

SB 5454 by Senators Keiser, Pflug, Pridemore, Parlette, Conway and Becker

AN ACT Relating to administration of drugs by health care assistants; and amending RCW 18.135.130.

Referred to Committee on Health & Long-Term Care.

SB 5455 by Senators Zarelli, Tom and King

AN ACT Relating to teacher performance; amending RCW 28A.150.410, 28A.400.200, 28A.405.140, 28A.405.210, 28A.405.220, and 41.35.010; reenacting and amending RCW 41.32.010 and 41.40.010; adding a new section to chapter 28A.625 RCW; and providing an effective date.

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

SB 5456 by Senators Murray, Regala, Kohl-Welles, Kline, Harper, White, Chase, Nelson, Fraser and Prentice

AN ACT Relating to reducing criminal justice expenses by eliminating the death penalty in favor of life incarceration; amending RCW 10.95.030; and repealing RCW 10.95.040, 10.95.050, 10.95.060, 10.95.070, 10.95.080, 10.95.090, 10.95.100, 10.95.110, 10.95.120, 10.95.130, 10.95.140, 10.95.150, 10.95.160, 10.95.170, 10.95.180, 10.95.185, 10.95.190, 10.95.200, and 10.95.900.

Referred to Committee on Judiciary.

SB 5457 by Senators White, Shin, Murray, Kohl-Welles, Harper, Nelson, Keiser, Prentice, Kline and McAuliffe

AN ACT Relating to providing a congestion reduction charge to fund the operational and capital needs of transit agencies; amending RCW 82.80.005; adding a new section to chapter 82.80 RCW; adding a new section to chapter 46.68 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

SB 5458 by Senators Keiser, Pflug, Kline, Becker, Conway, Pridemore, Rockefeller and Parlette

AN ACT Relating to medicaid fraud; amending RCW 74.09.210; reenacting and amending RCW 9A.04.080; adding new sections to chapter 74.09 RCW; and adding a new chapter to Title 74 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5459 by Senators Kline, Keiser, Regala and McAuliffe

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AN ACT Relating to transition services for people with developmental disabilities; amending RCW 71A.10.020, 71A.20.010, 71A.20.020, 71A.20.080, and 71A.20.170; adding new sections to chapter 71A.20 RCW; creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 5460 by Senators Kline, Kohl-Welles, Keiser, White and Chase

AN ACT Relating to establishing a claims process for persons convicted and imprisoned for crimes they did not commit; adding a new section to chapter 41.05 RCW; adding a new section to chapter 43.20A RCW; adding a new section to chapter 72.09 RCW; adding a new section to chapter 50.08 RCW; adding a new chapter to Title 4 RCW; and providing an expiration date.

Referred to Committee on Human Services & Corrections.

SB 5461 by Senators Haugen and Holmquist Newbry

AN ACT Relating to claims management by retrospective rating plan employers and groups; and adding a new section to chapter 51.18 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5462 by Senators Kilmer, Kastama, Shin, Tom, White, Rockefeller and Conway

AN ACT Relating to centralizing financial aid administration for community and technical colleges; and adding a new section to chapter 28B.50 RCW.

Referred to Committee on Higher Education & Workforce Development.

SB 5463 by Senators Kilmer, Becker, Kastama, Shin, Tom and White

AN ACT Relating to common student identifiers for community and technical colleges; and amending RCW 28B.50.090.

Referred to Committee on Higher Education & Workforce Development.

SB 5464 by Senators Rockefeller, Kastama, Delvin and Chase

AN ACT Relating to creating the clean energy partnership; amending RCW 28B.38.020 and 28B.38.070; reenacting and amending RCW 43.325.040; adding a new chapter to Title 43 RCW; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5465 by Senators Keiser, Delvin, Kline, White, McAuliffe and Conway

AN ACT Relating to creating the safety net assessment to fund services for people with developmental disabilities; amending RCW 82.16.010, 82.16.020, 82.16.020, and 35.21.710; reenacting and amending RCW 82.16.010; adding a new section to chapter 82.16 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

SB 5466 by Senator Keiser

AN ACT Relating to ensuring efficient and economic medicaid nursing facility payments; amending RCW 74.46.431, 74.46.437, 74.46.485, 74.46.496, and 74.46.501; repealing RCW 74.46.433; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5467 by Senators Kilmer, Parlette and Murray

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.17.200, 28B.10.027, 28A.335.210, and 28B.50.360; amending 2009 c 497 s 1050 (uncodified); amending 2010 1st sp.s. c 36 ss 1017, 5037, and 1021 (uncodified); reenacting and amending RCW 39.94.040, 28B.15.210, 28B.15.310, and 28B.35.370; adding new sections to 2009 c 497 (uncodified); creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5468 by Senators Pridemore, Shin and Chase

AN ACT Relating to creating the office of forecast councils; amending RCW 82.33.010, 82.33.020, 82.33.030, 43.88C.010, 43.88C.020, 43.88.120, 70.94.431, 70.94.483, and 41.06.087; adding a new chapter to Title 43 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5469 by Senator Pridemore

AN ACT Relating to boards and commissions; amending RCW 28A.175.075, 28A.410.260, 28A.655.115, 28A.657.005, 28A.657.070, 28A.657.110, 43.46.005, 43.46.081, 43.46.085, 43.46.090, 43.46.095, 28A.335.210, 28B.10.027, 43.17.200, 37.14.030, 43.03.028, 43.63A.750, 79.24.720, 18.250.010, 18.250.020, 18.250.060, 18.205.020, 18.205.060, 72.09.090, 72.09.100, 72.09.015, 72.62.020, 43.121.100, 43.215.146, 43.215.147, 28A.300.520, 43.215.065, 72.09.495, 74.04.800, 72.23.025, 18.44.195, 18.44.221, 18.44.251, 15.76.110, 15.76.150, 13.40.462, 43.70.555, 74.14A.060, 74.14C.050, 43.31.428, 43.31.422, 74.39A.095, 74.39A.220, 74.39A.240, 74.39A.250, 74.39A.260, 43.105.340, 18.280.010, 18.280.030, 18.280.050, 18.280.060, 18.280.070, 18.280.080, 18.280.110, 18.280.120, 18.280.130, 9.95.003, 9.95.005, 9.95.007, 9.95.140, 9.95.280, 9.95.300, 9.96.050, 71.05.385, 72.09.585, 18.225.010, 18.225.040, 16.57.353, 18.50.045,

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18.50.060, 18.50.105, 77.12.670, 77.12.690, 77.08.045, 46.09.020, 18.200.010, 18.200.050, 18.200.070, 43.20A.890, 18.140.010, 18.140.030, 18.140.160, 18.140.170, 77.85.005, 77.85.020, 77.85.120, 77.85.135, 79A.25.010, 79A.25.240, 43.41.270, 76.13.150, 90.71.370, 77.12.850, 9.94A.480, 9.94A.863, 13.50.010, 9.94A.74501, 9.94A.855, 9.94A.870, 9.94A.875, 9A.52.025, 10.98.140, 10.98.160, 72.09.350, 72.66.016, 17.10.010, 17.10.040, 17.10.070, 17.10.074, 17.10.080, 17.10.090, 17.10.100, 17.10.130, 17.10.160, 17.10.201, 17.10.210, 17.10.235, 17.10.250, 17.10.260, 17.10.350, 17.15.020, 17.26.006, 17.26.015, 77.60.130, 79A.25.320, 79A.25.340, 18.104.040, 18.104.043, 18.104.049, 18.104.100, 18.104.200, 28C.04.390, 28C.04.420, 18.106.110, 49.04.010, 36.93.051, 15.92.090, 43.160.030, 70.94.537, 38.52.040, 70.168.020, 67.17.050, 43.365.030, 41.60.015, 43.20A.685, 79A.30.030, 42.17.2401, 42.17A.705, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; reenacting and amending RCW 28A.290.010, 18.44.011, 74.39A.270, 41.56.030, 77.85.050, 77.85.130, 77.85.140, 9.94A.030, 70.96A.350, and 43.15.020; adding a new section to chapter 39.29 RCW; adding a new section to chapter 28A.300 RCW; decodifying RCW 74.39A.290 and 4.24.5502; repealing RCW 28A.300.136, 28A.300.137, 43.46.015, 43.46.030, 43.46.040, 43.46.045, 43.46.050, 43.46.055, 43.46.060, 43.46.070, 28B.10.025, 43.19.455, 43.17.205, 43.17.210, 18.250.030, 43.34.080, 18.205.080, 72.09.070, 72.09.080, 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.910, 43.63A.068, 18.44.500, 18.44.510, 15.76.170, 70.190.005, 70.190.010, 70.190.020, 70.190.030, 70.190.040, 70.190.050, 70.190.060, 70.190.065, 70.190.070, 70.190.075, 70.190.080, 70.190.085, 70.190.090, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.160, 70.190.170, 70.190.180, 70.190.190, 70.190.910, 70.190.920, 79A.25.220, 43.31.425, 70.127.041, 74.39A.230, 74.39A.280, 18.280.040, 18.225.060, 18.225.070, 16.57.015, 18.50.140, 18.50.150, 77.12.680, 46.09.280, 18.200.060, 28B.10.922, 18.140.230, 18.140.240, 18.140.250, 77.85.110, 77.12.856, 13.40.005, 9.94A.850, 9.94A.860, 9.94A.8672, 9.94A.8673, 9.94A.8675, 17.10.030, and 18.104.190; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5470 by Senator Murray

AN ACT Relating to reducing compensation for educational and academic employees; amending RCW 28A.400.205, 28B.50.465, and 28A.405.415; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5471 by Senator Murray

AN ACT Relating to student achievement fund allocations; reenacting and amending RCW 28A.505.220; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5472 by Senator Murray

AN ACT Relating to apportionments to educational service districts and school districts for the 2010-11 school year; amending RCW 28A.510.250; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5473 by Senators Murray and Shin

AN ACT Relating to implementation of long-term care worker requirements regarding background checks and training; amending RCW 18.88B.020, 18.88B.030, 18.88B.040, 18.88B.050, 74.39A.050, 74.39A.055, 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.260, 74.39A.330, 74.39A.340, and 74.39A.350; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5474 by Senators Murray and Conway

AN ACT Relating to higher education employees' annuities and retirement income plans; amending RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.417, 28B.10.423, and 28B.10.430; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5475 by Senator Murray

AN ACT Relating to education funding; amending RCW 28A.150.220, 28A.150.260, 28A.150.315, 28A.185.010, and 28A.185.020; creating a new section; repealing 2010 c 236 s 1 (uncodified); and providing an effective date.

Referred to Committee on Ways & Means.

SB 5476 by Senator Murray

AN ACT Relating to school bus depreciation; amending RCW 28A.160.200; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5477 by Senator Murray

AN ACT Relating to changing the designation of the medicaid single state agency from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority; amending RCW 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.522, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659,

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74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730, 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011, 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 41.05.185, 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.110, 70.48.130, 70.168.040, and 70.225.040; reenacting and amending RCW 74.09.010, 74.09.035, 74.09.522, and 70.47.020; adding new sections to chapter 74.09 RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.20A.365; repealing RCW 74.09.015, 74.09.085, 74.09.110, 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 5478 by Senators Holmquist Newbry, Rockefeller, Hargrove and Chase

AN ACT Relating to minimum renewable fuel content requirements; amending RCW 19.112.020, 19.112.110, 19.112.060, 19.112.160, 19.112.900, and 42.56.270; adding a new section to chapter 19.112 RCW; creating a new section; repealing RCW 19.112.120, 19.112.130, 19.112.140, 19.112.150, 19.112.170, 19.112.180, and 43.19.643; and prescribing penalties.

Referred to Committee on Environment, Water & Energy.

SB 5479 by Senators McAuliffe and Shin

AN ACT Relating to high school mathematics and science assessments; amending RCW 28A.305.130 and 28A.655.100; adding new sections to chapter 28A.657 RCW; creating a new section; and declaring an emergency.

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

SB 5480 by Senators Conway and Keiser

AN ACT Relating to physician and physician assistants license renewal requirements; amending RCW 18.71A.020; and reenacting and amending RCW 18.71.080.

Referred to Committee on Health & Long-Term Care.

SB 5481 by Senators Pflug, Murray and Swecker

AN ACT Relating to encouraging the development of natural resources related partnerships; adding new sections to chapter 79A.25 RCW; and creating a new section.

Referred to Committee on Natural Resources & Marine Waters.

SB 5482 by Senators Kohl-Welles, Hobbs, Eide, Keiser, Fraser, Prentice and Conway

AN ACT Relating to authorizing existing funding to house victims of human trafficking and their families; and amending RCW 36.22.178, 36.22.179, and 36.22.1791.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5483 by Senator Shin

AN ACT Relating to administrative consistency between conditional scholarship and loan repayment student financial aid programs; amending RCW 28B.115.020, 28B.115.120, and 28B.102.060; reenacting and amending RCW 28B.115.110; and repealing RCW 28B.115.060.

Referred to Committee on Higher Education & Workforce Development.

SB 5484 by Senator Shin

AN ACT Relating to health sciences and services authorities; and amending RCW 35.104.040.

Referred to Committee on Higher Education & Workforce Development.

SB 5485 by Senators Hargrove and Ranker

AN ACT Relating to maximizing the use of our state's natural resources; amending RCW 39.35.030, 39.35.040, 39.35.050, and 19.27.031; adding a new section to chapter 19.27 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5486 by Senators Benton, Schoesler, Stevens, Roach and Holmquist Newbry

AN ACT Relating to creating the taxpayer savings account; adding a new section to chapter 82.32 RCW; and creating a new section.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5466 which was referred to the Committee on Ways & Means and Senate Bill No. 5482 which was referred to the Committee on Financial Institutions, Housing & Insurance.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the 2010-2011 Dairy Ambassador, Miss Kristyn Mensonides and alternates Miss Kelsey Schubach, and Miss Stephanie Van Beek who were seated at the rostrum.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced County Dairy Ambassadors and Alternates from around the world, Washington State Dairy Ambassador Committee, Chairwoman Judy Odermann; President Tammi Schoenbachler; Vice President LaVonne Boogerd; Washington State Dairy Women and members and staff of the Washington State Dairy Federation and

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Washington State Dairy Products Commission who were seated in the gallery.

With permission of the Senate, business was suspended to allow Dairy Ambassadors Kristyn Mensonides to address the Senate.

REMARKS BY MISS KRISTYN MENSIONIDES

Kristyn Mensonides: “Good morning honorable and distinguished guests. It does not take a rocket scientist to realize our economy is a little bit complicated right now. We need to get back to the basics, back to when ‘going green’ was when your neighbor bought a John Deere tractor. When ‘bail out’ actually referred to something the boys hauled out before feeding time and when change was actually something jiggling in our pockets. What is more basic than a good help? It is a privilege to promote our dairy industry by explaining not only how benefits are helped but also our community. I have been given the opportunity to teach young children about cows and dairy products. They will be able to see firsthand transformation of milk into butter or even ice cream. Our Washington State is filled with cows, but we have lost the personal connection. Many children have never had the opportunity to pet a calf. We need to get back to the basic touch. As an agriculture industry we have the advantage of producing nature’s most perfect food: milk. A most basic staple in everyone’s life. Statistics show having three servings of dairy products throughout your day helps build strong bones, teeth and healthy bodies. Research shows that, on average, Americans are only receiving half of the days recommended servings of dairy products a day. This is a problem when you realize that when a teenager turns seventeen ninety percent of his or her adult bone mass is established. We need to get back to the basic nutrition. Get back to the basics also means educating the adults and the concepts of dairy production and how the industry supports other segments of agriculture, retail and service sectors around our state. Washington State ranks second in the production per cow in the United States in 2009. Washington dairies has a one point five billion dollars in total economic impact in Washington State, creating approximately thirteen thousand jobs. Making it the second largest agriculture industry in Washington State. So next time, when you enjoy that refreshing glass of milk or that creamy cheese cake or even that mouth watering ice cream sundae remember all those hard working family farms just like the one I grew up on striving to help our communities get back to the basics. Thank you very much.”

PERSONAL PRIVILEGE

Senator Delvin: “Thank you Mr. President. Well I just want it to be known, I have milked a cow in the past.”

PERSONAL PRIVILEGE

Senator Becker: “Thank you Mr. President, well I wanted to just share and I think I’ve shared this many times out here that I too grew up on a dairy farm and I too ran for the dairy princess contest. At that time it was dairy princess, now it’s Dairy Ambassador. I didn’t win. I came in runner up but that’s ok. This year I was honored, really honored to be asked to be one of the judges for this contest and I have to tell you it was absolutely amazing. It was a three day event. What these young ladies went through in this, the questions they were asked, the way they became better and better at everything that they did, it was just an amazing process. You know I agree, children need to be, they

need to have an introduction into farms. They need to know that that milk comes from a cow. That cow can lick them in the face, can warm their heart and make them feel good about nature. I happen to believe milk is one of the best things in the world for you. One of the contestants, one of them that I was most impressed with actually lost fifty pounds before coming to this contest and part of her diet, a major part of her diet, was drinking milk and it just showed that you can do it and do it a healthy way. I sound like I’m advertising but I have to say when I watch the commercials that advertise California cows I want to stand up and say, ‘Washington cows are better’ and I too have milked the Washington cows and I really applaud everything that all of you are doing every year to make sure that the dairy industry is recognized. Thank you.”

PERSONAL PRIVILEGE

Senator Honeyford: “Thank you Mr. President. I have the privilege and honor of representing lower Yakima County and I would like to point out that Yakima County has the largest dairy herds and production of milk in the state. I would point out too, and I am proud of this, that the Ambassador is from the lower Yakima Valley and we have two young ladies that are from Sunnyside and so I believe that you will all recognize how well the dairy industry is represented by these people. Get milk.”

MOTION

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

MOTION

Senator Haugen moved adoption of the following resolution:

SENATE RESOLUTION  
8609

By Senators Haugen, King, Swecker, Sheldon, Shin, Nelson, White, Hill, Ericksen, Litzow, Prentice, Delvin, Hobbs, Fain, and Eide

WHEREAS, Billy "Bud" Rhynalds, a twelve-year Washington State Department of Transportation maintenance employee, was killed by a falling tree while setting up safety cones to protect motorists from water over the roadway on Highway 203 near Carnation, Washington, during a powerful storm on January 16, 2011; and

WHEREAS, Mr. Rhynalds came to the Washington State Department of Transportation in 1998 after careers with both the Washington State National Guard and the Weyerhaeuser Company; and

WHEREAS, Mr. Rhynalds was in a position to retire from his employment, but he truly enjoyed working for the Washington State Department of Transportation so much that he could not be convinced by his family to do so; and

WHEREAS, Mr. Rhynalds is survived by his wife, Betty Rhynalds, and a large extended family, including children, grandchildren, brothers, and sisters; and

WHEREAS, Mr. Rhynalds was the 59th Washington State Department of Transportation employee to die on the job during the agency's 105-year history;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially recognize Mr. Rhynalds for: His dedication to the safety of the traveling public; his ultimate

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sacrifice; his deep connection to his family and crew; and his passion for the outdoors; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family of Mr. Rhynalds and to the Secretary of Transportation.

Senators Haugen, King and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8609.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Billy Rhynalds family, Betty Rhynalds, Mr. Rhynalds wife; Aimee Sherrill, daughter; Jerry Sherrill, son-in-law; Baylor Sherrill, grandson; Lauren Sherrill, granddaughter; Greg Rhynalds, brother; Jerrod Rhynalds, nephew; Michael Rhynalds, nephew and numerous friends who were seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Washington State Department of Transportation who were seated in the gallery.

#### MOTION

At 10:36 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, January 27, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTEENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, January 27, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 25, 2011

SB 5063 Prime Sponsor, Senator Haugen: Concerning special license plates for motorcycles. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5063 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hobbs; Litzow; Nelson; Ranker and Shin.

Passed to Committee on Rules for second reading.

January 26, 2011

SB 5085 Prime Sponsor, Senator Kline: Modifying provisions on personal property exempt from execution, attachment, and garnishment. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5085 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

January 25, 2011

SB 5121 Prime Sponsor, Senator Hobbs: Adopting the investments of insurers model act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

January 26, 2011

SB 5195 Prime Sponsor, Senator Kline: Requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5195 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

January 26, 2011

SB 5475 Prime Sponsor, Senator Murray: Regarding education funding. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Parlette; Zarelli; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Keiser; Pflug; Regala; Schoesler and Tom.

Passed to Committee on Early Learning & K-12 Education.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 26, 2011

SGA 9081 KATHLEEN D MIX, reappointed on July 13, 2010, for the term ending June 30, 2016, as Member of the Pollution Control/Shorelines Hearings Board. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5487 by Senators Schoesler, Hatfield, Hobbs, Delvin, Honeyford, Becker and Shin

AN ACT Relating to establishing a certification program for commercial egg laying chicken operations; amending RCW 69.25.150; adding new sections to chapter 69.25 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5488 by Senators Hatfield and Keiser

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AN ACT Relating to facilitating integration of behavioral health care into primary care by reducing regulatory barriers; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5489 by Senators Ericksen, Delvin and Hewitt

AN ACT Relating to exempting public hospital districts from certificate of need requirements; reenacting and amending RCW 70.38.105 and 70.38.111; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5490 by Senators Prentice, Swecker, Shin, White and Sheldon

AN ACT Relating to the use of express toll lanes in the eastside corridor; amending RCW 47.56.810; reenacting and amending RCW 43.84.092; adding new sections to chapter 47.56 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Transportation.

SB 5491 by Senators Nelson, Swecker, Chase and Shin

AN ACT Relating to limiting the authority of boundary review boards to expand an annexation to twice the area of the proposed annexation; and amending RCW 36.93.150.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5492 by Senators Schoesler, Hatfield and Hewitt

AN ACT Relating to the Washington beer commission; and amending RCW 15.89.020, 15.89.040, 15.89.050, 15.89.100, and 15.89.110.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5493 by Senators Delvin and Hewitt

AN ACT Relating to requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility; and amending RCW 35.21.766.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5494 by Senators Brown, Zarelli and Shin

AN ACT Relating to changing the default investment option for new members of the defined contribution portion of the plan 3 retirement systems; and amending RCW 41.34.130, 41.34.060, and 41.34.140.

Referred to Committee on Ways & Means.

SB 5495 by Senators Kohl-Welles and Pflug

AN ACT Relating to shareholder quorum and voting requirements under the Washington business corporation act; and adding a new section to chapter 23B.17 RCW.

Referred to Committee on Judiciary.

SB 5496 by Senators Schoesler, Sheldon, Honeyford and Carrell

AN ACT Relating to siting new mobile home parks and manufactured housing communities; reenacting and amending RCW 82.02.090; adding a new section to chapter 36.70A RCW; and adding a new section to chapter 43.21C RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5497 by Senators Sheldon, Pflug and Carrell

AN ACT Relating to the removal of a mobile home, manufactured home, or park model from a mobile home park after default; and amending RCW 59.20.074.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5498 by Senators Kline, Shin, Conway, Rockefeller, Kohl-Welles, Keiser and Chase

AN ACT Relating to for hire vehicles and for hire vehicle operators; amending RCW 81.72.210; adding new sections to chapter 51.12 RCW; adding a new section to chapter 51.16 RCW; adding a new section to chapter 46.72 RCW; adding a new section to chapter 81.72 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5499 by Senators Chase, Kohl-Welles and Shin

AN ACT Relating to utility donations to hunger programs; adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.92 RCW; adding a new section to chapter 35A.80 RCW; and adding a new section to chapter 80.28 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5500 by Senators Baumgartner, Chase, Kastama, Zarelli, Schoesler, Shin, Holmquist Newbry, Delvin, Parlette, Kilmer and Roach

AN ACT Relating to the rule-making process for state economic policy; and amending RCW 43.21H.020, 19.85.030, and 19.85.070.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5501 by Senators Murray, Kilmer, Schoesler, Conway, Honeyford, Kohl-Welles, Keiser, Shin, Holmquist Newbry and White

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AN ACT Relating to the taxation of employee meals provided without specific charge; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

**SB 5502** by Senators White, Nelson, Keiser, Ranker, Kohl-Welles, Rockefeller, Murray, Litzow, Harper, Fain, Swecker, Delvin and Shin

AN ACT Relating to the regulation, operations, and safety of limousine carriers; amending RCW 46.72A.010, 46.72A.020, 46.72A.030, 46.72A.040, 46.72A.050, 46.72A.060, 46.72A.080, 46.72A.090, 46.72A.100, 46.72A.120, and 46.72A.140; adding new sections to chapter 46.72A RCW; creating a new section; prescribing penalties; and providing effective dates.

Referred to Committee on Transportation.

**SB 5503** by Senator Pridemore

AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government; amending RCW 43.17.010, 43.17.020, 42.17A.705, 42.17.2401, 43.19.011, 43.19.035, 43.19.125, 43.19.180, 43.19.185, 43.19.190, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.19191, 43.19.1920, 43.19.19201, 43.19.1921, 43.19.200, 43.19.450, 43.19.455, 43.19.500, 43.19.501, 43.19.534, 43.19.538, 43.19.539, 43.19.560, 43.19.565, 43.19.585, 43.19.600, 43.19.620, 43.19.635, 43.19.710, 19.27.070, 19.27A.140, 39.34.055, 39.35.030, 39.35C.010, 39.35D.020, 43.19A.010, 43.19A.022, 39.32.035, 43.01.225, 43.19.025, 43.82.120, 43.82.125, 43.99H.070, 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 1.08.039, 15.24.085, 15.62.190, 16.67.170, 28A.300.040, 28B.10.029, 40.04.030, 40.06.030, 40.07.050, 43.08.061, 41.06.020, 41.06.076, 41.06.080, 41.06.093, 41.06.110, 41.06.120, 41.06.142, 41.06.152, 41.06.167, 41.06.169, 41.06.170, 41.06.220, 41.06.260, 41.06.270, 41.06.280, 41.06.285, 41.06.350, 41.06.395, 41.06.400, 41.06.410, 41.06.420, 41.06.476, 41.06.490, 41.06.510, 41.06.530, 34.05.030, 41.04.340, 41.04.385, 41.04.395, 41.04.670, 41.04.680, 41.04.685, 41.04.720, 41.04.770, 41.07.020, 41.07.030, 41.60.015, 41.80.005, 41.80.020, 42.16.010, 42.17.370, 43.01.040, 43.01.135, 43.03.028, 43.03.120, 43.03.130, 43.06.013, 43.06.410, 43.06.425, 43.33A.100, 43.105.052, 43.130.060, 43.131.090, 48.37.060, 49.46.010, 49.74.020, 49.74.030, 49.90.010, 50.13.060, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.360, 43.41.370, 43.41.380, 43.41.110, 4.92.006, 4.92.040, 4.92.130, 4.92.150, 4.92.160, 4.92.210, 4.92.270, 4.92.280, 10.92.020, 48.62.021, 48.64.010, 39.29.011, 39.29.016, 39.29.018, 39.29.025, 39.29.055, 39.29.065, 39.29.075, 39.29.090, 39.29.100, 39.29.110, 39.29.120, 43.88.580, 43.105.080, and 43.105.320; reenacting and amending RCW 41.06.070, 41.06.133, 41.06.150, 41.04.665, 42.17A.110, 49.46.010, and 39.29.068; adding new sections to chapter 43.19 RCW; adding new sections to chapter 41.06 RCW; adding a new section to chapter 43.41 RCW; adding a new section to chapter 41.80 RCW; creating new sections; recodifying

RCW 43.78.030, 43.78.070, 43.78.090, 43.78.100, 43.78.105, 43.41.280, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.350, 43.41.360, 43.41.370, 43.41.380, 43.105.080, 43.105.320, 43.105.374, and 43.105.410; decodifying RCW 43.19.123; repealing RCW 43.19.010, 43.19.1923, 43.19.1925, 43.19.590, 43.19.595, 43.19.615, 43.19.675, 43.19.680, 43.78.010, 43.78.020, 43.78.040, 43.78.050, 43.78.080, 41.06.030, 41.06.111, 41.06.130, 41.06.139, 41.06.155, 41.06.160, 41.06.480, 41.07.900, 43.105.300, and 43.105.360; repealing 2010 c 271 s 301; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

**SB 5504** by Senators Eide, Kohl-Welles and Keiser

AN ACT Relating to unlicensed child care; amending RCW 43.215.300 and 43.215.370; adding a new section to chapter 43.215 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

**SB 5505** by Senators Hill, Chase, Fain, Pridemore, Stevens, Nelson, Litzow, Swecker, Honeyford and Schoesler

AN ACT Relating to allowing the use of federal census data to determine the resident population of annexed territory; and amending RCW 35.13.260 and 35A.14.700.

Referred to Committee on Government Operations, Tribal Relations & Elections.

**SB 5506** by Senators Sheldon and Morton

AN ACT Relating to metal detectors in Washington state parks; adding a new section to chapter 79A.05 RCW; and creating a new section.

Referred to Committee on Natural Resources & Marine Waters.

**SB 5507** by Senators Kilmer, White, Chase, Nelson, Keiser, Conway, Kline, Kohl-Welles and Murray

AN ACT Relating to academic employee salary increments for community and technical colleges; adding new sections to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

**SB 5508** by Senators Parlette, Keiser, Becker, Murray, Zarelli, Hewitt, Kilmer and Shin

AN ACT Relating to continuation of the joint legislative select committee on health reform implementation; creating a new section; and providing an expiration date.

Referred to Committee on Health & Long-Term Care.

**SB 5509** by Senators Kline and Rockefeller

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AN ACT Relating to mitigating carbon dioxide emissions resulting from fossil-fueled electrical generation; and amending RCW 80.70.010 and 80.70.020.

Referred to Committee on Environment, Water & Energy.

SB 5510 by Senators Rockefeller and Nelson

AN ACT Relating to null power; amending RCW 19.29A.010, 19.29A.060, and 80.80.040; and reenacting and amending RCW 80.80.010.

Referred to Committee on Environment, Water & Energy.

SB 5511 by Senators Rockefeller, Ranker, McAuliffe and Hobbs

AN ACT Relating to providing a limited exemption from school day and hour requirements in order to mitigate state funding reductions; creating a new section; providing an expiration date; and declaring an emergency.

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

SB 5512 by Senator Roach

AN ACT Relating to increasing access to public records; amending RCW 42.56.530; reenacting and amending RCW 42.56.550; adding a new section to chapter 42.56 RCW; and creating new sections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5513 by Senators Roach, Prentice, Hargrove, Stevens and Shin

AN ACT Relating to child protective services workers; and adding a new section to chapter 26.44 RCW.

Referred to Committee on Human Services & Corrections.

#### MOTION

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

#### MOTION

At 12:02 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, January 28, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINETEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, January 28, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Erickson, Haugen, Holmquist Newbry, Ranker, Sheldon, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Elizabeth Gallagher and Theresa Gallagher, presented the Colors. Chaplain Nolin Han Stratton of the Seattle Division of the Department of Veterans Affairs Puget Sound Health Care System offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 26, 2011

SB 5036 Prime Sponsor, Senator Regala: Eliminating expiration dates for the derelict vessel and invasive species removal fee. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5036 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 26, 2011

SB 5090 Prime Sponsor, Senator Regala: Extending the expiration date of the invasive species council and the invasive species council account from December 31, 2011, to June 30, 2017. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

January 27, 2011

SB 5183 Prime Sponsor, Senator White: Recognizing "Native American Heritage Day." Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

January 26, 2011

SB 5230 Prime Sponsor, Senator Ranker: Establishing the Puget Sound corps. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5230 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2011

SB 5307 Prime Sponsor, Senator Kilmer: Concerning evaluating military training and experience toward meeting licensing requirements in medical professions. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5307 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

January 27, 2011

SGA 9134 SUZAN DELBENE, appointed on December 16, 2010, for the term ending at the governors pleasure, as Member of the Department of Revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Fraser; Hatfield; Hewitt; Holmquist Newbry; Keiser; Kohl-Welles; Regala; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

NINETEENTH DAY, JANUARY 28, 2011

2011 REGULAR SESSION

January 27, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

CHRIS MARR, appointed February 1, 2011, for the term ending January 15, 2017, as Member of the Liquor Control Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

## MOTION

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

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5514 by Senators Pflug and Keiser

AN ACT Relating to the health care facilities authority; amending RCW 70.37.010 and 70.37.030; and reenacting and amending RCW 70.37.050.

Referred to Committee on Health & Long-Term Care.

SB 5515 by Senators Pflug, Keiser, Becker, Kastama, Murray, Parlette and Shin

AN ACT Relating to freestanding emergency rooms; amending RCW 70.41.020 and 43.70.052; adding new sections to chapter 70.41 RCW; creating a new section; providing an expiration date; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

SB 5516 by Senators Tom, Hill, Becker, Kilmer, White and Shin

AN ACT Relating to advance payments for equipment maintenance services for institutions of higher education; and amending RCW 43.88.160.

Referred to Committee on Higher Education & Workforce Development.

SB 5517 by Senators Tom, Hill, Kilmer and Shin

AN ACT Relating to exempting institutions of higher education that do not use archives and records management services from payment for those services; and amending RCW 40.14.025.

Referred to Committee on Higher Education & Workforce Development.

SB 5518 by Senators Tom, Hill and Kilmer

AN ACT Relating to direct deposit of salaries; and amending RCW 41.04.240 and 42.16.010.

Referred to Committee on Ways & Means.

SB 5519 by Senators Tom, Hill, Kilmer and Shin

AN ACT Relating to public contracting authority; amending RCW 28B.10.029, 39.04.370, 39.29.011, 39.29.018, and 43.19.1906; and reenacting and amending RCW 39.29.040.

Referred to Committee on Higher Education & Workforce Development.

SB 5520 by Senators Tom and Kilmer

AN ACT Relating to rates and charges for storm water control facilities; and amending RCW 35.67.025 and 35.92.021.

Referred to Committee on Environment, Water & Energy.

SB 5521 by Senators Tom, Kastama, Kilmer and Shin

AN ACT Relating to the commercialization of state university technology; and amending RCW 28B.10.631 and 42.56.270.

Referred to Committee on Higher Education & Workforce Development.

SB 5522 by Senators Tom and Murray

AN ACT Relating to creating the office of the superintendent of public instruction as an executive branch agency; amending RCW 28A.300.010, 28A.300.030, 28A.300.035, 28A.300.040, 43.17.010, 43.17.020, 42.17A.705, 29A.04.110, 29A.24.191, 29A.32.031, 29A.36.121, 29A.52.231, 43.01.010, 43.01.020, and 43.03.010; reenacting and amending RCW 42.17A.005; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; recodifying RCW 28A.300.010, 28A.300.020, 28A.300.030, 28A.300.040, 28A.300.050, 28A.300.120, and 28A.300.220; and providing a contingent effective date.

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

SB 5523 by Senators Tom, Litzow, Hobbs, Zarelli, Hatfield, Kastama, Haugen, Rockefeller, Hewitt, Schoesler and Shin

AN ACT Relating to state printing; amending RCW 1.08.039, 28A.300.040, 28B.10.029, 40.04.090, 40.06.030, 41.06.142, and 43.08.061; reenacting and amending RCW 41.06.070; creating new sections; repealing RCW 43.78.010, 43.78.020, 43.78.030, 43.78.040, 43.78.050, 43.78.070, 43.78.080, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 15.24.085, 15.62.190, 16.67.170, 40.04.030, and 40.07.050; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

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SB 5524 by Senators White, Nelson, Hill, Delvin, Kilmer and Kohl-Welles

AN ACT Relating to exempting low-income housing from impact fees; and amending RCW 82.02.060 and 43.21C.065.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5525 by Senators Kilmer and Carrell

AN ACT Relating to hospital benefit zones that have already formed; and amending RCW 39.100.020, 82.14.465, and 82.14.470.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5526 by Senators Regala, Delvin, Eide, Zarelli, Murray, Pridemore, Holmquist Newbry, Morton, Hewitt, Chase, Honeyford, Fraser and McAuliffe

AN ACT Relating to incentives for stirling converters; amending RCW 82.04.294; and reenacting and amending RCW 82.16.110 and 82.16.120.

Referred to Committee on Environment, Water & Energy.

SB 5527 by Senators Hargrove, Carrell and Shin

AN ACT Relating to the use of an electronic benefit transfer system for the delivery of subsidized child care; adding a new section to chapter 43.215 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SB 5528 by Senators Regala and Haugen

AN ACT Relating to eliminating the handling loss deduction for the motor vehicle fuel tax; repealing RCW 82.36.029; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5529 by Senators Pridemore and Ranker

AN ACT Relating to hydraulic project approval; amending RCW 77.55.011, 77.55.021, 77.55.031, and 77.55.141; adding new sections to chapter 77.55 RCW; creating new sections; repealing RCW 77.15.300 and 77.55.291; prescribing penalties; and providing expiration dates.

Referred to Committee on Natural Resources & Marine Waters.

SB 5530 by Senators Swecker, Kastama and Shin

AN ACT Relating to appeal and permit procedures under the shoreline management act; and amending RCW 90.58.180, 36.70C.030, 90.58.140, 34.05.461, and 43.21C.075.

Referred to Committee on Natural Resources & Marine Waters.

SB 5531 by Senators King, Prentice, Keiser and Shin

AN ACT Relating to the judicial costs of commitments for involuntary mental health treatment; amending RCW 71.05.110 and 71.24.300; reenacting and amending RCW 71.05.230; adding a new section to chapter 71.05 RCW; creating new sections; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SB 5532 by Senators Chase, Hobbs, King, Haugen, Delvin, Hill and White

AN ACT Relating to state route number 522; and creating new sections.

Referred to Committee on Transportation.

SB 5533 by Senators Hargrove, Fraser and Carrell

AN ACT Relating to court-ordered legal financial obligations collected by the county clerks; and amending RCW 2.56.190, 4.56.190, 9.94A.7606, 9.94A.7607, 9.94A.7608, and 9.94A.7609.

Referred to Committee on Human Services & Corrections.

SB 5534 by Senators Murray, Zarelli and Kohl-Welles

AN ACT Relating to the business and occupation taxation of newspapers; amending RCW 82.04.214 and 82.04.260; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5535 by Senators Honeyford, Kastama, Morton, Kilmer, Parlette, Becker, Stevens, Litzow, McAuliffe, Shin, Roach and Chase

AN ACT Relating to providing tax incentives for donations of modern laboratory equipment to higher education institutions and vocational skills centers; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5536 by Senators Rockefeller, Honeyford, Ranker, Nelson, Shin and Kline

AN ACT Relating to the management of water resources; amending RCW 90.03.255, 90.44.055, 90.44.050, 90.14.140, 90.14.160, 90.14.170, 90.14.180, 90.03.380, 90.03.380, 90.44.100, 90.44.100, 90.82.040, 90.82.043, 90.82.060, 90.82.060, and 90.03.470; reenacting and amending RCW 90.14.140; adding new sections to chapter 90.03 RCW; adding a new section to chapter 90.54 RCW; creating new sections; repealing RCW 90.14.240; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5537 by Senators White and Prentice

AN ACT Relating to soliciting or accepting campaign contributions; reenacting and amending RCW 42.17.710 and

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42.17A.560; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5538 by Senator White

AN ACT Relating to members of certain nonprofit conservation corps programs; and adding a new section to chapter 50.65 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5539 by Senators Kohl-Welles, Prentice, White, Kilmer, Brown and McAuliffe

AN ACT Relating to Washington's motion picture competitiveness; amending RCW 43.365.020, 43.365.030, and 82.04.4489; and reenacting and amending RCW 43.365.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5540 by Senators Hobbs, Delvin, King and Hewitt

AN ACT Relating to automated school bus safety cameras; amending RCW 46.61.370, 46.63.030, 46.63.030, 46.63.075, 46.63.075, 46.16A.120, and 46.16A.120; adding a new section to chapter 46.63 RCW; creating a new section; prescribing penalties; and providing a contingent effective date.

Referred to Committee on Transportation.

SB 5541 by Senators Murray, Delvin, Haugen, Roach, King, White, Shin, Kohl-Welles and Kline

AN ACT Relating to regional mobility grants and tax incentives for improving transportation connectivity and efficiency; and amending RCW 47.66.030 and 82.80.030.

Referred to Committee on Transportation.

SB 5542 by Senators Delvin, Prentice, Honeyford, Hatfield, Schoesler, Hobbs and Hewitt

AN ACT Relating to establishing special license endorsements for cigar lounges and retail tobacconist shops; amending RCW 70.160.060; adding new sections to chapter 82.26 RCW; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5543 by Senators Hargrove, Kohl-Welles, Chase, Nelson, Haugen, Swecker, Shin and Conway

AN ACT Relating to fire protection firms; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5544 by Senators Fraser and Zarelli

AN ACT Relating to sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue; amending RCW 82.08.02565, 82.04.120, and 82.32.585; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5545 by Senators Delvin, Kohl-Welles, Hargrove, Stevens, Fraser, Swecker, Chase, McAuliffe, White, Eide, Roach, Shin and Regala

AN ACT Relating to police investigations of commercial sexual exploitation of children and human trafficking; amending RCW 9.73.230 and 9.73.210; reenacting and amending RCW 9.68A.110; creating a new section; and providing an effective date.

Referred to Committee on Human Services & Corrections.

SB 5546 by Senators Kohl-Welles, Delvin, Chase, Pflug, Fraser, Keiser, Rockefeller, Regala, Kline, Holmquist Newbry, King, Shin, White, Stevens, Roach and Conway

AN ACT Relating to the crime of human trafficking; and amending RCW 9A.40.100 and 9A.40.010.

Referred to Committee on Judiciary.

SB 5547 by Senators Prentice, Benton and Hewitt

AN ACT Relating to removing the cap on the maximum number of small loans a borrower may have in a twelve-month period; and amending RCW 31.45.073.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5548 by Senators King and Keiser

AN ACT Relating to increasing the number of primary health care providers in Washington; adding a new section to chapter 28B.115 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5549 by Senators Murray, Regala, Kohl-Welles, White and Tom

AN ACT Relating to physical therapy; amending RCW 18.74.010 and 18.74.035; adding a new section to chapter 18.74 RCW; and repealing RCW 18.74.085.

Referred to Committee on Health & Long-Term Care.

SB 5550 by Senators Regala, Ranker, Swecker, Hargrove, Morton, Stevens, Fraser, Shin and Kohl-Welles

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AN ACT Relating to annual rent rates for marina; amending RCW 79.105.060 and 79.105.240; adding a new section to chapter 79.105 RCW; and creating a new section.

SB 5557 by Senators Prentice, Chase, Hobbs, White, McAuliffe, Nelson, Hargrove, Kastama, Regala, Rockefeller, Hatfield and Shin

Referred to Committee on Natural Resources & Marine Waters.

AN ACT Relating to the Washington state office of civil rights; amending RCW 42.17.2401, 42.17A.705, 43.03.028, 43.17.010, 43.17.020, 39.19.020, 39.19.030, 39.19.060, 39.19.070, 39.19.075, 39.19.080, 39.19.120, 39.19.150, 39.19.170, 39.19.200, 39.19.240, 39.19.250, 39.10.220, 39.10.385, 39.10.450, 39.102.100, 43.63A.690, 49.60.010, 49.60.040, 49.60.100, 49.60.120, 49.60.150, 49.60.160, 49.60.170, 49.60.180, 49.60.226, 49.60.230, 49.60.240, 49.60.250, 49.60.260, 49.60.270, 49.60.310, 49.60.320, 49.60.340, 49.60.350, 49.60.360, 49.60.370, 2.56.031, 13.06.050, 28B.10.912, 28B.10.916, 28B.110.030, 28B.110.050, 34.12.037, 43.01.135, 43.43.340, 49.44.090, 49.74.010, 49.74.020, 49.74.030, 49.74.040, 43.60A.190, 43.60A.195, and 43.60A.200; reenacting and amending RCW 47.28.030, 43.86A.060, and 41.06.150; adding new sections to chapter 39.19 RCW; adding a new section to chapter 41.06 RCW; creating new sections; recodifying RCW 43.60A.190, 43.60A.195, and 43.60A.200; repealing RCW 39.19.010, 39.19.041, 39.19.140, 39.19.910, 39.19.920, 39.19.921, 41.06.082, 49.60.050, 49.60.051, 49.60.060, 49.60.070, 49.60.080, 49.60.090, 49.60.130, 49.60.390, 43.113.005, 43.113.010, 43.113.020, 43.113.030, 43.115.010, 43.115.020, 43.115.030, 43.115.040, 43.115.045, 43.115.060, 43.115.900, 43.117.010, 43.117.020, 43.117.030, 43.117.040, 43.117.050, 43.117.060, 43.117.070, 43.117.080, 43.117.090, 43.117.100, and 43.117.900; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

SB 5551 by Senators Ranker, Swecker, Sheldon, Regala and Stevens

AN ACT Relating to the forestry riparian easement program; amending RCW 76.13.120, 76.13.140, and 76.13.160; creating a new section; and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

SB 5552 by Senators Kohl-Welles, Holmquist Newbry, Keiser, Conway, King and Shin

AN ACT Relating to protections against workplace harassment in antiharassment protection orders; and amending RCW 10.14.010, 10.14.020, 10.14.040, and 10.14.080; and adding new sections to chapter 10.14 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5553 by Senators Roach, Pridemore and Chase

AN ACT Relating to posting information on public agencies' web sites; adding a new section to chapter 42.30 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5554 by Senators Roach and Chase

AN ACT Relating to identifying marks on ballots; and amending RCW 29A.36.111.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SJR 8212 by Senator Tom

Eliminating the superintendent of public instruction as a statewide elected official.

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

SB 5555 by Senators Parlette, Hatfield, Morton, Honeyford and Hewitt

AN ACT Relating to interbasin transfers of water rights; amending RCW 90.03.380 and 90.03.380; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5529 which was referred to the Committee on Natural Resources & Marine Waters.

The President announced the appointment of Senator Erickson to the Committee on Economic Development, Trade and Innovation.

SB 5556 by Senators Prentice, Fain and Keiser

AN ACT Relating to social card games in an area annexed by a city or town that allowed a house-banked social card game business to continue operating under RCW 9.46.295; and amending RCW 9.46.295.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

On motion of Senator Eide, the appointment was confirmed.

MOTION

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

Senator Becker moved adoption of the following resolution:

SENATE RESOLUTION  
8608

By Senators Becker, Benton, Fain, King, Schoesler, Stevens,  
Litzow, Honeyford, Morton, Delvin, and Swecker

WHEREAS, Rainier Connect has been serving the town of Eatonville for over 100 years; and

WHEREAS, Rainier Connect has been able to expand into neighboring South Sound communities; and

WHEREAS, Rainier Connect began as Mt. Tahoma Telephone and Telegraph in 1910 and, after several name changes, became Rainier Connect in 1995 and began providing internet access among other services; and

WHEREAS, The Christensen family took over the company in 1912 and it has now been in the Haynes family for five generations; and

WHEREAS, The history of Rainier Connect is deeply rooted in its family values; and

WHEREAS, Rainier Connect is devoted to the community;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate commemorate Rainier Connect on the occasion of its centennial; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Rainier Connect.

Senator Becker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8608.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Rainier Connect Company, Brian Haynes, Rainier Connect CEO & President; wife Aimee Hayes, children Ben & Jack; Dale Haynes; employees; Ronnie Johnson, Tim Patterson, Debbie Reding, Kelly Wienholz, Mark Carrier, Amanda Singleton, Andrew Imholt, Nick Emery, Lorraine Chambers and Dawn Davis who were seated in the gallery

MOTION

At 10:13 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, January 31, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SECOND DAY

NOON SESSION

Senate Chamber, Olympia, Monday, January 31, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 28, 2011

SB 5170 Prime Sponsor, Senator Holmquist Newbry: Increasing the number of judges to be elected in Grant county. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Regala and Roach.

Passed to Committee on Rules for second reading.

January 27, 2011

SB 5252 Prime Sponsor, Senator Haugen: Streamlining the process applicable to reducing speed limits on state highways. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5252 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

January 27, 2011

SB 5260 Prime Sponsor, Senator King: Modifying combination of vehicle provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5558 by Senators Hargrove, Regala and Harper

AN ACT Relating to the dissemination of juvenile records by consumer reporting agencies; and adding a new chapter to Title 13 RCW.

Referred to Committee on Human Services & Corrections.

SB 5559 by Senators Morton and Hewitt

AN ACT Relating to county use of moneys collected from certain county sales and use taxes; and amending RCW 82.14.460.

Referred to Committee on Human Services & Corrections.

SB 5560 by Senator Morton

AN ACT Relating to authorizing the issuance of one license plate upon request of the vehicle owner; and amending RCW 46.16A.200.

Referred to Committee on Transportation.

SB 5561 by Senators Swecker and Shin

AN ACT Relating to designating the state rock; adding a new section to chapter 1.20 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5562 by Senators Delvin, Hewitt, Schoesler, Becker, Stevens, Honeyford and Shin

AN ACT Relating to creating a task force on construction crane safety review; creating a new section; and providing an expiration date.

Referred to Committee on Transportation.

SB 5563 by Senators Delvin, Schoesler, Hewitt, Stevens, Honeyford and Sheldon

AN ACT Relating to temporarily suspending provisions of the energy independence act during periods of economic downturn; amending RCW 19.285.040; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5564 by Senators Delvin, Carrell, Morton, Stevens, Hewitt, Ericksen, Honeyford, Zarelli, Roach and Sheldon

AN ACT Relating to promoting the development and construction of nuclear energy facilities; amending RCW

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80.50.075; adding a new section to chapter 43.21F RCW; creating new sections; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Environment, Water & Energy.

SB 5571 by Senator Rockefeller

SB 5565 by Senators Fraser and Shin

AN ACT Relating to retired local government employees; amending RCW 41.05.011, 41.04.208, and 41.05.022; reenacting and amending RCW 41.05.080 and 41.05.120; adding a new section to chapter 41.04 RCW; and providing an effective date.

AN ACT Relating to the permitting of anaerobic digestion under the clean air act; amending RCW 70.94.161; adding a new section to chapter 70.94 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5572 by Senators Kilmer, Becker, Shin, Haugen, Hobbs and Conway

SB 5566 by Senators Kohl-Welles and Kline

AN ACT Relating to reducing long-term disability for injured workers and resulting costs to Washington's workers' compensation system; amending RCW 51.04.110, 51.32.060, 51.32.067, 51.32.080, 51.32.160, and 51.36.010; reenacting and amending RCW 51.32.090; adding a new section to chapter 49.17 RCW; adding new sections to chapter 51.32 RCW; providing an effective date; and declaring an emergency.

AN ACT Relating to the running start program; and amending RCW 28A.600.310.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5573 by Senators Pridemore, Kline, Delvin and Shin

AN ACT Relating to shared parenting and out-of-home placement program; adding a new chapter to Title 71A RCW; and repealing RCW 74.13.350.

Referred to Committee on Human Services & Corrections.

SB 5567 by Senators Regala, Hobbs and White

AN ACT Relating to adjusting the property tax levy lid limits for certain local services; amending RCW 84.55.050, 84.55.0101, 71.20.110, 73.08.080, 84.52.069, 84.52.043, and 84.52.010; and creating a new section.

SB 5574 by Senators Harper and Kline

AN ACT Relating to collection agencies; amending RCW 19.16.500; reenacting and amending RCW 19.16.250; and creating a new section.

Referred to Committee on Judiciary.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5575 by Senators Hatfield, Delvin, Eide, Schoesler, Haugen, Shin, Kilmer, Hobbs, Becker, Honeyford, Conway and Sheldon

AN ACT Relating to promoting and sustaining investment and employment in economically distressed communities dependent on agricultural or natural resource industries by recognizing certain biomass energy facilities constructed before March 31, 1999, as an eligible renewable resource; amending RCW 19.285.030; and creating new sections.

SB 5568 by Senators Eide, Hobbs, McAuliffe and Shin

AN ACT Relating to equity in school district salary allocations; reenacting and amending RCW 84.52.0531; adding new sections to chapter 28A.150 RCW; providing an effective date; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

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

SB 5569 by Senator Honeyford

AN ACT Relating to postretirement employment at institutions of higher education; amending RCW 41.32.570; and declaring an emergency.

SB 5576 by Senators Kilmer, Zarelli, Tom and Shin

AN ACT Relating to capital construction and building purposes at the University of Washington and Washington State University; amending RCW 28B.20.382, 28B.20.720, 28B.20.721, 28B.20.725, 28B.20.800, 28B.20.810, 43.79.080, 28B.30.700, 28B.30.710, 28B.30.720, 28B.30.741, 28B.30.742, 28B.30.750, 43.79.110, 43.79.130, and 28B.30.740; and reenacting and amending RCW 28B.15.210 and 28B.15.310.

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Ways & Means.

SB 5570 by Senators Honeyford, Hatfield, Holmquist Newbry, Stevens, Parlette, King, Schoesler and Becker

AN ACT Relating to prohibiting the impoundment of farm vehicles under certain conditions; amending RCW 46.55.113; and providing an effective date.

SB 5577 by Senators Delvin, Hatfield, Haugen and Shin

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AN ACT Relating to food and beverage service worker's permits; and adding a new section to chapter 69.06 RCW.

SB 5584 by Senators Harper, Kohl-Welles and Kline

Referred to Committee on Labor, Commerce & Consumer Protection.

AN ACT Relating to conforming with federal labor standards for apprenticeship programs; amending RCW 49.04.010, 49.04.030, 49.04.040, 49.04.050, and 49.04.060; and adding a new section to chapter 49.04 RCW.

SB 5578 by Senator White

AN ACT Relating to the frequency of meetings of the motorcycle safety education advisory board; and amending RCW 46.20.520.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Transportation.

SB 5585 by Senator Carrell

SB 5579 by Senators Kline and Pflug

AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020, and 10.14.080; adding a new section to chapter 10.14 RCW; and repealing RCW 10.14.055.

AN ACT Relating to street rod and custom vehicles; amending RCW 46.16A.060 and 46.12.560; adding new sections to chapter 46.04 RCW; adding new sections to chapter 46.12 RCW; adding a new section to chapter 46.37 RCW; repealing RCW 46.04.3815, 46.04.571, 46.12.705, and 46.12.710; and providing an effective date.

Referred to Committee on Judiciary.

Referred to Committee on Transportation.

SB 5580 by Senators Regala and Kline

AN ACT Relating to orders of disposition for juveniles; and amending RCW 13.40.127, 46.20.270, 46.20.270, 9.41.040, 13.04.155, and 13.40.180.

SB 5586 by Senators Carrell and Becker

Referred to Committee on Human Services & Corrections.

AN ACT Relating to the effect of zoning ordinances on motor vehicle collection and restoration; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; and adding a new section to chapter 36.70A RCW.

SB 5581 by Senators Keiser, Parlette, Hargrove, Shin, Conway and Kline

AN ACT Relating to a nursing home safety net assessment for increased nursing home payments to improve health care access for the citizens of Washington; amending RCW 74.46.024, 74.46.431, 74.46.433, 74.46.435, 74.46.437, and 74.46.521; reenacting and amending RCW 43.84.092; adding a new section to chapter 76.46 RCW; adding a new chapter to Title 74 RCW; prescribing penalties; providing an expiration date; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Ways & Means.

SB 5587 by Senators Schoesler, Sheldon, Zarelli, King, Tom, Delvin, Honeyford and Hewitt

AN ACT Relating to terminating the low-income property tax deferral program; and amending RCW 84.37.030.

Referred to Committee on Ways & Means.

SB 5582 by Senators Conway and Kohl-Welles

AN ACT Relating to administrative efficiencies for the workers' compensation program; amending RCW 51.04.030, 51.04.082, 51.16.140, 51.24.060, 51.32.073, 51.32.240, 51.48.120, 51.48.150, and 51.52.050; and adding a new section to chapter 51.14 RCW.

SB 5588 by Senators Schoesler, King, Pridemore, Tom, Zarelli, Ericksen, Honeyford and Hewitt

AN ACT Relating to repealing the unfunded state remittance for persons eligible for the federal earned income tax credit; and repealing RCW 82.08.0206 and 82.08.02061.

Referred to Committee on Ways & Means.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5589 by Senator Morton

AN ACT Relating to heavy haul industrial corridors; and amending RCW 46.44.0915.

Referred to Committee on Transportation.

SB 5583 by Senators Kohl-Welles, Holmquist Newbry, Keiser, Conway and Kline

AN ACT Relating to recommendations of the vocational rehabilitation subcommittee for workers' compensation; amending RCW 51.32.095 and 51.32.099; and providing an expiration date.

SB 5590 by Senator Benton

AN ACT Relating to lien holder requirements for certain foreclosure sales; amending RCW 61.24.127; and adding a new section to chapter 64.04 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5598

by Senators Prentice and Kline

SB 5591 by Senator Benton

AN ACT Relating to the dissemination of information pertaining to a deferred prosecution; and amending RCW 10.05.010.

Referred to Committee on Judiciary.

SB 5592 by Senators Shin, Chase and Kline

AN ACT Relating to weapons apparently capable of producing bodily harm in or on the premises of an institution of higher education, or at a college-sponsored event; and amending RCW 9.41.270.

Referred to Committee on Judiciary.

SB 5593 by Senators Kohl-Welles, Keiser, Conway, Kline, Murray and Prentice

AN ACT Relating to the regulation of tanning facilities; adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5594 by Senators Kohl-Welles, Keiser, Prentice, Conway, Kline and Murray

AN ACT Relating to handling of hazardous drugs; adding new sections to chapter 49.17 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5595 by Senator Parlette

AN ACT Relating to distribution of the public utility district privilege tax; amending RCW 54.28.090; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5596 by Senators Parlette, Zarelli, Becker and Hewitt

AN ACT Relating to creating flexibility in the medicaid program; adding a new section to chapter 74.09 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5597 by Senators Delvin, McAuliffe, Parlette and Roach

AN ACT Relating to staying an order terminating parental rights; and adding a new section to chapter 26.33 RCW.

Referred to Committee on Human Services & Corrections.

AN ACT Relating to regulating the production, distribution, and sale of cannabis; amending RCW 66.08.026, 66.08.030, 66.08.050, 66.16.010, 66.16.041, 66.16.060, 66.16.070, 66.16.090, 66.16.120, 66.20.150, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.36.010, 69.50.101, 69.50.201, 69.50.204, 69.50.4013, 69.50.410, 69.50.435, 66.44.010, 10.31.100, 66.44.040, 66.44.170, 66.44.240, 9.94A.518, 9A.16.120, 9.94A.650, 9.94A.660, 9.94A.734, 9.92.070, 13.04.155, 38.38.762, 36.27.020, 46.09.470, 46.61.5249, 69.50.102, 69.50.4121, 66.32.030, 66.32.040, 66.32.070, 66.32.090, 35A.66.020, 66.40.110, 28B.10.575, 43.19.19054, 81.04.530, 69.04.480, and 66.98.010; reenacting and amending RCW 66.04.010, 66.16.040, 13.40.0357, 69.50.505, and 69.50.505; adding a new section to chapter 43.23 RCW; adding new sections to chapter 66.12 RCW; adding a new section to chapter 70.96A RCW; adding new sections to chapter 66.44 RCW; adding a new section to chapter 66.32 RCW; adding a new section to chapter 35A.66 RCW; adding new sections to chapter 66.40 RCW; adding a new chapter to Title 66 RCW; creating new sections; repealing RCW 69.50.4014; prescribing penalties; providing effective dates; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5599

by Senators Kohl-Welles, Conway, Keiser, Kline, Nelson and Harper

AN ACT Relating to the underground economy by addressing the loss in state revenue through misclassification of workers as independent contractors in the construction industry; adding a new section to chapter 18.27 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

## MOTION

On motion of Senator Rockefeller, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5559 which was referred to the Committee on Human Services & Corrections; Senate Bill No. 5571 which was held at the desk; and Senate Bill No. 5581 which was referred to the Committee on Ways & Means.

## MOTION

At 12:02 p.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Tuesday, February 1, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY THIRD DAY

NOON SESSION

Senate Chamber, Olympia, Tuesday, February 1, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

January 28, 2011

SB 5082 Prime Sponsor, Senator Pflug: Regarding the use of electronic signatures and notices. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5082 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Regala and Roach.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5124 Prime Sponsor, Senator White: Modifying elections by mail provisions. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5124 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5135 Prime Sponsor, Senator Kohl-Welles: Responding to the current economic conditions by temporarily modifying the unemployment insurance program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5135 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5165 Prime Sponsor, Senator Schoesler: Limiting changes to commissioner districts during commissioner elections and election filing periods. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5165 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5180 Prime Sponsor, Senator Prentice: Clarifying the method for calculating port commissioner compensation. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5235 Prime Sponsor, Senator Schoesler: Regarding animal health inspections. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5235 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

January 31, 2011

SB 5465 Prime Sponsor, Senator Keiser: Creating the safety net assessment to fund services for people with developmental disabilities. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Parlette; Pflug and Pridemore.

Passed to Committee on Ways & Means.

January 31, 2011

SJR 8205 Prime Sponsor, Senator Carrell: Repealing a conflicting residency requirement for voting in a presidential election. Reported by Committee on Government Operations, Tribal Relations & Elections

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MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

AN ACT Relating to clarifying that a license and endorsement are needed to make small loans; and amending RCW 31.45.073.

Passed to Committee on Rules for second reading.

Referred to Committee on Financial Institutions, Housing & Insurance.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

SB 5602 by Senators Nelson and Kline

January 31, 2011  
SGA 9128 AMANDA ZELLER, appointed on October 22, 2010, for the term ending June 30, 2011, as Member of the Board of Trustees, Eastern Washington University. Reported by Committee on Early Learning & K-12 Education

AN ACT Relating to imposing a maximum interest rate of thirty-six percent per annum on small loans; and amending RCW 31.45.073.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Referred to Committee on Financial Institutions, Housing & Insurance.

Passed to Committee on Higher Education & Workforce Development.

SB 5603 by Senators Tom, McAuliffe, Hobbs, Litzow, Eide, Schoesler and Shin

AN ACT Relating to online learning; and amending RCW 28A.250.005, 28A.250.030, 28A.250.050, and 28A.250.060.

MOTION

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

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

SB 5604 by Senators Nelson, Murray, Rockefeller, Kline, Keiser, Conway, Fraser, Regala, Shin, Kohl-Welles and Chase

MOTION

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

AN ACT Relating to creating clean water jobs through storm water pollution funding; and adding a new chapter to Title 90 RCW.

Referred to Committee on Ways & Means.

MESSAGE FROM THE HOUSE

February 1, 2011

MR. PRESIDENT:

The Speaker has signed:

HOUSE CONCURRENT RESOLUTION NO. 4402.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SB 5605 by Senator Hargrove

AN ACT Relating to the exercise of reasonable care by state employees and its agents at the department of social and health services and the department of corrections; adding new sections to chapter 43.20A RCW; adding new sections to chapter 72.09 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

MOTION

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

SB 5606 by Senators Conway, Hargrove, Kohl-Welles, Zarelli, Hobbs, Delvin and Shin

AN ACT Relating to granting binding interest arbitration rights to certain uniformed personnel; amending RCW 41.80.005 and 41.80.010; adding new sections to chapter 41.80 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

INTRODUCTION AND FIRST READING

SB 5600 by Senators Nelson, Hobbs, Harper, Pridemore and Kline

AN ACT Relating to placing restrictions on, and enforcing the restrictions on, making small loans; amending RCW 31.45.010, 31.45.020, 31.45.073, 31.45.088, 31.45.105, and 31.45.180; and prescribing penalties.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5607 by Senators Hobbs, Fain, Haugen, Harper, White and Ericksen

AN ACT Relating to establishing a process for the payment of impact fees through provisions stipulated in recorded covenants; and amending RCW 82.02.050 and 36.70A.070.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5601 by Senators Nelson and Kline

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SB 5608 by Senators Kilmer, White, Kastama, Shin, Kohl-Welles, Kline and Conway

AN ACT Relating to requests for funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements with the University of Washington under chapter 41.80 RCW; and amending RCW 41.80.010.

AN ACT Relating to assistance for student veterans at institutions of higher education; adding a new section to chapter 28B.35 RCW; and making appropriations.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Higher Education & Workforce Development.

SB 5609 by Senators Kohl-Welles, Conway, Nelson, Kline, Murray and Chase

SB 5615 by Senators Kastama, Honeyford, Chase, Kilmer and Morton

AN ACT Relating to health care financing; amending RCW 41.05.130, 66.24.290, 82.24.020, 82.26.020, 82.08.150, and 41.05.220; reenacting and amending RCW 41.05.120 and 43.79.480; adding new sections to chapter 82.02 RCW; adding a new chapter to Title 43 RCW; creating new sections; repealing RCW 82.04.260 and 48.14.0201; providing effective dates; and providing an expiration date.

AN ACT Relating to preserve and advance telecommunications service and connectivity in the state through regulatory parity for incumbent local exchange companies; amending RCW 80.36.610 and 80.36.450; adding new sections to chapter 80.36 RCW; creating a new section; and repealing RCW 80.36.135.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Environment, Water & Energy.

SB 5610 by Senators Conway, Harper and Murray

SB 5616 by Senators Tom, Litzow, McAuliffe, Hill and Shin

AN ACT Relating to creating the board on geographic names; amending RCW 43.30.215; and adding new sections to chapter 43.30 RCW.

AN ACT Relating to the opportunity to earn postsecondary credit during high school; amending RCW 28A.230.130; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.76 RCW; and creating new sections.

Referred to Committee on Government Operations, Tribal Relations & Elections.

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

SB 5611 by Senators Hobbs, Hatfield, Delvin, Shin and Honeyford

SB 5617 by Senators Hobbs and Fain

AN ACT Relating to the use of designated agricultural lands; amending RCW 36.70A.060; and creating a new section.

AN ACT Relating to group disability insurance; and amending RCW 48.21.010.

Referred to Committee on Agriculture & Rural Economic Development.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5612 by Senators Hobbs, Tom and Schoesler

SB 5618 by Senators Chase, Kline and Hobbs

AN ACT Relating to requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority; amending RCW 28A.400.270, 28A.400.275, 28A.400.350, 41.05.011, 41.05.021, and 41.05.050; and creating a new section.

AN ACT Relating to limiting private activity bond issues by out-of-state issuers; amending RCW 39.46.020 and 39.86.140; and adding a new section to chapter 39.46 RCW.

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

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5613 by Senators Hobbs, Tom, Rockefeller, Pridmore, Schoesler and Shin

SB 5619 by Senators Keiser, Becker, Carrell, Parlette and Shin

AN ACT Relating to requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority; and amending RCW 28A.400.270, 28A.400.275, 28A.400.350, 41.05.011, 41.05.021, and 41.05.050.

AN ACT Relating to clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW; and amending RCW 70.230.010 and 70.230.040.

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

Referred to Committee on Health & Long-Term Care.

SB 5614 by Senators White, Kilmer, Tom, Kohl-Welles, Keiser, Kline and Conway

SB 5620 by Senators Becker, Keiser and Parlette

AN ACT Relating to the certification of dental anesthesia assistants; reenacting and amending RCW 18.130.040; and adding a new chapter to Title 18 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5621 by Senator White

AN ACT Relating to the voting age for school board elections; and amending RCW 28A.320.400.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5622 by Senators Ranker, Swecker, Fraser, Hargrove, White, Regala, Shin, Chase, Kline and Conway

AN ACT Relating to recreation access on state lands; amending RCW 4.24.210, 46.16A.090, 7.84.030, 79A.05.160, 43.12.065, 77.15.020, 77.32.560, 77.32.010, 77.15.750, 43.30.385, 79A.05.215, 77.12.170, and 79A.05.070; adding a new section to chapter 7.84 RCW; adding a new chapter to Title 79A RCW; repealing RCW 77.32.380; prescribing penalties; and providing an effective date.

Referred to Committee on Natural Resources & Marine Waters.

SB 5623 by Senators Murray and Kohl-Welles

AN ACT Relating to houseboats and houseboat moorages; and amending RCW 79.105.060; and 90.58.270.

Referred to Committee on Natural Resources & Marine Waters.

SB 5624 by Senators Holmquist Newbry, Kastama, King and Shin

AN ACT Relating to defining the term employ for minimum wage purposes; amending RCW 49.46.010; reenacting and amending RCW 49.46.010; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### MOTION

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

#### SIGNED BY THE PRESIDENT

The President signed:  
HOUSE CONCURRENT RESOLUTION 4402.

#### MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, February 2, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, February 2, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Baumgartner.

The Sergeant at Arms Honor Guard consisting of Yakima Squadron, Washington Wing Civil Air Patrol, Cadet Tech Sergeant Cody Bates, Cadet Chief Master Sergeant Danielle Brooks, Cadet Airman Jacob Lamay and Cadet Senior Airman Adrian Rivera presented the Colors. Chaplain Lieutenant Colonel Danny Riggs of the Civil Air Patrol offered the prayer

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 1, 2011

SB 5374 Prime Sponsor, Senator Becker: Making technical, nonsubstantive changes to various sections of the Revised Code of Washington that impact the department of agriculture. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5374 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5377 Prime Sponsor, Senator Morton: Concerning developer control of homeowners' associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Haugen and Litzow.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5397 Prime Sponsor, Senator Benton: Regulating unauthorized insurance. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Haugen and Litzow.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

February 1, 2011

SGA 9002 MAX D ANDERSON, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 13 (Lower Columbia College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9004 SHERRY L ARMIJO, appointed on November 17, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Columbia Basin Community College District No. 19. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9005 LOGAN M BAHR, appointed on September 8, 2010, for the term ending June 30, 2011, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9009 CHARLEY BINGHAM, reappointed on September 8, 2010, for the term ending June 30, 2014, as Member of the Higher Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9011 NATHAN W BROCKETT, appointed on July 26, 2010, for the term ending June 30, 2011, as Member of the Board of Trustees, The Evergreen State College. Reported by Committee on Higher Education & Workforce Development

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MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9014 JAMES CARVO, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 16 (Yakima Valley Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9015 ELIZABETH CHEN, appointed on March 10, 2010, for the term ending April 3, 2013, as Member of the State Board for Community and Technical Colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9016 ERICKA CHRISTENSEN, appointed on July 1, 2010, for the term ending June 30, 2011, as Member of the Board of Regents, Washington State University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9018 SUSAN COLE, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 21 (Whatcom Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9022 JUNE A DARLING, appointed on December 3, 2010, for the term ending September 30, 2015, as Member of the

2011 REGULAR SESSION

Board of Trustees, Community College District No. 15 (Wenatchee Valley College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9026 DAN DIXON, appointed on November 5, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9028 ELIZABETH B DUNBAR, appointed on October 15, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 22 (Tacoma Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9030 RONALD P ERICKSON, appointed on October 27, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9031 RAMIRO ESPINOZA, appointed on July 26, 2010, for the term ending June 30, 2011, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

TWENTY FOURTH DAY, FEBRUARY 2, 2011

2011 REGULAR SESSION

February 1, 2011

SGA 9034 SHARON FAIRCHILD, reappointed on April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9036 BETTI FUJIKADO, appointed on May 20, 2009, for the term ending September 30, 2012, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9037 LAWRENCE M GLENN, appointed on October 6, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Peninsula Community College District No. 1. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9038 JAMES GROVES, appointed on November 5, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Technical College District #25 (Bellingham). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9042 KIRSTIN HAUGEN, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 30 (Cascadia Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9046 MIKE HUDSON, reappointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9049 ADDISON JACOBS, appointed on September 13, 2010, for the term ending June 30, 2013, as Member of the Higher Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9051 JEFF G JOHNSON, reappointed on April 4, 2010, for the term ending April 3, 2014, as Member of the State Board for Community and Technical Colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9056 JO ANN KAUFFMAN, reappointed on March 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Eastern Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9058 KRISTINE A KLAVEANO, appointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 20 (Walla Walla Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice

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Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9062 JONATHAN M LANE, appointed on December 3, 2010, for the term ending September 30, 2011, as Member of the Board of Trustees, Community College District No. 18 (Big Bend Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9063 KAREN LEE, appointed on December 10, 2010, for the term ending September 30, 2016, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9064 ROBERT W LENIGAN, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Technical College District #29 (Clover Park). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9065 JANET LEWIS, reappointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9066 SHOUBEE LIAW, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 7 (Shoreline Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9067 JAMES LOWERY, appointed on December 10, 2010, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 12 (Centralia College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9069 MARK MATTKE, appointed on October 15, 2009, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9070 MARK MAYS, appointed on March 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Eastern Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9071 CATHY A MCABEE, appointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Technical College District #27 (Renton). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9072 JULIE MCCULLOCH, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of

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the Board of Trustees, Community College District No. 1 (Peninsula College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9078 STEVE S MILLER, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, College District No. 8 (Bellevue College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9079 DAVID L MITCHELL, appointed on October 15, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 19 (Columbia Basin College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9080 DARRELL S MITSUNAGA, appointed on October 15, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Technical College District #26 (Lake Washington). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9082 SID MORRISON, reappointed on November 5, 2009, for the term ending September 30, 2015, as Member of the Board of Trustees, Central Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9083 ROBERT OZUNA, appointed on June 10, 2010, for the term ending September 30, 2013, as Member of the Board of Trustees, Community College District No. 16 (Yakima Valley Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9084 THERESA PAN HOSLEY, appointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Technical College District #28, (Bates). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9087 BRIDGET O PIPER, appointed on October 15, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 17 (Spokane and Spokane Falls Community Colleges). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9088 ROYCE E POLLARD, appointed on July 27, 2010, for the term ending September 30, 2011, as Member of the Board of Trustees, Clark Community College District No. 14. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9089 QUENTIN POWERS, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Edmonds Community College District No. 23. Reported by Committee on Higher Education & Workforce Development

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MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9091 CHARLES ROBINSON, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 21 (Whatcom Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9092 MARGARET ROJAS, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Skagit Valley Community College District No. 4. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9093 JADA RUPLEY, appointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 14 (Clark College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9095 ROBERT M RYAN, appointed on December 6, 2010, for the term ending September 30, 2012, as Member of the Board of Trustees, Community College District No. 22 (Tacoma Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

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SGA 9098 ROLAND SCHIRMAN, appointed on June 22, 2009, for the term ending September 30, 2013, as Member of the Board of Trustees, Walla Walla Community College District No. 20. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9101 SAMUEL H SHADDOX, appointed on September 8, 2010, for the term ending June 30, 2011, as Member of the Higher Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9102 ALBERT SHEN, appointed on October 26, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 6 (Seattle, So. Seattle, and No. Seattle Community Colleges). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9103 JAMES SHIPMAN, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 5 (Everett Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9104 MANFORD R SIMCOCK, appointed on April 1, 2010, for the term ending March 26, 2014, as Member of the Higher Education Facilities Authority. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

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Passed to Committee on Rules for second reading.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

February 1, 2011

SGA 9105 KATHY L. SMALL, appointed on November 5, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Walla Walla Community College District No. 20. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9116 JIM TIFFANY, reappointed on October 1, 2009, for the term ending September 30, 2014, as Member of the Board of Trustees, Wenatchee Valley Community College District No. 15. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9120 RICHARD VAN HOLLEBEKE, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 23 (Edmonds Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9121 BRIAN VANCE, reappointed on October 4, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 24 (South Puget Sound Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9124 STEPHEN L WARNER, appointed on March 19, 2010, for the term ending September 30, 2013, as Member of the Board of Trustees, Community College District No. 3 (Olympic Community College). Reported by Committee on Higher Education & Workforce Development

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9127 CINDY ZEHNDER, appointed on May 4, 2010, for the term ending at the governors pleasure, as Chair of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9129 BETH THEW, reappointed on November 30, 2010, for the term ending June 30, 2014, as Member of the Work Force Training and Education Coordinating Board. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9130 DEBRENA F JACKSON GANDY, appointed on October 15, 2010, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 9 (Highline Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 1, 2011

SGA 9136 PHILIP JONES, reappointed on January 13, 2011, for the term ending January 1, 2017, as Member of the Utilities and Transportation Commission. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser and Morton.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5625 by Senators Harper, King, McAuliffe, Litzow and Nelson

AN ACT Relating to authorizing implementation of a nonexpiring license for early learning providers; and amending RCW 43.215.260.

Referred to Committee on Human Services & Corrections.

SB 5626 by Senators Fraser, Kohl-Welles and Chase

AN ACT Relating to authorizing the creation of cultural access authorities; amending RCW 84.52.010 and 36.96.010; adding a new section to chapter 82.14 RCW; adding a new section to chapter 84.52 RCW; adding a new chapter to Title 36 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5627 by Senators Hobbs, Murray, Kilmer and Shin

AN ACT Relating to service members' civil relief; and amending RCW 38.42.010 and 38.42.050.

Referred to Committee on Judiciary.

SB 5628 by Senators Fain, Eide, Roach and Litzow

AN ACT Relating to a limited property tax exemption from the emergency medical services levy; adding a new section to chapter 84.36 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5629 by Senators White and Haugen

AN ACT Relating to the certification of commercial driver's license holders and applicants; amending RCW 46.25.010; reenacting and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW; and providing an effective date.

Referred to Committee on Transportation.

SB 5630 by Senators Harper, Pflug, Chase, Kohl-Welles and Delvin

AN ACT Relating to municipal court judges and commissioners; amending RCW 3.50.040, 3.50.050, 3.50.057, and 3.50.075; adding new sections to chapter 3.50 RCW; and repealing RCW 3.50.055 and 3.50.070.

Referred to Committee on Judiciary.

SB 5631 by Senators Swecker, Hatfield, Haugen and Shin

AN ACT Relating to miscellaneous provisions regulated by the department of agriculture; amending RCW 69.04.331, 15.53.902, 15.65.033, 15.66.017, 15.24.900, 43.23.010, 15.17.210, 16.24.120, 16.24.130, 16.04.025, 16.72.040, 15.80.420, 15.80.440, and 15.58.150; reenacting and amending RCW 22.09.830; reenacting RCW 16.65.440; and repealing RCW 15.58.370 and 19.94.505.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5632 by Senators Nelson, Hatfield and Harper

AN ACT Relating to the disposal of residential sharps waste; reenacting and amending RCW 70.105D.070; adding new sections to chapter 70.95K RCW; and prescribing penalties.

Referred to Committee on Health & Long-Term Care.

SB 5633 by Senators Pridemore, Hewitt, Kastama and Swecker

AN ACT Relating to exempting agricultural fair premiums from the unclaimed property act; and amending RCW 63.29.020.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5634 by Senators Hargrove and Stevens

AN ACT Relating to clarifying the entities to be consulted when determining eligibility to possess a firearm; amending RCW 9.41.047, 9.41.090, and 9.41.173; and reenacting and amending RCW 9.41.070.

Referred to Committee on Human Services & Corrections.

SB 5635 by Senators Honeyford and Rockefeller

AN ACT Relating to changes in the point of diversion under a surface water right permit; and amending RCW 90.03.397.

Referred to Committee on Environment, Water & Energy.

SB 5636 by Senators Haugen, Harper, Shin and Delvin

AN ACT Relating to expanding opportunities in higher education in north Puget Sound; amending RCW 28B.50.795; adding a new section to chapter 28B.30 RCW; repealing RCW 28B.50.901; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

SB 5637 by Senators Kastama, Hatfield, Shin, Schoesler, Harper, McAuliffe, Fraser, Conway, Kohl-Welles and Chase

AN ACT Relating to internship opportunities; adding a new section to chapter 28C.18 RCW; and creating a new section.

Referred to Committee on Economic Development, Trade & Innovation.

**SB 5638** by Senators Keiser, Fain, Prentice and Shin

Referred to Committee on Ways & Means.

AN ACT Relating to the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies; amending RCW 84.52.010 and 84.52.043; and creating a new section.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5626 which was referred to the Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Ways & Means.

**SB 5639** by Senators McAuliffe, Tom, Eide, Harper, Prentice and Shin

MOTION

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

AN ACT Relating to education governance; amending RCW 43.17.010, 43.17.020, 42.17A.705, 43.215.005, 43.215.147, 28A.300.020, 28A.300.030, 28A.300.035, 28A.300.040, 28A.300.041, 28A.300.042, 28A.300.050, 28A.300.1361, 28A.300.160, 28A.300.250, 28A.300.500, 28A.300.505, 28A.305.130, 28A.310.010, 28A.310.200, 28A.310.210, 28A.310.270, 28A.310.280, 28A.310.340, 28A.310.400, 28A.315.005, 28A.315.115, 28A.315.185, 28A.410.010, 28A.410.090, 28A.410.200, 28A.410.210, 28A.410.220, 43.06B.010, 43.06B.030, 43.06B.050, 72.40.010, 72.40.015, 72.40.019, 72.40.0191, 72.40.020, 72.40.024, 72.41.010, 72.41.020, 72.41.040, 72.42.010, 72.42.021, 72.42.041, 28A.300.041, 28A.310.010, 28A.310.280, 28A.310.340, 28A.315.005, 28A.315.115, 28A.410.210, 28B.50.090, 28B.50.250, 28B.50.272, 28B.50.536, 28B.76.020, 28B.76.030, 28B.76.110, 28B.76.210, 28B.76.230, 28B.76.240, 28B.76.260, 28B.76.290, 28B.76.300, 28B.76.310, and 43.41.400; reenacting and amending RCW 43.215.010, 43.215.020, and 28B.50.030; adding a new section to chapter 41.06 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 28A.150 RCW; adding a new title to the Revised Code of Washington; creating new sections; repealing RCW 43.215.030, 43.215.040, 43.215.090, 43.215.125, 43.215.440, 43.215.445, 41.06.097, 28A.305.011, 28A.305.021, 28A.305.035, 28A.305.902, 28A.310.480, 28A.345.010, 28A.345.020, 28A.345.030, 28A.345.040, 28A.345.050, 28A.345.060, 28A.345.070, 28A.345.902, 28A.300.010, 28A.300.020, 28B.50.050, 28B.50.060, 28B.50.070, 28B.50.080, 28B.50.085, 28B.50.254, 28B.76.010, 28B.76.040, 28B.76.050, 28B.76.060, 28B.76.070, 28B.76.080, 28B.76.090, 28B.76.200, 28B.76.270, and 28B.76.330; providing an effective date; and providing contingent effective dates.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION  
8602

By Senators Honeyford, Haugen, Morton, Sheldon, and Swecker

WHEREAS, The Civil Air Patrol was born on December 1, 1941, just days before the attack on Pearl Harbor, for the purposes of liaison flying and interdiction of infiltrators on the east coast and the southern border of the United States, and the Civil Air Patrol insignia, a red three-bladed propeller in the Civil Defense white-triangle-in-blue-circle, began appearing everywhere; and

WHEREAS, When German submarines began to prey on American ships, the Civil Air Patrol's mission grew to include a 1,000-member coastal patrol, 64 of whom died in service and 26 of whom were lost at sea; and

WHEREAS, After Civil Air Patrol planes were issued bombs and depth charges in response to a crew watching in vain as a grounded sub off Cape Canaveral, Florida, escaped before the military arrived, the Civil Air Patrol Coastal flew 24 million miles and found 173 subs, attacked 57, hit 10, and sank two; and

WHEREAS, By presidential executive order, the Civil Air Patrol became an auxiliary of the Army Air Force on April 28, 1943, and some months later the Germans withdrew coastal U-boat operations "because of those damned little red and yellow airplanes"; and

WHEREAS, The Civil Air Patrol went on to target-towing operations, courier service for the Army, liaison and cargo flights between war plants, and southern border patrol against enemy infiltrators crossing from Mexico, and air, search and rescue, and nonflying Civil Air Patrol members guarded airfields and trained a rapidly growing corps of Civil Air Patrol cadets; and

WHEREAS, During the postwar years, the Civil Air Patrol was put to work in search and rescue missions, saving the United States millions of dollars in operational costs, because there was no other organization with the equipment and training to continue this vital job as military aircraft was far too expensive to operate and flew too fast to accurately spot downed planes and personnel; and

WHEREAS, During floods and other natural disasters, the Civil Air Patrol has flown vital serum and vaccines to areas unreachable by heavier aircraft, and ground teams have helped in the evacuation of cities and towns; and

WHEREAS, The Civil Air Patrol has a cadet program with over 23,000 young people between the ages of 12 and 20, one of its major attractions being the aerospace program which provides both

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

**SB 5640** by Senators Becker, Conway and Holmquist Newbry

AN ACT Relating to the health technology assessment program; amending RCW 70.14.090 and 70.14.110; and adding a new section to chapter 70.14 RCW.

Referred to Committee on Health & Long-Term Care.

**SB 5641** by Senator Shin

AN ACT Relating to tax incentives for certain segments of the aerospace industry; amending RCW 82.04.260, 82.04.4461, 82.04.4463, and 82.08.975; providing an effective date; and declaring an emergency.

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classroom and practical instruction in flight and rocketry, and each cadet is offered the opportunity to participate in orientation flights in both powered and glider aircraft, while learning search and rescue techniques and many other valuable skills, with an emphasis on military history, leadership, and service to others both within the squadron and the community as a whole; and

WHEREAS, On May 18, 1980, when Mt. St. Helens in Washington state exploded, devastating approximately 150 square miles and triggering massive mud flows, floods, and ash fall, the Civil Air Patrol quickly responded to the county sheriff's request for help by establishing a 24-hour headquarters, aiding search and rescue missions, updating weather advisories, and assisting in ash cleanup; and

WHEREAS, Today's Civil Air Patrol continues its service and commitment to our state and country with three primary missions: Aerospace Education, Cadet Programs, and Emergency Services; and

WHEREAS, In Washington state alone, the Civil Air Patrol is composed of approximately 748 senior members and approximately 624 cadets, who in 2010 flew their eleven aircraft 2,650.7 hours in service to our state, at a value of 3 million dollars in volunteer hours, and, primarily for cadet aerospace education, their Washington state gliders flew 374 hours;

NOW, THEREFORE, BE IT RESOLVED, That the Washington state Senate recognize the Washington state wing of the Civil Air Patrol for its courageous and unwavering dedication to our citizens; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Civil Air Patrol Wing Commander, Colonel David Lehman, to Colonel Theodore Tax, and to newspaper editors throughout the state of Washington.

Senators Honeyford, Haugen, Swecker, Shin and Morton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8602.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Major General Gary Magonigle, Assistant Adjutant General, Washington Air National Guard; Colonel David Lehman, Washington Wing Commander; Colonel Theodore Tax, Washington Wing Vice Commander who were seated at the rostrum.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Lieutenant Colonel Thomas Green, Washington Wing Southwest Area Vice Commander and Retired Lieutenant Colonel James Nakauchi, Civil Air Patrol, United States Air Force, Washington and Oregon Wing State Director and the members, guests and friends of the Civil Air Patrol who were seated in the gallery.

#### REMARKS BY COLONEL GARY MAGONIGLE

Major General Gary Magonigle: "Mr. President, Senate Leadership, Senator Honeyford and the sponsorship, the group that put forward this resolution, distinguished members of the Senate, Civil Air Patrol members and distinguished members of the gallery, I am Major General Gary Magonigle, Assistant Adjutant General for Air and Commander of the Washington Air National Guard. I am proud to serve alongside the Washington Wing of the Civil Air Patrol. When called upon the Civil Air

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Patrol is an indispensable partner in minimizing the impact of emergencies and disasters on the people, property, environment and the economy of Washington State in the region. It's important to note that Civil Air Patrol members are volunteers, members who formed, trained, motivated and educated teams that recognize and reward the volunteer spirit and service to our communities, the state and the nation. The Civil Air Patrol prides itself in developing leaders at all levels within their organization. They also actively foster the understanding of the importance of Air space capabilities in their members and in our communities. A prime importance though is the ability to provide domestic operations capability across the United States. The Civil Air Patrol capabilities are extensive and they includes air and ground fleet availability with over five hundred fifty aircraft and nine hundred and forty crown vehicles with trained crews available for search and rescue. There's aerial recognizance, a nationwide radio network communication system that include over five thousand fixed radio land stations and ten thousand mobile radio stations that form a nationwide communications capability that is not dependent on satellite or cell phone systems. There's law enforcement support, the ability to take law enforcement agents aloft for visual recognizance and areas of interest. The Civil Air Patrol provides a critical domestic operations capability directly supporting federal, state and local authorities in missions such as search and rescue, disaster relief, counter drug and home land security. They are accessible, generally available within four hours of notification and with advance coordination they can often be postured in alert status capable of launching within minutes, ready to save lives and relieve human suffering. In addition to this substantial contributions to domestic operations the Civil Air Patrol offers robust cadet education programs for youth ages twelve through twenty-one. The Cadet programs emphasize individual study, preparation and instruction through five core areas of achievement. They are leadership laboratory, aero-space education, physical fitness, moral leadership and lastly squadron activities. These five areas include use of trained senior Cadets and senior members who work collectively with individually with Cadets who need assistance in their training. Nationally, seventy-five percent of our young Americans are unable to join the military largely because they are not physically fit; they are not sufficiently educated or have serious criminal records. High School dropout rates are at an all time high. Here's what Civil Air Patrol offers our youth: Opportunities for military service and college. Six to ten percent of each college class that enters our military service academies are Civil Air Patrol Cadets. Cadet's who distinguish themselves in Civil Air Patrol are eligible to enlist in the Air Force at a higher grade of pay. There are opportunities to participate and compete in numerous activities in the local state and national disciplines. Scholarships are available. Opportunities to earn FFA pilot rating are within reach of our Cadets. Simply put, the Civil Air Patrol Cadet program offers our youth alternatives that build a path way to success through access to positive role models and by providing a place to belong that is so important to our young adults. I thank the Senate for having provided me this distinct honor and opportunity to acknowledge the Washington State Wing of the Civil Air Patrol and all this organization does for the state of Washington and the United States of America. Mr. President."

#### REMARKS BY THE PRESIDENT

President Owen: "Thank you General. Colonel Lehman."

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REMARKS BY COLONEL DAVID LEHMAN

Colonel David Lehman: "Thank you Mr. President. Mr. President, Senators and staff, General Magonigle, members and guests. It is my pleasure to speak to you today. I won't repeat the facts that General Magonigle stated because they are very valid facts. CAP is a nationwide organization, we have professional volunteers, we have lots of capability and our goal is to serve our community. We have twenty-six squadrons around the state and serving our community is our primary goal. We're honored by this resolution today and we thank Senator Honeyford and his staff and the Senate for honoring us. Again we're the official auxiliary of the Air Force. We're community based and our primary missions are emergency services, aerospace education and our Cadet program. Mercy services, we do assist in searching for lost air craft but also when there are floods around the state, which I think we've had a few recently, we have the capability of taking photographs to provide the state and the federal government the opportunity to see real time what's going on and act accordingly. Our most important mission of course is our Cadet program, both Colonel Tax and I are former Cadets from this state and these are our future leaders. We provide a very structural opportunities for them to learn followership then leadership and it's great that they get the opportunity today to see and visit the Senate. Of course we hope that they are all future voters. So, again thank you very much for this resolution. It's a real honor and we hope we can serve this state even more during these economic times. Thank you."

REMARKS BY THE PRESIDENT

President Owen: "Thank you General, Colonel and all of you for your service to the people of the state of Washington. Thank you all very much. Thank you."

MOTION

At 10:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:59 a.m. by President Owen.

MOTION

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

SECOND READING

SENATE BILL NO. 5076, by Senators Hobbs, Benton, Prentice, Keiser, Haugen, Tom, Shin, Kline and Roach

Addressing the subpoena authority of the department of financial institutions.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5076 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Ericksen, Senator Baumgartner was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5076.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5076 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Baumgartner

SENATE BILL NO. 5076, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5032, by Senators Pridemore, Swecker and Chase

Changing qualifications for appointees to metropolitan water pollution abatement advisory committees.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5032 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5032.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5032 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Baumgartner

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SENATE BILL NO. 5032, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5135, by Senators Kohl-Welles, Holmquist Newbry, King, Honeyford, Schoesler, Becker, Hobbs, Rockefeller, Baumgartner, Hill, Litzow and Benton

Responding to the current economic conditions by temporarily modifying the unemployment insurance program. Revised for 1st Substitute: Responding to the current economic conditions by temporarily modifying the unemployment insurance social cost factor rate for rate year 2011.

## MOTION

Senator Kohl-Welles moved that Substitute Senate Bill No. 5135 be substituted for Senate Bill No. 5135 and the substitute bill be placed on the second reading and read the second time.

The motion by Senator Kohl-Welles carried by voice vote.

## POINT OF ORDER

Senator Schoesler: "Mr. President I move, I believe that the bill should be rolled back to second reading and not adopt the committee amendments, the substitute."

## POINT OF ORDER

Senator Eide: "I believe we have already adopted the committee amendment did we not previous to this?"

## REPLY BY THE PRESIDENT

President Owen: "The bill has been substituted, it has already been substituted and it is now motion to advance to third reading. But what I understand Senator Schoesler saying is that it sounds like a reconsideration but I'm not sure. That's why we're having this discussion."

## MOTION FOR IMMEDIATE RECONSIDERATION

Senator Schoesler moved to immediately reconsider the vote by which Substitute Senate Bill No. 5135 was substituted.

Senator Eide spoke against the motion to reconsider.

## PARLIAMENTARY INQUIRY

Senator Hargrove: "Under Rule 64, the Senate Rules it says 'after the amendatory process the President rules on whether the bill has cleared second reading and then should return to rules and come out for third reading! Did you make that motion? That it cleared second reading? If so, I believe the bill, if the motion to not advance it fails, the bill would just go back to rules on third reading is my inquiry.'"

## REPLY BY THE PRESIDENT

President Owen: "Senator Hargrove, because of the fact that Senator Kohl-Welles had made the motion to suspend the rules and go to third reading the President did not make that motion that you are referring to in Rules 64. Therefore Senator Schoesler motion is appropriately before us. Senator Schoesler."

## MOTION

Senator Schoesler demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

Senator Schoesler spoke in favor of the motion to reconsider. Senator Brown spoke against the motion to reconsider.

The President declared the question before the Senate to be the motion by Senator Schoesler to reconsider the motion where Senate Bill No. 5135 was substituted.

The Secretary called the roll on the motion by Senator Schoesler to immediately reconsider the vote by which Substitute Senate Bill No. 5135 was substituted and the motion carried by the following vote: Yeas, 26; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Haugen, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Rockefeller, Shin and White

Excused: Senator Baumgartner

## MOTION

Senator Eide moved to defer further consideration of Senate Bill No. 5135 and the bill hold its place on the second reading calendar.

## MOTION

Senator Schoesler moved that the Senate immediately reconsider Senate Bill No. 5135.

## MOTION

Senator Eide moved that the Senate adjourn until 12:00 noon, Thursday, February 3.

Senator Holmquist Newbry spoke against the motion to adjourn.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand. The demand was sustained.

The President declared the question before the Senate to be the motion by Senator Eide to adjourn.

The Secretary called the roll on the motion by Senator Eide that the Senate adjourn and the motion carried by the following vote: Yeas, 25; Nays, 22; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford,

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Kastama, King, Litzow, Morton, Parlette, Pflug, Roach,  
Schoesler, Sheldon, Stevens, Swecker and Zarelli  
Excused: Senator Baumgartner

At 12:21 p.m., the Senate adjourned until 12:00 noon,  
Thursday, February 3, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## TWENTY FIFTH DAY

## NOON SESSION

Senate Chamber, Olympia, Thursday, February 3, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

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

## MOTION

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

February 2, 2011

SB 5016 Prime Sponsor, Senator White: Prohibiting smoking in vehicles containing children. Reported by Committee on Transportation

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Haugen, Chair; White, Vice Chair; King; Ericksen; Hill; Hobbs; Nelson; Ranker and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Delvin.

Passed to Committee on Health & Long-Term Care.

February 1, 2011

SB 5049 Prime Sponsor, Senator Kline: Implementing recommendations of the sunshine committee. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5049 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5093 Prime Sponsor, Senator McAuliffe: Revising education provisions to implement budget reductions. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5093 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Hobbs; King; Nelson and Rockefeller.

Passed to Committee on Ways & Means.

February 1, 2011

SB 5098 Prime Sponsor, Senator Carrell: Exempting personal information of minors in parks and recreation programs from public inspection and copying. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5098 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5116 Prime Sponsor, Senator Swecker: Concerning public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5117 Prime Sponsor, Senator Haugen: Concerning the population restrictions for a geographic area to qualify as a rural public hospital district. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5131 Prime Sponsor, Senator Haugen: Expanding certain public facilities eligible to be credited against the imposition of impact fees. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5131 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson and Swecker.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5133 Prime Sponsor, Senator Schoesler: Using state correctional facility populations to determine population thresholds for certain local government purposes. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5133 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

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Passed to Committee on Rules for second reading.

February 1, 2011

SB 5154 Prime Sponsor, Senator Harper: Modifying vehicle prowling provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5154 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5159 Prime Sponsor, Senator Schoesler: Authorizing the transfer of service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and communications officers and then became commissioned troopers in the Washington state patrol. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5166 Prime Sponsor, Senator Schoesler: Allowing off-road vehicles on public highways in certain areas. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5184 Prime Sponsor, Senator Schoesler: Regarding compliance reports for second-class school districts. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5184 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5191 Prime Sponsor, Senator Hobbs: Providing flexibility in the education system. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5191 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

February 2, 2011

SB 5223 Prime Sponsor, Senator Benton: Concerning reserve accounts and studies for condominium and homeowners' associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Keiser and Litzow.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Haugen.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5224 Prime Sponsor, Senator Hobbs: Increasing the charge limit for the preparation of condominium resale certificates. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Haugen and Keiser.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5239 Prime Sponsor, Senator Honeyford: Allocating federal forest revenue to public schools based on resident students. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5239 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

February 2, 2011

SB 5250 Prime Sponsor, Senator Haugen: Concerning the design-build procedure for certain projects. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5250 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker and Swecker.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5366 Prime Sponsor, Senator Delvin: Authorizing the use of four-wheel, all-terrain vehicles on public roadways under certain conditions. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5366 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair;

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King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Ranker and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Nelson.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5375 Prime Sponsor, Senator Hobbs: Allowing trust companies to be organized as, or convert to, limited liability companies under certain conditions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen and Litzow.

Passed to Committee on Rules for second reading.

February 1, 2011

SB 5621 Prime Sponsor, Senator White: Establishing the voting age for school board elections. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Early Learning & K-12 Education.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

January 14, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ELIZABETH W. BLOOMFIELD, appointed January 13, 2011, for the term ending December 31, 2013, as Member of the Recreation and Conservation Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

## MOTION

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

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5642 by Senators Conway, Pflug, Delvin, Roach, Regala, Pridemore and Shin

AN ACT Relating to applied behavior analysis services; and amending RCW 71A.12.040 and 71A.24.020.

Referred to Committee on Human Services & Corrections.

SB 5643 by Senators Stevens, Hatfield, Morton, Haugen, Hobbs, Ericksen, Becker, Schoesler and Honeyford

AN ACT Relating to wells; and amending RCW 18.104.020.

Referred to Committee on Environment, Water & Energy.

SB 5644 by Senators Delvin, Holmquist Newbry, Hewitt, Schoesler, Carrell, Becker, Pflug, Stevens and Honeyford

AN ACT Relating to standards for the use of science to support public policy; and adding new sections to chapter 34.05 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5645 by Senators Nelson, Harper, White, Kohl-Welles and Kline

AN ACT Relating to the existing surcharge for local homeless housing and assistance; and amending RCW 36.22.179.

Referred to Committee on Ways & Means.

SB 5646 by Senators Pridemore, Harper and Kline

AN ACT Relating to allowing for informed telephonic consent for access to housing or homelessness services; and amending RCW 43.185C.180.

Referred to Committee on Human Services & Corrections.

SB 5647 by Senators Fraser, Honeyford, Rockefeller, Morton, Shin and Chase

AN ACT Relating to modifying the Columbia river basin management program to prospectively maximize investment tools; amending RCW 90.90.010, 90.90.020, and 90.90.040; reenacting and amending RCW 43.84.092; and adding new sections to chapter 90.90 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5648 by Senator Ranker

AN ACT Relating to direct sales of milk; and adding a new section to chapter 15.36 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

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SB 5649 by Senators Harper, Shin, Murray, Nelson, Pridemore, Chase, Kohl-Welles and Kline

AN ACT Relating to the humane treatment of dogs; amending RCW 16.52.011; adding a new section to chapter 16.52 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5650 by Senators Harper, Kohl-Welles, White, McAuliffe and Kline

AN ACT Relating to allowing craft distilleries to sell their own spirits at qualifying farmers markets; and amending RCW 66.24.145.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5651 by Senators McAuliffe, Litzow, Eide and Shin

AN ACT Relating to preserving the school district levy base; reenacting and amending RCW 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5652 by Senators McAuliffe, Litzow and Eide

AN ACT Relating to preserving the school district levy base; reenacting and amending RCW 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5653 by Senators Kohl-Welles, Tom, Chase, Keiser, White and Conway

AN ACT Relating to Washington state food purchasing policy; adding a new section to chapter 43.19 RCW; and adding a new chapter to Title 70 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5654 by Senators Keiser, White, Chase and McAuliffe

AN ACT Relating to recognition of lower division courses at institutions of higher education; and adding a new section to chapter 28B.10 RCW.

Referred to Committee on Higher Education & Workforce Development.

SB 5655 by Senators Roach and Harper

AN ACT Relating to voters' pamphlets; adding a new section to chapter 29A.84 RCW; and prescribing penalties.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5656 by Senators Hargrove, Regala, White, McAuliffe and Kline

AN ACT Relating to a state Indian child welfare act; amending RCW 13.32A.152, 13.34.040, 13.34.070, 13.34.105, 13.34.130, 13.34.132, 13.34.190, 26.10.034, 26.33.040, and 74.13.350; reenacting and amending RCW 13.34.030, 13.34.065, and 13.34.136; and adding a new chapter to Title 13 RCW.

Referred to Committee on Human Services & Corrections.

SB 5657 by Senators Pridemore and Swecker

AN ACT Relating to modifying the categorical exemptions for development under the state environmental policy act; adding new sections to chapter 43.21C RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5658 by Senators King, Haugen and Shin

AN ACT Relating to the sale or exchange of surplus real property by the department of transportation; amending RCW 47.12.063 and 47.12.063; providing an effective date; and providing an expiration date.

Referred to Committee on Transportation.

SB 5659 by Senators King and Haugen

AN ACT Relating to creating a dialogue between the department of licensing, county auditors, and subagents regarding title and registration activities; and adding a new section to chapter 46.01 RCW.

Referred to Committee on Transportation.

SB 5660 by Senators Regala, Hargrove and Stevens

AN ACT Relating to public assistance; amending RCW 74.12.030, 74.08.580, and 43.88C.010; adding new sections to chapter 74.08A RCW; repealing RCW 74.08A.340; and providing effective dates.

Referred to Committee on Human Services & Corrections.

SB 5661 by Senators Nelson, Pridemore, Swecker, White, Morton and Fain

AN ACT Relating to derelict fishing gear; amending RCW 77.12.870; and creating a new section.

Referred to Committee on Natural Resources & Marine Waters.

SB 5662 by Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen and Fraser

AN ACT Relating to establishing a preference for resident contractors on public works; amending RCW 39.04.010;

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adding a new section to chapter 39.04 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5663 by Senators Harper, Roach, Conway and Kline

AN ACT Relating to concurrent jurisdiction of state and federal courts over certain actions under chapters 39.08 and 60.28 RCW, including actions involving delinquent contributions to benefit plans; amending RCW 39.08.030, 39.08.030, and 60.28.030; providing an effective date; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5664 by Senators McAuliffe, Shin, Hobbs, Nelson, Rockefeller, Litzow, Chase, Tom, Zarelli, Brown, Kilmer, Delvin and Murray

AN ACT Relating to the Lake Washington Institute of Technology; amending RCW 28B.50.1401 and 28B.45.0201; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 5665 by Senators Chase, Kilmer, Kastama, Brown and White

AN ACT Relating to reauthorizing counties with community empowerment zones to qualify as an eligible area for investment projects in rural counties; and amending RCW 82.60.049.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5666 by Senators Pflug and Keiser

AN ACT Relating to accountability for tax exempt hospitals; amending RCW 84.36.840 and 84.36.040; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SB 5667 by Senators Tom, Litzow, Hobbs and King

AN ACT Relating to recruiting, preparing, and empowering school officials and holding them accountable; amending RCW 28A.400.100; adding new sections to chapter 28A.410 RCW; and creating a new section.

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

SJM 8002 by Senator Morton

Requesting the delisting of gray wolves from the federal endangered species act.

Referred to Committee on Natural Resources & Marine Waters.

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SJM 8003 by Senators Prentice, Litzow, Swecker, Murray, Carrell, Kohl-Welles, Keiser, Conway and Honeyford

Requesting that Interstate 5 be named the "Purple Heart Trail."

Referred to Committee on Transportation.

SJM 8004 by Senators Parlette, Nelson, Tom, Zarelli, Fraser, Hewitt, Kline, Hatfield, Murray and Shin

Requesting the reestablishment of the road leading to the upper Stehekin Valley within the North Cascades National Park.

Referred to Committee on Natural Resources & Marine Waters.

SCR 8400 by Senators Fraser and Parlette

Calling a joint session to honor deceased former members.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Concurrent Resolution No. 8400 which under suspension of the rules was placed on the second reading calendar.

#### MOTION

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

#### MOTION

Senator Honeyford moved adoption of the following resolution:

#### SENATE RESOLUTION 8603

By Senator Honeyford

WHEREAS, In April 1892, a party of Northern Pacific Railway and Yakima Irrigation Company officials visited the recently chosen, but as yet unnamed townsite on the north bank of the Yakima River, to fulfill a vision of transforming the arid desert land of the lower valley into a lush, green valley of agricultural productivity; and

WHEREAS, Among others, the party consisted of Walter Granger, General Superintendent of the recently completed Sunnyside Canal, and Thomas F. Oakes, President of the Northern Pacific Railway, his wife Abby, and their 19-year-old daughter Zillah; and

WHEREAS, The decision was made to name the town Zillah, after the railway president's daughter; following which seventy acres of railroad land grant and state-owned land were platted for the town, and the development of the townsite occurred quickly with the construction of a hotel, followed by a general store, a drug store, and a blacksmith shop; and

WHEREAS, Walter Granger became president of the Zillah Townsite Company, and the trustees were: Thomas F. Oakes, Paul Schulze, William Hamilton Hall, and C.A. Spofford; and in 1894,

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School District #32 was organized and a schoolhouse was built, followed by two stage lines and two telephone lines; and

WHEREAS, The town gained a railroad in 1907 to serve a new branch line from Sunnyside Junction near Toppenish; the line carried fruit from Zillah's rich fields twenty miles to Sunnyside, from where it was shipped worldwide; and

WHEREAS, The City of Zillah became incorporated in 1911, and by 1920 had a population of 647; and since 1970, Zillah has been growing at the fastest rate in history, those residents enjoying the small town life; and

WHEREAS, The Teapot Dome Service Station, a roadside attraction, was built outside Zillah in 1922, as a reminder of the Teapot Dome Scandal that rocked the presidency of Warren G. Harding and sent Interior Secretary Albert Fall to prison for his role in leasing government oil reserves in, among other places, Teapot Dome, Wyoming; and

WHEREAS, The Teapot Dome Service Station was added to the U.S. National Register of Historic Places, and will be moved next Spring into the City of Zillah; and

WHEREAS, The current officials of the City of Zillah are Mayor Gary Clark and Councilmembers Bob Gallagher, Jeff Miles, Doug Stewart, Janice Gonzales, and Kevin Russell; City Attorney Jamie Carmody; City Clerk Sharon Bounds; Fire Chief Dan Hargroves; Police Chief Dave Simmons; Public Works Director Tim Tilley; and Librarian Fern Greene; and

WHEREAS, The City of Zillah lies in the heart of wine country and is an active community enjoying many fun-filled celebrations throughout the year, such as the Zillah Community Days and Parade, a 4th of July celebration, a Blue Grass Bash, a farmers market, and an Old-Fashioned Christmas;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially recognize and congratulate the City of Zillah and its citizens on the 100th anniversary of the establishment of the Town of Zillah; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the City of Zillah's Mayor Gary Clark; its Councilmembers and City Officials; and to Amber Schlenker, Editor of the Toppenish Review Independent.

Senator Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8603.

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

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION  
8613

By Senators Honeyford, Swecker, Morton, Delvin, and Schoesler

WHEREAS, The federal law establishing Constitution Day and Citizenship Day was created in 2004, to ensure that students are made aware of the importance of this major historical event in United States history; and

WHEREAS, Constitution Day and Citizenship Day is an American federal observance that recognizes the ratification of the United States Constitution and those who have become United States citizens, and it is observed on September 17th, the day the U.S. Constitutional Convention signed the Constitution in 1787; and

WHEREAS, The act mandates that on September 17th of each year, all publicly funded educational institutions provide

educational programming on the history of the American Constitution; and

WHEREAS, In May 2005, the United States Department of Education announced the enactment of this law, and that it would apply to any school receiving federal funds of any kind; and

WHEREAS, This federal law does not distinguish between elementary, secondary, or college level institutions, so it must be interpreted to apply to all levels; and

WHEREAS, When Constitution Day falls on a weekend or other holiday, schools and institutions shall observe the holiday on an adjacent weekday; and

WHEREAS, A similar Washington State law regarding Constitution Day complies with much of the federal law, but fails to recognize the federal law's mandate that the Constitution be taught specifically on Constitution Day, rather than on a day of the state's choosing;

NOW, THEREFORE, BE IT RESOLVED, That, the Washington State Senate recognize and honor the remarkable achievement and legacy that is the United States Constitution, and that it encourages Washington State schools to recognize and discuss the Constitution on the federally designated Constitution Day and Citizenship Day, which occurs on September 17th of each year; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Superintendent of Public Instruction for distribution to all statewide, publicly funded school districts.

Senator Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8613.

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

MOTION

At 12:06 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, February 4, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## TWENTY SIXTH DAY

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 4, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Brown.

The Honor Guard consisting of Washington Air National Guard Senior Master Sergeant Mark Soulier, Staff Sergeant Charles Ansell, Senior Airman Mitchell Johnson, Airman First Class Joshua Hutton and Airman Taylor Prichard presented the Colors. First Lieutenant Scott Wilson of the Washington Air National Guard offered the prayer.

The National Anthem was performed by Master Sergeant Paul Sety, Technical Sergeant Steven Churchwell, Technical Sergeant David Volland, Staff Sergeant Daniel Helseth and Staff Sergeant Mathew Leder.

## PERSONAL PRIVILEGE

Senator Eide: "Thank you. Just for the members information that Senator Brown is with her son currently. Just wanted to let them know she is with him. I guess I probably should elaborate a little bit but he was in an accident last night and unfortunately he was not there. No one could find him and we were worried that something terrible had happened and she found him this morning. Things are ok as far as I know but just wanted to give people a heads up that she is with him."

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

February 3, 2011

SB 5143 Prime Sponsor, Senator McAuliffe: Addressing the annexation of unincorporated areas served by fire protection districts. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Nelson and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Chase.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5157 Prime Sponsor, Senator Murray: Concerning the operation of foreign trade zones on property adjacent to but

outside a port district. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5157 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer; Shin and Zarelli.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5208 Prime Sponsor, Senator Chase: Authorizing the sale, exchange, transfer, or lease of public property. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5242 Prime Sponsor, Senator Hargrove: Addressing motorcycle profiling. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5295 Prime Sponsor, Senator Delvin: Regarding leases of irrigation district property. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 3, 2011

ESHB 1086 Prime Sponsor, Committee on Ways & Means: Making 2009-2011 supplemental operating appropriations. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Zarelli; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Baumgartner and Holmquist Newbry.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

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SGA 9008 BRUCE BECKER, appointed on August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

SGA 9033 COLLEEN FAIRCHILD, appointed on August 12, 2009, for the term ending September 30, 2013, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2011

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SGA 9010 LORI BLANCHARD, reappointed on July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

SGA 9039 MOLLY E HAMAKER-TEALS, appointed on August 12, 2009, for the term ending June 30, 2013, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2011

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SGA 9013 JUNE CANTY, appointed on July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

SGA 9052 MYRA JOHNSON, reappointed on July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2011

February 3, 2011

SGA 9019 DENISE COLLEY, reappointed on July 23, 2009, for the term ending July 1, 2014, as Member of the Board of Trustees, State School for the Blind. Reported by Committee on Early Learning & K-12 Education

SGA 9054 ALLIE M JOINER, reappointed on October 21, 2010, for the term ending July 1, 2015, as Member of the State School for the Deaf Board of Trustees. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 3, 2011

February 3, 2011

SGA 9024 JIM DEPAEPE, appointed on October 22, 2008, for the term ending June 30, 2012, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

SGA 9090 CINDY ROAF, appointed on October 17, 2008, for the term ending June 30, 2012, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

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SGA 9094 STEPHEN RUSHING, reappointed on July 19, 2010, for the term ending June 30, 2014, as Member of the Professional Educator Standards Board. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 2, 2011

SGA 9131 LORRAINE LEE, appointed on July 7, 2010, for the term ending June 30, 2015, as Chief Administrative Law Judge of the Office of Administrative Hearings. Reported by Committee on Judiciary

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5668 by Senators Honeyford, Schoesler, Becker and Delvin

AN ACT Relating to Washington State Bar Association dues for public agency attorneys; amending RCW 2.48.130; and creating a new section.

Referred to Committee on Judiciary.

SB 5669 by Senators Ranker, Swecker, Regala, Rockefeller, Nelson, White, Pflug and Shin

AN ACT Relating to consolidating natural resources agencies and programs; amending RCW 43.17.010, 43.17.020, 42.17A.705, 43.03.028, 79.64.020, 79.64.100, 79.70.020, 79.70.030, 79.70.070, 79.70.080, 79.70.090, 79.70.100, 79.70.120, 77.12.650, 77.04.012, 77.04.030, 77.04.055, 77.04.060, 77.04.120, 77.04.130, 77.04.150, 77.08.010, 77.08.020, 77.08.022, 77.08.030, 77.12.010, 77.12.020, 77.12.035, 77.12.037, 77.12.037, 77.12.045, 77.12.047, 77.12.068, 77.12.140, 77.12.150, 77.12.152, 77.12.170, 77.12.177, 77.12.210, 77.12.220, 77.12.275, 77.12.285, 77.12.320, 77.12.323, 77.12.325, 77.12.330, 77.12.420, 77.12.455, 77.12.560, 77.12.570, 77.12.722, 77.12.760, 77.12.800, 77.12.850, 77.12.875, 77.12.878, 77.12.882, 77.15.065, 77.15.096, 77.15.120, 77.15.130, 77.15.160,

77.15.245, 77.15.250, 77.15.253, 77.15.290, 77.15.382, 77.15.400, 77.15.425, 77.15.520, 77.15.522, 77.15.530, 77.15.554, 77.15.590, 77.15.700, 77.15.710, 77.15.720, 77.18.060, 77.32.007, 77.32.025, 77.32.050, 77.32.070, 77.32.090, 77.32.155, 77.32.237, 77.32.238, 77.32.370, 77.32.400, 77.32.430, 77.32.440, 77.32.450, 77.32.470, 77.32.500, 77.32.525, 77.32.530, 77.32.535, 77.32.550, 77.32.560, 77.32.565, 77.32.570, 77.36.030, 77.36.100, 77.36.110, 77.36.150, 77.50.010, 77.50.020, 77.50.040, 77.50.050, 77.50.070, 77.50.090, 77.50.100, 77.50.110, 77.55.191, 77.60.020, 77.60.030, 77.60.100, 77.65.420, 77.65.480, 77.65.510, 77.70.450, 77.70.460, 77.70.470, 77.75.020, 77.75.040, 77.75.100, 77.75.140, 77.85.220, 77.95.010, 77.95.020, 77.95.030, 77.95.040, 77.95.060, 77.95.090, 77.95.100, 77.95.140, 77.95.200, 77.100.060, 77.100.080, 77.115.010, 43.300.020, 9.46.010, 9.46.400, 79.105.430, 79.135.320, 79A.05.793, 79A.05.010, 79A.05.015, 79A.05.020, 79A.05.025, 79A.05.035, 79A.05.040, 79A.05.045, 79A.05.050, 79A.05.055, 79A.05.059, 79A.05.060, 79A.05.065, 79A.05.070, 79A.05.080, 79A.05.085, 79A.05.090, 79A.05.095, 79A.05.100, 79A.05.105, 79A.05.110, 79A.05.115, 79A.05.120, 79A.05.125, 79A.05.130, 79A.05.140, 79A.05.145, 79A.05.150, 79A.05.155, 79A.05.160, 79A.05.165, 79A.05.170, 79A.05.175, 79A.05.178, 79A.05.180, 79A.05.185, 79A.05.195, 79A.05.200, 79A.05.205, 79A.05.210, 79A.05.220, 79A.05.225, 79A.05.230, 79A.05.235, 79A.05.240, 79A.05.250, 79A.05.280, 79A.05.285, 79A.05.290, 79A.05.310, 79A.05.320, 79A.05.325, 79A.05.330, 79A.05.335, 79A.05.340, 79A.05.345, 79A.05.351, 79A.05.355, 79A.05.360, 79A.05.370, 79A.05.375, 79A.05.380, 79A.05.390, 79A.05.395, 79A.05.410, 79A.05.415, 79A.05.425, 79A.05.505, 79A.05.510, 79A.05.515, 79A.05.525, 79A.05.530, 79A.05.535, 79A.05.540, 79A.05.545, 79A.05.610, 79A.05.615, 79A.05.620, 79A.05.625, 79A.05.630, 79A.05.650, 79A.05.665, 79A.05.670, 79A.05.685, 79A.05.688, 79A.05.690, 79A.05.695, 79A.05.705, 79A.05.710, 79A.05.715, 79A.05.735, 79A.05.780, 79A.05.793, 46.10.370, 70.114.010, 79.10.030, 79A.30.010, 79A.30.020, 79A.30.030, 79A.30.050, 79A.40.030, 79A.60.010, 79A.65.010, 79A.25.005, 79A.25.010, 79A.25.020, 79A.25.110, 79A.25.150, 79A.25.220, 79A.25.240, 79A.25.830, 43.41.270, 43.99N.060, 46.09.530, 77.85.020, 77.85.030, 77.85.110, 77.85.120, 84.34.055, 17.15.020, 17.26.020, 19.02.050, 39.04.155, 39.04.290, 42.52.570, 43.17.400, 43.19.450, 43.21F.062, 43.81.010, 43.82.010, 43.220.020, 79.19.080, 79.100.010, 79.145.030, 79A.15.010, 79A.20.030, 79A.25.260, 84.34.055, 90.48.366, 90.48.368, 89.08.020, 89.08.030, 89.08.040, 89.08.050, 89.08.070, 89.08.080, 89.08.090, 89.08.100, 89.08.110, 89.08.120, 89.08.130, 89.08.140, 89.08.150, 89.08.160, 89.08.170, 89.08.180, 89.08.185, 89.08.190, 89.08.200, 89.08.210, 89.08.220, 89.08.341, 89.08.350, 89.08.370, 89.08.410, 89.08.470, 89.08.480, 89.08.520, 89.08.530, 89.08.540, 89.08.550, 89.08.580, 89.08.590, 43.03.028, 43.41.270, 43.325.020, 77.85.020, 77.85.220, 89.10.010, 70.148.005, 70.148.010, 70.148.020, 70.148.025, 70.148.030, 70.148.035, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080, 70.148.090, 70.148.130, 70.148.140, 70.148.150, 70.148.160, 70.148.170, 70.149.010, 70.149.030, 70.149.040, 70.149.050, 70.149.060, 70.149.090, 70.149.120, 90.46.005, 90.46.010, 90.46.015, 90.46.030, 90.46.050, 90.46.090, 90.46.120,

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90.46.150, 90.46.160, 90.46.200, 90.46.210, 90.46.220, 90.46.230, 90.46.240, 90.46.250, 90.46.260, 90.46.270, 43.200.015, 43.200.080, 43.200.170, 43.200.180, 43.200.190, 43.200.200, 43.200.230, 70.98.030, 70.98.085, 70.98.095, 70.98.098, 70.98.130, 43.334.010, 43.334.020, 43.334.060, 43.334.070, 43.334.075, 43.334.077, 43.334.080, 27.34.020, 27.34.220, 27.34.230, 27.34.240, 27.34.270, 27.34.280, 27.34.330, 27.34.415, 27.44.055, 27.53.020, 27.53.030, 27.53.060, 27.53.080, 27.53.090, 27.53.095, 27.53.100, 27.53.110, 27.53.120, 27.53.130, 27.53.140, 41.06.095, 43.17.010, 43.17.020, 43.360.010, 43.360.020, 43.360.030, 68.24.090, 68.50.645, 68.60.030, 68.60.050, 68.60.055, 68.60.060, 82.73.010, 82.73.050, 88.02.660, and 90.48.366; reenacting and amending RCW 77.55.011, 79A.05.030, 79A.05.255, 79A.05.385, 46.10.300, 46.10.320, 79A.55.010, 43.21J.030, 43.60A.150, 77.85.050, 77.85.140, 43.21B.110, 43.21B.110, 43.21J.030, 43.60A.150, 27.53.070, and 35.100.020; adding a new section to chapter 41.06 RCW; adding a new section to chapter 79.70 RCW; adding a new section to chapter 41.80 RCW; adding a new section to chapter 77.04 RCW; adding a new section to chapter 79A.05 RCW; adding a new section to chapter 79A.25 RCW; adding a new section to chapter 77.85 RCW; adding new sections to chapter 89.08 RCW; adding a new section to chapter 70.148 RCW; adding a new section to chapter 90.46 RCW; adding a new section to chapter 43.97 RCW; adding a new section to chapter 70.98 RCW; adding a new section to chapter 43.200 RCW; adding a new chapter to Title 43 RCW; repealing RCW 77.04.013, 77.04.020, 77.04.080, 77.04.090, 77.04.140, 77.15.005, 43.300.010, 43.300.040, 43.300.050, 79A.05.075, 79A.05.300, 79A.05.315, 89.08.060, 90.46.020, 90.46.072, 90.46.110, 43.200.210, 43.334.030, 43.334.040, 43.334.050, and 43.334.900; creating new sections; providing effective dates; providing expiration dates; providing contingent expiration dates; and declaring an emergency.

Referred to Committee on Natural Resources & Marine Waters.

SB 5670 by Senators Haugen and Shin

AN ACT Relating to the use of vehicle headlights; and amending RCW 46.37.020.

Referred to Committee on Transportation.

SB 5671 by Senators Ericksen, Becker, Delvin and Honeyford

AN ACT Relating to hospital and emergency service personnel reporting requirements to local enforcement; and amending RCW 70.41.440.

Referred to Committee on Health & Long-Term Care.

SB 5672 by Senators Ericksen, Becker, Schoesler, Swecker, Honeyford, Stevens and Hewitt

AN ACT Relating to health care liability reform; amending RCW 4.22.070, 4.22.015, 4.56.250, 4.16.350, 7.70.150, and 7.70.070; adding a new section to chapter 4.56 RCW; adding a new section to chapter 7.04A RCW; adding new sections to chapter 7.70 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5673 by Senator Swecker

AN ACT Relating to leases incident to service contracts; and amending RCW 63.10.040.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5674 by Senators Eide, Hobbs, Fain, Tom, Delvin, Kilmer, Shin, McAuliffe and White

AN ACT Relating to the aerospace training student loan program; and adding a new chapter to Title 28B RCW.

Referred to Committee on Higher Education & Workforce Development.

SB 5675 by Senators Prentice and Pridemore

AN ACT Relating to real property tax assessment administration, establishing procedures and authorizing fees for assessment review; amending RCW 84.36.383, 84.36.385, 84.40.038, 84.40.045, and 84.40.175; adding a new section to chapter 84.04 RCW; and adding a new section to chapter 84.09 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5676 by Senators Kastama, Holmquist Newbry and Shin

AN ACT Relating to projects of statewide significance for economic development; amending RCW 43.157.005, 43.157.020, and 43.157.030; and reenacting and amending RCW 43.157.010.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5677 by Senator Nelson

AN ACT Relating to the immunity of unincorporated area councils and their volunteers from lawsuits under the public records act; amending RCW 42.56.010 and 42.56.010; adding a new section to chapter 42.56 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5678 by Senators Stevens and Rockefeller

AN ACT Relating to on-site sewage proprietary treatment products; and amending RCW 43.20.050 and 70.118.020.

Referred to Committee on Environment, Water & Energy.

SB 5679 by Senator Kastama

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AN ACT Relating to per-student cost recovery revenue for institutions of higher education; and amending RCW 28B.15.067 and 28B.15.068.

Referred to Committee on Higher Education & Workforce Development.

SB 5680 by Senators Harper, Hargrove, Carrell and McAuliffe

AN ACT Relating to requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises; amending RCW 9.91.170 and 49.60.215; reenacting and amending RCW 49.60.040; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5681 by Senators Pridemore, Stevens, Regala, Harper, Shin, McAuliffe, Chase and Roach

AN ACT Relating to background checks of peer counselors; and amending RCW 43.43.830 and 43.43.832.

Referred to Committee on Human Services & Corrections.

SB 5682 by Senators Honeyford and Parlette

AN ACT Relating to reimbursement of prenatal and well-child visits for rural health clinics; adding a new section to chapter 74.09 RCW; and declaring an emergency.

Referred to Committee on Ways & Means.

SJM 8005 by Senators Shin, Delvin, Erickson, Kastama, Honeyford, Chase, Nelson, Roach, Pridemore, Swecker, Sheldon, Harper, Rockefeller, Hobbs, Haugen, Becker, Fraser, Kline, Hatfield, Conway, Holmquist Newbry, Benton, Morton, Hargrove, Ranker, McAuliffe and White

Supporting the participation of Taiwan as an observer in the United Nations framework convention on climate change and in the international civil aviation organization.

Referred to Committee on Economic Development, Trade & Innovation.

#### MOTION

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

#### MOTION

At 10:20 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of a meeting of the Committee on Rules.

The Senate was called to order at 10:33 a.m. by President Owen.

#### MOTION

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

#### MOTION

Senator Hobbs moved adoption of the following resolution:

#### SENATE RESOLUTION

8614

By Senators Hobbs, Eide, Brown, Fraser, Kastama, Tom, Prentice, Delvin, Regala, Stevens, Litzow, Fain, Benton, White, Shin, Haugen, Pridemore, Murray, Carrell, Hill, Hewitt, Ranker, Hatfield, Harper, Nelson, Keiser, Conway, Kohl-Welles, McAuliffe, Sheldon, Kilmer, Erickson, Kline, Swecker, Honeyford, Becker, Rockefeller, Chase, and Schoesler

WHEREAS, Nearly eighty-six hundred men and women of the Washington National Guard continue to serve the country as guardians of American interests at home and abroad; and

WHEREAS, These recognized leaders in state, regional, and national preparedness, who reside in every legislative district throughout Washington, volunteer their time and put personal lives aside when the needs of the people of Washington state arise; and

WHEREAS, The Guard always answers the state's call in response to all emergency efforts and to protect lives and property; and

WHEREAS, The Washington Army and Air National Guard continue to provide critical mission support in both personnel and equipment to Operation New Dawn in Iraq and Operation Enduring Freedom in Afghanistan, respectively, and Operation Noble Eagle here at home; and

WHEREAS, The Guard continues to train and prepare for both natural disasters and threats to our national security; and

WHEREAS, The Guard continues to promote positive lifestyles and activities for Washington's youth through involvement in and support of highly effective drug prevention programs with school-aged children and community-based organizations and the continued success and ongoing work of the invaluable Washington Youth Academy; and

WHEREAS, The Guard continues to actively participate in the state's counterdrug efforts by providing soldiers, airmen, and specialized equipment to over thirty-five local, state, and federal law enforcement agencies; and

WHEREAS, The Guard adds value to communities by opening its readiness centers for public use, food banks, and other community and youth activities. The Guard continues to build upon these readiness centers and armories throughout the state to enhance education, add to quality of life, and increase economic vitality;

NOW, THEREFORE, BE IT RESOLVED, That the Senate express its thanks and appreciation to the devoted families and dedicated employers of our Washington National Guard soldiers and airmen for their support, without whom the Guard's missions could not be successful; and

BE IT FURTHER RESOLVED, That the Senate recognize the value and dedication of a strong Washington National Guard to the viability, economy, safety, security, and well-being of this state, both through the outstanding performance of its state emergency and disaster relief mission, and through the continued benefit to local communities by the presence of productively employed, drug-free, well-equipped, and trained Guard units and the readiness centers and armories that house them; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to The

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Adjutant General of the Washington National Guard, the Governor of the State of Washington, the Secretaries of the United States Army and Air Force, and the President of the United States.

Senators Hobbs, King and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8614.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Major General Timothy J. Lowenberg and Adjutant General, Commander of the WA National Guard who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced First Gentleman, Mike Gregoire recognized as Washington veterans 'main man' and advocate who was seated on the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Major General Gary Magonigle, Assistant Adjutant General, Washington Air National Guard; Brigadier General Bret Daugherty, Assistant Adjutant General, Washington Army National Guard and members of the Washington Army and Air National Guard who were seated in the gallery.

MOTION

At 10:42 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:33 a.m. by President Owen.

MOTION

On motion of Senator Eide, Senator Brown was excused.

MOTION

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

MOTION

On motion of Senator Eide, the Senate immediately began consideration of Substitute Senate Bill No. 5135 which was held on second reading February 2.

MOTION

Senator Eide moved that Substitute Senate Bill No. 5135 not be adopted.

MOTION

Senator Kohl-Welles moved to withdraw her motion to substitute Senate Bill No. 5135.

REMARKS BY THE PRESIDENT

President Owen: "Senator, it is not necessary to make a motion but you have withdrawn your motion to substitute. Okay? If there are no objections?"

The President declared the question before the Senate to be the motion by Senator Eide that Substitute Senate Bill No. 5135 be not adopted.

The motion by Senator Eide carried by voice vote.

SECOND READING

SENATE BILL NO. 5135, by Senators Kohl-Welles, Holmquist Newbry, King, Honeyford, Schoesler, Becker, Hobbs, Rockefeller, Baumgartner, Hill, Litzow and Benton

Responding to the current economic conditions by temporarily modifying the unemployment insurance program.

The measure was read the second time.

MOTION

On motion of Senator Eide, Senate Bill No. 5135 was not substituted for Senate Bill No. 5135 and the substitute bill was not adopted.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 5135 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Holmquist Newbry, Nelson and Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5135.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5135 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Nelson

Excused: Senator Brown

SENATE BILL NO. 5135, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

Making 2011 supplemental operating appropriations. Revised for 1st Substitute: Making 2009-2011 supplemental operating appropriations.

The measure was read the second time.

MOTION

Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"PART I
GENERAL GOVERNMENT

Sec. 101. 2010 1st sp.s. c 37 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE

Table with 2 columns: Description and Amount. Rows include General Fund--State Appropriation (FY 2010) at \$2,874,000, General Fund--State Appropriation (FY 2011) at (\$3,152,000), and TOTAL APPROPRIATION at \$5,828,000.

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2009-11 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the effect of risk management practices on tort payouts. This review shall include an analysis of the state's laws, policies, procedures, and practices as they relate to the conduct of post-incident reviews and the impact of such reviews on the state's conduct and liability.

(3) ((Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance costs.

(4)) Within the amounts appropriated in this section, the committee shall prepare an evaluation of the implementation of legislation designed to improve communication, collaboration, and expedited medicaid attainment with regard to persons released from confinement who have mental health or chemical dependency disorders. The review shall evaluate the implementation of: (a) Chapter 166, Laws of 2004 (E2SSB 6358); (b) sections 507 and 508 of chapter 504, Laws of 2005 (E2SSB 5763); (c) sections 12 and 13 of chapter 503, Laws of 2005 (E2SHB 1290); and (d) section 8 of chapter 359, Laws of 2007 (2SHB 1088). The departments of corrections and social and health services, the administrative office of the courts, institutions for mental disease, city and county jails, city and county courts, county clerks, and mental health and chemical dependency treatment providers shall provide the committee with information necessary for the study.

((S)) (4) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a review of the state's recreational boating programs. This review shall include examination of the following:

- (a) Revenue sources for state recreational boating programs;
(b) Expenditures for state boating programs;

(c) Methods of administrating state recreational boating programs, including the roles of both state and local government entities; and

(d) Approaches other states have taken to funding and administering their recreational boating programs.

The committee shall complete the review by October 31, 2010.

((6)) (5) Within the amount appropriated in this section, the joint legislative audit and review committee shall examine the operations of employment and day services as provided by the department of social and health services, division of developmental disabilities and administered by the counties. The examination shall include a thorough review of the contracts for all services including, but not limited to, employment services, day services, child development services and other uses of state dollars for county administration of services to the developmentally disabled. In its final report, due to the legislature by September 1, 2010, the joint legislative audit and review committee shall provide: A description of how funds are used and the rates paid to vendors, and a recommendation on best practices the agency may use for the development of a consistent, outcome-based contract for services provided under contract with the counties.

((7)) (6) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a study of the relationship between the cost of school districts and their enrollment size. The study shall be completed by June 2010 and shall include:

(a) An analysis of how categories of costs vary related to size, including but not limited to facility costs, transportation costs, educational costs, and administrative costs;

(b) A review of other factors that may impact costs, such as revenues available from local levies and other sources, geographic dispersion, demographics, level of services received from educational service districts, and whether districts operate a high school;

(c) Case studies on the change in cost patterns occurring after school district consolidations and for school districts operating under state oversight condition specified in RCW 28A.505.110; and

(d) A review of available research on nonfinancial benefits and impacts associated with school and school district size.

((8)) (7) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided for the committee to contract with a consultant specializing in medicaid programs nationwide to review Washington state's medicaid program and report on cost containment strategies for the 2011-13 biennial budget. The report is due to the fiscal committees of the legislature by June 1, 2011.

((9)) (8) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the joint legislative audit and review committee to complete a report that includes the following:

(a) An analysis of the availability within eastern Washington of helicopters that are privately owned or owned by nonstate governmental entities that are sufficiently outfitted to participate in wildfire suppression efforts of the department of natural resources;

(b) a comparison of the costs to the department of natural resources for maintaining the existing helicopter fleet versus entering into exclusive use contracts with the helicopters noted in (a) of this subsection; and (c) an analysis that compares the use and funding of helicopters utilized for wildfire suppression in the states of California, Oregon, Idaho, and Montana. The committee shall submit the report to the appropriate fiscal committees of the legislature and the office of financial management no later than December 1, 2010.

((10)) (9)(a) The task force for reform of executive and legislative procedures dealing with tax preferences is hereby established. The task force must:

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(i) Review current executive and legislative budget and policy practices and procedures associated with the recommendation, development, and consideration of tax preferences, assess the effectiveness of budgeting requirements and practices, the general rigor of justifications and evaluations typically provided during legislative consideration of tax preferences, and the role and value of methodologies currently used to measure the public benefits and costs, including opportunity costs, of tax preferences, as defined in RCW 43.136.021.

(ii) Consider but not be limited to, the factors listed in RCW 43.136.055.

(b) The task force may make recommendations to improve the effectiveness of the review process conducted by the citizen commission on performance measurement of tax preferences process as described in chapter 43.136 RCW. The task force may also recommend changes or improvements in the manner in which both the executive branch and legislative branch of state government address tax preferences generally, including those in effect as well as those that may be hereafter proposed, in order to protect the public interest and assure transparency, fairness, and equity in the state tax code.

(c) The task force may recommend structural or procedural changes that it feels will enhance both executive and legislative procedures and ensure consistent and rigorous examination of such preferences.

(d) The task force must report its recommendations to the governor and legislative fiscal committees by November 15, 2010.

(e) The task force has eleven voting members as follows:

(i) One member is the state treasurer;

(ii) One member is the chair of the joint legislative audit and review committee;

(iii) One member is the director of financial management;

(iv) A member, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus; and

(v) An appointee who is not a legislator, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus.

(f) Persons appointed by the caucus chairs under (e)(v) of this subsection should be individuals who have a basic understanding of state tax policy, government operations, and public services.

(g) The task force must elect a chair from among its members. Decisions of the task force must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the substantial majority of the commission favors taking a particular action. The chair may determine when a vote must be taken. The task force must allow a minority report to be included with a decision of the task force if requested by a member of the task force.

(h) The joint legislative audit and review committee must provide clerical, technical, and management personnel to the task force to serve as the task force's staff. The staff of the legislative fiscal committees, legislative counsel, and the office of financial management must also provide technical assistance to the task force. The department of revenue must provide necessary support and information to the joint task force.

(i) The task force must meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the task force. The members of the task force must be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 102.** 2010 1st sp.s. c 37 s 106 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,652,000    |
| General Fund--State Appropriation (FY 2011) ..... | (\$8,506,000)  |
| .....   | \$7,971,000    |
| TOTAL APPROPRIATION .....                         | (\$17,158,000) |
| .....   | \$16,623,000   |

**Sec. 103.** 2010 1st sp.s. c 37 s 107 (uncodified) is amended to read as follows:

FOR THE STATUTE LAW COMMITTEE

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,611,000   |
| General Fund--State Appropriation (FY 2011) ..... | (\$4,864,000) |
| .....   | \$4,558,000   |
| TOTAL APPROPRIATION .....                         | (\$9,475,000) |
| .....   | \$9,169,000   |

**Sec. 104.** 2010 2nd sp.s. c 1 s 105 (uncodified) is amended to read as follows:

FOR THE REDISTRICTING COMMISSION

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2011) ..... | (\$992,000) |
| .....   | \$1,045,000 |

The appropriations in this section are subject to the following conditions and limitations: (~~(\$505,000)~~ \$473,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the support of legislative redistricting efforts. Prior to the appointment of the redistricting commission, the secretary of the senate and chief clerk of the house of representatives may jointly authorize the expenditure of these funds to facilitate preparations for the 2012 redistricting effort. Following the appointment of the commission, the house of representatives and senate shall enter into an interagency agreement with the commission authorizing the continued expenditure of these funds for legislative redistricting support.

**Sec. 105.** 2010 2nd sp.s. c 1 s 109 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) ..... | \$52,644,000  |
| General Fund--State Appropriation (FY 2011) ..... | \$49,760,000  |
| General Fund--Federal Appropriation .....         | \$979,000     |
| Judicial Information Systems Account--State       |               |
| Appropriation.....                                | \$33,406,000  |
| Judicial Stabilization Trust Account--State       |               |
| Appropriation.....                                | \$6,598,000   |
| TOTAL APPROPRIATION .....                         | \$143,387,000 |

.... The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,800,000 of the general fund--state appropriation for fiscal year 2010 and \$1,687,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(2)(a) \$8,252,000 of the general fund--state appropriation for fiscal year 2010 and \$7,734,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties

with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$5,700,000 of the judicial information systems account--state appropriation is provided solely for modernization and integration of the judicial information system.

(a) Of this amount, \$1,700,000 is for the development of a comprehensive enterprise-level information technology strategy and detailed business and operational plans in support of that strategy, and \$4,000,000 is to continue to modernize and integrate current systems and enhance case management functionality on an incremental basis.

(b) The amount provided in this subsection may not be expended without prior approval by the judicial information system committee. The administrator shall regularly submit project plan updates for approval to the judicial information system committee.

(c) The judicial information system committee shall review project progress on a regular basis and may require quality assurance plans. The judicial information systems committee shall provide a report to the appropriate committees of the legislature no later than November 1, 2011, on the status of the judicial information system modernization and integration, and the consistency of the project with the state's architecture, infrastructure and statewide enterprise view of service delivery.

(d) \$100,000 of the judicial information systems account--state appropriation is provided solely for the administrative office of the courts, in coordination with the judicial information system committee, to conduct an independent third-party executive-level review of the judicial information system. This review shall examine, at a minimum, the scope of the current project plan, governance structure, and organizational change management procedures. The review will also benchmark the system plans against similarly sized projects in other states or localities, review the large scale program risks, and estimate life cycle costs, including capital and on-going operational expenditures.

(5) \$3,000,000 of the judicial information systems account--state appropriation is provided solely for replacing computer equipment at state courts, and at state judicial agencies. The administrator for the courts shall prioritize equipment replacement purchasing and shall fund those items that are most essential or critical. By October 1, 2010, the administrative office of the courts shall report to the appropriate legislative fiscal committees on expenditures for equipment under this subsection.

(6) \$12,000 of the judicial information systems account--state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1954 (sealing juvenile records). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$106,000 of the general fund--state appropriation for fiscal year 2010 and \$106,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the twenty-third superior court judge position in Pierce county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(8) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(9) \$44,000 of the judicial information systems account--state appropriation is provided solely to implement chapter 272, Laws of 2010 (SHB 2680; guardianship).

(10) \$274,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(11) \$3,797,000 of the judicial information systems account--state appropriation is provided solely for continued planning and implementation of improvements to the court case management system.

(12) In accordance with RCW 43.135.055, the administrative office of the courts is authorized to adopt and increase the fees set forth in and previously authorized in section 6, chapter 491, Laws of 2009.

**Sec. 106.** 2010 2nd sp.s. c 1 s 114 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

|  |                |
|--|----------------|
| General Fund--State Appropriation (FY 2010) .....                      | \$21,105,000   |
| General Fund--State Appropriation (FY 2011) .....                      | (\$13,535,000) |
| .....  | \$13,612,000   |
| General Fund--Federal Appropriation .....                              | \$8,082,000    |
| Archives and Records Management Account--State<br>Appropriation.....   | \$8,990,000    |
| Charitable Organization Education Account--State<br>Appropriation..... | \$76,000       |
| Department of Personnel Service Account--State<br>Appropriation.....   | \$757,000      |
| Election Account--State Appropriation .....                            | \$77,000       |
| Local Government Archives Account--State<br>Appropriation.....         | \$11,515,000   |
| Election Account--Federal Appropriation .....                          | \$31,163,000   |
| TOTAL APPROPRIATION .....  | (\$95,300,000) |
| .....  | \$95,377,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,101,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund--state appropriation for fiscal year 2010 and \$1,845,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2009-2011 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may

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make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) The appropriations in this section are based upon savings assumed from the implementation of Senate Bill No. 6122 (election costs).

(4) In implementing budget reductions, the office of the secretary of state must make its first priority to maintain funding for the elections division.

(5) \$76,000 of the charitable organization education account--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute House Bill No. 2576 (corporation and charity fees). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$77,000 of the general fund--state appropriation for fiscal year (~~2010~~) 2011 is provided solely for deposit to the election account.

**Sec. 107.** 2010 1st sp.s. c 37 s 118 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,249,000   |
| General Fund--State Appropriation (FY 2011) ..... | ((2,212,000)) |
| .....   | \$1,969,000   |
| TOTAL APPROPRIATION .....                         | ((4,461,000)) |
| .....   | \$4,218,000   |

Sec. 108. 2010 1st sp.s. c 37 s 120 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$275,000   |
| General Fund--State Appropriation (FY 2011) ..... | ((262,000)) |
| .....   | \$233,000   |
| TOTAL APPROPRIATION .....                         | ((537,000)) |
| .....   | \$508,000   |

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

**Sec. 109.** 2010 1st sp.s. c 37 s 121 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$216,000   |
| General Fund--State Appropriation (FY 2011) ..... | ((236,000)) |
| .....   | \$221,000   |
| TOTAL APPROPRIATION .....                         | ((452,000)) |
| .....   | \$437,000   |

Sec. 110. 2010 1st sp.s. c 37 s 123 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$722,000           |
| General Fund--State Appropriation (FY 2011) ..... | ((717,000))         |
| .....   | \$638,000           |
| State Auditing Services Revolving                 |                     |
| Account--State Appropriation.....                 | \$10,749,000        |
| TOTAL APPROPRIATION .....                         | ((12,188,000))      |
| .....   | <u>\$12,109,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$722,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$717,000)~~) \$638,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

(4) The legislature finds that the major changes in personnel funding in this budget and the long term effects of the ongoing economic recession combine with structural changes in the nature of work and employment in many state agencies to require a continuing review of the workforce examination begun under chapter 534, Laws of 2009 (exempt employment practices). The legislature notes the ongoing management reforms of the Washington management service being undertaken by the department of personnel, and anticipates a continuing legislative committee examination of the architecture and cost of the state's career and executive workforce. To that end, the office of state auditor is invited to provide by September 1, 2010, a general survey of new and best practices for executive and career workforce management now in use by other states and relevant industries.

**Sec. 111.** 2010 1st sp.s. c 37 s 124 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$168,000   |
| General Fund--State Appropriation (FY 2011) ..... | ((206,000)) |
| .....   | \$193,000   |

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|  |                    |
|--|--------------------|
| TOTAL APPROPRIATION .....  | (((\$374,000))     |
| .....  | \$361,000          |
| Sec. 112. 2010 2nd sp.s. c 1 s 115 (uncodified) is amended to read as follows: |                    |
| FOR THE ATTORNEY GENERAL   |                    |
| General Fund--State Appropriation (FY 2010) .....                              | \$5,732,000        |
| General Fund--State Appropriation (FY 2011) .....                              | \$5,272,000        |
| General Fund--Federal Appropriation .....                                      | \$4,026,000        |
| New Motor Vehicle Arbitration Account--State                                   |                    |
| Appropriation.....   | \$1,350,000        |
| Legal Services Revolving Account--State  |                    |
| Appropriation.....   | (((\$220,909,000)) |
| .....  | \$224,523,000      |
| Tobacco Prevention and Control Account--State                                  |                    |
| Appropriation.....   | \$270,000          |
| TOTAL APPROPRIATION .....  | (((\$237,559,000)) |
| .....  | \$241,173,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The office of the attorney general is authorized to expend \$2,100,000 from the Zyprexa and other cy pres awards towards consumer protection costs in accordance with uses authorized in the court orders.

(4) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(5) The executive ethics board must produce a report by the end of the calendar year for the legislature regarding performance measures on the efficiency and effectiveness of the board, as well as on performance measures to measure and monitor the ethics and integrity of all state agencies.

(6) \$53,000 of the legal services revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 3026 (school district compliance with state and federal civil rights laws).

Sec. 113. 2010 1st sp.s. c 37 s 126 (uncodified) is amended to read as follows:

|   |                  |
|---|------------------|
| FOR THE CASELOAD FORECAST COUNCIL                 |                  |
| General Fund--State Appropriation (FY 2010) ..... | \$766,000        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$742,000))   |
| .....   | \$660,000        |
| TOTAL APPROPRIATION .....                         | (((\$1,508,000)) |
| .....   | \$1,426,000      |

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund--state

appropriation for fiscal year 2010 and \$7,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Substitute House Bill No. 2106 (improving child welfare outcomes through the phased implementation of strategic and proven reforms). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

Sec. 114. 2010 1st sp.s. c 37 s 127 (uncodified) is amended to read as follows:

|  |                    |
|--|--------------------|
| FOR THE DEPARTMENT OF COMMERCE                             |                    |
| General Fund--State Appropriation (FY 2010) .....          | \$49,670,000       |
| General Fund--State Appropriation (FY 2011) .....          | (((\$40,577,000))  |
| .....  | \$35,858,000       |
| General Fund--Federal Appropriation .....                  | (((\$381,918,000)) |
| .....  | \$385,491,000      |
| General Fund--Private/Local Appropriation.....             | \$10,622,000       |
| Public Works Assistance Account--State                     |                    |
| Appropriation.....   | \$2,974,000        |
| Tourism Development and Promotion Account--State           |                    |
| Appropriation.....   | (((\$1,003,000))   |
| .....  | \$798,000          |
| Drinking Water Assistance Administrative .....             |                    |
| Account--State Appropriation.....                          | \$433,000          |
| Lead Paint Account--State Appropriation .....              | \$35,000           |
| Building Code Council Account--State Appropriation .....   | \$688,000          |
| Home Security Fund Account--State Appropriation.....       | (((\$25,486,000))  |
| .....  | \$24,486,000       |
| Affordable Housing for All Account--State                  |                    |
| Appropriation.....   | \$11,896,000       |
| Washington Auto Theft Prevention Authority                 |                    |
| Account--State Appropriation.....                          | \$300,000          |
| Independent Youth Housing Account--State                   |                    |
| Appropriation.....   | \$220,000          |
| County Research Services Account--State Appropriation..... | \$469,000          |
| Community Preservation and Development Authority           |                    |
| Account--State Appropriation.....                          | \$350,000          |
| Financial Fraud and Identity Theft Crimes Investigation    |                    |
| and Prosecution Account--State Appropriation.....          | \$1,166,000        |
| Low-Income Weatherization Assistance Account--State .....  |                    |
| Appropriation.....   | \$6,882,000        |
| City and Town Research Services Account--State             |                    |
| Appropriation.....   | \$2,246,000        |
| Manufacturing Innovation and Modernization                 |                    |
| Account--State Appropriation.....                          | \$230,000          |
| Community and Economic Development Fee                     |                    |
| Account--State Appropriation.....                          | \$6,922,000        |
| Washington Housing Trust Account--State                    |                    |
| Appropriation.....   | \$15,348,000       |
| Prostitution Prevention and Intervention Account--         |                    |
| State Appropriation.....                                   | \$125,000          |
| Public Facility Construction Loan Revolving                |                    |
| Account--State Appropriation.....                          | \$754,000          |
| TOTAL APPROPRIATION .....                                  | (((\$560,314,000)) |
| .....  | \$557,963,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,378,000 of the general fund--state appropriation for fiscal year 2010 and ~~(((\$2,379,000))~~ \$2,248,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities.

(2) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account

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balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(3) \$100,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$100,000)~~) \$89,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement section 2(7) of Engrossed Substitute House Bill No. 1959 (land use and transportation planning for marine container ports).

(4) \$102,000 of the building code council account--state appropriation is provided solely for the implementation of sections 3 and 7 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If sections 3 and 7 of the bill are not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(5)(a) \$10,500,000 of the general fund--federal appropriation is provided for training and technical assistance associated with low income weatherization programs. Subject to federal requirements, the department shall provide: (i) Up to \$4,000,000 to the state board for community and technical colleges to provide workforce training related to weatherization and energy efficiency; (ii) up to \$3,000,000 to the Bellingham opportunity council to provide workforce training related to energy efficiency and weatherization; and (iii) up to \$3,500,000 to community-based organizations and to community action agencies consistent with the provisions of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). Any funding remaining shall be expended in project 91000013, weatherization, in the omnibus capital appropriations act, Substitute House Bill No. 1216 (capital budget).

(b) \$6,787,000 of the general fund--federal appropriation is provided solely for the state energy program, including not less than \$5,000,000 to provide credit enhancements consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings).

(c) Of the general fund--federal appropriation the department shall provide: \$14,500,000 to the Washington State University for the purpose of making grants for pilot projects providing community-wide urban, residential, and commercial energy efficiency upgrades consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings); \$500,000 to Washington State University to conduct farm energy assessments. In contracting with the Washington State University for the provision of these services, the total administration of Washington State University and the department shall not exceed 3 percent of the amounts provided.

(d) \$38,500,000 of the general fund--federal appropriation is provided for deposit in the energy recovery act account to establish a revolving loan program, consistent with the provisions of Engrossed Substitute House Bill No. 2289 (expanding energy freedom program).

(e) \$10,646,000 of the general fund--federal appropriation is provided pursuant to the energy efficiency and conservation block grant under the American reinvestment and recovery act. The department may use up to \$3,000,000 of the amount provided in this subsection to provide technical assistance for energy programs administered by the agency under the American reinvestment and recovery act.

(6) \$14,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5560 (state agency climate leadership). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$22,400,000 of the general fund--federal appropriation is provided solely for the justice assistance grant program and is contingent upon the department transferring: \$1,200,000 to the

department of corrections for security threat mitigation, \$2,336,000 to the department of corrections for offender reentry, \$1,960,000 to the Washington state patrol for law enforcement activities, \$2,087,000 to the department of social and health services, division of alcohol and substance abuse for drug courts, and \$428,000 to the department of social and health services for sex abuse recognition training. The remaining funds shall be distributed by the department to local jurisdictions.

(8) \$20,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$20,000)~~) \$18,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to KCTS public television to support Spanish language programming and the V-me Spanish language channel.

(9) \$500,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$500,000)~~) \$447,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(10) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6015 (commercialization of technology). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(11) By June 30, 2011, the department shall request information that describes what jurisdictions have adopted, or are in the process of adopting, plans that address RCW 36.70A.020 and helps achieve the greenhouse gas emission reductions established in RCW 70.235.020. This information request in this subsection applies to jurisdictions that are required to review and if necessary revise their comprehensive plans in accordance with RCW 36.70A.130.

(12) During the 2009-11 fiscal biennium, the department shall allot all of its appropriations subject to allotment by object, account, and expenditure authority code to conform with the office of financial management's definition of an option 2 allotment. For those funds subject to allotment but not appropriation, the agency shall submit option 2 allotments to the office of financial management.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the state's participation in the Pacific Northwest economic region.

(14) \$712,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$712,000)~~) \$559,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of crime victims advocacy. These funds shall be contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(15) \$306,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$306,000)~~) \$274,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to the retired senior volunteer program.

(16) \$65,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(17) \$371,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$371,000)~~) \$331,000 of the general fund--state

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appropriation for fiscal year 2011 are provided solely to the northwest agriculture business center.

(18) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties.

(19) \$212,000 of the general fund--federal appropriation is provided solely for implementation of Second Substitute House Bill No. 1172 (development rights transfer). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(20) \$69,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$66,000)~~ \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(21) \$350,000 of the community development and preservation authority account--state appropriation is provided solely for a grant to a community development authority established under chapter 43.167 RCW. The community preservation and development's board of directors may contract with nonprofit community organizations to aid in mitigating the effects of increased public impact on urban neighborhoods due to events in stadia that have a capacity of over 50,000 spectators.

(22) \$300,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for a contract with a community group to build local community capacity and economic development within the state by strengthening political relationships between economically distressed communities and governmental institutions. The community group shall identify opportunities for collaboration and initiate activities and events that bring community organizations, local governments, and state agencies together to address the impacts of poverty, political disenfranchisement, and economic inequality on communities of color. These funds must be matched by other nonstate sources on an equal basis.

(23) \$1,800,000 of the home security fund--state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(24) \$5,000,000 of the home security fund--state appropriation is provided solely for the operation, repair, and staffing of shelters in the homeless family shelter program.

(25) \$253,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$283,000)~~ \$253,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington new Americans program.

(26) \$438,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$438,000)~~ \$394,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington asset building coalitions.

~~(\$29)~~ (27) \$3,231,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$3,231,000)~~ \$3,031,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for associate development organizations.

~~(\$30)~~ (28) \$5,400,000 of the community and economic development fee account is provided as follows: \$1,000,000 is provided solely for the department of commerce for services for homeless families through the Washington families fund; \$2,600,000 is provided solely for housing trust fund operations and maintenance; \$800,000 is provided solely for housing trust fund portfolio management; \$500,000 is provided solely for foreclosure counseling and support; and \$500,000 is provided solely for use as a reserve in the account.

~~(\$32) \$250,000)~~ (29) \$237,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to administer a competitive grant program to fund economic development activities designed to further regional cluster

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growth and to integrate its sector-based and cluster-based strategies with its support for the development of innovation partnership zones. Grant recipients must provide matching funds equal to the size of the grant. Grants may be awarded to support the formation of sector associations or cluster associations, the identification of the technology and commercialization needs of a sector or cluster, facilitating working relationships between a sector association or cluster association and an innovation partnership zone, expanding the operations of an innovation partnership zone, and developing and implementing plans to meet the technology development and commercialization needs of industry sectors, industry clusters, and innovation partnership zones. The projects receiving grants must not duplicate the purpose or efforts of industry skill panels but priority must be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

~~(\$33) \$100,000)~~ (30) \$62,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to:

(a) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(b) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

~~(\$34) \$1,000,000)~~ (31) \$893,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement the provisions of chapter 13, Laws of 2010 (global health program).

~~(\$35)~~ (32) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the creation of the Washington entrepreneurial development and small business reference service in the department of commerce.

(a) The department must:

(i) In conjunction with and drawing on information compiled by the work force training and education coordinating board and the Washington economic development commission:

(A) Establish and maintain an inventory of the public and private entrepreneurial training and technical assistance services, programs, and resources available in the state;

(B) Disseminate information about available entrepreneurial development and small business assistance services, programs, and resources via in-person presentations and electronic and printed materials and undertake other activities to raise awareness of entrepreneurial training and small business assistance offerings; and

(C) Evaluate the extent to which existing entrepreneurial training and technical assistance programs in the state are effective and represent a consistent, integrated approach to meeting the needs of start-up and existing entrepreneurs;

(ii) Assist providers of entrepreneurial development and small business assistance services in applying for federal and private funding to support the entrepreneurial development and small business assistance activities in the state;

(iii) Distribute awards for excellence in entrepreneurial training and small business assistance; and

(iv) Report to the governor, the economic development commission, the work force training and education coordinating board, and the appropriate legislative committees its recommendations for statutory changes necessary to enhance operational efficiencies or enhance coordination related to entrepreneurial development and small business assistance.

(b) In carrying out the duties under this section, the department must seek the advice of small business owners and advocates, the Washington economic development commission, the work force

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training and education coordinating board, the state board for community and technical colleges, the employment security department, the Washington state microenterprise association, associate development organizations, impact Washington, the Washington quality award council, the Washington technology center, the small business export finance assistance center, the Spokane intercollegiate research and technology institute, representatives of the University of Washington business school and the Washington State University college of business and economics, the office of minority and women's business enterprises, the Washington economic development finance authority, and staff from small business development centers.

(c) The director may appoint an advisory board or convene such other individuals or groups as he or she deems appropriate to assist in carrying out the department's duties under this section.

((37)) (33) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a grant to HistoryLink.

(34) \$20,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for dues to support the state's participation in the Pacific northwest economic region consistent with the provisions of chapter 43.147 RCW.

Sec. 115. 2010 1st sp.s. c 37 s 128 (uncodified) is amended to read as follows:

FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$711,000        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$772,000))   |
| .....   | \$723,000        |
| TOTAL APPROPRIATION .....                         | (((\$1,483,000)) |
| .....   | \$1,434,000      |

The appropriations in this section are subject to the following conditions and limitations: The economic and revenue forecast council, in its quarterly revenue forecasts, shall forecast the total revenue for the state lottery.

Sec.116. 2010 1st sp.s. c 37 s 130 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

|   |                   |
|---|-------------------|
| Administrative Hearings Revolving Account--State Appropriation..... | (((\$33,978,000)) |
| .....   | \$34,468,000      |

The appropriation in this section is subject to the following conditions and limitations: \$725,000 of the administrative hearings revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 117. 2010 1st sp.s. c 37 s 133 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$250,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$255,000)) |
| .....   | \$227,000      |
| TOTAL APPROPRIATION .....                         | (((\$505,000)) |
| .....   | \$477,000      |

Sec. 118. 2010 1st sp.s. c 37 s 134 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$243,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$236,000)) |
| .....   | \$210,000      |
| TOTAL APPROPRIATION .....                         | (((\$479,000)) |
| .....   | \$453,000      |

Sec. 119. 2010 2nd sp.s. c 1 s 117 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....                   | \$109,472,000      |
| General Fund--State Appropriation (FY 2011) ...                     | (((\$113,279,000)) |
| .....   | \$107,662,000      |
| Timber Tax Distribution Account--State Appropriation.....           | \$5,933,000        |
| Waste Reduction/Recycling/Litter Control--State Appropriation ..... | \$130,000          |
| Waste Tire Removal Account--State Appropriation .....               | \$2,000            |
| Real Estate Excise Tax Grant Account--State Appropriation.....      | \$3,429,000        |
| State Toxics Control Account--State Appropriation.....              | \$87,000           |
| Oil Spill Prevention Account--State Appropriation.....              | \$19,000           |
| TOTAL APPROPRIATION .....   | (((\$232,351,000)) |
| .....   | \$226,734,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$469,000 of the general fund--state appropriation for fiscal year 2010 and \$374,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Substitute Senate Bill No. 5368 (annual property revaluation). If the bill is not enacted by June 30, 2009, the amounts in this subsection shall lapse.

(2) \$4,653,000 of the general fund--state appropriation for fiscal year 2010 and \$4,242,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of revenue enhancement strategies. The strategies must include increased out-of-state auditing and compliance, the purchase of third party data sources for enhanced audit selection, and increased traditional auditing and compliance efforts.

(3) \$3,127,000 of the general fund--state appropriation for fiscal year 2010 and \$1,737,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Senate Bill No. 6173 (sales tax compliance). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$1,294,000 of the general fund--state appropriation for fiscal year 2010 and \$3,085,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Engrossed Substitute Senate Bill No. 6143 (excise tax law modifications). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) \$163,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Substitute Senate Bill No. 6846 (enhanced 911 services). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) (((\$1,200,000)) \$304,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for making the necessary preparations for implementation of the working families tax exemption pursuant to RCW 82.08.0206 in 2012.

Sec. 120. 2010 1st sp.s. c 37 s 138 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,346,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,318,000)) |
| .....   | \$1,195,000      |
| TOTAL APPROPRIATION .....                         | (((\$2,664,000)) |
| .....   | \$2,541,000      |

Sec. 121. 2010 1st sp.s. c 37 s 141 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$815,000        |
| General Fund--State Appropriation (FY 2011).....        | (((\$3,963,000)) |
| .....   | \$3,527,000      |
| General Fund--Federal Appropriation .....               | \$2,956,000      |
| Building Code Council Account--State Appropriation..... | (((\$593,000))   |
| .....   | \$875,000        |

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|  |                   |
|--|-------------------|
| General Fund--Private/Local Appropriation..... | \$84,000          |
| General Administration Service Account--State  |                   |
| Appropriation.....                             | (((\$31,748,000)) |
| .....  | \$31,397,000      |
| TOTAL APPROPRIATION .....                      | (((\$40,159,000)) |
| .....  | \$39,654,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$28,000~~)) \$14,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of section 8 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If section 8 of the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) ((~~\$3,545,000~~)) \$3,197,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall enter into an interagency agreement with these agencies by July 1, 2010, to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The agencies named in this subsection shall continue to enjoy all of the same rights of occupancy, support, and space use on the capitol campus as historically established.

(3) \$84,000 of the general fund--private/local appropriation and \$593,000 of the building code council account--state appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2658 (refocusing the department of commerce, including transferring programs). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(4) In accordance with RCW 46.08.172 and 43.135.055, the department is authorized to increase parking fees in fiscal year 2011 as necessary to meet the actual costs of conducting business.

**Sec. 122.** 2010 1st sp.s. c 37 s 142 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF INFORMATION SERVICES

|   |                   |
|---|-------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,086,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,080,000))  |
| .....   | \$1,012,000       |
| General Fund--Federal Appropriation .....         | \$701,000         |
| General Fund--Private/Local Appropriation.....    | \$178,000         |
| Data Processing Revolving Account--State          |                   |
| Appropriation.....                                | \$7,601,000       |
| TOTAL APPROPRIATION .....                         | (((\$10,646,000)) |
| .....   | \$10,578,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of Engrossed Second Substitute House Bill No. 1701 (high-speed internet), including expenditure for deposit to the community technology opportunity account. If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The department shall implement some or all of the following strategies to achieve savings on information technology expenditures through: (a) Holistic virtualization strategies; (b) wide-area network optimization strategies; (c) replacement of traditional telephone communications systems with alternatives;

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and (d) migration of external voice mail systems to internal voice mail systems coordinated by the department. The department shall report to the office of financial management and the fiscal committees of the legislature semiannually on progress made towards the implementation of savings strategies and the savings realized to date. No later than June 30, 2011, the department shall submit a final report on its findings and savings realized to the office of financial management and the fiscal committees of the legislature.

(3) \$178,000 of the general fund--private/local appropriation is provided solely for the implementation of the opportunity portal under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(4) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

(5) The department is prohibited from expending any amounts appropriated in this section or any amounts from other funds managed by the department for the purchase, restoration, installation, or deployment of equipment for the new state data center authorized in section 6031(8), chapter 497, Laws of 2009. The department may continue planning activities to develop cost effective solutions for information technology management.

**Sec. 123.** 2010 1st sp.s. c 37 s 146 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

Liquor Control Board Construction and Maintenance

|  |                    |
|--|--------------------|
| Account--State Appropriation.....                                | \$8,817,000        |
| Liquor Revolving Account--State Appropriation (((\$156,580,000)) |                    |
| .....  | \$156,691,000      |
| TOTAL APPROPRIATION .....  | (((\$165,397,000)) |
| .....  | \$165,508,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,306,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open five new state stores.

(2) \$40,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open ten new contract stores.

(3) ((~~\$3,059,000~~)) \$2,810,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to increase state and local revenues from new retail strategies including opening nine state stores on Sunday, opening state liquor stores on seven holidays, opening six mall locations during the holiday season, and increasing lottery sales.

(4) \$173,000 of the liquor revolving account--state appropriation is provided solely for the Engrossed House Bill No. 2040 (beer and wine regulation commission). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$130,000 of the liquor revolving account appropriation is provided to implement chapter 141, Laws of 2010 (SSB 6329).

(6) Within the amounts appropriated in this section, the liquor control board shall monitor the tasting endorsement authorized by chapter 141, Laws of 2010 (SSB 6329) and report to the appropriate committees of the legislature by June 30, 2011, on the enforcement of the endorsement. The report must include the number of compliance checks conducted by the liquor board during tasting activities, whether the checks were conducted with the knowledge of the licensee, the number of compliance checks passed, the number and type of notices of violation issued, the penalties imposed for the violations, the number of complaints received about tasting activities, and other information related to the enforcement

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of the endorsement. If the bill is not enacted by June 30, 2010, the requirements of this subsection shall be null and void.

(7) The board shall prepare a plan to transition selected state liquor stores to contract stores. The plan must identify stores for transition that the board determines will result in the greatest efficiency and cost-effectiveness for the state. The plan must provide for the conversion of at least twenty state liquor stores to contract liquor stores and for that conversion to occur between July 1, 2011, and July 1, 2013. The plan must also include an analysis of the revenue generating capacity and costs for the stores before and after the conversion as well as an analysis of access to liquor by intoxicated and underage persons. The board shall submit the plan to the appropriate policy and fiscal committees of the legislature by November 1, 2010.

Sec. 124. 2010 1st sp.s. c 37 s 148 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....         | \$9,350,000        |
| General Fund--State Appropriation (FY 2011) .....         | (((\$8,874,000))   |
| .....   | \$7,898,000        |
| General Fund--Federal Appropriation .....                 | \$168,599,000      |
| Enhanced 911 Account--State Appropriation.....            | \$44,508,000       |
| Disaster Response Account--State Appropriation .....      | \$28,350,000       |
| Disaster Response Account--Federal Appropriation .....    | \$114,496,000      |
| Military Department Rent and Lease Account--State         |                    |
| Appropriation.....  | \$612,000          |
| Military Department Active State Service Account--Federal |                    |
| Appropriation.....  | \$592,000          |
| Worker and Community Right-to-Know Account--State         |                    |
| Appropriation.....  | \$341,000          |
| Nisqually Earthquake Account--State Appropriation.....    | \$307,000          |
| Nisqually Earthquake Account--Federal Appropriation.....  | \$1,067,000        |
| TOTAL APPROPRIATION .....                                 | (((\$377,096,000)) |
| .....   | \$376,120,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,326,000 of the disaster response account--state appropriation and \$114,496,000 of the disaster response account--federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(2) \$307,000 of the Nisqually earthquake account--state appropriation and \$1,067,000 of the Nisqually earthquake account--federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current

available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(3) \$85,000,000 of the general fund--federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit an annual report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate.

(4) \$500,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and may not use any of the funds for administrative purposes.

Sec. 125. 2010 1st sp.s. c 37 s 150 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|  |                  |
|--|------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$2,667,000      |
| General Fund--State Appropriation (FY 2011) .....  | (((\$2,635,000)) |
| .....  | \$2,345,000      |
| Higher Education Personnel Services Account--State |                  |
| Appropriation.....                                 | \$250,000        |
| Department of Personnel Service Account--State     |                  |
| Appropriation.....                                 | \$3,263,000      |
| TOTAL APPROPRIATION .....                          | (((\$8,815,000)) |
| .....  | \$8,525,000      |

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Substitute Senate Bill No. 6726 (language access provider bargaining).

Sec. 126. 2010 1st sp.s. c 37 s 151 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,371,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,382,000)) |
| .....   | \$1,230,000      |
| General Fund--Federal Appropriation .....         | \$2,293,000      |
| General Fund--Private/Local Appropriation.....    | \$14,000         |
| TOTAL APPROPRIATION .....                         | (((\$5,060,000)) |
| .....   | \$4,908,000      |

The appropriations in this section are subject to the following conditions and limitations: \$44,000 of the general fund--state appropriation for fiscal year 2011 is provided for implementation of Substitute House Bill No. 2704 (Washington main street program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 127. 2010 2nd sp.s. c 1 s 118 (uncodified) is amended to read as follows:

FOR THE GROWTH MANAGEMENT HEARINGS BOARD

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,642,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$1,334,000 |
| TOTAL APPROPRIATION .....                         | \$2,976,000 |

The appropriations in this section are subject to the following conditions and limitations: (((\$13,000)) \$12,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for

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Substitute House Bill No. 2935 (hearings boards/environment and land use). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 128. 2010 1st sp.s. c 37 s 153 (uncodified) is amended to read as follows:

FOR THE STATE CONVENTION AND TRADE CENTER

|  |                    |
|--|--------------------|
| State Convention and Trade Center Account--State |                    |
| Appropriation.....                               | (((\$60,127,000))  |
| .....  | \$35,127,000       |
| State Convention and Trade Center Operating      |                    |
| Account--State Appropriation.....                | (((\$56,694,000))  |
| .....  | \$31,694,000       |
| TOTAL APPROPRIATION .....                        | (((\$116,821,000)) |
| .....  | \$66,821,000       |

**NEW SECTION. Sec. 129.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the utilities and transportation commission is authorized to increase the fees set forth in and previously authorized in section 147, chapter 37, Laws of 2010 1st sp.s.

**NEW SECTION. Sec. 130.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the office of financial management is authorized to adopt and increase the fees set forth in and previously authorized in section 13, chapter 314, Laws of 2009.

(End of part)

**PART II  
HUMAN SERVICES**

**Sec. 201.** 2010 2nd sp.s. c 1 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$315,002,000        |
| General Fund--State Appropriation (FY 2011) ...         | (((\$293,707,000))   |
| .....   | \$287,326,000        |
| General Fund--Federal Appropriation .....               | (((\$497,964,000))   |
| .....   | \$494,007,000        |
| General Fund--Private/Local Appropriation.....          | \$3,320,000          |
| Home Security Fund--State Appropriation.....            | (((\$9,983,000))     |
| .....   | \$8,564,000          |
| Domestic Violence Prevention Account--State             |                      |
| Appropriation.....                                      | \$1,154,000          |
| Education Legacy Trust Account--State Appropriation ... | \$725,000            |
| TOTAL APPROPRIATION .....                               | (((\$1,121,855,000)) |
| .....   | \$1,110,098,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$937,000 of the general fund--state appropriation for fiscal year 2010 and \$696,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(2) \$369,000 of the general fund--state appropriation for fiscal year 2010, ~~(((\$366,000))~~ \$343,000 of the general fund--state appropriation for fiscal year 2011, and ~~(((\$316,000))~~ \$306,000 of the general fund--federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(3) \$2,500,000 of the general fund--state appropriation for fiscal year 2010 and \$88,000 of the general fund--state appropriation for fiscal year 2011, and \$2,256,000 of the home security fund--state appropriation are provided solely for secure crisis residential centers. Within appropriated amounts, the department shall collaborate with providers to maintain no less than forty-five beds that are geographically representative of the state. The department shall examine current secure crisis residential staffing requirements, flexible payment options, center specific waivers, and other appropriate methods to accomplish this outcome.

(4) A maximum of ~~(((\$73,209,000))~~ \$69,190,000 of the general fund--state appropriations and ~~(((\$54,596,000))~~ \$54,443,000 of the general fund--federal appropriations for the 2009-11 biennium shall be expended for behavioral rehabilitative services and these amounts are provided solely for this purpose. The department shall work with behavioral rehabilitative service providers to safely keep youth with emotional, behavioral, or medical needs at home, with relatives, or with other permanent placement resources and decrease the length of service through improved emotional, behavioral, or medical outcomes for children in behavioral rehabilitative services in order to achieve the appropriated levels.

(a) Contracted providers shall act in good faith and accept the hardest to serve children, to the greatest extent possible, in order to improve their emotional, behavioral, or medical conditions.

(b) The department and the contracted provider shall mutually agree and establish an exit date for when the child is to exit the behavioral rehabilitative service provider. The department and the contracted provider should mutually agree, to the greatest extent possible, on a viable placement for the child to go to once the child's treatment process has been completed. The child shall exit only when the emotional, behavioral, or medical condition has improved or if the provider has not shown progress toward the outcomes specified in the signed contract at the time of exit. This subsection (b) does not prevent or eliminate the department's responsibility for removing the child from the provider if the child's emotional, behavioral, or medical condition worsens or is threatened.

(c) The department is encouraged to use performance-based contracts with incentives directly tied to outcomes described in this section. The contracts should incentivize contracted providers to accept the hardest to serve children and incentivize improvement in children's emotional, mental, and medical well-being within the established exit date. The department is further encouraged to increase the use of behavioral rehabilitative service group homes, wrap around services to facilitate and support placement of youth at home with relatives, or other permanent resources, and other means to control expenditures.

(d) The total foster care per capita amount shall not increase more than four percent in the 2009-11 biennium and shall not include behavioral rehabilitative service.

(5) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the

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aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

(6) (~~(\$14,187,000)~~) \$13,387,000 of the general fund--state appropriation for fiscal year 2011 and \$6,231,000 of the general fund--federal appropriation are provided solely for the department to provide contracted prevention and early intervention services. The legislature recognizes the need for flexibility as the department transitions to performance-based contracts. The following services are included in the prevention and early intervention block grant: Crisis family intervention services, family preservation services, intensive family preservation services, evidence-based programs, public health nurses, and early family support services. The legislature intends for the department to maintain and build on existing evidence-based and research-based programs with the goal of utilizing contracted prevention and intervention services to keep children safe at home and to safely reunify families. Priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts and shall provide the legislature and governor a report regarding the allocation of resources in this subsection by September 30, 2010. The department shall expend federal funds under this subsection in compliance with federal regulations.

(7) \$36,000 of the general fund--state appropriation for fiscal year 2010, \$34,000 of the general fund--state appropriation for fiscal year 2011, and \$29,000 of the general fund--federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007 (child welfare).

(8) \$125,000 of the general fund--state appropriation for fiscal year 2010 and \$118,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for continuum of care services. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2010. \$95,000 of this amount is for Casey family partners and \$23,000 of this amount is for volunteers of America crosswalk in fiscal year 2011.

(9) \$1,904,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$1,717,000)~~) \$1,441,000 of the general fund--state appropriation for fiscal year 2011, and \$335,000 of the general fund--federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families and for foster care assessments. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. The department will maintain the availability of comprehensive foster care assessments and follow up services for children in out-of-home care who do not have permanent plans, comprehensive safety assessments for families receiving in-home child protective services or family voluntary services, and comprehensive safety assessments for families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral related to the infant due to the substance exposure. The department must consolidate contracts, streamline administration, and explore efficiencies to achieve savings.

(10) \$7,679,000 of the general fund--state appropriation for fiscal year 2010, \$6,226,000 of the general fund--state appropriation for fiscal year 2011, and \$4,658,000 of the general fund--federal appropriation are provided solely for court-ordered supervised visits between parents and dependent children and for sibling visits. The department shall work collaboratively with the juvenile dependency

courts and revise the supervised visit reimbursement procedures to stay within appropriations without impeding reunification outcomes between parents and dependent children. The department shall report to the legislative fiscal committees on September 30, 2010, and December 30, 2010, the number of children in foster care who receive supervised visits, their frequency, length of time of each visit, and whether reunification is attained.

(11) \$145,000 of the general fund--state appropriation for fiscal year 2010, \$817,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$724,000)~~) \$668,000 of the home security fund--state appropriation is provided solely for street youth program services.

(12) \$1,522,000 of the general fund--state appropriation for fiscal year 2010, \$1,256,000 of the general fund--state appropriation for fiscal year 2011, and \$1,372,000 of the general fund--federal appropriation are provided solely for the department to recruit foster parents. The recruitment efforts shall include collaborating with community-based organizations and current or former foster parents to recruit foster parents.

(13) \$493,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$284,000)~~) \$102,000 of the general fund--state appropriation for fiscal year 2011, \$466,000 of the general fund--private/local appropriation, \$182,000 of the general fund--federal appropriation, and \$725,000 of the education legacy trust account--state appropriation are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. Funding is provided solely for contracted education coordinators to assist foster children in succeeding in K-12 and higher education systems. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

(14) (~~(\$1,677,000)~~) \$1,273,000 of the home security fund account--state appropriation is provided solely for HOPE beds.

(15) (~~(\$5,193,000)~~) \$4,234,000 of the home security fund account--state appropriation is provided solely for the crisis residential centers.

(16) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(17) Within the amounts appropriated in this section, the department shall contract for a pilot project with family and community networks in Whatcom county and up to four additional counties to provide services. The pilot project shall be designed to provide a continuum of services that reduce out-of-home placements and the lengths of stay for children in out-of-home placement. The department and the community networks shall collaboratively select the additional counties for the pilot project and shall collaboratively design the contract. Within the framework of the pilot project, the contract shall seek to maximize federal funds. The pilot project in each county shall include the creation of advisory and management teams which include members from neighborhood-based family advisory committees, residents, parents, youth, providers, and local and regional department staff. The Whatcom county team shall facilitate the development of outcome-based protocols and policies for the pilot project and develop a structure to oversee, monitor, and evaluate the results of the pilot projects. The department shall report the costs and savings of the pilot project to the appropriate committees of the legislature by November 1 of each year.

(18) (((\$157,000 of the general fund--state appropriation for fiscal year 2010 and \$148,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with a nonprofit entity for a reunification pilot project in Whatcom and Skagit counties. The contract for the reunification pilot project shall include a rate of \$46.16 per hour for evidence-based interventions, in combination with supervised visits, to provide 3,564 hours of services to reduce the length of stay for children in the child welfare system. The contract shall also include evidence-based intensive parenting skills building services and family support case management services for 38 families participating in the reunification pilot project. The contract shall include the flexibility for the nonprofit entity to subcontract with trained providers.

((19))) \$303,000 of the general fund--state appropriation for fiscal year 2010, \$392,000 of the general fund--state appropriation for fiscal year 2011, and \$241,000 of the general fund--federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1961 (increasing adoptions act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

((20)) \$98,000 of the general fund--state appropriation for fiscal year 2010 and \$92,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with an agency that is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support.

((21))) (19) The legislature intends for the department to reduce the time a child remains in the child welfare system. The department shall establish a measurable goal and report progress toward meeting that goal to the legislature by January 15 of each fiscal year of the 2009- 11 fiscal biennium. To the extent that actual caseloads exceed those assumed in this section, it is the intent of the legislature to address those issues in a manner similar to all other caseload programs.

((22))) (20) \$715,000 of the general fund--state appropriation for fiscal year 2010 and \$671,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for services provided through children's advocacy centers.

((23))) (21) \$10,000 of the general fund--state appropriation for fiscal year 2011 and \$3,000 of the general fund--federal appropriation are provided solely for implementation of chapter 224, Laws of 2010 (confinement alternatives). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

((24))) (22) \$1,867,000 of the general fund--state appropriation for fiscal year 2010, \$1,677,000 of the general fund--state appropriation for fiscal year 2011, and \$4,379,000 of the general fund--federal appropriation are provided solely for the department to contract for medicaid treatment child care (MTCC) services. Children's administration case workers, local public health nurses and case workers from the temporary assistance for needy families program shall refer children to MTCC services, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC services.

((25))) (23) The department shall contract for at least one pilot project with adolescent services providers to deliver a continuum of short-term crisis stabilization services. The pilot project shall include adolescent services provided through secure crisis residential centers, crisis residential centers, and hope beds. The department shall work with adolescent service providers to maintain availability of adolescent services and maintain the delivery of services in a geographically representative manner. The department shall examine current staffing requirements, flexible

payment options, center-specific licensing waivers, and other appropriate methods to achieve savings and streamline the delivery of services. The legislature intends for the pilot project to provide flexibility to the department to improve outcomes and to achieve more efficient utilization of existing resources, while meeting the statutory goals of the adolescent services programs. The department shall provide an update to the appropriate legislative committees and governor on the status of the pilot project implementation by December 1, 2010.

((26))) (24) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

((27))) (25) Receipts from fees per chapter 289, Laws of 2010, as deposited into the prostitution prevention and intervention account for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs shall be used to expand capacity for secure crisis residential centers and not supplant existing funding.

((28))) (26) The appropriations in this section reflect reductions to the foster care maintenance payment rates during fiscal year 2011.

**Sec. 202.** 2010 2nd sp.s. c 1 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM**

|  |                           |
|--|---------------------------|
| General Fund--State Appropriation (FY 2010) .....    | \$103,437,000             |
| General Fund--State Appropriation (FY 2011) .....    | (((\$96,167,000))         |
| .....  | \$90,552,000              |
| General Fund--Federal Appropriation .....            | \$1,715,000               |
| General Fund--Private/Local Appropriation.....       | \$1,899,000               |
| Washington Auto Theft Prevention Authority Account-- |                           |
| State Appropriation.....                             | \$3,896,000               |
| Juvenile Accountability Incentive Account--Federal   |                           |
| Appropriation.....                                   | \$2,805,000               |
| State Efficiency and Restructuring Account--State    |                           |
| Appropriation.....                                   | \$4,958,000               |
| <b>TOTAL APPROPRIATION .....</b>                     | <b>(((\$214,877,000))</b> |
| .....  | <b>\$209,262,000</b>      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$353,000 of the general fund--state appropriation for fiscal year 2010 and (((\$353,000)) \$331,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$3,408,000 of the general fund--state appropriation for fiscal year 2010 and (((\$2,998,000)) \$2,716,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be

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distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,716,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$3,716,000)~~) \$3,482,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$1,427,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$1,206,000)~~) \$1,130,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,066,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$3,066,000)~~) \$2,873,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,287,000 of the general fund--state appropriation for fiscal year 2010 and \$1,287,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) For the fiscal year ending June 30, 2011, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three

percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) It is the intent of the legislature that the juvenile rehabilitation administration phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of three percent in fiscal year 2011, five percent in fiscal year 2012, and five percent in fiscal year 2013. It is further the intent of the legislature that the evidence-based expansion grants be incorporated into the block grant formula by fiscal year 2013 and SSODA remain separate unless changes would result in increasing the cost benefit savings to the state as identified in (c) of this subsection.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to

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the state in the implementation of evidence-based practices and disposition alternatives.

(e) By December 1, 2010, the Washington state institute for public policy shall report to the office of financial management and appropriate committees of the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.

(8) \$3,700,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for competitive grants to community-based organizations to provide at-risk youth intervention services, including but not limited to, case management, employment services, educational services, and street outreach intervention programs. Projects funded should focus on preventing, intervening, and suppressing behavioral problems and violence while linking at-risk youth to pro-social activities. The department may not expend more than \$1,850,000 per fiscal year. The costs of administration must not exceed four percent of appropriated funding for each grant recipient. Each entity receiving funds must report to the juvenile rehabilitation administration on the number and types of youth served, the services provided, and the impact of those services upon the youth and the community.

(9) The appropriations in this section assume savings associated with the transfer of youthful offenders age eighteen or older whose sentences extend beyond age twenty-one to the department of corrections to complete their sentences. Prior to transferring an offender to the department of corrections, the juvenile rehabilitation administration shall evaluate the offender to determine the offender's physical and emotional suitability for transfer.

Sec. 203. 2010 2nd sp.s. c 1 s 203 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

|  |                                  |
|--|----------------------------------|
| General Fund--State Appropriation (FY 2010) .....                              | \$273,648,000                    |
| General Fund--State Appropriation (FY 2011) ... (( <del>\$278,530,000</del> )) | \$264,561,000                    |
| .....  |                                  |
| General Fund--Federal Appropriation .....                                      | \$519,456,000                    |
| General Fund--Private/Local Appropriation..... (( <del>\$16,674,000</del> ))   | \$16,951,000                     |
| .....  |                                  |
| Hospital Safety Net Assessment Fund--State                                     |                                  |
| Appropriation.....   | \$3,476,000                      |
| TOTAL APPROPRIATION .....  | (( <del>\$1,091,784,000</del> )) |
| .....  | \$1,078,092,000                  |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$113,689,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$113,689,000~~)) \$101,089,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$11,606,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2009 prior to supplemental budget reductions. This \$11,606,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) \$10,400,000 of the general fund--state appropriation for fiscal year 2010, ((~~\$9,100,000~~)) \$8,814,000 of the general

fund--state appropriation for fiscal year 2011, and \$1,300,000 of the general fund--federal appropriation are provided solely for the department and regional support networks to contract for implementation of high-intensity program for active community treatment (PACT) teams. The department shall work with regional support networks and the center for medicare and medicaid services to integrate eligible components of the PACT service delivery model into medicaid capitation rates no later than January 2011, while maintaining consistency with all essential elements of the PACT evidence-based practice model.

(c) \$6,500,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$6,500,000~~)) \$6,091,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 617 per day during the first quarter of fiscal year 2010, ((~~and~~)) 587 per day through the second quarter of fiscal year 2011, and 557 per day thereafter. Beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. The department shall separately charge regional support networks for persons served in the PALS program.

(e) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(f) \$4,582,000 of the general fund--state appropriation for fiscal year 2010 and \$4,582,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

(g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

(h) \$750,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$750,000~~)) \$703,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

(i) \$1,500,000 of the general fund--state appropriation for fiscal year 2010 and \$1,500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

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(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

(j) The department shall return to the Spokane regional support network fifty percent of the amounts assessed against the network during the last six months of calendar year 2009 for state hospital utilization in excess of its contractual limit. The regional support network shall use these funds for operation during its initial months of a new sixteen-bed evaluation and treatment facility that will enable the network to reduce its use of the state hospital, and for diversion and community support services for persons with dementia who would likely otherwise require care at the state hospital.

(k) The department is directed to identify and implement program efficiencies and benefit changes in its delivery of medicaid managed-care services that are sufficient to operate within the state and federal appropriations in this section. Such actions may include but are not limited to methods such as adjusting the care access standards; improved utilization management of ongoing, recurring, and high-intensity services; and increased uniformity in provider payment rates. The department shall ensure that the capitation rate adjustments necessary to accomplish these efficiencies and changes are distributed uniformly and equitably across all regional support networks statewide. The department is directed to report to the relevant legislative fiscal and policy committees at least thirty days prior to implementing rate adjustments reflecting these changes.

(l) In developing the new medicaid managed care rates under which the public mental health managed care system will operate during the five years beginning in fiscal year 2011, the department should seek to estimate the reasonable and necessary cost of efficiently and effectively providing a comparable set of medically necessary mental health benefits to persons of different acuity levels regardless of where in the state they live. Actual prior period spending in a regional administrative area shall not be a key determinant of future payment rates. The department shall report to the office of financial management and to the relevant fiscal and policy committees of the legislature on its proposed new waiver and mental health managed care rate-setting approach by October 1, 2009, and again at least sixty days prior to implementation of new capitation rates.

(m) In implementing the new public mental health managed care payment rates for fiscal year 2011, the department shall to the maximum extent possible within each regional support network's allowable rate range establish rates so that there is no increase or decrease in the total state and federal funding that the regional support network would receive if it were to continue to be paid at its October 2009 through June 2010 rates. The department shall additionally revise the draft rates issued January 28, 2010, to more accurately reflect the lower practitioner productivity inherent in the delivery of services in extremely rural regions in which a majority of the population reside in frontier counties, as defined and designated by the national center for frontier communities.

(n) \$1,529,000 of the general fund--state appropriation for fiscal year 2010 and \$1,529,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

(o) The legislature intends and expects that regional support networks and contracted community mental health agencies shall make all possible efforts to, at a minimum, maintain current compensation levels of direct care staff. Such efforts shall include,

but not be limited to, identifying local funding that can preserve client services and staff compensation, achieving administrative reductions at the regional support network level, and engaging stakeholders on cost-savings ideas that maintain client services and staff compensation. For purposes of this section, "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance.

(p) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

(2) INSTITUTIONAL SERVICES

|  |                    |
|--|--------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$119,423,000      |
| General Fund--State Appropriation (FY 2011) ... (((\$118,010,000)) |                    |
| .....  | \$112,514,000      |
| General Fund--Federal Appropriation .....                          | (((\$153,425,000)) |
| .....  | \$152,195,000      |
| General Fund--Private/Local Appropriation.....                     | (((\$64,614,000))  |
| .....  | \$63,873,000       |
| TOTAL APPROPRIATION .....  | (((\$455,472,000)) |
| .....  | \$448,005,000      |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund--state appropriation for fiscal year 2008 and ((~~\$231,000~~)) \$216,000 of the general fund--state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$45,000~~)) \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) ((~~\$200,000~~)) \$187,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for support of the psychiatric security review panel established pursuant to Senate Bill No. 6610. If Senate Bill No. 6610 is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(3) SPECIAL PROJECTS

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,819,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$2,092,000)) |
| .....   | \$1,961,000      |
| General Fund--Federal Appropriation .....         | \$2,142,000      |
| TOTAL APPROPRIATION .....                         | (((\$6,053,000)) |
| .....   | \$5,922,000      |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$1,511,000 of the general fund--state appropriation for fiscal year 2010 and ((\$1,511,000)) \$1,416,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(b) ((\$100,000)) \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for consultation, training, and technical assistance to regional support networks on strategies for effective service delivery in very sparsely populated counties.

(c) ((\$60,000)) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with chapter 263, Laws of 2010.

(d) ((\$60,000)) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with section 1, chapter 280, Laws of 2010.

(e) ((\$60,000)) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of sections 2 and 3, chapter 280, Laws of 2010.

The department shall use these funds to contract with the Washington state institute for public policy for completion of an assessment of (i) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to increase as a result of the revised commitment standards; (ii) the availability of community treatment capacity to accommodate that increase; (iii) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (iv) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations.

(4) PROGRAM SUPPORT

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,078,000     |
| General Fund--State Appropriation (FY 2011) ..... | (\$3,958,000))  |
| .....   | \$3,722,000     |
| General Fund--Federal Appropriation .....         | \$7,207,000     |
| TOTAL APPROPRIATION .....                         | (\$15,243,000)) |
| .....   | \$15,007,000    |

The department is authorized and encouraged to continue its contract with the Washington state institute for public policy to provide a longitudinal analysis of long-term mental health outcomes as directed in chapter 334, Laws of 2001 (mental health performance audit); to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

Sec. 204. 2010 2nd sp.s. c 1 s 204 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$307,348,000      |
| General Fund--State Appropriation (FY 2011) ...   | (\$337,658,000))   |
| \$321,570,000                                     |                    |
| General Fund--Federal Appropriation .....         | (\$902,043,000))   |
| .....   | \$890,035,000      |
| TOTAL APPROPRIATION .....                         | (\$1,547,049,000)) |
| .....   | \$1,518,953,000    |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b)(i) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(ii) \$508,000 of the general fund--state appropriation for fiscal year 2011 and \$822,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reductions to in-home care that are taken in (b)(i) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by April 1, 2011. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

(d) \$302,000 of the general fund--state appropriation for fiscal year 2010, \$831,000 of the general fund--state appropriation for fiscal year 2011, and \$1,592,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(e)(i) \$682,000 of the general fund--state appropriation for fiscal year 2010, \$1,651,000 of the general fund--state appropriation for fiscal year 2011, and \$1,678,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(ii) The federal portion of the amounts in this subsection (g) is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(iii) Expenditures for the purposes specified in this subsection (g) shall not exceed the amounts provided in this subsection.

(f) Within the amounts appropriated in this subsection (1), the department shall implement all necessary rules to facilitate the transfer to a department home and community-based services (HCBS) waiver of all eligible individuals who (i) currently receive services under the existing state-only employment and day program or the existing state-only residential program, and (ii) otherwise meet the waiver eligibility requirements. The amounts appropriated are sufficient to ensure that all individuals currently receiving services under the state-only employment and day and state-only residential programs who are not transferred to a department HCBS waiver will continue to receive services.

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(g) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(h) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(i) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

- (i) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;
- (ii) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and
- (iii) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(j) The amounts appropriated in this subsection reflect a reduction in funds available for employment and day services. In administering this reduction the department shall negotiate with counties and their vendors so that this reduction, to the greatest extent possible, is achieved by reducing vendor rates and allowable contract administrative charges (overhead) and not through reductions to direct client services or direct service delivery or programs.

(k) As part of the needs assessment instrument, the department may collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department may ensure that this information is collected as part of the client assessment process.

(l) \$116,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$2,689,000)~~ \$2,133,000 of the general fund--state appropriation for fiscal year 2011, and \$1,772,000 of the general fund--federal appropriation are provided solely for employment services and required waiver services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients. ~~((Fifty percent of the general fund appropriation shall be utilized for graduates served on a home and community-based services waiver and fifty percent of the general fund appropriation shall be used for nonwaiver clients.))~~

(m) \$81,000 of the general fund--state appropriation for fiscal year 2010, \$599,000 of the general fund--state appropriation for fiscal year 2011, and \$1,111,000 of the general fund--federal appropriation are provided solely for the department to provide employment and day services for eligible students who are currently on a waiver and will graduate from high school during fiscal years 2010 and 2011.

(n) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is

eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(o) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the restoration of direct support to local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.

(2) INSTITUTIONAL SERVICES

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,422,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$64,404,000))  |
| .....   | \$62,551,000       |
| General Fund--Federal Appropriation .....         | (((\$207,986,000)) |
| .....   | \$205,440,000      |
| General Fund--Private/Local Appropriation.....    | (((\$22,441,000))  |
| .....   | \$22,357,000       |
| TOTAL APPROPRIATION .....                         | (((\$356,253,000)) |
| .....   | \$351,770,000      |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The developmental disabilities program is authorized to use funds appropriated in this subsection to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(c) \$721,000 of the general fund--state appropriation for fiscal year 2010 and \$721,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(d) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) PROGRAM SUPPORT

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,407,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,369,000)) |
| .....   | \$1,341,000      |
| General Fund--Federal Appropriation .....         | (((\$1,301,000)) |
| .....   | \$1,263,000      |
| TOTAL APPROPRIATION .....                         | (((\$4,077,000)) |
| .....   | \$4,011,000      |

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) SPECIAL PROJECTS

|   |                  |
|---|------------------|
| General Fund--Federal Appropriation ..... | (((\$9,631,000)) |
| .....                                     | \$10,171,000     |

The appropriations in this subsection are subject to the following conditions and limitations: The appropriations in this subsection are available solely for the infant toddler early intervention program and the money follows the person program as defined by this federal grant.

**Sec. 205.** 2010 2nd sp.s. c 1 s 205 (uncodified) is amended to read as follows:

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FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$616,837,000        |
| General Fund--State Appropriation (FY 2011) ... (((\$639,163,000)) |                      |
| .....  | \$607,918,000        |
| General Fund--Federal Appropriation .....                          | (((\$1,954,300,000)) |
| .....  | \$1,918,150,000      |
| General Fund--Private/Local Appropriation.....                     | \$18,013,000         |
| Traumatic Brain Injury Account--State Appropriation..              | \$4,136,000          |
| TOTAL APPROPRIATION .....  | (((\$3,232,449,000)) |
| .....  | \$3,165,054,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed \$169.85 for fiscal year 2010 and shall not exceed ~~(((\$166.24))~~ \$161.86 for fiscal year 2011, including the rate add-on described in subsection (12) of this section. There will be no adjustments for economic trends and conditions in fiscal years 2010 and 2011. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Substitute House Bill No. 3202 or Substitute Senate Bill No. 6872 (nursing facility medicaid payments) provide sufficient reimbursement to efficient and economically operating nursing facilities and bears a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2010 and no new certificates of capital authorization for fiscal year 2011 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal year 2011.

(4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

(5) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(a) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(b) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(c) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

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Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(6)(a) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(b) \$3,070,000 of the general fund--state appropriation for fiscal year 2011 and \$4,980,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reduction to in-home care that are taken in (a) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(7) \$536,000 of the general fund--state appropriation for fiscal year 2010, \$1,477,000 of the general fund--state appropriation for fiscal year 2011, and \$2,830,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(8)(a) \$1,212,000 of the general fund--state appropriation for fiscal year 2010, \$2,934,000 of the general fund--state appropriation for fiscal year 2011, and \$2,982,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(b) \$330,000 of the general fund--state appropriation for fiscal year 2010, \$660,000 of the general fund--state appropriation for fiscal year 2011, and \$810,000 of the general fund--federal appropriation are provided solely for transfer from the department to the training partnership, as provided in RCW 74.39A.360, for infrastructure and instructional costs associated with training of individual providers, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(c) The federal portion of the amounts in this subsection is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(d) Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

(9) Within the amounts appropriated in this section, the department may expand the new freedom waiver program to accommodate new waiver recipients throughout the state. As possible, and in compliance with current state and federal laws, the department shall allow current waiver recipients to transfer to the new freedom waiver.

(10) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(11) \$3,955,000 of the general fund--state appropriation for fiscal year 2010, ~~(((\$4,239,000))~~ \$3,972,000 of the general fund--state appropriation for fiscal year 2011, and \$10,190,000 of the general fund--federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical

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and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

(12) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(13) \$1,840,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$1,877,000)~~) \$1,759,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for operation of the volunteer services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(15) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPEs) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(16) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(17) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(18) \$209,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$781,000)~~) \$732,000 of the general fund--state

appropriation for fiscal year 2011, and \$1,293,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(19) In accordance with RCW 18.51.050, 18.20.050, and 43.135.055, the department is authorized to increase nursing facility and boarding home fees in fiscal year 2011 as necessary to meet the actual costs of conducting the licensure, inspection, and regulatory programs.

(a) \$1,035,000 of the general fund--private/local appropriation assumes that the current annual renewal license fee for nursing facilities shall be increased to \$327 per bed beginning in fiscal year 2011.

(b) \$1,806,000 of the general fund--local appropriation assumes that the current annual renewal license fee for boarding homes shall be increased to \$106 per bed beginning in fiscal year 2011.

(20) \$2,566,000 of the traumatic brain injury account--state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in RCW 74.31.020 through 74.31.050. The TBI advisory council shall provide a report to the legislature by December 1, 2010, on the effectiveness of the functions overseen by the council and shall provide recommendations on the development of critical services for individuals with traumatic brain injury.

(21) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(22) For calendar year 2009, the department shall calculate split settlements covering two periods January 1, 2009, through June 30, 2009, and July 1, 2009, through December 31, 2009. For the second period beginning July 1, 2009, the department may partially or totally waive settlements only in specific cases where a nursing home can demonstrate significant decreases in costs from the first period.

(23) \$72,000 of the traumatic brain injury account appropriation and \$116,000 of the general fund--federal appropriation are provided solely for a direct care rate add-on to any nursing facility specializing in the care of residents with traumatic brain injuries where more than 50 percent of residents are classified with this condition based upon the federal minimum data set assessment.

(24) \$69,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$1,289,000)~~) \$1,208,000 of the general fund--state appropriation for fiscal year 2011, and \$2,050,000 of the general fund--federal appropriation are provided solely for the department to maintain enrollment in the adult day health services program. New enrollments are authorized for up to 1,575 clients or to the extent that appropriated funds are available to cover additional clients.

(25) (~~(\$1,000,000)~~) \$937,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the

department to contract for the provision of an individual provider referral registry.

(26) (~~(\$100,000)~~) \$94,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the general fund--federal appropriation are provided solely for the department to contract with a consultant to evaluate and make recommendations on a pay-for-performance payment subsidy system. The department shall organize one workgroup meeting with the consultant where nursing home stakeholders may provide input on pay-for-performance ideas. The consultant shall review pay-for-performance strategies used in other states to sustain and enhance quality-improvement efforts in nursing facilities. The evaluation shall include a review of the centers for medicare and medicaid services demonstration project to explore the feasibility of pay-for-performance systems in medicare certified nursing facilities. The consultant shall develop a report to include:

- (a) Best practices used in other states for pay-for-performance strategies incorporated into medicaid nursing home payment systems;
- (b) The relevance of existing research to Washington state;
- (c) A summary and review of suggestions for pay-for-performance strategies provided by nursing home stakeholders in Washington state; and
- (d) An evaluation of the effectiveness of a variety of performance measures.

(27) \$4,100,000 of the general fund--state appropriation for fiscal year 2010, \$4,174,000 of the general fund--state appropriation for fiscal year 2011, and \$8,124,000 of the general fund--federal appropriation are provided for the operation of the management services division of the aging and disability services administration. This includes but is not limited to the budget, contracts, accounting, decision support, information technology, and rate development activities for programs administered by the aging and disability services administration. Nothing in this subsection is intended to exempt the management services division of the aging and disability services administration from reductions directed by the secretary. However, funds provided in this subsection shall not be transferred elsewhere within the department nor used for any other purpose.

(28) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in section 206(19), chapter 37, Laws of 2010 1st sp.s.

**Sec. 206.** 2010 2nd sp.s. c 1 s 206 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM

|  |                   |
|--|-------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$564,242,000     |
| General Fund--State Appropriation (FY 2011) ... (( | \$565,617,000))   |
| .....  | \$531,935,000     |
| General Fund--Federal Appropriation .....          | ((                |
| .....  | \$1,220,752,000)) |
| .....  | \$1,219,423,000   |
| General Fund--Private/Local Appropriation.....     | ((                |
| .....  | \$31,816,000))    |
| .....  | \$37,816,000      |
| Administrative Contingency Account--State          |                   |
| Appropriation.....                                 | \$24,336,000      |
| TOTAL APPROPRIATION .....                          | ((                |
| .....  | \$2,406,763,000)) |
| .....  | \$2,377,752,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$303,393,000 of the general fund--state appropriation for fiscal year 2010, \$285,057,000 of the general fund--state appropriation for fiscal year 2011 net of child support pass-through recoveries, \$24,336,000 of the administrative contingency account--state appropriation, and \$778,606,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program. The department shall use moneys from

the administrative contingency account for WorkFirst job placement services provided by the employment security department. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. In addition, within the amounts provided for WorkFirst the department shall:

- (a) Establish a career services work transition program;
- (b) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;
- (c) Submit a report electronically by October 1, 2009, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2009-2011 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;
- (d) Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund--state and general fund--federal by activity.

(2) The department and the office of financial management shall electronically report quarterly the expenditures, maintenance of effort allotments, expenditure amounts, and caseloads for the WorkFirst program to the legislative fiscal committees.

(3) \$16,783,000 of the general fund--state appropriation for fiscal year 2011 and \$62,000,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program in order to maintain services to January 2011. The legislature intends to work with the governor to design and implement fiscal and programmatic modifications to provide for the sustainability of the program. The funding in this subsection assumes that no other expenditure reductions will be made prior to January 2011 other than those assumed in the appropriation levels in this act.

(4) (~~(\$94,322,000~~) of the general fund--state appropriation for fiscal year 2010 and \$84,904,000 of the general fund--state appropriation for fiscal year 2011, net of recoveries, are provided solely for cash assistance and other services to recipients in the cash program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), including persons in the unemployable, expedited, and aged, blind, and disabled components of the program. It is the intent of the legislature that the lifeline incapacity determination and progressive evaluation process regulations be carefully designed to accurately identify those persons who have been or will be incapacitated for at least ninety days. The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010; except that provisions related to the use of administrative review teams may be amended, and obsolete terminology and functional assessment language may be updated on or after July 1, 2010, in a manner that only minimally impacts the outcome of incapacity evaluations. After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.

(a) The department and the caseload forecast council shall, by September 21, 2010, submit a report to the legislature based upon the most recent caseload forecast and actual expenditure data available, as to whether expenditures for the lifeline-unemployable

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grants in fiscal year 2011 will exceed \$69,648,000 for fiscal year 2011 in the 2010 supplemental operating budget by three percent or more. If expenditures will exceed the appropriated amount for lifeline- unemployable grants by three percent or more, the department may adopt regulations modifying incapacity determination and progressive evaluation process regulations after September 30, 2010.

(b) On or before September 21, 2010, the department shall submit a report to the relevant policy and fiscal committees of the legislature that includes the following information regarding any regulations proposed for adoption that would modify the lifeline incapacity determination and progressive evaluation process:

(i) A copy of the proposed changes and a concise description of the changes;

(ii) A description of the persons who would likely be affected by adoption of the regulations, including their impairments, age, education, and work history;

(iii) An estimate of the number of persons who, on a monthly basis through June 2013, would be denied lifeline benefits if the regulations were adopted, expressed as a number, as a percentage of total applicants, and as a percentage of the number of persons granted lifeline benefits in each month;

(iv) An estimate of the number of persons who, on a monthly basis through June 2013, would have their lifeline benefits terminated following an eligibility review if the regulations were adopted, expressed as a number, as a percentage of the number of persons who have had an eligibility review in each month, and as a percentage of the total number of persons currently receiving lifeline-unemployable benefits in each month; and

(v) Intended improvements in employment or treatment outcomes among persons receiving lifeline benefits that could be attributable to the changes in the regulations.

(c) Within these amounts:

(i) The department shall aggressively pursue opportunities to transfer lifeline clients to general assistance expedited coverage and to facilitate client applications for federal supplemental security income when the client's incapacities indicate that he or she would be likely to meet the federal disability criteria for supplemental security income. The department shall initiate and file the federal supplemental security income interim agreement as quickly as possible in order to maximize the recovery of federal funds;

(ii) The department shall review the lifeline caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

(iii) The department shall actively coordinate with local workforce development councils to expedite access to worker retraining programs for lifeline clients in those regions of the state with the greatest number of such clients;

(iv) By July 1, 2009, the department shall enter into an interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veteran's services. This agreement must include outstationing department of veterans' affairs staff in selected community service office locations in King and Pierce counties to facilitate applications for veterans' services; and

(v) In addition to any earlier evaluation that may have been conducted, the department shall intensively evaluate those clients who have been receiving lifeline benefits for twelve months or more as of July 1, 2009, or thereafter, if the available medical and incapacity related evidence indicates that the client is unlikely to meet the disability standard for federal supplemental security income benefits. The evaluation shall identify services necessary to eliminate or minimize barriers to employment, including mental

health treatment, substance abuse treatment and vocational rehabilitation services. The department shall expedite referrals to chemical dependency treatment, mental health and vocational rehabilitation services for these clients.

(vi) The appropriations in this subsection reflect a change in the earned income disregard policy for lifeline clients. It is the intent of the legislature that the department shall adopt the temporary assistance for needy families earned income policy for the lifeline program.

(5))) \$750,000 of the general fund--state appropriation for fiscal year 2010 ((and \$750,000 of the general fund--state appropriation for fiscal year 2011 are)) is provided solely for naturalization services.

((6)(a)) (5) \$3,550,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services; and (((\$3,550,000)) \$2,050,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for refugee employment services, of which (((\$2,650,000)) \$1,540,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

((b) The legislature intends that the appropriation in this subsection for the 2009-11 fiscal biennium will maintain funding for refugee programs at a level at least equal to expenditures on these programs in the 2007-09 fiscal biennium.

(7))) (6) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

((8)) (7) \$855,000 of the general fund--state appropriation for fiscal year 2011, \$719,000 of the general fund--federal appropriation, and \$2,907,000 of the general fund--private/local appropriation are provided solely for the implementation of the opportunity portal, the food stamp employment and training program, and the disability lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

((9)) (\$200,000) (8) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to award grants to small mutual assistance or small community-based organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to provide funding for community groups to provide transitional assistance, language skills, and other resources to improve refugees' economic self-sufficiency through the effective use of social services, financial services, and medical assistance.

(9) To ensure expenditures remain within available funds appropriated in this section, the legislature establishes the benefit under the state food assistance program, made pursuant to RCW 74.08A.120, to be fifty percent of the federal supplemental nutrition assistance program benefit amount.

Sec. 207. 2010 2nd sp.s. c 1 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$81,982,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$82,379,000))  |
| .....   | \$77,065,000       |
| General Fund--Federal Appropriation .....         | (((\$148,018,000)) |

|  |                    |
|--|--------------------|
| .....  | \$151,574,000      |
| General Fund--Private/Local Appropriation.....     | \$2,718,000        |
| Criminal Justice Treatment Account--State          |                    |
| Appropriation.....                                 | \$17,743,000       |
| Problem Gambling Account--State Appropriation..... | \$1,456,000        |
| TOTAL APPROPRIATION .....                          | (((\$334,296,000)) |
| .....  | \$332,538,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients.

(3) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) (~~(\$2,247,000 of the general fund state appropriation for fiscal year 2011 is provided solely)~~) Funding is provided for the implementation of the lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) \$3,500,000 of the general fund--federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

**Sec. 208.** 2010 2nd sp.s. c 1 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM**

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....                | \$1,697,203,000      |
| General Fund--State Appropriation (FY 2011) (((\$1,752,373,000)) |                      |
| .....  | \$1,740,445,000      |
| General Fund--Federal Appropriation .....                        | (((\$6,047,652,000)) |
| .....  | \$6,042,756,000      |
| General Fund--Private/Local Appropriation.....                   | (((\$37,249,000))    |
| .....  | \$38,509,000         |
| Emergency Medical Services and Trauma Care Systems               |                      |
| Trust Account--State Appropriation .....                         | \$15,075,000         |
| Tobacco Prevention and Control Account--                         |                      |
| State Appropriation.....   | \$4,464,000          |
| Hospital Safety Net Assessment Fund--State                       |                      |
| Appropriation.....   | \$260,036,000        |
| TOTAL APPROPRIATION .....  | (((\$9,814,052,000)) |
| .....  | \$9,798,488,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by

Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) (~~(\$1,110,000)~~) \$649,000 of the general fund--federal appropriation and (~~(\$1,105,000)~~) \$644,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low- income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) (~~(\$9,818,000)~~) \$5,729,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$9,865,000)~~) \$5,776,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall

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be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$20,403,000 of the general fund--state appropriation for fiscal year 2010, of which \$6,570,000 is appropriated in section 204(1) of this act, and \$29,480,000 of the general fund--state appropriation for fiscal year 2011, of which \$6,570,000 is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(12) A maximum of \$241,141,000 in total funds from the general fund--state, general fund--federal, and tobacco and prevention control account--state appropriations may be expended in the fiscal biennium for the medical program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of lifeline benefits. Pursuant to RCW 74.09.035, the department shall not expend for the lifeline medical care services program any amounts in excess of the amounts provided in this subsection.

(13) Mental health services shall be included in the services provided through the managed care system for lifeline clients under chapter 8, Laws of 2010 1st sp. sess. In transitioning lifeline clients to managed care, the department shall attempt to deliver care to lifeline clients through medical homes in community and migrant health centers. The department, in collaboration with the carrier, shall seek to improve the transition rate of lifeline clients to the federal supplemental security income program. The department shall renegotiate the contract with the managed care plan that provides services for lifeline clients to maximize state retention of future hospital savings as a result of improved care coordination. The department, in collaboration with stakeholders, shall propose a new name for the lifeline program.

(14) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(15) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(16) State funds shall not be used by hospitals for advertising purposes.

(17) \$24,356,000 of the general fund--private/local appropriation and \$35,707,000 of the general fund--federal appropriation are provided solely for the implementation of professional services supplemental payment programs. The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

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(18) \$9,075,000 of the general fund--state appropriation for fiscal year 2010, \$8,588,000 of the general fund--state appropriation for fiscal year 2011, and \$39,747,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(19) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(21) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(22) \$425,000 of the general fund--state appropriation for fiscal year 2010 and \$790,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(23) The department, in conjunction with the office of financial management, shall implement a prorated inpatient payment policy.

(24) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(25) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(26) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(27) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(28) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or

African American or Native American race. The department shall prioritize evidence-based practices for delivery of maternity support services. To the extent practicable, the department shall develop a mechanism to increase federal funding for maternity support services by leveraging local public funding for those services.

(29) \$260,036,000 of the hospital safety net assessment fund--state appropriation and \$255,448,000 of the general fund--federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(30) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(31) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(32) \$73,000 of the general fund--state appropriation for fiscal year 2011 and \$50,000 of the general fund--federal appropriation is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence pursuant to chapter 224, Laws of 2010 (Substitute Senate Bill No. 6639).

(33) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520 until December 31, 2010.

(34) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect providers, direct client services, or direct service delivery or programs.

(35) \$331,000 of the general fund--state appropriation for fiscal year 2010, \$331,000 of the general fund--state appropriation for fiscal year 2011, and \$1,228,000 of the general fund--federal appropriation are provided solely for the department to support the activities of the Washington poison center. The department shall seek federal authority to receive matching funds from the federal government through the children's health insurance program.

(36) \$528,000 of the general fund--state appropriation and \$2,955,000 of the general fund--federal appropriation are provided solely for the implementation of the lifeline program under chapter 8, Laws of 2010 1st sp. sess. (security lifeline act).

(37) Reductions in dental services are to be achieved by focusing on the fastest growing areas of dental care. Reductions in preventative care, particularly for children, will be avoided to the extent possible.

(38) \$1,307,000 of the general fund--state appropriation for fiscal year 2011 and \$1,770,000 of the general fund--federal

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appropriation are provided solely to continue to provide dental services in calendar year 2011 for qualifying adults with developmental disabilities. Services shall include preventive, routine, and emergent dental care, and support for continued operation of the dental education in care of persons with disabilities (DECOD) program at the University of Washington.

(39) The department shall develop the capability to implement apple health for kids express lane eligibility enrollments for children receiving basic food assistance by June 30, 2011.

(40)(a) The department, in coordination with the health care authority, shall actively continue to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide federal matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW and the medical care services program under RCW 74.09.035.

(b) If the waiver in (a) of this subsection is granted, the department and the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(41) \$704,000 of the general fund--state appropriation for fiscal year 2010, \$812,000 of the general fund--state appropriation for fiscal year 2011, and \$1,516,000 of the general fund--federal appropriation are provided solely for maintaining employer-sponsored insurance program staff, coordination of benefits unit staff, the payment integrity audit team, and family planning nursing.

(42) Every effort shall be made to maintain current employment levels and achieve administrative savings through vacancies and employee attrition. Efficiencies shall be implemented as soon as possible in order to minimize actual reduction in force. The department shall implement a management strategy that minimizes disruption of service and negative impacts on employees.

(43) \$1,199,000 of the general fund--private/local appropriation for fiscal year 2011 and \$1,671,000 of the general fund--federal appropriation are provided solely to support medical airlift services.

(44) \$5,000,000 of the general fund--state appropriation for fiscal year 2011 and \$7,191,000 of the general fund--federal appropriation are provided solely for payments to federally qualified health clinics and rural health centers under a new alternative payment methodology that the department shall develop in consultation with the legislature and the office of financial management.

(45) \$1,695,000 of the general fund--state appropriation for fiscal year 2011 and \$3,131,000 of the general fund--federal appropriation are provided solely to continue the current system for provision of essential foreign language medical interpreter services during the last four months of fiscal year 2011 and to develop a permanent, more cost-effective alternative to the current service delivery system. Within the amounts provided in this subsection, the department shall complete design and implementation no later than September 2011 of a new model for delivery of medical interpreter services. Under the new model, which shall include use of state-of-the-art electronic scheduling and time-tracking systems, the department shall either contract directly with individual language access providers certified by the state or shall contract with a statewide scheduling and coordinating entity that shall contract directly with individual language access providers certified by the state.

(46) \$33,000 of the general fund--state appropriation for fiscal year 2011 and \$61,000 of the general fund--federal appropriation are provided solely to continue operation by a nonprofit organization of a toll-free line that assists families to learn about and

enroll in apple health for kids, which provides publicly funded medical and dental care for families with incomes below 300 percent of the federal poverty level.

(47) \$150,000 of the general fund--state appropriation for fiscal year 2011 and \$150,000 of the general fund--federal appropriation are provided solely for initiation of a prescriptive practices improvement collaborative focusing upon atypical antipsychotics and other medications commonly used in the treatment of severe and persistent mental illnesses among adults. The project shall promote collaboration among community mental health centers, other major prescribers of atypical antipsychotic medications to adults enrolled in state medical assistance programs, and psychiatrists, pharmacists, and other specialists at the University of Washington department of psychiatry and/or other research universities. The collaboration shall include patient-specific prescriber consultations by psychiatrists and pharmacists specializing in treatment of severe and persistent mental illnesses among adults; production of profiles to assist prescribers and clinics track their prescriptive practices and their patients' medication use and adherence relative to evidence-based practice guidelines, other prescribers, and patients at other clinics; and in-service seminars at which participants can share and increase their knowledge of evidence-based and other effective prescriptive practices.

(48) \$75,000 of the general fund--state appropriation for fiscal year 2011 and \$75,000 of the general fund--federal appropriation are provided solely to assist with development and implementation of evidence-based strategies regarding the appropriate, safe, and effective role of C-section surgeries and early induced labor in births and neonatal care. The strategies shall be identified and implemented in consultation with clinical research specialists, physicians, hospitals, advanced registered nurse practitioners, and organizations concerned with maternal and child health.

**Sec. 209.** 2010 2nd sp.s. c 1 s 209 (uncodified) is amended to read as follows:

|   |                 |
|---|-----------------|
| FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM       |                 |
| General Fund--State Appropriation (FY 2010) .....   | \$10,327,000    |
| General Fund--State Appropriation (FY 2011) .....   | (\$10,045,000)  |
| .....   | \$9,443,000     |
| General Fund--Federal Appropriation .....   | \$107,848,000   |
| Telecommunications Devices for the Hearing and Speech Impaired--State Appropriation ..... | (\$5,976,000)   |
| .....   | \$6,056,000     |
| TOTAL APPROPRIATION .....   | (\$134,196,000) |
| .....   | \$133,674,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) The vocational rehabilitation program shall coordinate closely with the economic services program to serve lifeline clients under chapter 8, Laws of 2010 1st sp. sess. who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

(2) \$80,000 of the telecommunications devices for the hearing and speech impaired account--state appropriation is provided solely for the office of deaf and hard of hearing to enter into an interagency agreement with the department of services for the blind to support contracts for services that provide employment support and help with life activities for deaf-blind individuals in King county.

**Sec. 210.** 2010 2nd sp.s. c 1 s 210 (uncodified) is amended to read as follows:

|  |                |
|--|----------------|
| FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SPECIAL COMMITMENT PROGRAM |                |
| General Fund--State Appropriation (FY 2010) .....                            | \$48,827,000   |
| General Fund--State Appropriation (FY 2011) .....                            | (\$47,051,000) |

|                           |                   |
|---------------------------|-------------------|
| .....                     | \$48,536,000      |
| TOTAL APPROPRIATION ..... | (((\$95,878,000)) |
| .....                     | \$97,363,000      |

Sec. 211. 2010 2nd sp.s. c 1 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$33,579,000       |
| General Fund--State Appropriation (FY 2011) .....       | (((\$29,166,000))  |
| .....   | \$27,745,000       |
| General Fund--Federal Appropriation .....               | (((\$50,981,000))  |
| .....   | \$51,304,000       |
| General Fund--Private/Local Appropriation.....          | \$1,121,000        |
| Institutional Impact Account--State Appropriation ..... | \$22,000           |
| TOTAL APPROPRIATION .....                               | (((\$114,869,000)) |
| .....   | \$113,771,000      |

The appropriations in this section are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(1) \$333,000 of the general fund--state appropriation for fiscal year 2010 and \$300,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund--state appropriation for fiscal year 2010 and \$445,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund--state appropriation for fiscal year 2010 and \$178,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the juvenile detention alternatives initiative.

(4) Amounts appropriated in this section reflect a reduction to the family policy council. The family policy council shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(5) Amounts appropriated in this section reflect a reduction to the council on children and families. The council on children and families shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

Sec. 212. 2010 1st sp.s. c 37 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,985,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$61,461,000))  |
| .....   | \$63,793,000       |
| General Fund--Federal Appropriation .....         | (((\$56,572,000))  |
| .....   | \$56,855,000       |
| TOTAL APPROPRIATION .....                         | (((\$180,018,000)) |
| .....   | \$182,633,000      |

Sec. 213. 2010 2nd sp.s. c 1 s 212 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$208,258,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$129,087,000)) |
| .....   | \$108,327,000      |

|  |                    |
|--|--------------------|
| Basic Health Plan Stabilization Account--State       |                    |
| Appropriation.....                                   | \$6,000,000        |
| General Fund--Federal Appropriation .....            | (((\$34,727,000))  |
| .....  | \$24,518,000       |
| State Health Care Authority Administration Account-- |                    |
| State Appropriation.....                             | \$34,880,000       |
| Medical Aid Account--State Appropriation .....       | \$527,000          |
| TOTAL APPROPRIATION .....                            | (((\$407,479,000)) |
| .....  | \$382,510,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4)(a) In order to maximize the funding appropriated for the basic health plan, the health care authority is directed to make modifications that will reduce the total number of subsidized enrollees to approximately 65,000 by January 1, 2010. In addition to the reduced enrollment, other modifications may include changes in enrollee premium obligations, changes in benefits, enrollee cost-sharing, and termination of the enrollment of individuals concurrently enrolled in a medical assistance program as provided in Substitute House Bill No. 2341.

(b) The health care authority shall coordinate with the department of social and health services to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW.

(c) If the waiver in (b) of this subsection is granted, the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the

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legislature in writing thirty days prior to the planned implementation date of the waiver.

(5) \$250,000 of the general fund--state appropriation for fiscal year 2010 and \$250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5360 (community collaboratives). If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(6) The authority shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(7) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$63,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 220, Laws of 2010 (accountable care organizations).

(8) In accordance with RCW 70.47.060(6) and 70.47.060(8), the director shall terminate enrollment effective March 1, 2011, of any adult enrollee aged 64 years or younger who has not by that date provided a valid social security number or other documentation acceptable to the director that the enrollee is legally residing in the United States.

Sec. 214. 2010 1st sp.s. c 37 s 215 (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,638,000   |
| General Fund--State Appropriation (FY 2011) ..... | (\$2,511,000) |
| .....   | \$2,353,000   |
| General Fund--Federal Appropriation .....         | \$1,584,000   |
| TOTAL APPROPRIATION .....                         | (\$6,733,000) |
| .....   | \$6,575,000   |

Sec. 215. 2010 1st sp.s. c 37 s 217 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

|  |                |
|--|----------------|
| General Fund--State Appropriation (FY 2010) .....      | \$17,273,000   |
| General Fund--State Appropriation (FY 2011) .....      | (\$17,843,000) |
| .....  | \$10,721,000   |
| General Fund--Federal Appropriation .....              | \$143,000      |
| General Fund--Private/Local Appropriation.....         | (\$1,303,000)  |
| .....  | \$1,378,000    |
| Death Investigations Account--State Appropriation..... | \$148,000      |
| Municipal Criminal Justice Assistance Account--        |                |
| State Appropriation.....                               | \$460,000      |
| Washington Auto Theft Prevention Authority Account--   |                |
| State Appropriation.....                               | (\$5,844,000)  |
| .....  | \$12,432,000   |
| TOTAL APPROPRIATION .....                              | (\$43,014,000) |
| .....  | \$42,555,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,191,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$1,191,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRS) and the statewide automated victim information and notification system (SAVIN).

(2) \$5,000,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000,000 of the general fund--state appropriation for fiscal year 2011, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

- (i) For level I offenders, every twelve months;
- (ii) For level II offenders, every six months; and
- (iii) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31, each year.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing-to-register offenses.

(3) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute House Bill No. 2078 (persons with developmental disabilities in correctional facilities or jails). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$171,000 of the general fund--local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions with one hundred or more full-time commissioned officers shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(5) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

((6) \$1,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuing the enforcement of illegal drug laws in the rural pilot project enforcement areas as set forth in chapter 339, Laws of 2006.)

Sec. 216. 2010 1st sp.s. c 37 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) .....       | \$24,975,000   |
| General Fund--State Appropriation (FY 2011) .....       | (\$19,336,000) |
| .....   | \$18,120,000   |
| General Fund--Federal Appropriation .....               | (\$10,100,000) |
| .....   | \$11,316,000   |
| Asbestos Account--State Appropriation .....             | \$923,000      |
| Electrical License Account--State Appropriation.....    | \$36,977,000   |
| Farm Labor Revolving Account--Private/Local             |                |
| Appropriation.....                                      | \$28,000       |
| Worker and Community Right-to-Know Account--            |                |
| State Appropriation.....                                | \$1,987,000    |
| Public Works Administration Account--State              |                |
| Appropriation.....                                      | \$6,021,000    |
| Manufactured Home Installation Training Account--       |                |
| State Appropriation.....                                | \$143,000      |
| Accident Account--State Appropriation .....             | \$250,509,000  |
| Accident Account--Federal Appropriation .....           | \$13,621,000   |
| Medical Aid Account--State Appropriation .....          | \$249,232,000  |
| Medical Aid Account--Federal Appropriation .....        | \$3,186,000    |
| Plumbing Certificate Account--State Appropriation ..... | \$1,704,000    |

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Pressure Systems Safety Account--State Appropriation \$4,144,000  
 TOTAL APPROPRIATION .....\$622,886,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$424,000 of the accident account--state appropriation and \$76,000 of the medical aid account--state appropriation are provided solely for implementation of a community agricultural worker safety grant at the department of agriculture. The department shall enter into an interagency agreement with the department of agriculture to implement the grant.

(3) \$4,850,000 of the medical aid account--state appropriation is provided solely to continue the program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and that priority is given to projects fostering accident prevention through cooperation between employers and employees or their representatives.

(4) \$150,000 of the medical aid account--state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(5) The department shall continue to conduct utilization reviews of physical and occupational therapy cases at the 24th visit. The department shall continue to report performance measures and targets for these reviews on the agency web site. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(6) The appropriations in this section reflect reductions in the appropriations for the department of labor and industries' administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing administrative costs only.

(7) \$500,000 of the accident account--state appropriation is provided solely for the department to contract with one or more independent experts to oversee and assist the department's implementation of improvements to the rating plan under chapter 51.18 RCW, in collaboration with the department and with the department's work group of retrospective rating and workers' compensation stakeholders. The independent experts will validate the impact of recommended changes on retrospective rating participants and nonparticipants, confirm implementation technology changes, and provide other implementation assistance as determined by the department.

(8) \$194,000 of the accident account--state appropriation and \$192,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5346 (health care administrative procedures).

(9) \$131,000 of the accident account--state appropriation and \$128,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5613 (stop work orders).

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(10) \$68,000 of the accident account--state appropriation and \$68,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5688 (registered domestic partners).

(11) \$320,000 of the accident account--state appropriation and \$147,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5873 (apprenticeship utilization).

(12) \$73,000 of the general fund--state appropriation for fiscal year 2010, \$66,000 of the general fund--state appropriation for fiscal year 2011, \$606,000 of the accident account--state appropriation, and \$600,000 of the medical aid account--state appropriation are provided solely for the implementation of House Bill No. 1555 (underground economy).

(13) \$574,000 of the accident account--state appropriation and \$579,000 of the medical account--state appropriation are provided solely for the implementation of House Bill No. 1402 (industrial insurance appeals).

(14) Within statutory guidelines, the boiler program shall explore opportunities to increase program efficiency. Strategies may include the consolidation of routine multiple inspections to the same site and trip planning to ensure the least number of miles traveled.

(15) \$16,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(16) \$48,000 of the accident account--state appropriation and \$48,000 of the medical aid account--state appropriation are provided solely for the implementation of Substitute House Bill No. 2789 (issuance of subpoenas for purposes of agency investigations of underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(17) \$71,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Senate Bill No. 6349 (farm internship program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(18) \$127,000 of the general fund--state appropriation for fiscal year 2010 and \$133,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to provide benefits in excess of the cap established by sections 1 and 2, chapter 122, Laws of 2010. These benefits shall be paid for claimants who were determined eligible for and who were receiving crime victims' compensation benefits because they were determined to be permanently and totally disabled, as defined by RCW 51.08.160, prior to April 1, 2010. The director shall establish, by May 1, 2010, a process to aid crime victims' compensation recipients in identifying and applying for appropriate alternative benefit programs.

(19) \$155,000 of the public works administration account--state appropriation is provided solely for the implementation of Engrossed House Bill No. 2805 (offsite prefabricated items). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

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Sec. 217. 2010 1st sp.s. c 37 s 219 (uncodified) is amended to read as follows:

FOR THE INDETERMINATE SENTENCE REVIEW BOARD

|  |               |
|--|---------------|
| General Fund--State Appropriation (FY 2010) .....  | \$1,882,000   |
| ((General Fund--State Appropriation (FY 2011)..... | \$1,864,000   |
| TOTAL APPROPRIATION .....                          | \$3,746,000)) |

Sec. 218. 2010 1st sp.s. c 37 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) .....   | \$1,913,000 |
| General Fund--State Appropriation (FY 2011) .....   | \$1,865,000 |
| Charitable, Educational, Penal, and Reformatory<br>Institutions Account--State Appropriation..... | \$10,000    |
| TOTAL APPROPRIATION .....   | \$3,788,000 |

.. The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(2) FIELD SERVICES

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2010) .....                      | \$4,885,000  |
| General Fund--State Appropriation (FY 2011) .....                      | \$4,964,000  |
| General Fund--Federal Appropriation .....                              | \$2,382,000  |
| General Fund--Private/Local Appropriation.....                         | \$4,512,000  |
| Veterans Innovations Program Account--State<br>Appropriation           | \$897,000    |
| Veteran Estate Management Account--Private/Local<br>Appropriation..... | \$1,072,000  |
| TOTAL APPROPRIATION .....  | \$18,712,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$648,000 of the veterans innovations program account--state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(c) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) INSTITUTIONAL SERVICES

|   |                   |
|---|-------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$3,318,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$2,371,000))  |
| .....   | \$1,793,000       |
| General Fund--Federal Appropriation .....         | (((\$50,353,000)) |
| .....   | \$50,931,000      |
| General Fund--Private/Local Appropriation.....    | \$34,189,000      |
| TOTAL APPROPRIATION .....                         | \$90,231,000      |

.. The appropriations in this subsection are subject to the following conditions and limitations:

(a) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those

administrative costs that do not affect direct client services or direct service delivery or programs.

(b) The reductions in this subsection shall be achieved through savings from contract revisions and shall not impact the availability of goods and services for residents of the three state veterans homes.

Sec. 219. 2010 2nd sp.s. c 1 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$98,414,000         |
| General Fund--State Appropriation (FY 2011) .....  | (((\$81,735,000))    |
| .....  | \$72,427,000         |
| General Fund--Federal Appropriation .....  | \$564,379,000        |
| General Fund--Private/Local Appropriation.....   | \$162,237,000        |
| Hospital Data Collection Account--State Appropriation..  | \$218,000            |
| Health Professions Account--State Appropriation .....  | \$82,850,000         |
| Aquatic Lands Enhancement Account--State Appropriation<br>.....                                | \$603,000            |
| Emergency Medical Services and Trauma Care Systems<br>Trust Account--State Appropriation ..... | \$13,206,000         |
| Safe Drinking Water Account--State Appropriation .....   | \$2,731,000          |
| Drinking Water Assistance Account--Federal<br>Appropriation.....                               | \$22,862,000         |
| Waterworks Operator Certification--State<br>Appropriation.....                                 | \$1,522,000          |
| Drinking Water Assistance Administrative Account--<br>State Appropriation.....                 | \$326,000            |
| State Toxics Control Account--State Appropriation (((\$4,106,000))<br>.....                    | \$4,348,000          |
| Medical Test Site Licensure Account--State<br>Appropriation.....                               | \$2,261,000          |
| Youth Tobacco Prevention Account--State Appropriation<br>.....                                 | \$1,512,000          |
| Public Health Supplemental Account--Private/Local<br>Appropriation.....                        | \$3,804,000          |
| Community and Economic Development Fee Account--State<br>Appropriation.....                    | \$298,000            |
| Accident Account--State Appropriation .....  | \$292,000            |
| Medical Aid Account--State Appropriation .....   | \$48,000             |
| Tobacco Prevention and Control Account--State<br>Appropriation.....                            | \$41,196,000         |
| Biotoxin Account--State Appropriation.....   | \$1,163,000          |
| TOTAL APPROPRIATION .....  | (((\$1,085,763,000)) |
| .....  | \$1,076,697,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does

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not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, dentist, mental health counselor, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, social worker, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW.

(3) Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is authorized to establish fees by the amount necessary to fully support the cost of activities related to the administration of long-term care worker certification. The department is further authorized to increase fees by the amount necessary to implement the regulatory requirements of the following bills: House Bill No. 1414 (health care assistants), House Bill No. 1740 (dental residency licenses), and House Bill No. 1899 (retired active physician licenses).

(4) \$764,000 of the health professions account--state appropriation is provided solely for the medical quality assurance commission to maintain disciplinary staff and associated costs sufficient to reduce the backlog of disciplinary cases and to continue to manage the disciplinary caseload of the commission.

(5) \$57,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$58,000)~~ \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery. The appropriations in this section assume that the current application and renewal fee for midwives shall be increased by fifty dollars and all other fees for midwives be adjusted accordingly.

(6) Funding for the human papillomavirus vaccine shall not be included in the department's universal vaccine purchase program in fiscal year 2010. Remaining funds for the universal vaccine purchase program shall be used to continue the purchase of all other vaccines included in the program until May 1, 2010, at which point state funding for the universal vaccine purchase program shall be discontinued.

(7) Beginning July 1, 2010, the department, in collaboration with the department of social and health services, shall maximize the use of existing federal funds, including section 317 of the federal public health services act direct assistance as well as federal funds that may become available under the American recovery and reinvestment act, in order to continue to provide immunizations for low-income, nonmedicaid eligible children up to three hundred percent of the federal poverty level in state-sponsored health programs.

(8) The department shall eliminate outreach activities for the health care directives registry and use the remaining amounts to maintain the contract for the registry and minimal staffing necessary to administer the basic entry functions for the registry.

(9) Funding in this section reflects a temporary reduction of resources for the 2009-11 fiscal biennium for the state board of health to conduct health impact reviews.

(10) Pursuant to RCW 43.135.055 and 43.70.125, the department is authorized to adopt rules to establish a fee schedule to apply to applicants for initial certification surveys of health care facilities for purposes of receiving federal health care program reimbursement. The fees shall only apply when the department has

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determined that federal funding is not sufficient to compensate the department for the cost of conducting initial certification surveys. The fees for initial certification surveys may be established as follows: Up to \$1,815 for ambulatory surgery centers, up to \$2,015 for critical access hospitals, up to \$980 for end stage renal disease facilities, up to \$2,285 for home health agencies, up to \$2,285 for hospice agencies, up to \$2,285 for hospitals, up to \$520 for rehabilitation facilities, up to \$690 for rural health clinics, and up to \$7,000 for transplant hospitals.

(11) Funding for family planning grants for fiscal year 2011 is reduced in the expectation that federal funding shall become available to expand coverage of services for individuals through programs at the department of social and health services. In the event that such funding is not provided, the legislature intends to continue funding through a supplemental appropriation at fiscal year 2010 levels. ~~(\$4,500,000)~~ \$4,360,000 of the general fund--state appropriation is provided solely for the department of health-funded family planning clinic grants due to federal funding not becoming available.

(12) \$16,000,000 of the tobacco prevention and control account--state appropriation is provided solely for local health jurisdictions to conduct core public health functions as defined in RCW 43.70.514.

(13) \$100,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1414 (health care assistants). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(14) \$42,000 of the health professions account--state appropriation is provided solely to implement Substitute House Bill No. 1740 (dentistry license issuance). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(15) \$23,000 of the health professions account--state appropriation is provided solely to implement Second Substitute House Bill No. 1899 (retired active physician licenses). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(16) \$12,000 of the general fund--state appropriation for fiscal year 2010 and \$67,000 of the general fund--private/local appropriation are provided solely to implement House Bill No. 1510 (birth certificates). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(17) \$31,000 of the health professions account is provided for the implementation of Second Substitute Senate Bill No. 5850 (human trafficking). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(18) \$282,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5752 (dentists cost recovery). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(19) \$106,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5601 (speech language assistants). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(20) Subject to existing resources, the department of health is encouraged to examine, in the ordinary course of business, current and prospective programs, treatments, education, and awareness of cardiovascular disease that are needed for a thriving and healthy Washington.

(21) \$390,000 of the health professions account--state appropriation is provided solely to implement chapter 169, Laws of 2010 (nursing assistants). The amount provided in this subsection is from fee revenue authorized by Engrossed Substitute Senate Bill No. 6582.

(22) \$10,000 of the health professions account--state appropriation for fiscal year 2010 and \$40,000 of the health

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professions account--state appropriation for fiscal year 2011 are provided solely for the department to study cost effective options for collecting demographic data related to the health care professions workforce to be submitted to the legislature by December 1, 2010.

(23) \$66,000 of the health professions account--state appropriation is provided solely to implement chapter 209, Laws of 2010 (pain management).

(24) \$10,000 of the health professions account--state appropriation is provided solely to implement chapter 92, Laws of 2010 (cardiovascular invasive specialists).

...(25) \$23,000 of the general fund--state appropriation is provided solely to implement chapter 182, Laws of 2010 (tracking ephedrine, etc.).

(26) The department is authorized to coordinate a tobacco cessation media campaign using all appropriate media with the purpose of maximizing the use of quit-line services and youth smoking prevention.

(27) It is the intent of the legislature that the reductions in appropriations to the AIDS/HIV programs shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing these programs.

(28) \$400,000 of the state toxics control account--state appropriation is provided solely for granting to a willing local public entity to provide emergency water supplies or water treatment for households with individuals at high public health risk from nitrate-contaminated wells in the lower Yakima basin.

(29) \$100,000 of the state toxics control account--state appropriation is provided solely for an interagency contract to the department of ecology to grant to agencies involved in improving groundwater quality in the lower Yakima Valley. These agencies will develop a local plan for improving water quality and reducing nitrate contamination. The department of ecology will report to the appropriate committees of the legislature and to the office of financial management no later than December 1, 2010, summarizing progress towards developing and implementing this plan.

(30) In accordance with RCW 43.135.055, the department is authorized to adopt and increase all fees set forth in and previously authorized in section 221(2), chapter 37, Laws of 2010 1st sp.s.

**Sec. 220.** 2010 2nd sp.s. c 1 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) ADMINISTRATION AND SUPPORT SERVICES**

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$55,772,000           |
| General Fund--State Appropriation (FY 2011) ..... | (\$51,929,000)         |
| .....   | \$54,239,000           |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$107,701,000)</b> |
| .....   | \$110,011,000          |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(b) \$35,000 of the general fund--state appropriation for fiscal year 2010 and \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and

commanders of city and county jails and state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

**(2) CORRECTIONAL OPERATIONS**

|  |                          |
|--|--------------------------|
| General Fund--State Appropriation (FY 2010) .....                                | \$458,503,000            |
| General Fund--State Appropriation (FY 2011) ...                                  | (\$562,483,000)          |
| .....  | \$562,084,000            |
| General Fund--Federal Appropriation .....  | (\$186,719,000)          |
| .....  | \$186,651,000            |
| Washington Auto Theft Prevention Authority Account--<br>State Appropriation..... | \$5,936,000              |
| State Efficiency and Restructuring Account--State<br>Appropriation.....          | \$34,522,000             |
| <b>TOTAL APPROPRIATION .....</b>   | <b>(\$1,248,163,000)</b> |
| .....  | \$1,247,696,000          |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) During the 2009-11 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors:

(i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(d) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(e) A political subdivision which is applying for funding to mitigate one-time impacts associated with construction or expansion of a correctional institution, consistent with WAC 137-12A-030, may apply for the mitigation funds in the fiscal biennium in which the impacts occur or in the immediately succeeding fiscal biennium.

(f) Within amounts provided in this subsection, the department, jointly with the department of social and health services, shall identify the number of offenders released through the extraordinary medical placement program, the cost savings to the department of corrections, including estimated medical cost savings, and the costs for medical services in the community incurred by the department of social and health services. The department and the department of social and health services shall jointly report to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010.

(g) \$11,863,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$7,467,000)~~ \$7,953,000 of the general fund--state appropriation for fiscal year 2011, and \$2,336,000 of the

general fund-private/local appropriation are provided solely for in-prison evidence-based programs and for the reception diagnostic center program as part of the offender re-entry initiative.

(h) The appropriations in this subsection are based on savings assumed from the closure of the McNeil Island corrections center, the Ahtanum View corrections center, and the Pine Lodge corrections center for women.

(3) COMMUNITY SUPERVISION

|  |                    |
|--|--------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$150,729,000      |
| General Fund--State Appropriation (FY 2011) ... (((\$134,744,000)) |                    |
| .....  | \$134,840,000      |
| TOTAL APPROPRIATION .....  | (((\$285,473,000)) |
| .....  | \$285,569,000      |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$2,083,000 of the general fund--state appropriation for fiscal year 2010 and \$2,083,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Senate Bill No. 5525 (state institutions/release). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(c) The appropriations in this subsection are based upon savings assumed from the implementation of Engrossed Substitute Senate Bill No. 5288 (supervision of offenders).

(d) \$2,791,000 of the general fund--state appropriation for fiscal year 2010 and ~~(((\$3,166,000))~~ \$2,680,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for evidence-based community programs and for community justice centers as part of the offender re-entry initiative.

(e) \$418,300 of the general fund--state appropriation for fiscal year 2010 is provided solely for the purposes of settling all claims in *Hilda Solis, Secretary of Labor, United States Department of Labor v. State of Washington, Department of Corrections*, United States District Court, Western District of Washington, Cause No. C08-cv-05362-RJB. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If settlement is not fully executed by June 30, 2010, the amount provided in this subsection shall lapse.

(f) \$984,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence, pursuant to chapter 224, Laws of 2010 (confinement alternatives).

(4) CORRECTIONAL INDUSTRIES

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,574,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$2,441,000 |
| TOTAL APPROPRIATION .....                         | \$5,015,000 |

.. The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund--state appropriation for fiscal year 2010 and \$132,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2010) ..... | \$40,728,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$38,629,000 |
| TOTAL APPROPRIATION .....                         | \$79,357,000 |

.. The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

(6) Funding in this section may not be used to purchase radios or base station repeaters related to the movement to narrowband frequencies, or for reprogramming existing narrowband radios.

**Sec. 221.** 2010 1st sp.s. c 37 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

|   |                   |
|---|-------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,504,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$2,390,000))  |
| .....   | \$2,160,000       |
| General Fund--Federal Appropriation .....         | \$18,116,000      |
| General Fund--Private/Local Appropriation.....    | \$30,000          |
| TOTAL APPROPRIATION .....                         | (((\$23,040,000)) |
| .....   | \$22,810,000      |

((The amounts appropriated in this section are subject to the following conditions and limitations: Sufficient amounts are appropriated in this section to support contracts for services that provide employment support and help with life activities for deaf and blind individuals in King county.))

**Sec. 222.** 2010 1st sp.s. c 37 s 225 (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION

|  |             |
|--|-------------|
| General Fund--State Appropriation (FY 2010) .....  | \$962,000   |
| ((General Fund--State Appropriation (FY 2011)..... | \$948,000   |
| TOTAL APPROPRIATION .....                          | \$1,910,000 |

~~The appropriations in this section are subject to the following conditions and limitations:~~

~~(1) Within the amounts appropriated in this section, the sentencing guidelines commission, in partnership with the courts, shall develop a plan to implement an evidence-based system of community custody for adult felons that will include the consistent use of evidence-based risk and needs assessment tools, programs, supervision modalities, and monitoring of program integrity. The plan for the evidence-based system of community custody shall include provisions for identifying cost-effective rehabilitative programs; identifying offenders for whom such programs would be cost-effective; monitoring the system for cost effectiveness; and reporting annually to the legislature. In developing the plan, the sentencing guidelines shall consult with: The Washington state institute for public policy; the legislature; the department of corrections; local governments; prosecutors; defense attorneys; victim advocate groups; law enforcement; the Washington federation of state employees; and other interested entities. The sentencing guidelines commission shall report its recommendations to the governor and the legislature by December 1, 2009.~~

~~(2)(a) Except as provided in subsection (b), during the 2009-11 biennium, the reports required by RCW 9.94A.480(2) and 9.94A.850(2) (d) and (h) shall be prepared within the available funds and may be delayed or suspended at the discretion of the commission.~~

~~(b) The commission shall submit the analysis described in section 15 of Engrossed Substitute Senate Bill No. 5288 no later than December 1, 2011.~~

~~(3) Within the amounts appropriated in this section, the sentencing guidelines commission shall survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines~~

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commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence based practice, investigate the implementation of such a policy in other states, and estimate the fiscal impacts of implementing such a policy in Washington state. The sentencing guidelines commission shall report its findings to the governor and the legislature by December 1, 2010.)

Sec. 223. 2010 1st sp.s. c 37 s 226 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$2,054,000        |
| General Fund--State Appropriation (FY 2011) .....       | (((\$5,053,000))   |
| .....   | \$4,735,000        |
| General Fund--Federal Appropriation .....               | \$324,135,000      |
| General Fund--Private/Local Appropriation.....          | \$33,640,000       |
| Unemployment Compensation Administration Account--      |                    |
| Federal Appropriation .....                             | (((\$362,740,000)) |
| .....   | \$348,000,000      |
| Administrative Contingency Account--State Appropriation |                    |
| .....   | \$345,000          |
| Employment Service Administrative Account--State        |                    |
| Appropriation.....                                      | \$37,775,000       |
| TOTAL APPROPRIATION .....                               | (((\$765,742,000)) |
| .....   | \$750,684,000      |

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$59,829,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(2) ~~(\$32,067,000)~~ \$17,327,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to fund the replacement of the unemployment insurance tax information system (TAXIS) for the employment security department. This section is subject to section 902 of this act. After the effective date of this section, the employment security department may not incur further obligations for the replacement of the unemployment insurance tax information system (TAXIS). Nothing in this act prohibits the department from meeting obligations incurred prior to the effective date of this section.

(3) \$110,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5804 (leaving part time work voluntarily).

(4) \$1,263,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5963 (unemployment insurance).

(5) \$159,000 of the unemployment compensation account--federal appropriation is provided solely for the implementation of House Bill No. 1555 (underground economy) from funds made available to the state by section 903(d) of the social security act (Reed act).

(6) \$295,000 of the administrative contingency--state appropriation for fiscal year 2010 is provided solely for the implementation of House Bill No. 2227 (evergreen jobs act).

(7) ~~(\$7,000,000)~~ \$2,000,000 of the general fund--state appropriation for fiscal year 2010 (~~is~~) and \$4,682,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Senate Bill No. 5809 (WorkForce employment and training).

(8) \$444,000 of the unemployment compensation administration account--federal appropriation is provided solely for the implementation of Substitute Senate Bill No. 6524 (unemployment insurance penalties and contribution rates) from funds made available to the state by section 903 (d) or (f) of the social security act (Reed 12 act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$232,000 of the unemployment compensation administration account--federal appropriation from funds made available to the state by section 903(c) or (f) of the social security act (Reed act) is provided solely for the implementation of Substitute House Bill No. 2789 (underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(End of Part)

**PART III  
NATURAL RESOURCES**

Sec. 301. 2010 2nd sp.s. c 1 s 302 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

|  |                |
|--|----------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$58,552,000   |
| General Fund--State Appropriation (FY 2011) .....                  | \$46,925,000   |
| General Fund--Federal Appropriation .....                          | \$82,079,000   |
| General Fund--Private/Local Appropriation.....                     | \$16,688,000   |
| Special Grass Seed Burning Research Account--State                 |                |
| Appropriation.....   | \$14,000       |
| Reclamation Account--State Appropriation .....                     | \$3,649,000    |
| Flood Control Assistance Account--State Appropriation              | \$1,943,000    |
| State Emergency Water Projects Revolving Account--                 |                |
| State Appropriation.....   | \$240,000      |
| Waste Reduction/Recycling/Litter Control--State                    |                |
| Appropriation.....   | \$12,467,000   |
| State Drought Preparedness Account--State                          |                |
| Appropriation.....   | \$4,000,000    |
| State and Local Improvements Revolving Account                     |                |
| (Water Supply Facilities)--State Appropriation.....                | \$424,000      |
| Freshwater Aquatic Algae Control Account--State                    |                |
| Appropriation.....   | \$508,000      |
| Water Rights Tracking System Account--State                        |                |
| Appropriation.....   | \$116,000      |
| Site Closure Account--State Appropriation.....                     | \$922,000      |
| Wood Stove Education and Enforcement Account--State                |                |
| Appropriation.....   | (((\$612,000)) |
| .....  | \$582,000      |
| Worker and Community Right-to-Know Account--State                  |                |
| Appropriation.....   | \$1,663,000    |
| State Toxics Control Account--State Appropriation..                | \$106,642,000  |
| State Toxics Control Account--Private/Local                        |                |
| Appropriation.....   | \$379,000      |
| Local Toxics Control Account--State Appropriation ..               | \$24,690,000   |
| Water Quality Permit Account--State Appropriation.                 | \$37,018,000   |
| Underground Storage Tank Account--State                            |                |
| Appropriation.....   | \$3,270,000    |
| Biosolids Permit Account--State Appropriation.....                 | \$1,866,000    |
| Hazardous Waste Assistance Account--State                          |                |
| Appropriation.....   | \$5,880,000    |
| Air Pollution Control Account--State Appropriation(((\$2,111,000)) |                |
| .....  | \$1,565,000    |
| Oil Spill Prevention Account--State Appropriation.....             | \$10,599,000   |
| Air Operating Permit Account--State Appropriation.....             | \$2,758,000    |
| Freshwater Aquatic Weeds Account--State                            |                |
| Appropriation  | \$1,693,000    |

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|  |                    |
|--|--------------------|
| Oil Spill Response Account--State Appropriation.....                     | \$7,077,000        |
| Metals Mining Account--State Appropriation.....                          | \$14,000           |
| Water Pollution Control Revolving Account--State<br>Appropriation.....   | \$535,000          |
| Water Pollution Control Revolving Account--Federal<br>Appropriation..... | \$2,210,000        |
| Water Rights Processing Account--State Appropriation.....                | \$68,000           |
| TOTAL APPROPRIATION .....  | (((\$437,612,000)) |
| .....  | \$437,036,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$170,000 of the oil spill prevention account--state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) \$240,000 of the woodstove education and enforcement account--state appropriation is provided solely for citizen outreach efforts to improve understanding of burn curtailments, the proper use of wood heating devices, and public awareness of the adverse health effects of woodsmoke pollution.

(3) \$3,000,000 of the general fund--private/local appropriation is provided solely for contracted toxic-site cleanup actions at sites where multiple potentially liable parties agree to provide funding.

(4) \$3,600,000 of the local toxics account--state appropriation is provided solely for the standby emergency rescue tug stationed at Neah Bay.

(5) \$811,000 of the state toxics account--state appropriation is provided solely for oversight of toxic cleanup at facilities that treat, store, and dispose of hazardous wastes.

(6) \$1,456,000 of the state toxics account--state appropriation is provided solely for toxic cleanup at sites where willing parties negotiate prepayment agreements with the department and provide necessary funding.

(7) \$558,000 of the state toxics account--state appropriation and \$3,000,000 of the local toxics account--state appropriation are provided solely for grants and technical assistance to Puget Sound-area local governments engaged in updating shoreline master programs.

(8) \$950,000 of the state toxics control account--state appropriation is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery, beginning in fiscal year 2011.

(9) RCW 70.105.280 authorizes the department to assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that involves both a nonradioactive hazardous component and a radioactive component. Service charges may not exceed the costs to the department in carrying out the duties in RCW 70.105.280. The current service charges do not meet the costs of the department to carry out its duties. Pursuant to RCW 43.135.055 and 70.105.280, the department is authorized to increase the service charges no greater than 18 percent for fiscal year 2010 and no greater than 15 percent for fiscal year 2011. Such service charges shall include all costs of public participation grants awarded to qualified entities by the department pursuant to RCW 70.105D.070(5) for facilities at which such grants are recognized as a component of a community relations or public participation plan authorized or required as an element of a consent order, federal facility agreement or agreed order entered into or issued by the department pursuant to any federal or state law governing investigation and remediation of releases of hazardous substances. Public participation grants funded by such service charges shall be in addition to, and not in place of, any other grants made pursuant to RCW 70.105D.070(5). Costs for the public participation grants

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shall be billed individually to the mixed waste facility associated with the grant.

(10) The department is authorized to increase the following fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Environmental lab accreditation, dam safety and inspection, biosolids permitting, air emissions new source review, and manufacturer registration and renewal.

(11) \$63,000 of the state toxics control account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(12) \$225,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$193,000~~)) \$181,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$150,000~~)) \$141,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for watershed planning implementation grants to continue ongoing efforts to develop and implement water agreements in the Nooksack Basin and the Bertrand watershed. These amounts are intended to support project administration; monitoring; negotiations in the Nooksack watershed between tribes, the department, and affected water users; continued implementation of a flow augmentation project; plan implementation in the Fishtrap watershed; and the development of a water bank.

(14) \$215,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$235,000~~)) \$220,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to provide watershed planning implementation grants for WRIA 32 to implement Substitute House Bill No. 1580 (pilot local water management program). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(15) \$200,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$200,000~~)) \$187,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purpose of supporting the trust water rights program and processing trust water right transfer applications that improve instream flow.

(16)(a) The department shall convene a stock water working group that includes: Legislators, four members representing agricultural interests, three members representing environmental interests, the attorney general or designee, the director of the department of ecology or designee, the director of the department of agriculture or designee, and affected federally recognized tribes shall be invited to send participants.

(b) The group shall review issues surrounding the use of permit-exempt wells for stock-watering purposes and may develop recommendations for legislative action.

(c) The working group shall meet periodically and report its activities and recommendations to the governor and the appropriate legislative committees by December 1, 2009.

(17) \$73,000 of the water quality permit account--state appropriation is provided solely to implement Substitute House Bill No. 1413 (water discharge fees). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(18) The department shall continue to work with the Columbia Snake River irrigators' association to determine how seasonal water operation and maintenance conservation can be utilized. In implementing this proviso, the department shall also consult with the Columbia River policy advisory group as appropriate.

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(19) The department shall track any changes in costs, wages, and benefits that would have resulted if House Bill No. 1716 (public contract living wages), as introduced in the 2009 regular session of the legislature, were enacted and made applicable to contracts and related subcontracts entered into, renewed, or extended during the 2009-11 biennium. The department shall submit a report to the house of representatives commerce and labor committee and the senate labor, commerce, and consumer protection committee by December 1, 2011. The report shall include data on any aggregate changes in wages and benefits that would have resulted during the 2009-11 biennium.

(20) Within amounts appropriated in this section the department shall develop recommendations by December 1, 2009, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts throughout the state. The department shall consider options including but not limited to, a producer-funded program, a recycler-supported or recycle fee program, a consumer fee at the time of purchase, general fund appropriations, or a currently existing dedicated account. The department shall involve and consult with stakeholders including persons who represent retailers, waste haulers, recyclers, mercury-containing light manufacturers or wholesalers, cities, counties, environmental organizations and other interested parties. The department shall report its findings and recommendations for a recycling program for mercury-containing lights to the appropriate committees of the legislature by December 1, 2009.

(21) \$140,000 of the freshwater aquatic algae control account--state appropriation is provided solely for grants to cities, counties, tribes, special purpose districts, and state agencies for capital and operational expenses used to manage and study excessive saltwater algae with an emphasis on the periodic accumulation of sea lettuce on Puget Sound beaches.

(22) By December 1, 2009, the department in consultation with local governments shall conduct a remedial action grant financing alternatives report. The report shall address options for financing the remedial action grants identified in the department's report, entitled "House Bill 1761, Model Toxics Control Accounts Ten-Year Financing Plan" and shall include but not be limited to the following: (a) Capitalizing cleanup costs using debt insurance; (b) capitalizing cleanup costs using prefunded cost-cap insurance; (c) other contractual instruments with local governments; and (d) an assessment of overall economic benefits of the remedial action grants funded using the instruments identified in this section.

(23) \$220,000 of the site closure account--state appropriation is provided solely for litigation expenses associated with the lawsuit filed by energy solutions, inc., against the Northwest interstate compact on low-level radioactive waste management and its executive director.

(24) \$68,000 of the water rights processing account--state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6267 (water rights processing). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(25) \$10,000 of the state toxics control account--state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5543 (mercury-containing lights). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(26) \$300,000 of the state toxics control account--state appropriation is provided solely for piloting and evaluating two coordinated, multijurisdictional permitting teams for nontransportation projects.

(27)(a) \$4,000,000 of the state drought preparedness account--state appropriation is provided solely for response to a

drought declaration pursuant to chapter 43.83B RCW. If such a drought declaration occurs, the department of ecology may provide funding to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival.

(b) Projects or measures for which funding will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. The department shall issue guidelines outlining grant program and matching fund requirements within ten days of a drought declaration.

(28) In accordance with RCW 43.135.055, the department is authorized to increase the fees set forth in and previously authorized in section 302(10), chapter 564, Laws of 2009.

(29) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in sections 3, 5, 7, and 12, chapter 285, Laws of 2010.

**Sec. 302.** 2010 2nd sp.s. c 1 s 303 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....                       | \$23,176,000       |
| General Fund--State Appropriation (FY 2011) .....                       | \$18,309,000       |
| General Fund--Federal Appropriation.....                                | \$6,892,000        |
| General Fund--Private/Local Appropriation.....                          | \$73,000           |
| Winter Recreation Program Account--State Appropriation .....            | \$1,556,000        |
| Off Road Vehicle Account--State Appropriation .....                     | \$239,000          |
| Snowmobile Account--State Appropriation .....                           | \$4,842,000        |
| Aquatic Lands Enhancement Account--State Appropriation .....            | \$368,000          |
| Recreation Resources Account--State Appropriation(((\$9,802,000)) ..... | \$9,469,000        |
| NOVA Program Account--State Appropriation .....                         | (((\$9,560,000))   |
| .....   | \$9,164,000        |
| Parks Renewal and Stewardship Account--State .....                      |                    |
| Appropriation.....  | \$72,975,000       |
| Parks Renewal and Stewardship Account-- .....                           |                    |
| Private/Local Appropriation .....                                       | \$300,000          |
| TOTAL APPROPRIATION .....   | (((\$148,092,000)) |
| .....   | \$147,363,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$79,000 of the general fund--state appropriation for fiscal year 2010 and (((\$79,000)) \$74,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the operation of the Northwest avalanche center.

(2) Proceeds received from voluntary donations given by motor vehicle registration applicants shall be used solely for the operation and maintenance of state parks.

(3) With the passage of Substitute House Bill No. 2339 (state parks system donation), the legislature finds that it has provided sufficient funds to ensure that all state parks remain open during the 2009-11 biennium. The commission shall not close state parks unless the bill is not enacted by June 30, 2009, or revenue collections are insufficient to fund the ongoing operation of state parks. By January 10, 2010, the commission shall provide a report to the legislature on their budget and resources related to operating parks for the remainder of the biennium.

(4) The commission shall work with the department of general administration to evaluate the commission's existing leases with the intention of increasing net revenue to state parks. The commission

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shall provide to the office of financial management and the legislative fiscal committees no later than September 30, 2009, a list of leases the commission proposes be managed by the department of general administration.

Sec. 303. 2010 2nd sp.s. c 1 s 304 (uncodified) is amended to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD

|  |                |
|--|----------------|
| General Fund--State Appropriation (FY 2010)            | \$1,486,000    |
| General Fund--State Appropriation (FY 2011)            | \$1,312,000    |
| General Fund--Federal Appropriation                    | (\$10,322,000) |
| .....  | \$10,427,000   |
| General Fund--Private/Local Appropriation              | \$250,000      |
| Aquatic Lands Enhancement Account--State Appropriation | \$278,000      |
| .....  | \$39,000       |
| Firearms Range Account--State Appropriation            | \$39,000       |
| Recreation Resources Account--State Appropriation      | (\$2,710,000)  |
| .....  | \$2,738,000    |
| NOVA Program Account--State Appropriation              | (\$1,049,000)  |
| .....  | \$1,059,000    |
| TOTAL APPROPRIATION                                    | (\$17,446,000) |
| .....  | \$17,589,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$204,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$244,000)~~) \$194,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute House Bill No. 2157 (salmon recovery). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The recreation and conservation office, under the direction of the salmon recovery funding board, shall assess watershed and regional-scale capacity issues relating to the support and implementation of salmon recovery. The assessment shall examine priority setting and incentives to further promote coordination to ensure that effective and efficient mechanisms for delivery of salmon recovery funding board funds are being utilized. The salmon recovery funding board shall distribute its operational funding to the appropriate entities based on this assessment.

(3) The recreation and conservation office shall negotiate an agreement with the Puget Sound partnership to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

Sec. 304. 2010 2nd sp.s. c 1 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

|  |                |
|--|----------------|
| General Fund--State Appropriation (FY 2010)            | \$41,263,000   |
| General Fund--State Appropriation (FY 2011)            | \$30,560,000   |
| General Fund--Federal Appropriation                    | (\$85,799,000) |
| .....  | \$88,799,000   |
| General Fund--Private/Local Appropriation              | \$47,211,000   |
| Off Road Vehicle Account--State Appropriation          | \$413,000      |
| Aquatic Lands Enhancement Account--State Appropriation | \$6,739,000    |
| .....  | \$6,739,000    |
| Recreational Fisheries Enhancement--State              |                |
| Appropriation  | \$3,472,000    |
| Warm Water Game Fish Account--State Appropriation      | \$2,861,000    |
| Eastern Washington Pheasant Enhancement Account--      |                |
| State Appropriation                                    | \$851,000      |
| Aquatic Invasive Species Enforcement Account--State    |                |

|  |                 |
|--|-----------------|
| Appropriation  | \$207,000       |
| Aquatic Invasive Species Prevention Account-- State  |                 |
| Appropriation  | \$833,000       |
| Wildlife Account--State Appropriation                | (\$86,878,000)  |
| .....  | \$86,998,000    |
| Wildlife Account--Federal Appropriation              | \$101,000       |
| Wildlife Account--Private/Local Appropriation        | \$39,000        |
| Game Special Wildlife Account--State Appropriation   | \$2,367,000     |
| Game Special Wildlife Account--Federal Appropriation | \$3,426,000     |
| Game Special Wildlife Account--Private/Local         |                 |
| .....  | Appropriation   |
| .....  | \$487,000       |
| Wildlife Rehabilitation Account--State Appropriation | \$269,000       |
| Regional Fisheries Salmonid Recovery Account--       |                 |
| Federal Appropriation                                | \$5,001,000     |
| Oil Spill Prevention Account--State Appropriation    | \$876,000       |
| Oyster Reserve Land Account--State Appropriation     | \$916,000       |
| TOTAL APPROPRIATION                                  | (\$320,569,000) |
| .....  | \$323,689,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$294,000 of the aquatic lands enhancement account--state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund--state appropriation for fiscal year 2010 and \$422,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2011-2013 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department

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shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, 2010.

(5) \$1,232,000 of the state wildlife account--state appropriation is provided solely to implement Substitute House Bill No. 1778 (fish and wildlife). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$400,000 of the general fund--state appropriation for fiscal year 2010 and \$400,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(7) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for removal of derelict gear in Washington waters.

(8) The department of fish and wildlife shall dispose of all Cessna aircraft it currently owns. The proceeds from the aircraft shall be deposited into the state wildlife account. Disposal of the aircraft must occur no later than June 30, 2010. The department shall coordinate with the department of natural resources on the installation of fire surveillance equipment into its Partenavia aircraft. The department shall make its Partenavia aircraft available to the department of natural resources on a cost-reimbursement basis for its use in coordinating fire suppression efforts. The two agencies shall develop an interagency agreement that defines how they will share access to the plane.

(9) \$50,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for an electron project fish passage study consistent with the recommendations and protocols contained in the 2008 electron project downstream fish passage final report.

(10) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) If sufficient new revenues are not identified to continue hatchery operations, within the constraints of legally binding tribal agreements, the department shall dispose of, by removal, sale, lease, reversion, or transfer of ownership, the following hatcheries: McKernan, Colville, Omak, Bellingham, Arlington, and Mossyrock. Disposal of the hatcheries must occur by June 30, 2011, and any proceeds received from disposal shall be deposited in the state wildlife account. Within available funds, the department shall provide quarterly reports on the progress of disposal to the office of financial management and the appropriate fiscal committees of the legislature. The first report shall be submitted no later than September 30, 2009.

(12) \$100,000 of the eastern Washington pheasant enhancement account--state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(13) Within the amounts appropriated in this section, the department of fish and wildlife shall develop a method for allocating its administrative and overhead costs proportionate to program fund use. As part of its 2011-2013 biennial operating budget, the department shall submit a decision package that rebalances expenditure authority for all agency funds based upon proportionate contributions.

(14) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(15) Within the amounts appropriated in this section, the department shall work with stakeholders to develop a long-term funding model that sustains the department's work of conserving species and habitat, providing sustainable recreational and commercial opportunities and using sound business practices. The funding model analysis shall assess the appropriate uses of each fund source and whether the department's current and projected revenue levels are adequate to sustain its current programs. The department shall report its recommended funding model including supporting analysis and stakeholder participation summary to the office of financial management and the appropriate committees of the legislature by October 1, 2010.

(16) By October 1, 2010, the department shall enter into an interagency agreement with the department of natural resources for land management services for the department's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. In the agreement, the department shall define its roles and responsibilities. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(17) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(18) The department must work with appropriate stakeholders to facilitate the disposition of salmon to best utilize the resource, increase revenues to regional fisheries enhancement groups, and enhance the provision of nutrients to food banks. By November 1, 2010, the department must provide a report to the appropriate committees of the legislature summarizing these discussions, outcomes, and recommendations. After November 1, 2010, the department shall not solicit or award a surplus salmon disposal contract without first giving due consideration to implementing the recommendations developed during the stakeholder process.

(19) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for increased fish production at Voight Creek hatchery.

**Sec. 305.** 2010 2nd sp.s. c 1 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) .....     | \$48,822,000   |
| General Fund--State Appropriation (FY 2011) .....     | (\$33,387,000) |
| .....   | \$37,321,000   |
| General Fund--Federal Appropriation .....             | \$28,784,000   |
| General Fund--Private/Local Appropriation.....        | \$2,369,000    |
| Forest Development Account--State Appropriation ..... | \$41,640,000   |
| Off Road Vehicle Account--State Appropriation .....   | \$4,406,000    |
| Surveys and Maps Account--State Appropriation .....   | \$2,332,000    |

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|--|--------------------|
| Aquatic Lands Enhancement Account--State Appropriation.....                        | \$8,315,000        |
| Resources Management Cost Account--State Appropriation.....                        | \$78,704,000       |
| Surface Mining Reclamation Account--State Appropriation.....                       | \$3,494,000        |
| Disaster Response Account--State Appropriation .....                               | \$5,000,000        |
| Forest and Fish Support Account--State Appropriation                               | \$8,000,000        |
| Aquatic Land Dredged Material Disposal Site Account--State Appropriation.....      | \$1,333,000        |
| Natural Resources Conservation Areas Stewardship Account--State Appropriation..... | \$184,000          |
| State Toxics Control Account--State Appropriation.....                             | \$720,000          |
| Air Pollution Control Account--State Appropriation . (((\$568,000))                | \$478,000          |
| NOVA Program Account--State Appropriation .....                                    | \$974,000          |
| Derelict Vessel Removal Account--State Appropriation                               | \$1,749,000        |
| Agricultural College Trust Management Account--State Appropriation.....            | \$1,941,000        |
| TOTAL APPROPRIATION .....  | (((\$272,722,000)) |
|  | \$276,566,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,355,000 of the general fund--state appropriation for fiscal year 2010 and (((\$349,000)) \$327,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) \$22,670,000 of the general fund--state appropriation for fiscal year 2010, (((\$11,128,000)) \$15,089,000 of the general fund--state appropriation for fiscal year 2011, and \$5,000,000 of the disaster response account--state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$600,000 of the derelict vessel removal account--state appropriation is provided solely for removal of derelict and abandoned vessels that have the potential to contaminate Puget Sound.

(5) \$666,000 of the general fund--federal appropriation is provided solely to implement House Bill No. 2165 (forest biomass energy project). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$5,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute House Bill No. 1038 (specialized forest products). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) \$440,000 of the state general fund--state appropriation for fiscal year 2010 and \$440,000 of the state general fund--state appropriation for fiscal year 2011 are provided solely for forest

work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp at the level provided in fiscal year 2008. The department shall consider using up to \$2,000,000 of the general fund--federal appropriation to support and utilize correctional camp crews to implement natural resource projects approved by the federal government for federal stimulus funding.

(8) The department of natural resources shall dispose of the King Air aircraft it currently owns. Before disposal and within existing funds, the department shall transfer specialized equipment for fire surveillance to the department of fish and wildlife's Partenavia aircraft. Disposal of the aircraft must occur no later than June 30, 2010, and the proceeds from the sale of the aircraft shall be deposited into the forest and fish support account. ((No later than June 30, 2011, the department shall lease facilities in eastern Washington sufficient to house the necessary aircraft, mechanics, and pilots used for forest fire prevention and suppression.))

(9) \$30,000 of the general fund--state appropriation for fiscal year 2010 and (((\$30,000)) \$28,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$1,030,000 of the aquatic lands enhancement account--state appropriation for fiscal year 2011 is provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(11) Within available funds, the department of natural resources shall review the statutory method for determining aquatic lands lease rates for private marinas, public marinas not owned and operated by port districts, yacht clubs, and other entities leasing state land for boat moorage. The review shall consider alternative methods for determining rents for these entities for a fair distribution of rent, consistent with the department management mandates for state aquatic lands.

(12) (((\$40,000)) \$37,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the aquatic lands enhancement account--state appropriation are provided solely to install up to twenty mooring buoys in Eagle Harbor and to remove abandoned boats, floats, and other trespassing structures.

(13) By October 1, 2010, the department shall enter into an interagency agreement with the department of fish and wildlife for providing land management services on the department of fish and wildlife's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(14) \$41,000 of the forest development account--state appropriation, \$44,000 of the resources management cost account--state appropriation, and \$2,000 of the agricultural college trust management account--state appropriation are provided solely for the implementation of Second Substitute House Bill No. 2481 (DNR forest biomass agreements). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 306.** 2010 2nd sp.s. c 1 s 309 (uncodified) is amended to read as follows:

|   |                   |
|---|-------------------|
| FOR THE DEPARTMENT OF AGRICULTURE                 |                   |
| General Fund--State Appropriation (FY 2010) ..... | \$12,320,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$15,830,000)) |

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|---|-------------------|
| .....   | \$15,391,000      |
| General Fund--Federal Appropriation .....               | (((\$20,947,000)) |
| .....   | \$21,047,000      |
| General Fund--Private/Local Appropriation.....          | \$193,000         |
| Aquatic Lands Enhancement Account--State                |                   |
| Appropriation.....                                      | (((\$2,551,000))  |
| .....   | \$2,564,000       |
| State Toxics Control Account--State Appropriation.....  | \$4,724,000       |
| Water Quality Permit Account--State Appropriation ..... | \$61,000          |
| TOTAL APPROPRIATION .....                               | (((\$56,626,000)) |
| .....   | \$56,300,000      |

.....The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the aquatic lands enhancement account appropriation is provided solely for funding to the Pacific county noxious weed control board to eradicate remaining spartina in Willapa Bay.

(2) \$19,000 of the general fund--state appropriation for fiscal year 2010 and \$6,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) The department is authorized to establish or increase the following fees in the 2009-11 biennium as necessary to meet the actual costs of conducting business: Christmas tree grower licensing, nursery dealer licensing, plant pest inspection and testing, and commission merchant licensing.

(4) ((~~\$5,420,000~~)) \$5,179,000 of the general fund--state appropriation for fiscal year 2011 and \$2,782,000 of the general fund--federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6341 (food assistance/department of agriculture). Within amounts appropriated in this subsection, \$65,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to this contract. If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) The department shall, if public or private funds are available, partner with eligible public and private entities with experience in food collection and distribution to review funding sources for eight full-time volunteers in the AmeriCorps VISTA program to conduct outreach to local growers, agricultural donors, and community volunteers. Public and private partners shall also be utilized to coordinate gleaning unharvested tree fruits and fresh produce for distribution to individuals throughout Washington state.

(6) When reducing laboratory activities and functions, the department shall not impact any research or analysis pertaining to bees.

**Sec. 307.** 2010 2nd sp.s. c 1 s 310 (uncodified) is amended to read as follows:

**FOR THE PUGET SOUND PARTNERSHIP**

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2010) .....      | \$3,143,000         |
| General Fund--State Appropriation (FY 2011) .....      | (((\$2,684,000))    |
| .....  | \$2,528,000         |
| General Fund--Federal Appropriation .....              | (((\$7,214,000))    |
| .....  | \$8,096,000         |
| Aquatic Lands Enhancement Account--State Appropriation |                     |
| .....  | \$493,000           |
| State Toxics Control Account--State Appropriation..... | \$794,000           |
| TOTAL APPROPRIATION .....                              | (((\$14,328,000))   |
| .....  | <u>\$15,054,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$305,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery.

(2) \$794,000 of the state toxics control account--state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(3) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(4) The Puget Sound partnership shall work with Washington State University and the environmental protection agency to secure funding for the beach watchers program.

(5) \$839,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$764,000~~)) \$264,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support public education and volunteer programs. The partnership is directed to distribute the majority of funding as grants to local organizations, local governments, and education, communication, and outreach network partners. The partnership shall track progress for this activity through the accountability system of the Puget Sound partnership.

(6) The Puget Sound partnership shall negotiate an agreement with the recreation and conservation office to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

(End of part)

**PART IV  
TRANSPORTATION**

**Sec. 401.** 2010 1st sp.s. c 37 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

|  |                  |
|--|------------------|
| General Fund--State Appropriation (FY 2010) .....        | \$1,436,000      |
| General Fund--State Appropriation (FY 2011) .....        | (((\$1,524,000)) |
| .....  | \$1,322,000      |
| Architects' License Account--State Appropriation.....    | \$923,000        |
| Professional Engineers' Account--State                   |                  |
| Appropriation.....                                       | \$3,568,000      |
| Real Estate Commission Account--State Appropriation..... | \$9,987,000      |
| Master License Account--State Appropriation.....         | \$15,718,000     |
| Uniform Commercial Code Account--State Appropriation     |                  |
| .....  | \$3,090,000      |
| Real Estate Education Account--State Appropriation ..... | \$276,000        |
| Real Estate Appraiser Commission Account--State          |                  |
| Appropriation.....                                       | \$1,683,000      |

Business and Professions Account--State Appropriation

|  |                   |
|--|-------------------|
| .....  | \$15,188,000      |
| Real Estate Research Account--State Appropriation.....   | \$471,000         |
| Geologists' Account--State Appropriation.....            | \$53,000          |
| Derelict Vessel Removal Account--State Appropriation.... | \$31,000          |
| TOTAL APPROPRIATION .....                                | (((\$53,948,000)) |
| .....  | \$53,746,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for cosmetologists, funeral directors, cemeteries, court reporters and appraisers. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$1,352,000 of the business and professions account--state appropriation is provided solely to implement Substitute Senate Bill No. 5391 (tattoo and body piercing). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$358,000 of the business and professions account--state appropriation is provided solely to implement Senate Bill No. 6126 (professional athletics). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$151,000 of the real estate research account appropriation is provided solely to implement chapter 156, Laws of 2010 (real estate broker licensure fees).

(5) \$158,000 of the architects' license account--state appropriation is provided solely to implement chapter 129, Laws of 2010 (architect licensing).

(6) \$60,000 of the master license account--state appropriation is provided solely to implement chapter 174, Laws of 2010 (vaccine association). The amount provided in this subsection shall be from fee revenue authorized in chapter 174, Laws of 2010.

**Sec. 402.** 2010 1st sp.s. c 37 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$38,977,000       |
| General Fund--State Appropriation (FY 2011) .....       | (((\$36,059,000))  |
| .....   | \$33,292,000       |
| General Fund--Federal Appropriation .....               | \$15,793,000       |
| General Fund--Private/Local Appropriation.....          | \$4,986,000        |
| Death Investigations Account--State Appropriation.....  | \$5,580,000        |
| Enhanced 911 Account--State Appropriation.....          | \$603,000          |
| County Criminal Justice Assistance Account--State       |                    |
| Appropriation.....                                      | \$3,146,000        |
| Municipal Criminal Justice Assistance Account--State    |                    |
| Appropriation.....                                      | \$1,255,000        |
| Fire Service Trust Account--State Appropriation.....    | \$131,000          |
| Disaster Response Account--State Appropriation .....    | \$8,002,000        |
| Fire Service Training Account--State Appropriation .... | \$8,821,000        |
| Aquatic Invasive Species Enforcement Account--State     |                    |
| Appropriation.....                                      | \$54,000           |
| State Toxics Control Account--State Appropriation.....  | \$509,000          |
| Fingerprint Identification Account--State               |                    |
| Appropriation.....                                      | \$10,454,000       |
| TOTAL APPROPRIATION .....                               | (((\$134,370,000)) |
| .....   | \$131,603,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account--state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account--state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) The 2010 legislature will review the use of king air planes by the executive branch and the adequacy of funding in this budget regarding maintaining and operating the planes to successfully accomplish their mission.

(4) The appropriations in this section reflect reductions in the appropriations for the agency's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(5) \$400,000 of the fire service training account--state appropriation is provided solely for the firefighter apprenticeship training program.

(6) \$48,000 of the fingerprint identification account--state appropriation is provided solely to implement Substitute House Bill No. 1621 (consumer loan companies). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) In accordance with RCW 43.43.942, 46.52.085, and 43.135.055, the state patrol is authorized to increase the following fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Collision records requests; fire training academy courses; and fire training academy dorm accommodations.

(8) \$24,000 of the fingerprint identification account--state appropriation is provided solely for implementation of chapter 47, Laws of 2010 (criminal background checks).

(End of part)

**PART V  
EDUCATION**

**Sec. 501.** 2010 2nd sp.s. c 1 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$35,415,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$29,696,000))  |
| .....   | \$30,196,000       |
| General Fund--Federal Appropriation .....         | \$87,081,000       |
| TOTAL APPROPRIATION .....                         | (((\$152,192,000)) |
| .....   | \$152,692,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$23,096,000 of the general fund--state appropriation for fiscal year 2010 and ~~(((\$19,570,000))~~ \$20,070,000 of the general fund--state appropriation for fiscal year 2011 is for state agency operations.

(a) \$11,226,000 of the general fund--state appropriation for fiscal year 2010 and \$9,709,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of

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the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within amounts appropriated in this subsection (1)(a), the office of the superintendent of public instruction, consistent with WAC 392-121-182 (alternative learning experience requirements) which requires documentation of alternative learning experience student headcount and full-time equivalent (FTE) enrollment claimed for basic education funding, shall provide, monthly, accurate monthly headcount and FTE enrollments for students in alternative learning experience (ALE) programs as well as information about resident and serving districts.

(iii) Within amounts provided in this subsection (1)(a), the state superintendent of public instruction shall share best practices with school districts regarding strategies for increasing efficiencies and economies of scale in school district noninstructional operations through shared service arrangements and school district cooperatives, as well as other practices.

(b) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a science, technology, engineering, and mathematics (STEM) working group to develop a comprehensive plan with a shared vision, goals, and measurable objectives to improve policies and practices to ensure that a pathway is established for elementary schools, middle schools, high schools, postsecondary degree programs, and careers in the areas of STEM, including improving practices for recruiting, preparing, hiring, retraining, and supporting teachers and instructors while creating pathways to boost student success, close the achievement gap, and prepare every student to be college and career ready. The working group shall be composed of the director of STEM at the office of the superintendent of public instruction who shall be the chair of the working group, and at least one representative from the state board of education, professional educator standards board, state board of community and technical colleges, higher education coordinating board, workforce training and education coordinating board, the achievement gap oversight and accountability committee, and others with appropriate expertise. The working group shall develop a comprehensive plan and a report with recommendations, including a timeline for specific actions to be taken, which is due to the governor and the appropriate committees of the legislature by December 1, 2010.

(c) \$920,000 of the general fund--state appropriation for fiscal year 2010 and \$491,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research and development activities associated with the development of options for new school finance systems, including technical staff, reprogramming, and analysis of alternative student funding formulae. Within this amount is \$150,000 for the state board of education for further development of accountability systems, and \$150,000 for the professional educator standards board for continued development of teacher certification and evaluation systems.

(d) \$965,000 of the general fund--state appropriation for fiscal year 2010 and \$887,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(e) \$5,366,000 of the general fund--state appropriation for fiscal year 2010 and \$3,103,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the professional educator standards board for the following:

(i) \$1,070,000 in fiscal year 2010 and \$985,000 in fiscal year 2011 are for the operation and expenses of the Washington professional educator standards board;

(ii) \$4,106,000 of the general fund--state appropriation for fiscal year 2010 and \$1,936,000 of the general fund--state appropriation

for fiscal year 2011 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(f)(ii) is also provided for the recruiting Washington teachers program.

(iii) \$102,000 of the general fund--state appropriation for fiscal year 2010 is provided for the implementation of Second Substitute Senate Bill No. 5973 (student achievement gap). \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the ongoing work of the achievement gap oversight and accountability committee and implementation of the committee's recommendations.

(f) \$1,349,000 of the general fund--state appropriation for fiscal year 2010 and \$144,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.

(g) \$1,140,000 of the general fund--state appropriation for fiscal year 2010 and \$1,227,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.

(h) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to promote the financial literacy of students. The effort will be coordinated through the financial education public-private partnership. It is expected that nonappropriated funds available to the public-private partnership will be sufficient to continue financial literacy activities.

(i) To the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.

(j) \$44,000 of the general fund--state appropriation for fiscal year 2010 and \$45,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5248 (enacting the interstate compact on educational opportunity for military children).

(k) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$700,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5410 (online learning).

(l) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$12,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(m) \$2,518,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Substitute House Bill No. 2776 (K-12 education funding). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(n) \$89,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3026 (state and federal civil rights laws). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(o) Beginning in the 2010-11 school year, the superintendent of public instruction shall require all districts receiving general

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apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives.

(p) \$55,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a technical working group to establish standards, guidelines, and definitions for what constitutes a basic education program for highly capable students and the appropriate funding structure for such a program, and to submit recommendations to the legislature for consideration. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. The working group must consult with and seek input from nationally recognized experts; researchers and academics on the unique educational, emotional, and social needs of highly capable students and how to identify such students; representatives of national organizations and associations for educators of or advocates for highly capable students; school district representatives who are educators, counselors, and classified school employees involved with highly capable programs; parents of students who have been identified as highly capable; representatives from the federally recognized tribes; and representatives of cultural, linguistic, and racial minority groups and the community of persons with disabilities. The working group shall make recommendations to the quality education council and to appropriate committees of the legislature by December 1, 2010. The recommendations shall take into consideration that access to the program for highly capable students is not an individual entitlement for any particular student. The recommendations shall seek to minimize underrepresentation of any particular demographic or socioeconomic group by better identification, not lower standards or quotas, and shall include the following:

(i) Standardized state-level identification procedures, standards, criteria, and benchmarks, including a definition or definitions of a highly capable student. Students who are both highly capable and are students of color, are poor, or have a disability must be addressed;

(ii) Appropriate programs and services that have been shown by research and practice to be effective with highly capable students but maintain options and flexibility for school districts, where possible;

(iii) Program administration, management, and reporting requirements for school districts;

(iv) Appropriate educator qualifications, certification requirements, and professional development and support for educators and other staff who are involved in programs for highly capable students;

(v) Self-evaluation models to be used by school districts to determine the effectiveness of the program and services provided by the school district for highly capable programs;

(vi) An appropriate state-level funding structure; and

(vii) Other topics deemed to be relevant by the working group.

(q) (~~(\$500,000)~~) \$1,000,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(r) \$24,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Substitute Senate Bill No. 6759 (requiring a plan for a voluntary program of early learning as a part of basic education). If the bill is not enacted

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by June 30, 2010, the amounts provided in this subsection (1)(r) shall lapse.

(s) \$950,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for office of the attorney general costs related to *McCleary v. State of Washington*.

(2) \$12,320,000 of the general fund--state appropriation for fiscal year 2010, \$10,127,000 of the general fund--state appropriation for fiscal year 2011, and \$55,890,000 of the general fund--federal appropriation are for statewide programs.

(a) HEALTH AND SAFETY

(i) \$2,541,000 of the general fund--state appropriation for fiscal year 2010 and \$2,381,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$94,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iii) \$9,670,000 of the general fund--federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(iv) \$96,000 of the general fund--state appropriation for fiscal year 2010 and \$90,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(v) \$70,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the youth suicide prevention program.

(vi) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$47,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) TECHNOLOGY

(i) \$1,842,000 of the general fund--state appropriation for fiscal year 2010 and \$1,635,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) \$1,475,000 of the general fund--state appropriation for fiscal year 2010, \$1,045,000 of the general fund--state appropriation for fiscal year 2011, and \$435,000 of the general fund--federal

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appropriation are provided solely for implementing a comprehensive data system to include financial, student, and educator data. The office of the superintendent of public instruction will convene a data governance group to create a comprehensive needs-requirement document, conduct a gap analysis, and define operating rules and a governance structure for K-12 data collections.

(c) GRANTS AND ALLOCATIONS

(i) \$1,329,000 of the general fund--state appropriation for fiscal year 2010 and \$664,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.016.

(ii) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(iii) \$25,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(iv) \$175,000 of the general fund--state appropriation for fiscal year 2010 and \$87,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(v) \$2,898,000 of the general fund--state appropriation for fiscal year 2010 and \$2,924,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(vi) \$627,000 of the general fund--state appropriation for fiscal year 2010 and \$225,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of a statewide program for comprehensive dropout prevention, intervention, and retrieval.

(vii) \$40,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection (2)(c)(vii), the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs.

(viii) \$60,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a

profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

(ix) \$145,000 of the general fund--state appropriation for fiscal year 2010 and \$37,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction to enhance the reading skills of students with dyslexia by implementing the findings of the dyslexia pilot program. Funds shall be used to provide information and training to classroom teachers and reading specialists, for development of a dyslexia handbook, and to take other statewide actions to improve the reading skills of students with dyslexia. The training program shall be delivered regionally through the educational service districts.

(x) \$97,000 of the general fund--state appropriation for fiscal year 2010 and \$48,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support vocational student leadership organizations.

(xi) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for drop-out prevention programs at the office of the superintendent of public instruction including the jobs for America's graduates (JAG) program.

**Sec. 502.** 2010 2nd sp.s. c 1 s 502 (uncodified) is amended to read as follows:

|   |                             |
|---|-----------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPORTIONMENT |                             |
| General Fund--State Appropriation (FY 2010) .....                       | \$5,126,153,000             |
| General Fund--State Appropriation (FY 2011) (((\$4,912,103,000)) .....  | \$4,887,369,000             |
| General Fund--Federal Appropriation .....                               | \$208,098,000               |
| TOTAL APPROPRIATION .....   | (((\$10,246,354,000)) ..... |
|   | \$10,221,620,000            |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) The appropriations in this section include federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund), which shall be used to support general apportionment program funding. In distributing general apportionment allocations under this section for the 2010-11 school year, the superintendent shall include the entire allocation from the federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund) as part of each district's general apportionment allocation.

(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

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(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) ((For the 2009-10 school year and the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011:))

(A)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, as in effect on November 1, 2009~~((;))~~: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades K through three and, for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(II) For all other districts for the 2009-10 school year, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010 school year from September 1, 2010, through January 31, 2011, a minimum of forty-nine certificated instructional staff units per thousand full-time equivalent students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182 as in effect on November 1, 2009: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, ~~((forty seven and forty three))~~ forty-six and twenty-seven one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of ~~((forty seven and forty three))~~ forty-six and twenty-seven one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) For the portion of the 2010-11 school year beginning February 1, 2010:

(A) Forty-nine certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through three;

(B) Forty-six certificated instructional staff units per thousand full-time equivalent students in grade 4;

(iv) All allocations for instructional staff units per thousand full-time equivalent students above forty-nine in grades kindergarten through three and forty-six in grade four shall occur in apportionments in the monthly periods prior to February 1, 2011;

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(v) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(vi) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students;

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty average annual full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

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(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 16.59 percent in the 2009-10 school year and 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-10 school year and a maximum of \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of (~~(\$7,286,000)~~) \$5,452,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of (~~(\$2,385,000)~~) \$600,000 for the 2011 fiscal year (~~(—20 percent of each fiscal year amount may carry over from one year to the next)~~);

(iii) A maximum of \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 (~~(each fiscal year)~~) for fiscal year 2010 and \$436,000 for fiscal year 2011 may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

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(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing.

(14) \$2,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the superintendent for financial contingency funds for eligible school districts. The financial contingency funds shall be allocated to eligible districts in the form of an advance of their respective general apportionment allocations.

(a) Eligibility:

The superintendent shall determine a district's eligibility for receipt of financial contingency funds, and districts shall be eligible only if the following conditions are met:

(i) A petition is submitted by the school district as provided in RCW 28A.510.250 and WAC 392-121-436; and

(ii) The district's projected general fund balance for the month of March is less than one-half of one percent of its budgeted general fund expenditures as submitted to the superintendent for the 2010-11 school year on the F-196 report.

(b) Calculations:

The superintendent shall calculate the financial contingency allocation to each district as the lesser of:

(i) The amount set forth in the school district's resolution;

(ii) An amount not to exceed 10 percent of the total amount to become due and apportionable to the district from September 1st through August 31st of the current school year;

(iii) The highest negative monthly cash and investment balance of the general fund between the date of the resolution and May 31st of the school year based on projections approved by the county treasurer and the educational service district.

(c) Repayment:

For any amount allocated to a district in state fiscal year 2011, the superintendent shall deduct in state fiscal year 2012 from the district's general apportionment the amount of the emergency contingency allocation and any earnings by the school district on the investment of a temporary cash surplus due to the emergency contingency allocation. Repayments or advances will be accomplished by a reduction in the school district's apportionment payments on or before June 30th of the school year following the distribution of the emergency contingency allocation. All disbursements, repayments, and outstanding allocations to be repaid of the emergency contingency pool shall be reported to the office of financial management and the appropriate fiscal committees of the legislature on July 1st and January 1st of each year.

Sec. 503. 2010 1st sp.s. c 37 s 505 (uncodified) is amended to read as follows:

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|  |                    |
|--|--------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION |                    |
| General Fund--State Appropriation (FY 2010) .....                      | \$317,116,000      |
| General Fund--State Appropriation (FY 2011) ... (((\$296,747,000))     |                    |
| .....  | \$296,408,000      |
| TOTAL APPROPRIATION .....  | (((\$613,863,000)) |
| .....  | \$613,524,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$878,000 of this fiscal year 2010 appropriation and a maximum of ~~(((\$892,000))~~ \$803,000 of the fiscal year 2011 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) Allocations for transportation of students shall be based on reimbursement rates of \$48.15 per weighted mile in the 2009-10 school year and \$48.37 per weighted mile in the 2010-11 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(4) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(5) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

(6) Funding levels in this section reflect reductions from the implementation of Substitute House Bill No. 1292 (authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks).

Sec. 504. 2010 1st sp.s. c 37 s 506 (uncodified) is amended to read as follows:

|  |                    |
|--|--------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS |                    |
| General Fund--State Appropriation (FY 2010) .....                              | \$3,159,000        |
| General Fund--State Appropriation (FY 2011) .....                              | (((\$3,159,000))   |
| .....  | \$7,111,000        |
| General Fund--Federal Appropriation .....                                      | (((\$391,988,000)) |
| .....  | \$448,588,000      |
| TOTAL APPROPRIATION .....  | (((\$398,306,000)) |
| .....  | \$458,858,000      |

The appropriations in this section are subject to the following conditions and limitations:

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(1) ~~\$3,000,000 of the general fund--state appropriation for fiscal year 2010 ((and \$3,000,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund--state appropriation for fiscal year 2010 ((and \$100,000 of the 2011 fiscal year appropriation are)) is provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund--state appropriation for fiscal year 2010 ((and \$59,000 of the general fund--state appropriation for fiscal year 2011 are)) is provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

(4) \$7,111,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for state matching money for federal child nutrition programs, and may support the meals for kids program through the following allowable uses:

(a) Elimination of breakfast copays and lunch copays for students in grades kindergarten through third grade who are eligible for reduced price lunch;

(b) Assistance to school districts for supporting summer food service programs, and initiating new summer food service programs in low-income areas; and

(c) Reimbursements to school districts for school breakfasts served to students eligible for free and reduced price lunch, pursuant to chapter 287, Laws of 2005.

**Sec. 505.** 2010 1st sp.s. c 37 s 507 (uncodified) is amended to read as follows:

|  |                                  |
|--|----------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS   |                                  |
| General Fund--State Appropriation (FY 2010) .....                              | \$632,136,000                    |
| General Fund--State Appropriation (FY 2011) ... (( <del>\$650,856,000</del> )) |                                  |
| .....  | \$626,099,000                    |
| General Fund--Federal Appropriation .....                                      | \$664,601,000                    |
| Education Legacy Trust Account--State  |                                  |
| Appropriation.....   | \$756,000                        |
| TOTAL APPROPRIATION .....  | (( <del>\$1,948,349,000</del> )) |
| .....  | <u>\$1,923,592,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2009-10 and 2010-11 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools in the 2009-10 school year. In the 2010-11 school year, the per student allocation under this subsection (5)(b) shall include the same factors as in the 2009-10 school year, but shall also include the classified staff enhancements included in section 502(3)(b).

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

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

Each district's general fund--state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, ((~~\$44,269,000~~)) \$19,512,000 of the general fund--state appropriation and \$29,574,000 of the general fund-- federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds

shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

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

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

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

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

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

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(g) ((The office of the superintendent of public instruction, at the conclusion of each school year, shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible)) Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for state safety net funding in August of each school year. Determinations on school district eligibility for state safety net awards shall be based on analysis of actual expenditure data from the current school year.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

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

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

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

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

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A school district may carry over from one year to the next year up to 10 percent of the general fund--state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(15) \$262,000 of the general fund--state appropriation for fiscal year 2010 and \$251,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

(16) \$50,000 of the general fund--state appropriation for fiscal year 2010, \$50,000 of the general fund--state appropriation for fiscal 2011, and \$100,000 of the general fund--federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

**Sec. 506.** 2010 1st sp.s. c 37 s 508 (uncodified) is amended to read as follows:

|   |                |
|---|----------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR EDUCATIONAL SERVICE DISTRICTS |                |
| General Fund--State Appropriation (FY 2010) .....                               | \$8,394,000    |
| General Fund--State Appropriation (FY 2011) .....                               | (\$8,319,000)  |
| .....   | \$7,487,000    |
| TOTAL APPROPRIATION .....   | (\$16,713,000) |
| .....   | \$15,881,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$3,355,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$3,355,000)~~) \$3,020,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. Funding shall be distributed among the educational service districts in the same proportion as distributions in the 2007-2009 biennium. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service

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fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

**Sec. 507.** 2010 1st sp.s. c 37 s 511 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$9,189,000              |
| General Fund--State Appropriation (FY 2011) ..... | (((\$9,188,000))         |
| .....   | \$9,162,000              |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(((\$18,377,000))</b> |
| .....   | \$18,351,000             |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$401.08 per funded student for the 2009-10 school year and \$401.08 per funded student for the 2010-11 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. For the 2009-10 and 2010-11 school years, the number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) ~~\$90,000~~ of the fiscal year 2010 appropriation and ~~(((\$90,000))~~ \$81,000 of the fiscal year 2011 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

(4) ~~\$170,000~~ of the fiscal year 2010 appropriation and ~~(((\$170,000))~~ \$153,000 of the fiscal year 2011 appropriation are provided for the centrum program at Fort Worden state park.

**Sec. 508.** 2010 2nd sp.s. c 1 s 503 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS**

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$93,642,000              |
| General Fund--State Appropriation (FY 2011) ..... | (((\$92,643,000))         |
| .....   | \$85,691,000              |
| General Fund--Federal Appropriation .....         | \$154,627,000             |
| Education Legacy Trust Account--State             |                           |
| Appropriation.....                                | (((\$100,381,000))        |
| .....   | \$98,981,000              |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(((\$441,293,000))</b> |
| .....   | <u>\$432,941,000</u>      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$35,804,000 of the general fund--state appropriation for fiscal year 2010, \$31,850,000 of the general fund--state appropriation for fiscal year 2011, \$1,350,000 of the education legacy trust account--state appropriation, and \$17,869,000 of the general fund--federal appropriation are provided solely for development and implementation of the Washington state assessment system, including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas; and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student assessment results, on or around June 10th of each year.

(2) \$3,249,000 of the general fund--state appropriation for fiscal year 2010 and \$3,249,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the design of the state assessment system and the implementation of end of course assessments for high school math.

(3) Within amounts provided in subsections (1) and (2) of this section, the superintendent of public instruction, in consultation with the state board of education, shall develop a statewide high school end-of-course assessment measuring student achievement of the state science standards in biology to be implemented statewide in the 2011-12 school year. By December 1, 2010, the superintendent of public instruction shall recommend whether additional end-of-course assessments in science should be developed and in which content areas. Any recommendation for additional assessments must include an implementation timeline and the projected cost to develop and administer the assessments.

(4) \$1,014,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days for fourth and fifth grade teachers during the 2008-2009 school year. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(5) \$3,241,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math and science teachers during the 2008-2009 school year, as well as specialized training for one math and science teacher in each middle school and high school during the 2008-2009 school year. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(6) \$3,773,000 of the education legacy trust account--state appropriation is provided solely for a math and science instructional coaches program pursuant to chapter 396, Laws of 2007. Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities for up to twenty-five instructional coaches in middle and high school math and twenty-five instructional coaches in middle and high school science in each year of the biennium; and up to \$300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program.

(7) \$1,740,000 of the general fund--state appropriation for fiscal year 2010 and \$1,775,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. If Second Substitute Senate Bill No. 5676 is enacted the allocations are formula-driven, otherwise the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection.

(8) \$139,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and

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(b) grants of \$2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

(9) \$1,473,000 of the general fund--state appropriation for fiscal year 2010 and \$197,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events. Funding shall be distributed to the various LASER activities in a manner proportional to LASER program spending during the 2007-2009 biennium.

(10) \$88,981,000 of the education legacy trust account--state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in chapter 400, Laws of 2007. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

(11) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$450,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

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(12) \$105,754,000 of the general fund--federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(13) \$1,960,000 of the general fund--state appropriation for fiscal year 2010 and \$761,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Funding in this subsection shall be used for focused assistance programs for individual schools or school districts. The office of the superintendent of public instruction shall report to the fiscal committees of the legislature by September 1, 2011, providing an accounting of the uses of focused assistance funds during the 2009-11 fiscal biennium, including a list of schools served and the types of services provided.

(14) \$1,667,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$1,667,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(15) \$5,285,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$5,285,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(16) \$1,003,000 of the general fund--state appropriation for fiscal year 2010 and \$528,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2009 through August 31, 2011.

(17) \$3,269,000 of the general fund--state appropriation for fiscal year 2010 and \$3,594,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(18) \$1,861,000 of the general fund--state appropriation for fiscal year 2010 and \$1,836,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(19) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

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(20) \$246,000 of the education legacy trust account--state appropriation is provided solely for costs associated with the office of the superintendent of public instruction's statewide director of technology position.

(21)(a) \$28,715,000 of the general fund--state appropriation for fiscal year 2010 and \$36,168,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of \$5,000 per teacher beginning in the 2007-08 school year and adjusted for inflation in each school year thereafter in which Initiative 732 cost of living adjustments are provided;

(ii) An additional \$5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a pro-rated manner; and

(iv) During the 2009-10 and 2010-11 school years, and within the available state and federal appropriations, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The assessment fee for national certification is provided in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the assessment fee, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits.

(22) \$2,475,000 of the general fund--state appropriation for fiscal year 2010 and \$456,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. This funding may additionally be used to support FIRST Robotics programs. In fiscal year 2011, if equally matched by private donations, \$300,000 of the appropriation shall be used to support FIRST Robotics programs, including FIRST Robotics professional development.

(23) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of House Bill No. 2621 (K-12 school resource programs). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(24) \$300,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the local farms-healthy kids program as described in chapter 215, Laws of 2008. The program is suspended in the 2011 fiscal year, and not eliminated.

(25) \$2,348,000 of the general fund--state appropriation for fiscal year 2010 and \$1,000,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding beginning in the 2009-10 school year. The superintendent shall implement this program in 5 to 15 school districts and/or regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators. The superintendent of public instruction shall adopt rules to establish and operate a research-based beginning educator support program no later than August 31, 2009. OSPI must evaluate the program's progress and may contract for this work. A report to the legislature about the beginning educator support program is due November 1, 2010.

(26) (~~(\$1,790,000)~~) \$390,000 of the education legacy trust account--state appropriation is provided solely for the development and implementation of diagnostic assessments, consistent with the recommendations of the Washington assessment of student learning work group.

(27) Funding within this section is provided for implementation of Engrossed Substitute Senate Bill No. 5414 (statewide assessments and curricula).

(28) \$530,000 of the general fund--state appropriation for fiscal year 2010 and \$265,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(29) Funding for the community learning center program, established in RCW 28A.215.060, and providing grant funding for the 21st century after-school program, is suspended and not eliminated.

(30) \$2,357,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6696 (education reform). Of the amount provided, \$142,000 is provided to the professional educators' standards board and \$120,000 is provided to the system of the educational service districts, to fulfill their respective duties under the bill.

(End of part)

**PART VI  
HIGHER EDUCATION**

**Sec. 601.** 2010 1st sp.s. c 37 s 610 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$6,402,000        |
| General Fund--State Appropriation (FY 2011) ..... | (( \$5,561,000 ))  |
| .....   | \$4,274,000        |
| General Fund--Federal Appropriation .....         | \$4,332,000        |
| TOTAL APPROPRIATION .....                         | (( \$16,295,000 )) |
| .....   | \$15,008,000       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the funds appropriated in this section, the higher education coordinating board shall complete a system design planning project that defines how the current higher education delivery system can be shaped and expanded over the next ten years to best meet the needs of Washington citizens and businesses for high quality and accessible post-secondary education. The board shall propose policies and specific, fiscally feasible implementation recommendations to accomplish the goals established in the 2008 strategic master plan for higher education. The project shall specifically address the roles, missions, and instructional delivery systems both of the existing and of proposed new components of the higher education system; the extent to which specific academic programs should be expanded, consolidated, or discontinued and how that would be accomplished; the utilization of innovative instructional delivery systems and pedagogies to reach both traditional and nontraditional students; and opportunities to consolidate institutional administrative functions. The study recommendations shall also address the proposed location, role, mission, academic program, and governance of any recommended new campus, institution, or university center. During the planning process, the board shall inform and actively involve the chairs from the senate and house of representatives committees on higher education, or their designees. The board shall report the findings and recommendations of this system design planning project to the governor and the appropriate committees of the legislature by December 1, 2009.

(2) \$146,000 of the general fund--state appropriation for fiscal year 2010 and \$65,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to administer Engrossed Second Substitute House Bill No. 2021 (revitalizing student financial aid). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) \$167,000 of the general fund--state appropriation for fiscal year 2010 and \$71,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Engrossed Second Substitute House Bill No. 1946 (regarding higher education online technology). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$350,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to contract with the Pacific Northwest university of health sciences to conduct training and education of health care professionals to promote osteopathic physician services in rural and underserved areas of the state.

Sec. 602. 2010 1st sp.s. c 37 s 611 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) .....         | \$188,332,000   |
| General Fund--State Appropriation (FY 2011) ... ((        | \$122,218,000)) |
| .....   | \$96,833,000    |
| General Fund--Federal Appropriation .....                 | \$13,129,000    |
| Education Legacy Trust Account--State Appropriation ..... | \$116,060,000   |
| Opportunity Pathways Account--State Appropriation .....   | ((              |
| .....   | \$73,500,000))  |
| TOTAL APPROPRIATION .....                                 | \$513,239,000   |

.....The appropriations in this section are subject to the following conditions and limitations:

(1) \$178,726,000 of the general fund--state appropriation for fiscal year 2010, ((~~\$120,572,000~~)) \$95,187,000 of the general fund--state appropriation for fiscal year 2011, \$109,188,000 of the education legacy trust account appropriation, ((~~\$73,500,000~~)) \$98,885,000 of the opportunity pathways appropriation, and \$2,545,000 of the general fund--federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including up to a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. State need grant and the Washington award for vocational excellence shall be adjusted to offset the cost of the resident undergraduate tuition increases, limited to those tuition increases authorized under this act. The Washington scholars program shall provide awards sufficient to offset ninety percent of the total tuition and fee award.

(2)(a) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(b) Grant awards for students at private four-year colleges shall be set at the same level as the student would receive if attending one of the public research universities.

(3) To the maximum extent practicable, the board shall provide state work study subsidies only to resident students during the 2010-11 academic year. Additionally, in order to provide work opportunities to as many resident students as possible, the board is encouraged to increase the proportion of student wages that is to be paid by both proprietary and nonprofit, public, and private employers.

(4) \$3,872,000 of the education legacy trust account--state appropriation is provided solely for the passport to college scholarship program pursuant to chapter 28B.117 RCW. The higher education coordinating board shall contract with a college scholarship organization with expertise in managing scholarships for low-income, high-potential students and foster care children and young adults to administer the program. Of the amount in this subsection, \$39,000 is provided solely for the higher education coordinating board for administration of the contract and the remaining shall be contracted out to the organization for the following purposes:

(a) \$384,000 is provided solely for program administration, and

(b) \$3,449,000 is provided solely for student financial aid for up to 151 students and to fund student support services. Funds are provided for student scholarships, provider training, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for students while school is not in session, personal expenses, health insurance, and emergency services.

(5) \$1,250,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the health professional scholarship and loan program. The funds provided in this subsection shall be:

(a) Prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) allocated between

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loan repayments and scholarships proportional to current program allocations.

(6) For fiscal year 2010 and fiscal year 2011, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(7) \$246,000 of the general fund--state appropriation for fiscal year 2010 and \$246,000 of the general fund--state appropriation for fiscal year 2011 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least \$2,000 in new moneys for college scholarships after the effective date of this section. Groups may receive no more than one \$2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of \$46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(8) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for state need grants provided to students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. Total state expenditures on this program shall not exceed the amounts provided in this subsection.

(9) \$2,500,000 of the education legacy trust account--state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(11) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuation of the leadership 1000 scholarship sponsorship and matching program.

(12) In 2010 and 2011, the board shall continue to designate Washington scholars and scholar-alternates and to recognize them at award ceremonies as provided in RCW 28A.600.150, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.660, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

**Sec. 603.** 2010 1st sp.s. c 37 s 612 (uncodified) is amended to read as follows:

FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

|   |                   |
|---|-------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,465,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,444,000))  |
| .....   | \$1,353,000       |
| General Fund--Federal Appropriation .....         | \$54,020,000      |
| TOTAL APPROPRIATION .....                         | (((\$56,929,000)) |
| .....   | \$56,838,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) In 2010 and 2011, the board shall continue to designate recipients of the Washington award for vocational excellence and to

recognize them at award ceremonies as provided in RCW 28C.04.535, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.670, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

**Sec. 604.** 2010 1st sp.s. c 37 s 613 (uncodified) is amended to read as follows:

FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,598,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,490,000)) |
| .....   | \$1,327,000      |
| TOTAL APPROPRIATION .....                         | (((\$3,088,000)) |
| .....   | \$2,925,000      |

The appropriations in this section are subject to the following conditions and limitations: Within existing resources, the Spokane intercollegiate research and technology institute shall coordinate with the Washington technology center to identify gaps and overlaps in programs and evaluate strategies to reduce administrative overhead expenses per section 122(27) of this act.

**Sec. 605.** 2010 1st sp.s. c 37 s 614 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EARLY LEARNING

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$60,400,000       |
| General Fund--State Appropriation (FY 2011) .....       | (((\$21,241,000))  |
| .....   | \$18,969,000       |
| General Fund--Federal Appropriation .....               | (((\$265,305,000)) |
| .....   | \$266,004,000      |
| Opportunity Pathways Account--State Appropriation ..... | \$40,000,000       |
| TOTAL APPROPRIATION .....                               | (((\$386,946,000)) |
| .....   | \$385,373,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$54,878,000 of the general fund--state appropriation for fiscal year 2010 and ~~(((\$14,685,000))~~ \$14,405,000 of the general fund--state appropriation for fiscal year 2011, and \$40,000,000 of the opportunity pathways account appropriation are provided solely for early childhood education and assistance program services. This appropriation temporarily reduces the number of slots for the 2009-11 fiscal biennium for the early childhood education and assistance program. The department shall reduce slots where providers serve both federal headstart and early childhood education and assistance program children, to the greatest extent possible, in order to achieve no reduction of slots across the state. The amounts in this subsection also reflect reductions to the administrative expenditures for the early childhood education and assistance program. The department shall reduce administrative expenditures, to the greatest extent possible, prior to reducing early childhood education and assistance program slots. Of these amounts, \$10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(2) \$1,000,000 of the general fund--federal appropriation is provided to the department to contract with Thrive by Five, Washington for a pilot project for a quality rating and improvement system to provide parents with information they need to choose quality child care and education programs and to improve the quality of early care and education programs. The department in collaboration with Thrive by Five shall operate the pilot projects in King, Yakima, Clark, Spokane, and Kitsap counties. The department shall use child care development fund quality money for this purpose.

(3) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$213,000 of the general fund--state appropriation for

fiscal year 2011, and \$850,000 of the general fund--federal appropriation are provided solely for child care resource and referral network services. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(4) \$750,000 of the general fund--state appropriation for fiscal year 2010(~~(\$750,000 of the general fund--state appropriation for fiscal year 2011.)~~) and \$1,500,000 of the general fund--federal appropriation are provided solely for the career and wage ladder program created by chapter 507, Laws of 2005. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(5) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to work with stakeholders and the office of the superintendent of public instruction to identify and test a kindergarten assessment process and tools in geographically diverse school districts. School districts may participate in testing the kindergarten assessment process on a voluntary basis. The department shall report to the legislature on the kindergarten assessment process not later than January 15, 2011. Expenditure of amounts provided in this subsection is contingent on receipt of an equal match from private sources. As matching funds are made available, the department may expend the amounts provided in this subsection.

(6) \$1,600,000 of the general fund--federal appropriation is provided solely for the department to fund programs to improve the quality of infant and toddler child care through training, technical assistance, and child care consultation.

(7) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers.

(8) The legislature notes that the department of early learning is developing a plan for improving child care licensing and is consulting, as practicable, with parents, licensed child care providers, and stakeholders from the child care community. The plan shall outline the processes and specify the resources necessary for improvements such as continuing licenses, child care licensing technology, and weighted child care regulations, including development of risk-based decision making models and inclusive, evidence-based rule making. The department shall submit to the appropriate committees of the legislature a plan by January 15, 2011.

(9) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

(11) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees. The report shall also identify the number of cases participating in both temporary assistance for needy families and working connections child care.

(12) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(13) \$500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the private-public partnership established in chapter 43.215 RCW for home visitation programs. Of this amount, \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for expenditure into the home visiting services account created in Part IX of this act to be used for contracts for home visitation with the private-public partnership.

(14) In accordance with RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center licensure fees by fifty-two dollars for the first twelve children and an additional four dollars per additional child in fiscal year 2011 for costs to the department for the licensure activity, including costs of necessary inspection.

(15) In accordance with RCW 43.135.055, the department of early learning is authorized to adopt and increase the fees set forth in and previously authorized in section 3, chapter 231, Laws of 2010.

(16) As of January 31, 2011, the department may not adopt, enforce, or implement any rules or policies restricting the eligibility of consumers for child care subsidy benefits to a countable income level below one hundred seventy-five percent of the federal poverty guidelines.

**Sec. 606.** 2010 1st sp.s. c 37 s 615 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$5,902,000     |
| General Fund--State Appropriation (FY 2011) ..... | (\$5,985,000))  |
| .....   | \$5,509,000     |
| General Fund--Private/Local Appropriation.....    | \$1,942,000     |
| TOTAL APPROPRIATION .....                         | (\$13,829,000)) |
| .....   | \$13,353,000    |

.....The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund--private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

Sec. 607. 2010 1st sp.s. c 37 s 616 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,593,000     |
| General Fund--State Appropriation (FY 2011) ..... | (\$8,782,000))  |
| .....   | \$8,230,000     |
| General Fund--Private/Local Appropriation.....    | \$526,000       |
| TOTAL APPROPRIATION .....                         | (\$17,901,000)) |
| .....   | \$17,349,000    |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$210,000 of the general fund--private/local appropriation is provided solely for the operation of the shared reading video outreach program. The school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of

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Engrossed Second Substitute House Bill No. 1879 (deaf and hard of hearing). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

increase all charges and all fees set forth in and previously authorized in section 604 (7), (8), and (9), chapter 564, Laws of 2009.

Sec. 608. 2010 1st sp.s. c 37 s 617 (uncodified) is amended to read as follows:

(End of part)

FOR THE WASHINGTON STATE ARTS COMMISSION

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,844,000    |
| General Fund--State Appropriation (FY 2011) ..... | (\$1,347,000)) |
| .....   | \$1,230,000    |
| General Fund--Federal Appropriation .....         | \$1,944,000    |
| General Fund--Private/Local Appropriation.....    | \$1,052,000    |
| TOTAL APPROPRIATION .....                         | (\$6,187,000)) |
| .....   | \$6,070,000    |

**PART VII  
SPECIAL APPROPRIATIONS**

Sec. 701. 2010 1st sp.s. c 37 s 705 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH--COUNTY PUBLIC HEALTH ASSISTANCE

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2011) ..... | (\$24,000,000)) |
| .....   | \$22,303,000    |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

The appropriations in this section are subject to the following conditions and limitations: The director of the department of health shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

Sec. 609. 2010 1st sp.s. c 37 s 618 (uncodified) is amended to read as follows:

| <b>((Health District</b>                            | <b>FY 2011</b> |
|---|----------------|
| Adams County Health District                        | \$30,951       |
| Asotin County Health District                       | \$67,714       |
| Benton-Franklin Health District                     | \$1,165,612    |
| Chelan-Douglas Health District                      | \$184,761      |
| Clallam County Health and Human Services Department | \$141,752      |
| Southwest Washington Health District                | \$1,084,473    |
| Columbia County Health District                     | \$40,529       |
| Cowlitz County Health Department                    | \$278,560      |
| Garfield County Health District                     | \$15,028       |
| Grant County Health District                        | \$118,596      |
| Grays Harbor Health Department                      | 183,870        |
| Island County Health Department                     | \$91,892       |
| Jefferson County Health and Human Services          | \$85,782       |
| Seattle-King County Department of Public Health     | \$9,531,747    |
| Bremerton-Kitsap County Health District             | \$554,669      |
| Kittitas County Health Department                   | \$92,499       |
| Klickitat County Health Department                  | \$62,402       |
| Lewis County Health Department                      | \$105,801      |
| Lincoln County Health Department                    | \$29,705       |
| Mason County Department of Health Services          | \$95,988       |
| Okanogan County Health District                     | \$63,458       |

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,592,000    |
| General Fund--State Appropriation (FY 2011) ..... | (\$2,607,000)) |
| .....   | \$2,381,000    |
| TOTAL APPROPRIATION .....                         | (\$5,199,000)) |
| .....   | \$4,973,000    |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 610. 2010 1st sp.s. c 37 s 619 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,612,000    |
| General Fund--State Appropriation (FY 2011) ..... | (\$1,632,000)) |
| .....   | \$1,490,000    |
| TOTAL APPROPRIATION .....                         | (\$3,244,000)) |
| .....   | \$3,102,000    |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

NEW SECTION. Sec. 611. A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, each governing board of the state research universities, the state regional universities, and The Evergreen State University is authorized to adopt and increase all charges and all fees set forth in and previously authorized in section 603 (4), (7), and (8), chapter 564, Laws of 2009.

NEW SECTION. Sec. 612. A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the trustees of the state's community and technical colleges are authorized to adopt and

|  |                       |  |                     |
|--|-----------------------|--|---------------------|
| <u>Pacific County Health Department</u>                    | \$77,427              | <u>Okanogan County Health District</u>               | \$58,971            |
| <u>Tacoma Pierce County Health Department</u>              | \$2,820,590           | <u>Pacific County Health Department</u>              | \$71,952            |
| <u>San Juan County Health and Community Services</u>       | \$37,531              | <u>Tacoma-Pierce County Health Department</u>        | \$2,621,151         |
| <u>Skagit County Health Department</u>                     | \$223,927             | <u>San Juan County Health and Community Services</u> | \$34,877            |
| <u>Snohomish Health District</u>                           | \$2,258,207           | <u>Skagit County Health Department</u>               | \$208,093           |
| <u>Spokane County Health District</u>                      | \$2,101,429           | <u>Snohomish Health District</u>                     | \$2,098,533         |
| <u>Northeast Tri-County Health District</u>                | \$110,454             | <u>Spokane County Health District</u>                | \$1,952,840         |
| <u>Thurston County Health Department</u>                   | \$600,419             | <u>Northeast Tri-County Health District</u>          | \$102,644           |
| <u>Wahkiakum County Health Department</u>                  | \$13,772              | <u>Thurston County Health Department</u>             | \$557,964           |
| <u>Walla Walla County City Health Department</u>           | \$172,062             | <u>Wahkiakum County Health Department</u>            | \$12,798            |
| <u>Whatecom County Health Department</u>                   | \$855,863             | <u>Walla Walla County-City Health Department</u>     | \$159,896           |
| <u>Whitman County Health Department</u>                    | \$78,733              | <u>Whatcom County Health Department</u>              | \$795,346           |
| <u>Yakima Health District</u>                              | \$623,797             | <u>Whitman County Health Department</u>              | \$73,166            |
| <b>TOTAL APPROPRIATIONS</b>                                | <b>\$24,000,000))</b> | <u>Yakima Health District</u>                        | \$579,689           |
| <b><u>Health District</u></b>                              | <b><u>FY 2011</u></b> | <u>Adams County Health District</u>                  | \$28,763            |
| <u>Clallam County Health and Human Services Department</u> | \$131,729             | <u>Asotin County Health District</u>                 | \$62,926            |
| <u>Clark County Health District</u>                        | \$982,997             | <u>Benton-Franklin Health District</u>               | \$1,083,194         |
| <u>Skamania County Health Department</u>                   | \$24,794              | <u>Chelan-Douglas Health District</u>                | \$171,697           |
| <u>Columbia County Health District</u>                     | \$37,663              | <b>TOTAL APPROPRIATIONS</b>                          | <b>\$22,303,000</b> |
| <u>Cowlitz County Health Department</u>                    | \$258,863             |  |                     |
| <u>Garfield County Health District</u>                     | \$13,965              |  |                     |
| <u>Grant County Health District</u>                        | \$110,210             |  |                     |
| <u>Grays Harbor Health Department</u>                      | \$170,869             |  |                     |
| <u>Island County Health Department</u>                     | \$85,394              |  |                     |
| <u>Jefferson County Health and Human Services</u>          | \$79,716              |  |                     |
| <u>Seattle-King County Department of Public Health</u>     | \$8,857,773           |  |                     |
| <u>Bremerton-Kitsap County Health District</u>             | \$515,449             |  |                     |
| <u>Kittitas County Health Department</u>                   | \$85,959              |  |                     |
| <u>Klickitat County Health Department</u>                  | \$57,990              |  |                     |
| <u>Lewis County Health Department</u>                      | \$98,320              |  |                     |
| <u>Lincoln County Health Department</u>                    | \$27,605              |  |                     |
| <u>Mason County Department of Health Services</u>          | \$89,201              |  |                     |

**Sec. 702.** 2010 1st sp.s. c 37 s 707 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--CAPITOL BUILDING CONSTRUCTION ACCOUNT

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,912,000   |
| General Fund--State Appropriation (FY 2011) ..... | ((3,615,000)) |
| .....   | \$1,815,000   |
| TOTAL APPROPRIATION .....                         | ((5,527,000)) |
| .....   | \$3,727,000   |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the capitol building construction account.

**Sec. 703.** 2010 1st sp.s. c 37 s 711 (uncodified) is amended to read as follows:

INFORMATION TECHNOLOGY

Pursuant to section 11, chapter 282, Laws of 2010 (state government technology use), the office of financial management shall work with the appropriate state agencies to generate savings of \$30,000,000 from technology efficiencies from the state general fund. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by ((30,000,000)) \$24,841,000 for fiscal year 2011. The office of financial management shall, utilizing existing fund balance, reduce the data processing revolving account rates in an amount to reflect up to half of the reductions identified in this section. The office of financial management may use savings or existing fund balances from information technology accounts to achieve savings in this

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section. The allotment reductions shall be placed in unallotted status and remain unexpended. Nothing in this section is intended to impact revenue collection efforts by the department of revenue.

Sec. 704. 2009 c 564 s 711 (uncodified) is amended to read as follows:

|  |                   |
|--|-------------------|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--EDUCATION TECHNOLOGY REVOLVING ACCOUNT |                   |
| General Fund--State Appropriation (FY 2010) .....                              | \$8,000,000       |
| General Fund--State Appropriation (FY 2011) .....                              | (((\$8,000,000))  |
| .....  | \$7,000,000       |
| TOTAL APPROPRIATION .....  | (((\$16,000,000)) |
| .....  | \$15,000,000      |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for expenditure into the education technology revolving account for the purpose of covering ongoing operational and equipment replacement costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

NEW SECTION. Sec. 705. A new section is added to 2009 c 564 (uncodified) to read as follows:

|   |              |
|---|--------------|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT |              |
| General Fund--State Appropriation (FY 2011) .....                               | \$19,000,000 |
| Higher Education Operating Fees Account Appropriation.....                      | \$25,385,000 |
| TOTAL APPROPRIATION .....   | \$44,385,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the Washington opportunity pathways account. Each of the four year institutions of higher education and the state board for community and technical colleges shall provide a portion of the appropriation from the higher education operating fees account as follows:

|   |              |
|---|--------------|
| University of Washington.....                       | \$5,658,000  |
| Washington State University .....                   | \$3,718,000  |
| Eastern Washington University .....                 | \$765,000    |
| Central Washington University .....                 | \$705,000    |
| The Evergreen State College .....                   | \$386,000    |
| Western Washington University.....                  | \$1,010,000  |
| State Board for Community and Technical Colleges .. | \$13,143,000 |

NEW SECTION. Sec. 706. A new section is added to 2009 c 564 (uncodified) to read as follows:

|  |             |
|--|-------------|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--EDUCATION LEGACY TRUST ACCOUNT   |             |
| General Fund--State Appropriation (FY 2011) .....  | \$1,501,000 |
| .....The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the education legacy trust account. |             |

NEW SECTION. Sec. 707. A new section is added to 2009 c 564 (uncodified) to read as follows:

|   |  |
|---|--|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--EMPLOYEE SALARY REDUCTION SAVINGS |  |
|---|--|

From the appropriations provided in this act and in chapter 470, Laws of 2009, the office of financial management shall reduce general fund--state allotments by \$3,422,000 for fiscal year 2011 and allotments in other dedicated funds and accounts by \$4,568,000 as shown in LEAP document 2011-SA1 dated February 3, 2011. These reductions reflect savings associated with a temporary three percent reduction in salaries, effective April 1, 2011, for state employees not subject to a collective bargaining agreement. State

troopers, elected officials, and employees of the state printer, the marine division of the department of transportation, and the state institutions of higher education are not subject to the salary reduction in this section. The allotment reductions in this section shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 708. A new section is added to 2009 c 564 (uncodified) to read as follows:

|  |  |
|--|--|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--REDUCTION IN COMMUNICATIONS AND PUBLIC RELATIONS STAFF |  |
|--|--|

The office of financial management shall develop a plan to generate savings of \$1,000,000 from reductions in staffing and other efficiencies in communications and public relations by state agencies of the executive branch. It is the intent of the legislature that the reduction plan developed and implemented in accordance with this section shall prioritize essential communication functions for public information as well as executive and legislative branch oversight. From the appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$1,000,000 for fiscal year 2011. The allotment reductions shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 709. A new section is added to 2009 c 564 (uncodified) to read as follows:

|   |  |
|---|--|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--MANAGEMENT EFFICIENCIES IN THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES |  |
|---|--|

The department of social and health services, in consultation with the office of financial management, shall develop a plan to generate savings of at least \$1,728,000 from reductions in management staffing and other efficiencies in addition to other administrative savings generated by this act. It is the intent of the legislature that the reduction plan developed and implemented in accordance with this section shall focus on achieving management efficiencies and will avoid, to the extent possible, direct impact on client services and program operations. After reviewing and approving the management reduction and efficiency plan, from the appropriations in this act, the office of financial management shall reduce general fund--state allotments to the department of social and health services by at least \$1,728,000 for fiscal year 2011. The allotment reductions shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 710. A new section is added to 2009 c 564 (uncodified) to read as follows:

|  |  |
|--|--|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--MULTIPLE LANGUAGE ASSIGNMENT PAY |  |
|--|--|

To the extent permitted by collective bargaining agreements, court orders, and court-approved settlements, the department of social and health services shall cease providing additional compensation for employees on the basis of proficiency in multiple languages after March 31, 2011. From the appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$250,000 for fiscal year 2011 to reflect the savings expected from the elimination of multiple-language assignment pay. The allotment reductions shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 711. A new section is added to 2009 c 564 (uncodified) to read as follows:

|   |  |
|---|--|
| BASIC HEALTH PLAN STABILIZATION ACCOUNT |  |
|---|--|

The basic health plan stabilization account is created in the state treasury, to consist of such revenues, appropriations, and transfers as may be directed by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for the support of the basic health plan under chapter 70.47 RCW.

(End of part)

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 2010 1st sp.s. c 37 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

|   |                                   |
|---|-----------------------------------|
| General Fund Appropriation for fire insurance premium distributions.....  | \$7,572,000                       |
| General Fund Appropriation for public utility district excise tax distributions.....  | \$47,342,000                      |
| General Fund Appropriation for prosecuting attorney distributions .....   | \$6,281,000                       |
| General Fund Appropriation for boating safety and education distributions .....   | \$4,854,000                       |
| General Fund Appropriation for other tax distributions .....  | \$50,000                          |
| General Fund Appropriation for habitat conservation program distributions.....  | \$3,000,000                       |
| Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies .....   | \$2,544,000                       |
| Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution .....   | \$170,000                         |
| Timber Tax Distribution Account Appropriation for distribution to "timber" counties.....  | \$36,651,000                      |
| County Criminal Justice Assistance Appropriation.....   | \$68,528,000                      |
| Municipal Criminal Justice Assistance Appropriation   | \$27,175,000                      |
| City-County Assistance Account Appropriation for local government financial assistance distribution .....   | \$27,366,000                      |
| Liquor Excise Tax Account Appropriation for liquor excise tax distribution .....  | \$58,268,000                      |
| Streamline Sales and Use Tax Account Appropriation for distribution to local taxing jurisdictions to mitigate the unintended revenue redistribution effect of the sourcing law changes..... | \$50,056,000                      |
| Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation .....   | \$7,315,000                       |
| Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians .....  | \$4,644,000                       |
| Liquor Revolving Account Appropriation for liquor profits distribution.....   | <del>(\$68,741,000)</del>         |
| .....   | <u>\$62,741,000</u>               |
| Liquor Revolving Account Appropriation for additional liquor profits distribution to local governments.....   | \$18,677,000                      |
| <b>TOTAL APPROPRIATION .....</b>  | <del><b>(\$439,234,000)</b></del> |
| .....   | <u><b>\$433,234,000</b></u>       |

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**Sec. 802.** 2010 2nd sp.s. c 1 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

|  |              |
|--|--------------|
| State Treasurer's Service Account: For transfer to the state general fund, \$16,400,000 for fiscal year 2010 and \$26,400,000 for fiscal year 2011.....                    | \$42,800,000 |
| Waste Reduction, Recycling and Litter Control Account: For transfer to the state general fund, \$3,000,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011 ..... | \$6,000,000  |
| State Toxics Control Account: For transfer to the  |              |

|  |                           |
|--|---------------------------|
| state general fund, \$15,340,000 for fiscal year 2010 and \$37,780,000 for fiscal year 2011 .....  | \$53,120,000              |
| Local Toxics Control Account: For transfer to the state general fund, \$37,060,000 for fiscal year 2010 and <del>(\$48,759,000)</del> <u>\$65,759,000</u> for fiscal year 2011.....  | <del>(\$85,819,000)</del> |
| .....  | <u>\$102,819,000</u>      |
| Education Construction Account: For transfer to the state general fund, \$105,228,000 for fiscal year 2010 and \$106,451,000 for fiscal year 2011.....   | \$211,679,000             |
| Aquatics Lands Enhancement Account: For transfer to the state general fund, \$8,520,000 for fiscal year 2010 and <del>(\$5,050,000)</del> <u>\$12,550,000</u> for fiscal year 2011 .....   | <del>(\$13,570,000)</del> |
| .....  | <u>\$21,070,000</u>       |
| Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account.....  | \$28,600,000              |
| Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,500,000 for fiscal year 2010 and <del>(\$2,500,000)</del> <u>\$3,900,000</u> for fiscal year 2011 .....  | <del>(\$5,000,000)</del>  |
| .....  | <u>\$6,400,000</u>        |
| Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed by more than \$26,000,000 the actual amount of the annual payment to the tobacco settlement account .....                                     | \$204,098,000             |
| Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed \$26,000,000 less than the actual amount of the strategic contribution supplemental payment to the tobacco settlement account ..... | \$39,170,000              |
| General Fund: For transfer to the streamline sales and use tax account, \$24,274,000 for fiscal year 2010 and \$24,182,000 for fiscal year 2011.....   | \$48,456,000              |
| State Convention and Trade Center Account: For transfer to the state convention and trade center operations account, \$1,000,000 for fiscal year 2010 and \$3,100,000 for fiscal year 2011.....  | \$4,100,000               |
| Tobacco Prevention and Control Account: For transfer to the state general fund, \$1,961,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011.....   | \$4,961,000               |
| Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2010.....  | \$500,000                 |
| Judicial Information Systems Account: For transfer to the state general fund, \$3,250,000 for fiscal year 2010 and \$3,250,000 for fiscal year 2011.....   | \$6,500,000               |
| Department of Retirement Systems Expense Account: For transfer to the state general fund, \$1,000,000 for fiscal year 2010 and \$1,500,000 for fiscal year 2011 .....  | \$2,500,000               |
| State Emergency Water Projects Account: For transfer to the state general fund, \$390,000 for fiscal year 2011.....  | \$390,000                 |
| The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$5,550,000 for fiscal year 2010 and <del>(\$5,550,000)</del> <u>\$4,450,000</u> for fiscal year 2011 .....                | <del>(\$11,100,000)</del> |
| .....  | <u>\$10,000,000</u>       |
| Energy Freedom Account: For transfer to the state general fund, \$4,038,000 for fiscal year 2010 and \$2,978,000 for fiscal year 2011 .....  | \$7,016,000               |
| Thurston County Capital Facilities Account: For transfer to the state general fund, \$8,604,000  |                           |

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for fiscal year 2010 and ~~(\$5,538,000)~~ \$5,156,000  
 for fiscal year 2011 ..... ~~(\$14,142,000)~~  
 ..... \$13,760,000  
 Public Works Assistance Account: For transfer to the  
 state general fund, \$279,640,000 for fiscal year  
 2010 and \$229,560,000 for fiscal year 2011.....\$509,200,000  
 Budget Stabilization Account: For transfer to the  
 state general fund for fiscal year 2010.....\$45,130,000  
 Liquor Revolving Account: For transfer to the state  
 general fund, \$31,000,000 for fiscal year 2010 and  
 \$31,000,000 for fiscal year 2011 .....\$62,000,000  
 Public Works Assistance Account: For transfer to the  
 city-county assistance account, \$5,000,000 on  
 July 1, 2009, and \$5,000,000 on July 1, 2010 .....\$10,000,000  
 Public Works Assistance Account: For transfer to the  
 drinking water assistance account, \$6,930,000  
 for fiscal year 2010 and \$4,000,000 for fiscal  
 year 2011.....\$10,930,000  
 Shared Game Lottery Account: For transfer to the  
 education legacy trust account, \$3,600,000 for  
 fiscal year 2010 and \$2,400,000 for fiscal year  
 2011 .....\$6,000,000  
 State Lottery Account: For transfer to the education  
 legacy trust account, \$9,500,000 for fiscal year  
 2010 and \$9,500,000 for fiscal year 2011.....\$19,000,000  
 College Faculty Awards Trust Fund: For transfer  
 to the state general fund for fiscal year 2010,  
 an amount not to exceed the actual cash balance  
 of the fund and \$1,957,000 for fiscal year 2011 ..... ~~(\$4,000,000)~~  
 ..... \$5,957,000  
 Washington Distinguished Professorship Trust Fund:  
 For transfer to the state general fund for fiscal  
 year 2010, an amount not to exceed the actual cash  
 balance of the fund and \$2,966,000 for fiscal year  
2011 ..... ~~(\$6,000,000)~~  
 ..... \$8,966,000  
 Washington Graduate Fellowship Trust Account:  
 For transfer to the state general fund for fiscal  
 year 2010, an amount not to exceed the actual cash  
 balance of the fund and \$1,008,000 for fiscal year  
2011 ..... ~~(\$2,000,000)~~  
 ..... \$3,008,000  
 GET Ready for Math and Science Scholarship Account:  
 For transfer to the state general fund for  
 fiscal year 2010, an amount not to exceed  
 the actual cash balance not comprised of or  
 needed to match private contributions .....\$1,800,000  
 Financial Services Regulation Account: For transfer  
 to the state general fund, \$2,000,000 for fiscal  
 year 2010 and \$7,000,000 for fiscal year 2011.....\$9,000,000  
 Data Processing Revolving Fund: For transfer to  
 the state general fund, \$5,632,000 for fiscal  
 year 2010 and \$4,159,000 for fiscal year 2011..... ~~(\$5,632,000)~~  
 ..... \$9,791,000  
 Public Service Revolving Account: For transfer to  
 the state general fund, \$8,000,000 for fiscal  
 year 2010 and \$7,000,000 for fiscal year 2011.....\$15,000,000  
 Water Quality Capital Account: For transfer to the  
 state general fund, \$278,000 for fiscal year 2011 .....\$278,000  
 Performance Audits of Government Account: For  
 transfer to the state general fund, \$10,000,000  
 for fiscal year 2010 and ~~(\$5,000,000)~~ \$7,000,000  
 for fiscal year 2011 ..... ~~(\$15,000,000)~~  
 ..... \$17,000,000  
 Job Development Account: For transfer to the

state general fund, \$20,930,000 for fiscal  
 year 2010.....\$20,930,000  
 Savings Incentive Account: For transfer to the  
 state general fund, \$10,117,000 for fiscal  
 ..... year 2010 and \$32,075,000 for fiscal year  
2011 ..... ~~(\$10,117,000)~~  
 ..... \$42,192,000  
 Education Savings Account: For transfer to the  
 state general fund, ~~(\$100,767,000)~~ \$90,690,000  
 .....for fiscal year 2010 and \$53,384,000 for fiscal  
year 2011..... ~~(\$100,767,000)~~  
 ..... \$144,074,000  
 Cleanup Settlement Account: For transfer to the  
 state efficiency and restructuring account for  
 fiscal year 2011 .....\$39,480,000  
 Disaster Response Account: For transfer to the  
 state drought preparedness account, \$4,000,000  
 for fiscal year 2010 .....\$4,000,000  
 Washington State Convention and Trade Center Account:  
 For transfer to the state general fund, \$10,000,000  
 for fiscal year 2011. The transfer in this section  
 shall occur on June 30, 2011, only if by that date  
 the Washington state convention and trade center is  
 not transferred to a public facilities district  
 pursuant to Substitute Senate Bill No. 6889  
 (convention and trade center).....\$10,000,000  
 Institutional Welfare/Betterment Account: For transfer  
 to the state general fund, \$2,000,000 for fiscal  
 year 2010 and \$2,000,000 for fiscal year 2011.....\$4,000,000  
 Future Teacher Conditional Scholarship Account: For  
 transfer to the state general fund, \$2,150,000  
 for fiscal year 2010 and \$2,150,000 for fiscal  
 year 2011.....\$4,300,000  
 Fingerprint Identification Account: For transfer  
 to the state general fund, \$800,000 for fiscal  
 year 2011.....\$800,000  
 Prevent or Reduce Owner-Occupied Foreclosure  
 Program Account: For transfer to the financial  
 education public-private partnership account for  
 fiscal year 2010, an amount not to exceed the actual  
 cash balance of the fund as of June 30, 2010..... \$300,000  
 Nisqually Earthquake Account: For transfer to the  
 state general fund for fiscal year 2011 ..... ~~(\$1,000,000)~~  
 ..... \$696,000  
 Disaster Response Account: For transfer to the state  
 general fund for fiscal year 2011 ..... ~~(\$15,000,000)~~  
 ..... \$14,500,000  
Washington Auto Theft Prevention Account: For  
transfer to the state general fund, \$1,500,000  
for fiscal year 2011 ..... \$1,500,000  
Tourism Enterprise Account: For transfer to the  
state general fund, \$650,000 for fiscal year  
2011 ..... \$650,000  
Tourism Development and Promotion Account: For  
transfer to the state general fund, \$205,000  
for fiscal year 2011 ..... \$205,000  
Life Sciences Discovery Fund: For transfer to  
the basic health plan stabilization account.....\$6,000,000  
Life Sciences Discovery Fund: For transfer to  
the state general fund for fiscal year 2011 ..... \$2,200,000  
Industrial Insurance Premium Refund Account: For  
transfer to the state general fund, \$4,500,000  
for fiscal year 2011 ..... \$4,500,000  
Distressed County Assistance Account: For transfer  
to the state general fund, \$205,000 for

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|   |   |
|---|---|
| <u>fiscal year 2011</u> .....   | <u>\$ 205,000</u>                             |
| <u>State Drought Preparedness Account: For transfer to the state general fund.</u> .....  | <u>\$4,000,000 for fiscal year 2011</u> ..... |
| <u>Freshwater Aquatic Algae Control Account: For transfer to the state general fund.</u> \$400,000 for fiscal year 2011 .....       | <u>\$400,000</u>                              |
| <u>Freshwater Aquatic Weeds Account: For transfer to the state general fund.</u> \$300,000 for fiscal year 2011 .....               | <u>\$300,000</u>                              |
| <u>Liquor Control Board Construction and Maintenance Account: For transfer to the state general fund for fiscal year 2011</u> ..... | <u>\$3,000,000</u>                            |

**Sec. 803.** 2010 1st sp.s. c 31 s 1 (uncodified) is amended to read as follows:

(1) The state treasurer shall transfer two hundred ~~((twenty-nine))~~ twenty-three million two hundred nine thousand dollars or as much of that amount as is available from the budget stabilization account to the state general fund for fiscal year 2011.

(2) The transfer in subsection (1) of this section is to minimize reductions to public school programs in the 2010 supplemental omnibus operating budget.

(End of part)

#### PART IX MISCELLANEOUS

**Sec. 901.** 2010 1st sp.s. c 32 s 3 (uncodified) is amended to read as follows:

(1)(a) The office of financial management shall certify to each executive branch state agency and institution of higher education the compensation reduction amount to be achieved by that agency or institution. Each agency and institution shall achieve compensation expenditure reductions as provided in the omnibus appropriations act.

(b) Each executive branch state agency other than institutions of higher education may submit to the office of financial management a compensation reduction plan to achieve the cost reductions as provided in the omnibus appropriations act. The compensation reduction plan of each executive branch agency may include, but is not limited to, employee leave without pay, including additional mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency shall be adjusted to reflect voluntary and mandatory temporary layoffs at the agency during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(c) Each institution of higher education must submit to the office of financial management a compensation and operations reduction plan to achieve at least the cost reductions as provided in the omnibus appropriations act. For purposes of the reduction plan, the state board of community and technical colleges shall submit a single plan on behalf of all community and technical colleges. The reduction plan of each institution may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the institution workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, incentive programs authorized by

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section 912, chapter 564, Laws of 2009, as well as other reductions to the cost of operations. The amount of cost reductions to be achieved by each institution shall be adjusted to reflect voluntary and mandatory temporary layoffs at the institution during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(d) The director of financial management shall review, approve, and submit to the legislative fiscal committees those executive branch state agencies and higher education institution plans that achieves the cost reductions as provided in the omnibus appropriations act. For those executive branch state agencies and institutions of higher education that do not have an approved compensation and operations reduction plan, the institution shall be closed on the dates specified in subsection (2) of this section.

(e) For each agency of the legislative branch, the chief clerk of the house of representatives and the secretary of the senate shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieves the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(f) For each agency of the judicial branch, the supreme court shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(2) Each state agency of the executive, legislative, and judicial branch, and any institution that does not have an approved plan in accordance with subsection (1) of this section shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, July 12, 2010;
- (b) Friday, August 6, 2010;
- (c) Tuesday, September 7, 2010;
- (d) Monday, October 11, 2010;
- (e) Monday, December 27, 2010;
- (f) Friday, January 28, 2011;
- (g) Tuesday, February 22, 2011;
- (h) Friday, March ~~((+))~~ 28, 2011;
- (i) Friday, April 22, 2011;
- (j) Friday, June 10, 2011.

(3) If the closure of state agencies or institutions under subsection (2) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day.

(4) The following activities of state agencies and institutions of higher education are exempt from subsections (1) and (2) of this section:

(a) Direct custody, supervision, and patient care in: (i) Corrections; (ii) juvenile rehabilitation; (iii) institutional care of veterans, or individuals with mental illness, and individuals with developmental disabilities; (iv) state hospitals, the University of Washington medical center, and Harborview medical center; (v) the special commitment center; (vi) the school for the blind; (vii) the state center for childhood deafness and hearing loss; and (viii) the Washington youth academy;

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(b) Direct protective services to children and other vulnerable populations, child support enforcement, disability determination services, complaint investigators, and residential care licensors and surveyors in the department of social and health services and the department of health;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response or emergency response and cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, the department of financial institutions, and the department of natural resources;

(i) State parks operated by the parks and recreation commission;

(j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and security, emergency management and response, work performed by student employees if the duties were not previously assigned to nonstudents during the current or prior school year, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

(l) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(m) The unemployment insurance program and reemployment services of the employment security department;

(n) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(o) The operation, maintenance, and construction of state ferries and state highways;

(p) The department of revenue;

(q) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur on Saturdays as a result of this section;

(r) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV, section 12 of the state Constitution;

(s) The office of the attorney general, except for management and administrative functions not directly related to civil, criminal, or administrative actions;

(t) The labor relations office of the office of financial management through November 1, 2010;

(u) The minimal use of state employees on the specified closure dates as necessary to protect public assets and information technology systems, and to maintain public safety; and

(v) The operations of the office of the insurance commissioner that are funded by industry regulatory fees.

(5)(a) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, health insurance, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of

retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this section through June 30, 2011.

(b)(i) During the closure of an office or institution under this section, any employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less may, at the employee's option, use accrued vacation leave in lieu of temporary layoff during the closure. Solely for this purpose, and during the 2009-2011 fiscal biennium only, the department of personnel shall adopt rules to permit employees with less than six months of continuous state employment to use accrued vacation leave.

(ii) If an employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less has no accrued vacation leave, that employee may use shared leave, if approved by the agency director, and if made available through donations under RCW 41.04.665 in lieu of temporary layoff during the closure.

(6) Except as provided in subsection (4) of this section, for employees not scheduled to work on a day specified in subsection (2) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will take temporary leave without pay.

(7) To the extent that the implementation of this section is subject to collective bargaining under chapter 41.80 RCW, the bargaining shall be conducted pursuant to section 4 of this act. To the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64 RCW, the bargaining shall be conducted pursuant to these chapters.

(8) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date during that month for any date specified in subsection (2) of this section as necessary for the critical work of any agency.

(9)(a) If any state agency of the executive, legislative, and judicial branch is unable to achieve its full amount of cost reductions as provided in the omnibus appropriations act through its approved plan in accordance with subsection (1) of this section or through ten days of temporary layoffs in accordance with subsections (2) and (8) of this section, the remaining amount is a reduction to the agency's cost of operations and may include savings as a result of sections 601 through 604 of chapter 3, Laws of 2010.

(b) If any state agency of the executive, legislative, and judicial branch is able to achieve its full amount of cost reductions as provided in the omnibus appropriations act through ten days or less of temporary layoffs in accordance with subsections (2) and (8) of this section, any residual amount of cost reductions that cannot be achieved through a full day of closure is a reduction to the agency's cost of operations and may include savings as a result of sections 601 through 604 of chapter 3, Laws of 2010.

**Sec. 902.** RCW 43.03.220 and 2010 1st sp.s. c 7 s 142 are each amended to read as follows:

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

(3) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is

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funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(-and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(4) Beginning July 1, 2010, through June 30, 2011, class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 903.** RCW 43.03.230 and 2010 1st sp.s. c 7 s 143 are each amended to read as follows:

(1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(-and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 904.** RCW 43.03.240 and 2010 1st sp.s. c 7 s 144 are each amended to read as follows:

(1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

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(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(-and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 905.** RCW 43.03.250 and 2010 1st sp.s. c 7 s 145 are each amended to read as follows:

(1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, class four groups, when feasible, shall use an alternative means of conducting

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a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(--and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

**Sec. 906.** RCW 43.03.265 and 2010 1st sp.s. c 7 s 146 are each amended to read as follows:

(1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(--and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 907.** RCW 43.21A.660 and 1999 c 251 s 1 are each amended to read as follows:

Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program. Funds shall be expended as follows:

(1) No less than two-thirds of the appropriated funds shall be issued as grants to (a) cities, counties, tribes, special purpose districts, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds; (b) fund demonstration or pilot projects consistent with the purposes of this section; and (c) fund hydrilla eradication activities in waters of the state. Except for hydrilla eradication activities, such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp or which

are designated by the department of fish and wildlife for fly-fishing. The department shall give preference to projects having matching funds or in-kind services; (~~and~~)

(2) No more than one-third of the appropriated funds shall be expended to:

(a) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds; and

(b) Provide technical assistance to local governments and citizen groups; and

(3) During the 2009-2011 fiscal biennium, the legislature may transfer from the freshwater aquatic weeds account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 908.** RCW 43.21A.667 and 2009 c 564 s 933 are each amended to read as follows:

(1) The freshwater aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW (~~(88.02.050)~~) 88.02.560 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the freshwater aquatic algae control account may be appropriated to the department to develop a freshwater aquatic algae control program. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies to manage excessive freshwater algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and during the 2009-2011 fiscal biennium to provide grants for sea lettuce research and removal to assist Puget Sound communities that are impacted by hyperblooms of sea lettuce; (~~and~~)

(b) To provide technical assistance to applicants and the public about aquatic algae control; and

(c) During the 2009-2011 fiscal biennium, the legislature may transfer from the freshwater aquatic algae control account to the state general fund such amounts as reflect the excess fund balance of the account.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

**Sec. 909.** RCW 43.79.460 and 2010 1st sp.s. c 37 s 928 are each amended to read as follows:

(1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a

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fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) A specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) (For fiscal year 2009, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008.) For fiscal year 2010, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2010. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund eight million dollars or as much as reflects the fund balance of the account attributable to unspent agency credits prior to fiscal year 2009. Credits for legislative and judicial agencies are not included in this action, with the exception and upon consent of the supreme court, court of appeals, office of public defense, and office of civil legal aid.

**Sec. 910.** RCW 43.79.465 and 2010 1st sp.s. c 37 s 929 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, and (e) for fiscal year ~~((2010))~~ 2011, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year ~~((2009))~~ 2010.

**Sec. 911.** RCW 43.83B.430 and 2002 c 371 s 910 are each amended to read as follows:

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The state drought preparedness account is created in the state treasury. All receipts from appropriated funds designated for the account and funds transferred from the state emergency water projects revolving account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for drought preparedness. During the ~~((2001-2003))~~ 2009-2011 fiscal biennium, the legislature may transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 912.** RCW 43.105.080 and 2010 1st sp.s. c 37 s 931 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance ~~((associated with the information technology pool))~~.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 913.** RCW 43.330.094 and 2009 c 565 s 6 are each amended to read as follows:

The tourism development and promotion account is created in the state treasury. All receipts from RCW 36.102.060(10) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington. During the 2009-2011 fiscal biennium, the legislature may transfer from the tourism development and promotion account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 914.** RCW 43.336.050 and 2007 c 228 s 105 are each amended to read as follows:

The tourism enterprise account is created in the custody of the state treasurer.

(1) All receipts from RCW 43.336.030(2)(a) must be deposited into the account. Only the executive director or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Moneys transferred from the state convention and trade ~~((center))~~ center account to this account ~~((as provided in RCW~~

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~~67.40.040~~)) shall be available for expenditure in accordance with the requirements of this section. As provided under subsection (3) of this section, moneys must be matched with private sector cash contributions, the value of an advertising equivalency contribution, or through an in-kind contribution. The commission shall determine criteria for what qualifies as an in-kind contribution. The moneys subject to match may be expended as private match is received or with evidence of qualified expenditure.

(3)(a) Twenty-five percent of the moneys transferred in fiscal year 2009 are subject to a match;

(b) Fifty percent of the moneys transferred in fiscal year 2010 are subject to a match; and

(c) One hundred percent of the moneys transferred in fiscal year 2011, and thereafter, are subject to a match.

(4) Expenditures from the account may be used by the department of ~~((community, trade, and economic development))~~ commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington.

(5) During the 2009-2011 fiscal biennium, the legislature may transfer from the tourism enterprise account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 915.** RCW 46.66.080 and 2009 c 564 s 945 are each amended to read as follows:

(1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement. During the 2009-2011 fiscal biennium, the legislature may appropriate moneys from the Washington auto theft prevention authority account for criminal justice purposes and community building and may transfer funds to the state general fund such amounts as reflect the excess fund balance of the account.

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

(a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;

(b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;

(c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and

(d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ten percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs.

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1).

**Sec. 916.** RCW 43.350.070 and 2005 c 424 s 8 are each amended to read as follows:

The life sciences discovery fund is created in the custody of the state treasurer. Only the board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. During the 2009-2011 fiscal biennium, the legislature may transfer to other state funds or accounts such amounts as represent the excess balance of the life sciences discovery fund.

**Sec. 917.** RCW 51.44.170 and 2003 1st sp.s. c 25 s 926 are each amended to read as follows:

The industrial insurance premium refund account is created in the custody of the state treasurer. All industrial insurance refunds earned by state agencies or institutions of higher education under the state fund retrospective rating program shall be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account. Only the executive head of the agency or institution of higher education, or designee, may authorize expenditures from the account. No agency or institution of higher education may make an expenditure from the account for an amount greater than the refund earned by the agency. If the agency or institution of higher education has staff dedicated to workers' compensation claims management, expenditures from the account must be used to pay for that staff, but additional expenditure from the account may be used for any program within an agency or institution of higher education that promotes or provides incentives for employee workplace safety and health and early, appropriate return-to-work for injured employees. During the ~~((2003-2005))~~ 2009-2011 fiscal biennium, the legislature may transfer from the industrial insurance premium refund account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 918.** RCW 66.08.190 and 2003 1st sp.s. c 25 s 927 are each amended to read as follows:

(1) Except ~~((for revenues generated by the 2003 surcharge of \$0.42/liter on retail sales of spirits that shall be distributed to the state general fund during the 2003-2005 biennium))~~ as provided in subsection (4) of this section, when excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:

(a) Three-tenths of one percent to border areas under RCW 66.08.195; and

(b) From the amount remaining after distribution under (a) of this subsection, (i) fifty percent to the general fund of the state, (ii) ten percent to the counties of the state, and (iii) forty percent to the incorporated cities and towns of the state.

(2) During the months of June, September, December, and March of each year, prior to disbursing the distribution to incorporated cities and towns under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the city and town research services

account. The treasurer shall deposit the amount deducted into the city and town research services account.

(3) The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340.

(4) The final quarterly distributions for fiscal year 2011 to be distributed to cities and counties under subsection (1)(b)(ii) and (iii) of this section shall be reduced by six million dollars, and six million dollars must be deposited into the Washington auto theft prevention authority account to be used for criminal justice training.

**Sec. 919.** RCW 66.08.235 and 2005 c 151 s 4 are each amended to read as follows:

The liquor control board construction and maintenance account is created within the state treasury. The liquor control board shall deposit into this account a portion of the board's markup, as authorized by chapter 66.16 RCW, placed upon liquor as determined by the board. Moneys in the account may be spent only after appropriation. The liquor control board shall use deposits to this account to fund construction and maintenance of a centralized distribution center for liquor products intended for sale through the board's liquor store and contract liquor store system. During the ~~((2001-2003))~~ 2009-2011 fiscal biennium, the legislature may transfer from the liquor control board construction and maintenance account to the state general fund such amounts as reflect the ~~((appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~ excess fund balance in the account.

**Sec. 920.** RCW 82.14.380 and 1999 c 311 s 201 are each amended to read as follows:

(1) The distressed county assistance account is created in the state treasury. Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.110. At such times as distributions are made under RCW 82.44.150, the state treasurer shall distribute the funds in the distressed county assistance account to each county imposing the sales and use tax authorized under RCW 82.14.370 as of January 1, 1999, in the same proportions as distributions of the tax imposed under RCW 82.14.370 for these counties for the previous quarter.

(2) Funds distributed from the distressed county assistance account shall be expended by the counties for criminal justice and other purposes. During the 2009-2011 fiscal biennium, the legislature may transfer from the distressed county assistance account to the state general fund such amounts as reflect the excess fund balance of the account.

**NEW SECTION. Sec. 921.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 922.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of part)

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MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the committee striking amendment be adopted:

On page 149, line 31, strike "\$4,887,369,000", and insert "\$4,912,769,000".

On page 149, line 34, strike "\$10,221,620,000", and insert "\$10,247,020,000".

On page 150, line 36, after, "fifty" strike, " and seventy-five one hundredths", and insert, "-three and two tenths".

On page 151, line 13, after "fifty" strike, " and seventy-five one hundredths", and insert, "-three and two tenths".

On page 151, line 23, after "forty", strike, "-six and twenty seven" and insert, "-seven and forty-three"

On page 152, line 1, after "forty", strike, "-six and twenty seven" and insert, "-seven and forty-three".

On page 168, line 26, strike "\$98,981,000", and insert, "\$73,581,000".

On page 168, line 28, strike, "\$432,941,000" and insert, "\$407,541,000".

On page 171, line 11, after, "(10)", strike "\$88,981,000" and insert, "(((\$88,981,000))\$63,581,000".

On page 171, line 26, strike "20", and insert, "((20))eight and seven tenths".

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

Senators Zarelli and Kilmer spoke against adoption of the amendment to the committee striking amendment.

Senator Pflug demanded a roll call.

The President declared that one-sixth of the members support the demand. The demand was not sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 149, line 31 to the committee striking amendment to Engrossed Substitute House Bill No. 1086.

The motion by Senator Pflug failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1086.

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

MOTION

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

On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 43.03.220, 43.03.230, 43.03.240, 43.03.250, 43.03.265, 43.21A.660, 43.21A.667, 43.79.460, 43.79.465, 43.83B.430, 43.105.080, 43.330.094, 43.336.050, 46.66.080, 43.350.070, 51.44.170,66.08.190, 66.08.235, and 82.14.380; amending 2010 2nd sp.s. c 1 ss 105, 109, 114, 115, 117, 118, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 302, 303, 304, 307, 308, 309, 310, 501, 502, 503, and 801 (uncodified); amending 2010 1st sp.s. c 37 ss 103, 106, 107, 118, 120, 121, 123, 124, 126, 127, 128, 130, 133, 134, 138, 141, 142, 146, 148, 150, 151, 153, 213, 215, 217, 218, 219, 220, 224, 225, 226, 401, 402, 505, 506, 507, 508, 511, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 705, 707, 711, and 801 (uncodified); amending 2010 1st sp.s. c 32 s 3 (uncodified); amending 2010 1st sp.s. c 31 s 1 (uncodified); amending 2009 c 564 s 711 (uncodified); adding new sections to 2009 c 564 (uncodified); making appropriations; and declaring an emergency."

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1086 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray, Zarelli and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1086 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1086 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala,

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Rockefeller, Schoesler, Shin, Stevens, Swecker, White and Zarelli

Voting nay: Senators Baumgartner, Fain, Hill, Holmquist Newbry, Litzow, Pflug, Roach, Sheldon and Tom

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 1086 was immediately transmitted to the House of Representatives.

MOTION

At 12:09 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, February 7, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY NINTH DAY

NOON SESSION

Senate Chamber, Olympia, Monday, February 7, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 3, 2011

SB 5156 Prime Sponsor, Senator Kohl-Welles: Concerning airport lounges under the alcohol beverage control act. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5156 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Hewitt; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5174 Prime Sponsor, Senator Chase: Encouraging instruction in the history of civil rights. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5225 Prime Sponsor, Senator Murray: Regulating soil science and wetland science professions. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Ways & Means.

February 3, 2011

SB 5263 Prime Sponsor, Senator Keiser: Regarding enforcement of family leave violations. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5263 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5302 Prime Sponsor, Senator Kohl-Welles: Modifying liquor permit and licensing provisions. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Hewitt; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5321 Prime Sponsor, Senator Chase: Concerning the responsibilities of the department of commerce and associate development organizations. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5321 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Kilmer; Shin and Zarelli.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5341 Prime Sponsor, Senator Keiser: Requiring notice to injured workers by self-insured employers. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5341 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 3, 2011

TWENTY NINTH DAY, FEBRUARY 7, 2011

2011 REGULAR SESSION

SB 5577 Prime Sponsor, Senator Delvin: Authorizing program providers to issue food and beverage service worker's permits. Reported by Committee on Labor, Commerce & Consumer Protection

BARBARA BAKER, Chief Clerk

## MOTION

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

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

Passed to Committee on Health & Long-Term Care.

## INTRODUCTION AND FIRST READING

February 3, 2011

SB 5583 Prime Sponsor, Senator Kohl-Welles: Addressing the recommendations of the vocational rehabilitation subcommittee for workers' compensation. Reported by Committee on Labor, Commerce & Consumer Protection

SB 5683 by Senator Morton

AN ACT Relating to authorizing a city utility infrastructure sales and use tax; adding a new section to chapter 82.14 RCW; and providing an expiration date.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Passed to Committee on Rules for second reading.

February 3, 2011

SB 5584 Prime Sponsor, Senator Harper: Concerning the conforming of apprenticeship program standards to federal labor standards. Reported by Committee on Labor, Commerce & Consumer Protection

SB 5684 by Senators Rockefeller, Fain, Fraser, Shin and Chase

AN ACT Relating to water well construction requirements; amending RCW 18.104.030; and adding a new section to chapter 70.119A RCW.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Referred to Committee on Environment, Water & Energy.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5642 Prime Sponsor, Senator Conway: Concerning applied behavior analyst services. Reported by Committee on Human Services & Corrections

SB 5685 by Senators Swecker and Pridemore

AN ACT Relating to penalties for public records violations; reenacting and amending RCW 42.56.550; creating a new section; and prescribing penalties.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Passed to Committee on Health & Long-Term Care.

SB 5686 by Senators Hobbs, King, Haugen and Shin

AN ACT Relating to commercial motor vehicle out-of-service orders; and amending RCW 46.25.090 and 46.32.100.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

Referred to Committee on Transportation.

## MOTION

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

SB 5687 by Senators Harper, McAuliffe, Fain, Hobbs, Morton, Litzow, Shin, Conway, Kline and Chase

AN ACT Relating to creating an Indian education division in the office of the superintendent of public instruction; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

## MESSAGE FROM THE HOUSE

February 4, 2011

MR. PRESIDENT:  
The House has passed:  
HOUSE BILL NO. 1000.  
and the same is herewith transmitted.

SB 5688 by Senators Ranker, Swecker, Rockefeller, Litzow, Shin and Kline

AN ACT Relating to shark finning activities; adding a new section to chapter 77.15 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

TWENTY NINTH DAY, FEBRUARY 7, 2011

2011 REGULAR SESSION

SB 5689 by Senators Ranker and Haugen

AN ACT Relating to boarding benefits on a certain ferry route; and adding a new section to chapter 47.60 RCW.

Referred to Committee on Transportation.

SB 5690 by Senators Hargrove, Stevens, McAuliffe and Roach

AN ACT Relating to reinstating parental rights; and amending RCW 13.34.215.

Referred to Committee on Human Services & Corrections.

SB 5691 by Senator Hargrove

AN ACT Relating to crime victims' compensation; amending RCW 7.68.020, 7.68.030, 7.68.075, 7.68.060, 7.68.070, 7.68.080, 7.68.125, 7.68.130, and 7.68.050; reenacting and amending RCW 7.68.070; adding new sections to chapter 7.68 RCW; creating new sections; repealing RCW 7.68.100; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 5692 by Senator Swecker

AN ACT Relating to recognizing adopted siblings and adoptive parents as relatives; and amending RCW 74.15.020.

Referred to Committee on Human Services & Corrections.

SB 5693 by Senators Swecker and Pridemore

AN ACT Relating to defining "copy" for purposes of the public records act; amending RCW 42.56.010 and 42.56.010; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5694 by Senators Hobbs and Benton

AN ACT Relating to handling claims associated with products issued under specialty producer licenses; amending RCW 48.17.010 and 48.17.380; and adding a new section to chapter 48.120 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5695 by Senators Fraser, Swecker and Kilmer

AN ACT Relating to the authorization of bonds issued by Washington local governments; amending RCW 39.46.040, 35.33.131, 35.34.220, 35A.33.130, and 35A.34.220; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5696 by Senators Prentice, Benton, Hobbs and Keiser

AN ACT Relating to clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates; and amending RCW 19.240.010.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5697 by Senators Hargrove and Schoesler

AN ACT Relating to minimum standards for firearms safety devices and gun safes used by governmental agencies that purchase, receive, possess, use, or issue firearms and government agents who receive, possess, or use a firearm issued to the agent by the agency; adding a new chapter to Title 42 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5698 by Senators Ranker, Rockefeller, Nelson, Kilmer and Hargrove

AN ACT Relating to providing funds for the Washington state ferry system and other transportation purposes by narrowing the nonresident sales and use tax exemption; amending RCW 82.08.0273; adding a new section to chapter 82.32 RCW; creating a new section; providing an effective date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5699 by Senators Roach, Rockefeller, Stevens, Swecker and Holmquist Newbry

AN ACT Relating to on-site sewage proprietary treatment products; and amending RCW 43.20.050 and 70.118.020.

Referred to Committee on Environment, Water & Energy.

SB 5700 by Senators Haugen and King

AN ACT Relating to certain toll facilities; amending RCW 47.10.882, 47.10.887, 47.10.888, and 47.56.810; reenacting RCW 47.10.886; adding a new section to chapter 47.56 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Transportation.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1000 by Representatives Hurst, Stanford, Blake, Finn, Ladenburg, Goodman, Appleton, Pearson and Moeller

AN ACT Relating to overseas and service voters; amending RCW 29A.40.150; and adding a new section to chapter 29A.40 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

MOTION

TWENTY NINTH DAY, FEBRUARY 7, 2011

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

MOTION

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

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8400, by Senators Fraser and Parlette

Calling a joint session to honor deceased former members.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8400 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8400.

SENATE CONCURRENT RESOLUTION NO. 8400, was adopted on third reading by voice vote.

MOTION

At 12:04 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, February 8, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTIETH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, February 8, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 4, 2011

SB 5011 Prime Sponsor, Senator White: Concerning the victimization of homeless persons. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5023 Prime Sponsor, Senator Prentice: Addressing nonlegal immigration-related services. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5023 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles and Regala.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5025 Prime Sponsor, Senator Hargrove: Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5025 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5030 Prime Sponsor, Senator Hewitt: Authorizing civil judgments for assault. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5034 Prime Sponsor, Senator Kilmer: Concerning private infrastructure development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5034 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Environment, Water & Energy.

February 7, 2011

SB 5039 Prime Sponsor, Senator Murray: Concerning insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5039 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5042 Prime Sponsor, Senator Keiser: Concerning the protection of vulnerable adults. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5042 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette and Pflug.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5047 Prime Sponsor, Senator Kline: Prohibiting requests for waivers of rights of residents of long-term care facilities. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5047 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5077 Prime Sponsor, Senator Pflug: Prohibiting the use of eminent domain for economic development. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5077 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5078 Prime Sponsor, Senator Shin: Concerning a municipality's right to condemn real property due to a threat to public health, safety, or welfare. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5078 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5084 Prime Sponsor, Senator Regala: Authorizing disposal of property within the Seashore Conservation Area to resolve boundary disputes. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5086 Prime Sponsor, Senator Kline: Regarding the use of geothermal resources for commercial electricity production. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5086 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

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SB 5113 Prime Sponsor, Senator Hargrove: Reviewing discharges from state hospitals. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5115 Prime Sponsor, Senator Harper: Concerning private transfer fee obligations. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5115 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5122 Prime Sponsor, Senator Keiser: Regulating health care insurance. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5122 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5123 Prime Sponsor, Senator Ranker: Regarding the institute of forest resources. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5123 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5148 Prime Sponsor, Senator Keiser: Regarding statutory changes needed to implement a waiver to receive federal assistance for certain state purchased public health care programs. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5148 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell and Parlette.

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Passed to Committee on Ways & Means.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

February 7, 2011

SB 5173 Prime Sponsor, Senator Honeyford: Concerning the waiver of restaurant corkage fees. Reported by Committee on Labor, Commerce & Consumer Protection

Passed to Committee on Ways & Means.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

February 7, 2011

SB 5264 Prime Sponsor, Senator Swecker: Requiring a study of Mazama pocket gophers. Reported by Committee on Natural Resources & Marine Waters

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5264 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

February 7, 2011

SB 5190 Prime Sponsor, Senator Hobbs: Authorizing persons designated by the decedent to direct disposition, if the decedent died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard. Reported by Committee on Government Operations, Tribal Relations & Elections

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Pridmore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

February 7, 2011

SB 5271 Prime Sponsor, Senator Rockefeller: Regarding abandoned or derelict vessels. Reported by Committee on Natural Resources & Marine Waters

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5271 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

February 7, 2011

SB 5232 Prime Sponsor, Senator Kilmer: Authorizing prize-linked savings deposits. Reported by Committee on Labor, Commerce & Consumer Protection

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5232 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

February 7, 2011

SB 5278 Prime Sponsor, Senator Holmquist Newbry: Addressing information contained in rate notices under the industrial insurance laws. Reported by Committee on Labor, Commerce & Consumer Protection

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

February 7, 2011

SB 5234 Prime Sponsor, Senator Kline: Creating a statewide program for the collection, transportation, and disposal of unwanted medicines. Reported by Committee on Health & Long-Term Care

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5234 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridmore.

February 4, 2011

SB 5286 Prime Sponsor, Senator Nelson: Concerning on-site wastewater treatment systems designer licensing. Reported by Committee on Environment, Water & Energy

MINORITY recommendation: Do not pass. Signed by Senators Becker; Carrell and Parlette.

MAJORITY recommendation: That Substitute Senate Bill No. 5286 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5259 Prime Sponsor, Senator Kline: Concerning the tax payment and reporting requirements of small wineries. Reported by Committee on Labor, Commerce & Consumer Protection

February 7, 2011

SB 5291 Prime Sponsor, Senator Swecker: Improving recreational fishing opportunities in Puget Sound and Lake Washington. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

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Passed to Committee on Rules for second reading.

February 4, 2011

SB 5293 Prime Sponsor, Senator Schoesler: Regarding the use of water delivered from the federal Columbia basin project. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5319 Prime Sponsor, Senator Kastama: Providing that the manufacturing innovation and modernization extension service program is not to sunset. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5320 Prime Sponsor, Senator Chase: Prioritizing infrastructure projects. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5320 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5326 Prime Sponsor, Senator Kline: Concerning negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5326 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5352 Prime Sponsor, Senator Honeyford: Regarding providing eyeglasses to medicaid enrollees. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5352 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

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SB 5359 Prime Sponsor, Senator Morton: Concerning contiguous land under current use open space property tax programs. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5359 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 2, 2011

SB 5363 Prime Sponsor, Senator Hobbs: Concerning a business and occupation tax deduction for certified community development financial institutions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5363 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Benton; Fain and Haugen.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5367 Prime Sponsor, Senator Kastama: Authorizing the economic development finance authority to continue issuing bonds. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5369 Prime Sponsor, Senator Regala: Regarding commercial shellfish enforcement. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5369 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5371 Prime Sponsor, Senator Keiser: Addressing the needs for health insurance coverage for persons under age nineteen. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5371 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5401 Prime Sponsor, Senator Chase: Authorizing use of sales and use tax proceeds for certain public facilities in

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innovation partnership zones for economic development purposes. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5403 Prime Sponsor, Senator Chase: Authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5404 Prime Sponsor, Senator Chase: Authorizing community economic revitalization board funding to benefit innovation partnership zones. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5435 Prime Sponsor, Senator Hargrove: Requiring background investigations for peace officers and reserve officers as a condition of employment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5480 Prime Sponsor, Senator Conway: Concerning submission of certain information by physicians and physician assistants at the time of license renewal. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 7, 2011

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SB 5492 Prime Sponsor, Senator Schoesler: Changing Washington beer commission provisions. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Hobbs; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Haugen.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5575 Prime Sponsor, Senator Hatfield: Recognizing certain biomass energy facilities as an eligible renewable resource. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 7, 2011

SB 5612 Prime Sponsor, Senator Hobbs: Requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Health & Long-Term Care.

February 7, 2011

SB 5613 Prime Sponsor, Senator Hobbs: Requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Health & Long-Term Care.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5359, Senate Bill No. 5363 and Senate Bill No. 5404 which were referred to the Committee on Ways & Means.

MOTION

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

THIRTIETH DAY, FEBRUARY 8, 2011

2011 REGULAR SESSION

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

SB 5702 by Senators Carrell, Fraser, Roach, Fain, Pflug,  
Holmquist Newbry, Benton, Swecker and Hewitt

December 15, 2010  
TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

AN ACT Relating to the temporary closure of a state park;  
and reenacting and amending RCW 79A.05.030.

Ladies and Gentlemen:

Referred to Committee on Natural Resources & Marine  
Waters.

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

RICHARD J. THOMPSON, appointed November 9, 2010,  
for the term ending September 30, 2015, as Member, Board of  
Trustees, Western Washington University.

SB 5703 by Senators Kohl-Welles and Stevens

AN ACT Relating to consumer reports of employees or  
volunteers who will or may have unsupervised access to  
children, individuals with developmental disabilities, or  
vulnerable adults; and amending RCW 19.182.040.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce  
Development.

Referred to Committee on Human Services & Corrections.

MOTION

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

SB 5704 by Senators Swecker, Eide and Shin

AN ACT Relating to vehicle subagent services and fees;  
amending RCW 46.04.574, 46.04.575, 46.20.117, 46.20.181,  
46.20.200, and 46.52.130; and reenacting and amending  
RCW 46.20.120.

MOTION

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

Referred to Committee on Transportation.

MESSAGE FROM THE HOUSE

SB 5705 by Senators Kilmer, Delvin, Kastama, Litzow  
and Shin

February 7, 2011

AN ACT Relating to community redevelopment financing in  
apportionment districts; amending RCW 39.88.020,  
39.88.030, 39.88.040, 39.88.070, 39.88.080, 39.88.100,  
84.52.043, and 84.52.050; and repealing RCW 39.88.060 and  
39.88.090.

MR. PRESIDENT:

The House has passed:

- HOUSE BILL 1012,
- HOUSE BILL 1016,
- SUBSTITUTE HOUSE BILL 1024,
- HOUSE BILL 1039,
- HOUSE BILL 1040,
- HOUSE BILL 1074,
- HOUSE BILL 1075,
- SUBSTITUTE HOUSE BILL 1078,
- HOUSE BILL 1129,
- SUBSTITUTE HOUSE BILL 1217,
- HOUSE BILL 1280,
- HOUSE BILL 1392,
- HOUSE BILL 1418.

and the same are herewith transmitted.

Referred to Committee on Economic Development, Trade &  
Innovation.

BARBARA BAKER, Chief Clerk

MOTION

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

SB 5706 by Senators Harper, Nelson and Kline

AN ACT Relating to juvenile restorative justice programs;  
and amending RCW 13.40.020 and 13.40.080.

Referred to Committee on Human Services & Corrections.

INTRODUCTION AND FIRST READING

SB 5701 by Senators Swecker and Delvin

AN ACT Relating to providing limited access to motor  
vehicle records for driver and pedestrian safety in private  
communities; and reenacting and amending RCW 46.12.635.

SB 5707 by Senator Rockefeller

AN ACT Relating to exempting authorized emergency  
vehicles from state fuel usage requirements; and amending  
RCW 43.19.648.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Transportation.

SB 5708 by Senator Keiser

AN ACT Relating to reshaping the delivery of long-term care  
services; amending RCW 18.20.020, 18.20.030, 18.20.330,  
18.20.160, 18.52.030, 18.51.010, and 70.126.020; adding  
new sections to chapter 74.42 RCW; and creating new  
sections.

Referred to Committee on Health & Long-Term Care.

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SB 5709 by Senators Kline, King, Hobbs, Fain, Honeyford and Kohl-Welles

AN ACT Relating to adopting core competencies for early care and education professionals; adding a new section to chapter 43.215 RCW; and creating a new section.

AN ACT Relating to allowing a microbrewery and domestic brewery to sell beer of another domestic brewery for on and off-premises consumption from its premises; amending RCW 66.24.240; and reenacting and amending RCW 66.24.244.

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

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5716 by Senators Stevens, Benton, Sheldon, Chase, Carrell and Shin

AN ACT Relating to the elimination of automated traffic safety cameras; amending RCW 46.12.655, 46.16A.120, 46.16A.120, 46.63.030, 46.63.030, 46.63.073, and 46.63.075; adding a new section to chapter 46.63 RCW; creating a new section; repealing RCW 46.63.170; repealing 2010 c 249 s 7; and providing a contingent effective date.

Referred to Committee on Transportation.

SB 5710 by Senators Hobbs, Kline and Hewitt

AN ACT Relating to the sale of beer by grocery store licensees; and amending RCW 66.24.360.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5717 by Senators Tom, Kilmer, White and Shin

AN ACT Relating to higher education; amending RCW 28B.15.067, 28B.15.068, and 28B.76.270; adding new sections to chapter 28B.10 RCW; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 28B.76 RCW; adding a new section to chapter 28B.50 RCW; adding a new chapter to Title 28B RCW; and repealing RCW 28B.10.920, 28B.10.921, and 28B.10.922.

Referred to Committee on Higher Education & Workforce Development.

SB 5711 by Senators Hobbs, Kline, Fain, Honeyford, Kohl-Welles and Hewitt

AN ACT Relating to the sale of beer by beer and/or wine specialty shop licensees; and amending RCW 66.24.371.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5718 by Senators Parlette and Prentice

AN ACT Relating to estates and trusts; amending RCW 11.108.090 and 11.86.031; creating new sections; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5712 by Senators Honeyford and Schoesler

AN ACT Relating to consolidating the Puget Sound partnership into the Washington state conservation commission; adding new sections to chapter 89.08 RCW; adding a new section to chapter 90.71 RCW; creating new sections; and providing an effective date.

Referred to Committee on Natural Resources & Marine Waters.

SB 5719 by Senator Shin

AN ACT Relating to tuition for qualified individuals with disabilities; amending RCW 28B.15.067; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

SB 5713 by Senators Haugen, Delvin, Hatfield, Shin and Parlette

AN ACT Relating to implementing recommendations developed in accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of 2007; amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130; and adding new sections to chapter 36.70A RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SJR 8213 by Senators Kilmer, Delvin, Kastama and Litzow

Providing for community redevelopment financing in apportionment districts.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5714 by Senators Kohl-Welles, Litzow, McAuliffe, Harper and Kline

AN ACT Relating to implementing a portable background check clearance registry for licensed and regulated child care facilities; amending RCW 43.215.215; reenacting and amending RCW 43.215.010; and adding a new section to chapter 43.215 RCW.

Referred to Committee on Human Services & Corrections.

SJR 8214 by Senators Pridemore, Schoesler, Murray, Zarelli, Conway and Hewitt

Addressing the state's long-term pension obligations.

SB 5715 by Senators Kohl-Welles, McAuliffe, Litzow, Harper, Kline and Honeyford

INTRODUCTION AND FIRST READING OF HOUSE BILLS

THIRTIETH DAY, FEBRUARY 8, 2011

2011 REGULAR SESSION

Referred to Committee on Ways &amp; Means.

Referred to Committee on Government Operations, Tribal Relations &amp; Elections.

HB 1012 by Representatives Angel, Haler, Klippert, Fagan, Rolfes and FitzgibbonHB 1075 by Representatives Takko, Angel, Springer, Upthegrove and Fitzgibbon

AN ACT Relating to planning commissioner terms of office; and amending RCW 35.63.030.

AN ACT Relating to the sale of water-sewer district real property; and amending RCW 57.08.016.

Referred to Committee on Government Operations, Tribal Relations &amp; Elections.

Referred to Committee on Government Operations, Tribal Relations &amp; Elections.

HB 1016 by Representatives Blake, Condotta, Armstrong, Shea, Kretz, Klippert, McCune, Takko, Van De Wege, Dunshee, Probst, Lias, Miloscia, Finn, Hurst, Springer, Goodman, Rodne, Orcutt, Haigh, Dickerson, Taylor, Warnick, Hope, Dammeier, Kristiansen, Chandler, Ross, Sells and UpthegroveSHB 1078 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Angel, Kelley, McCune, Hope, Dammeier, Warnick, Hunter, Fitzgibbon, Kenney, Reykdal, Frockt, Rolfes, Roberts, Hasegawa and Moeller)

AN ACT Relating to firearm noise suppressors; and amending RCW 9.41.250.

AN ACT Relating to the manufactured/mobile home landlord-tenant act; and adding a new section to chapter 59.20 RCW.

Referred to Committee on Judiciary.

Referred to Committee on Financial Institutions, Housing &amp; Insurance.

SHB 1024 by House Committee on Transportation (originally sponsored by Representatives Fagan, Schmick, Armstrong, Clibborn, Lias, Frockt and Moeller)HB 1129 by Representatives Klippert, Lias, Billig, Rolfes, Fitzgibbon, Reykdal, Ryu, Finn and Moscoso

AN ACT Relating to an addition to the scenic and recreational highway system; and amending RCW 47.39.020.

AN ACT Relating to a bicycle and pedestrian traffic safety curriculum; adding a new section to chapter 46.83 RCW; and creating a new section.

Referred to Committee on Transportation.

Referred to Committee on Transportation.

HB 1039 by Representatives Bailey and KirbySHB 1217 by House Committee on Transportation (originally sponsored by Representatives Ryu, Pedersen, Johnson, Klippert, Maxwell, Finn, Kenney, Santos, Springer, Ladenburg, Appleton, Lias, McCoy, Miloscia, Fitzgibbon, Kagi, Roberts and Billig)

AN ACT Relating to the subpoena authority of the department of financial institutions; adding a new section to chapter 18.44 RCW; adding a new section to chapter 19.100 RCW; adding a new section to chapter 19.110 RCW; adding a new section to chapter 19.146 RCW; adding a new section to chapter 19.230 RCW; adding a new section to chapter 21.20 RCW; adding a new section to chapter 21.30 RCW; adding a new section to chapter 31.04 RCW; adding a new section to chapter 31.45 RCW; and creating a new section.

AN ACT Relating to local authorities altering maximum speed limits; and amending RCW 46.61.415.

Referred to Committee on Financial Institutions, Housing &amp; Insurance.

Referred to Committee on Transportation.

HB 1040 by Representatives Pedersen, Armstrong, Kirby, Warnick, Kelley and HuntHB 1280 by Representatives Springer, Rodne, Takko and Smith

AN ACT Relating to the use of electronic signatures and notices; and amending RCW 19.09.085, 19.34.231, 23B.01.500, 23B.01.510, 24.03.400, 24.06.445, and 24.12.051.

AN ACT Relating to public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property; and amending RCW 70.44.060.

Referred to Committee on Judiciary.

Referred to Committee on Government Operations, Tribal Relations &amp; Elections.

HB 1074 by Representatives Takko, Angel, Springer, Upthegrove and FitzgibbonHB 1392 by Representatives Klippert, Haler, Fagan and Chandler

AN ACT Relating to the membership of metropolitan water pollution abatement advisory committees; and amending RCW 35.58.210.

AN ACT Relating to leases of irrigation district property; and amending RCW 87.03.136.

Referred to Committee on Agriculture &amp; Rural Economic Development.

THIRTIETH DAY, FEBRUARY 8, 2011

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HB 1418 by Representatives Rolfes, McCune, Appleton, Kirby, Kelley, Zeiger, Seaquist, Finn, Haigh, Dammeier, Angel, Jenkins, Stanford and Smith

AN ACT Relating to evaluating military training and experience toward meeting licensing requirements; adding a new section to chapter 18.16 RCW; adding a new section to chapter 18.43 RCW; and adding a new section to chapter 18.170 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

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

MOTION

At 12:06 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, February 9, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY FIRST DAY****MORNING SESSION**

Senate Chamber, Olympia, Wednesday, February 9, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Ericksen and Sheldon.

The Sergeant at Arms Color Guard consisting of Eagle Scouts Brian Kinder and Kyle Kinder, presented the Colors. Senator Shin offered the prayer.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

February 4, 2011

SB 5043 Prime Sponsor, Senator Stevens: Addressing child fatality review in child welfare cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5080 Prime Sponsor, Senator Sheldon: Reducing water pollution by replacing or repairing failing on-site sewage systems or connecting failing on-site sewage systems to a sewerage system. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5231 Prime Sponsor, Senator Nelson: Regarding the safety of certain children's products. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5231 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5239 Prime Sponsor, Senator Honeyford: Allocating federal forest revenue to public schools based on resident students. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5239 as recommended by Committee on Early Learning & K-12 Education be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Baumgartner; Conway; Fraser; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5241 Prime Sponsor, Senator Roach: Modifying the authority of a watershed management partnership. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 4, 2011

SB 5362 Prime Sponsor, Senator Chase: Authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5364 Prime Sponsor, Senator Swecker: Concerning public water system operating permits. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5364 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

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Passed to Committee on Ways & Means.

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

February 4, 2011

SB 5395 Prime Sponsor, Senator Hargrove: Changing provisions involving domestic violence fatality review panels. Reported by Committee on Human Services & Corrections

INTRODUCTION AND FIRST READING

SB 5720 by Senator Honeyford

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

AN ACT Relating to penalties for violations concerning electrical and telecommunications installations; and amending RCW 19.28.131.

Passed to Committee on Rules for second reading.

Referred to Committee on Labor, Commerce & Consumer Protection.

February 8, 2011

SB 5440 Prime Sponsor, Senator Rockefeller: Limiting regulation of electric vehicle battery charging facilities. Reported by Committee on Environment, Water & Energy

SB 5721 by Senators Swecker, Delvin and Hewitt

MAJORITY recommendation: That Substitute Senate Bill No. 5440 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

AN ACT Relating to allowing booking photographs and electronic images at jails to be open to the public; and amending RCW 70.48.100.

Passed to Committee on Rules for second reading.

Referred to Committee on Government Operations, Tribal Relations & Elections.

February 8, 2011

SB 5451 Prime Sponsor, Senator Ranker: Concerning shoreline structures in a master program adopted under the shoreline management act. Reported by Committee on Environment, Water & Energy

SB 5722 by Senators Hargrove, Morton, Stevens, Regala, Shin and McAuliffe

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

AN ACT Relating to the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts; and amending RCW 82.14.460.

Passed to Committee on Natural Resources & Marine Waters.

Referred to Committee on Human Services & Corrections.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

February 8, 2011

SGA 9139 CHRIS MARR, appointed on February 1, 2011, for the term ending January 15, 2017, as Member of the Liquor Control Board. Reported by Committee on Labor, Commerce & Consumer Protection

SB 5723 by Senators Schoesler, Ericksen, Haugen, Hatfield, Delvin and Shin

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

AN ACT Relating to establishing a process for addressing water quality issues associated with livestock operations; amending RCW 90.48.260; adding a new chapter to Title 90 RCW; and providing a contingent effective date.

Passed to Committee on Rules for second reading.

Referred to Committee on Agriculture & Rural Economic Development.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5080 which was referred to the Committee on Ways & Means.

SB 5724 by Senators Murray, Litzow, Tom, Shin, McAuliffe, Chase, Kohl-Welles, Nelson, Sheldon, Swecker, Hargrove, Harper and Conway

AN ACT Relating to "Music Matters" special license plates; amending RCW 46.18.200, 46.17.220, and 46.68.420; and adding a new section to chapter 46.04 RCW.

Referred to Committee on Transportation.

MOTION

SB 5725 by Senators McAuliffe, King, Litzow, Tom, Hill and Shin

AN ACT Relating to science, technology, engineering, and mathematics instruction; adding a new section to chapter 28A.410 RCW; and providing an expiration date.

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

SB 5726 by Senators Harper, McAuliffe, Litzow, Tom and Hobbs

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AN ACT Relating to innovation schools; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

SB 5727 by Senators White, Haugen and Shin

AN ACT Relating to renewal notice fees for vehicle registrations; amending RCW 46.01.230 and 46.01.235; and adding a new section to chapter 46.17 RCW.

Referred to Committee on Transportation.

SB 5728 by Senator Zarelli

AN ACT Relating to state collective bargaining and competitive contracting; amending RCW 41.80.010, 41.80.020, 41.80.040, and 41.06.142; creating a new section; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5729 by Senators Carrell, Pflug, Morton, Becker, King, Delvin, Parlette, Stevens, Hill, Holmquist Newbry, Roach and Honeyford

AN ACT Relating to the definition of controlled substances; amending RCW 69.50.101; and providing an effective date.

Referred to Committee on Judiciary.

SB 5730 by Senator Rockefeller

AN ACT Relating to mileage-based automobile insurance; amending RCW 48.18.140, 48.18.180, and 46.29.490; adding a new section to chapter 48.19 RCW; and creating new sections.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5731 by Senators Chase, Kastama, Shin and Conway

AN ACT Relating to Washington manufacturing services; and amending RCW 24.50.010.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5732 by Senators Chase and Kastama

AN ACT Relating to exempting certain manufacturing research and development activities from business and occupation taxation; adding a new section to chapter 82.04 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5733 by Senators Kastama, Chase and Shin

AN ACT Relating to economic development through the establishment of an international contact database; amending RCW 42.56.230; and adding a new section to chapter 43.31 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5734 by Senators Kastama, Chase and Shin

AN ACT Relating to tax credits for economic development for eligible business projects in rural counties; amending RCW 82.62.010, 82.62.020, and 82.62.030; providing an effective date; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5735 by Senators Chase, Kastama, Kilmer and McAuliffe

AN ACT Relating to encouraging economic development by removing the expiration date from the research and development spending business and occupation tax credit; and amending RCW 82.04.4452.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5736 by Senators Chase, Kastama and Shin

AN ACT Relating to promoting economic development through commercialization and sharing of technologies; amending RCW 28B.20.287; and adding new sections to chapter 28B.20 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5737 by Senators Kastama and Chase

AN ACT Relating to economic development through the establishment of an intuitive trade assistance web portal; and amending RCW 43.330.060.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5738 by Senators Kastama, Chase, Shin and McAuliffe

AN ACT Relating to public and private sector economic development collaboration; and adding new sections to chapter 43.330 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5739 by Senators Kastama and Chase

AN ACT Relating to uniform laws on interstate provision of governmental services; and adding a new section to chapter 43.56 RCW.

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Referred to Committee on Economic Development, Trade & Innovation.

SB 5740 by Senators Kastama, Chase and Roach

AN ACT Relating to preventing predatory guardianships of incapacitated adults; amending RCW 11.88.030, 11.88.040, 11.88.120, 11.88.090, and 43.190.060; and adding a new section to chapter 2.56 RCW.

Referred to Committee on Human Services & Corrections.

SB 5741 by Senators Kastama and Chase

AN ACT Relating to the economic development commission; amending RCW 43.162.005, 43.162.010, 43.162.015, 43.162.020, 43.162.025, and 43.162.030; reenacting and amending RCW 43.84.092; and adding new sections to chapter 43.162 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5742 by Senators Haugen, Ranker and Shin

AN ACT Relating to the administration and distribution of Washington state ferry system revenue; amending RCW 47.60.530, 47.60.315, 82.08.0255, and 82.12.0256; and adding a new section to chapter 47.60 RCW.

Referred to Committee on Transportation.

SB 5743 by Senators Honeyford and Holmquist Newbry

AN ACT Relating to the submission of new master applications by persons seeking minor work permits; and adding a new section to chapter 19.02 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5744 by Senators Chase and Prentice

AN ACT Relating to the training of code enforcement officials; and adding new sections to chapter 49.04 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5745 by Senators Kilmer, Parlette, Conway, Hobbs and Keiser

AN ACT Relating to state assistance for financing local government infrastructure; amending RCW 43.155.010, 43.155.020, 43.155.030, 43.155.055, 43.155.060, 43.155.065, 43.155.068, 43.155.070, 43.155.075, 43.155.090, 43.155.100, 43.160.030, 43.160.035, 43.160.060, 36.135.010, 36.135.020, 36.135.030, 36.135.040, 82.18.040, 82.16.020, and 82.16.020; reenacting and amending RCW 43.155.050; adding a new section to chapter 36.135 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5746 by Senators Kline and King

AN ACT Relating to prevailing wage affidavits; amending RCW 39.12.040; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5747 by Senators Hewitt, Kohl-Welles and Conway

AN ACT Relating to Washington horse racing funds; and amending RCW 67.16.105 and 67.16.280.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5748 by Senators Rockefeller, Honeyford and Chase

AN ACT Relating to cottage food operations; amending RCW 69.07.010, 69.07.080, and 69.07.100; and adding a new section to chapter 69.07 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5749 by Senators Brown, Hewitt and Shin

AN ACT Relating to the Washington advanced college tuition payment program; amending RCW 28B.95.020, 28B.95.030, and 28B.95.110; adding new sections to chapter 28B.95 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Higher Education & Workforce Development.

SB 5750 by Senators Holmquist Newbry, King, Honeyford and Morton

AN ACT Relating to limitations on withdrawing various waters from additional appropriations; and reenacting and amending RCW 90.54.050.

Referred to Committee on Environment, Water & Energy.

SB 5751 by Senators Holmquist Newbry, Morton and Honeyford

AN ACT Relating to delaying implementation of the 2009 adopted changes to the Washington state energy code until April 2012; amending RCW 19.27A.020; adding a new section to chapter 19.27A RCW; creating a new section; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

SB 5752 by Senators Kline, Rockefeller, White and Shin

AN ACT Relating to the uniform correction or clarification of defamation act; and adding a new chapter to Title 7 RCW.

Referred to Committee on Judiciary.

SB 5753 by Senators Kline, Kohl-Welles, Conway, Nelson, Keiser and White

AN ACT Relating to imposing penalties for violations by certain self-insurers, third-party administrators, and claims management entities; amending RCW 51.32.200; and adding new sections to chapter 51.08 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5754 by Senators Kline, Kohl-Welles, Keiser, Rockefeller, White and Conway

AN ACT Relating to the publication of tax data to ensure the transparency of Washington's tax preferences; amending RCW 84.08.210; and reenacting and amending RCW 82.32.330.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5729 which was referred to the Committee on Judiciary.

MOTION

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

MOTION

Senator Benton moved adoption of the following resolution:

SENATE RESOLUTION  
8620

By Senators Benton, Roach, and Stevens

WHEREAS, The Boy Scouts of America will mark the close of their 100th year of service to America on February 8th, and will begin their 2nd century of service to their communities; and

WHEREAS, The mission of the Boy Scouts of America is to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Scout Law; and

WHEREAS, The Scouting program has maintained a strong ethical standard among every community of which the program has influence; and

WHEREAS, Through the Boy Scouts of America, programs such as the Venturing and Varsity Crew, Sea Scouts, Cub Scouts, and Order of the Arrow have received outstanding recognition for the training and life experiences taught to our young scouts, exemplifying commitment and dedication to their communities; and

WHEREAS, In 2009 alone, the Boy Scouts of America program reported over 36 million service hours across the nation in areas such as food collection and distribution, litter cleanup/community beautification, conservation projects, serving food at shelters, and military support/appreciation; and

WHEREAS, In 2009 over one million volunteers gave of their time assuming leadership positions for various Scouting programs; and

WHEREAS, Baden Powell, founder of the Boy Scouts of America and decorated military leader, be recognized for his sincere

devotion and countless hours of service to the preservation of America and the exceptional success of the Boy Scouts of America program; and

WHEREAS, Since 1910, more than 100 million citizens have become registered members; and

WHEREAS, Over 2 million scouts have served and worked diligently in their communities to receive the high honor and prestigious award of Eagle Scout;

NOW, THEREFORE, BE IT RESOLVED, That after 100 years of service it is with great respect that the Washington State Senate honor and recognize the service, character, and strong ethical standing that the Boy Scouts of America have exemplified within our state, nation, and throughout the world; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the National Boy Scouts of America office, the National Director of the Boy Scouts of America, and the Boy Scouts of America Councils in Washington: Chief Seattle Council, Pacific Harbors Council, Mount Baker Council, Grand Columbia Council, Blue Mountain Council, and Inland Northwest Council.

Senators Benton, Pridemore, Hewitt, Hargrove, Roach, Shin and Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8620.

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

REMARKS BY THE PRESIDENT

President Owen: "Each year the Senate has the great privilege of having the Boy Scouts come down here and give the report on Scouting, the Report to the State on Scouting and we that this morning but I do want to take a moment to introduce the marvelous, wonderful, young man that is going to present that report to you because he and his family are a wonderful American success story. Chiem Saeturn, Seattle boast another first as Chiem Saeturn demonstrates the powerful and positive influence of a program called Scout Reach, It's an initiative offering scouting to inner-city low income kids regardless of the social, cultural and economic barriers that they face every day of their lives. Saeturn, Chiem from Chief Seattle Council Troop 222 is a true success story for the Chief Seattle Council Scout Reach initiative that was launched only five years ago in 2005. Well-known Seattle philanthropist Scott Oki is the current President of the Scout Reach foundation and Saeturn was also recently lauded by Bill Gates when Gates received the Silver Buffalo Award from the Boy Scouts of America, Chief Seattle Council. Chiem's dad immigrated from Thailand and his mother is from Laos. His parents moved to the United States during the 1970s because of the Vietnam War. After spending two years in a refugee camp they settled in Seattle and have lived in the Rainier Valley ever since. Chiem has told us last night, in a letter that he wrote, that while in his neighborhood, kids from the Chiem neighborhood in the Rainier Valley were breaking into cars and getting involved with gangs he was focused on Scouting and being mentored by his Scout Master Scout John Peterson. And I quote from Chiem, 'Scouting has definitely made me more mature, but I still have a child inside. If I had one wish, I would wish that all boys could be in Scouts even if they didn't stay in, because it changes your life. Ladies and Gentlemen, it is a great privilege for the President to be able to present to you this wonderful, highly-accomplished, young man to give the Report to the State on Scouting: Eagle Scout Chiem Saeturn.'

REMARKS BY CHIEM SAETURN

Chiem Saeturn: “Good morning, my name is Chiem Saeturn and I am an Eagle Scout with the Boy Scout Troop 222 in Seattle Washington. I along with twenty-five other Eagle Scouts are here today in our capital city representing six different councils in our state including; Blue Mountain Council in Tri-Cities; Chief Seattle Council in Seattle Washington; Grand Columbia Council in Yakima; and then Northwest Council in Spokane; Mt. Baker Council in Everett; and Pacific Harbors Council in Tacoma. I’d also like to thank Darla and Josh from the Chief Seattle Council on behalf of us Eagle Scouts for bringing us to the State Capitol. We get to see this magnificent marble building. It’s really cool. Collectively, we are here today to present the annual report of State of Washington. This past year nearly sixty-eight thousand, one hundred fifty-eight young people in Washington State have participated in the Scouting program during a mentorship of more than twenty thousand adult volunteers. Of the Scouts, twenty-one thousand three hundred ten attended camp and a record one thousand four hundred eighty-nine achieved a pinnacle of Scouting by earning the rank of Eagle in our state last year. The Boy Scouts of America was founded on the premise that to be a good citizen you must do for others. Since this inception, Scouts and volunteers have committed to serving others at all times with enthusiasm and conviction. In Scouting earliest years we sold bonds and collected scrap to help win wars. Over the years, Scouts have also worked diligently to protect environment and learn the value of ‘leave no trace.’ Through these and many other efforts the Boy Scouts of American has established a tradition of service. In 2004 the BSA launched Good Turn for America, a national service initiative that addresses the issues of hunger, homelessness and poor health. Good Turn for America is a collaborative effort of Habitat for Humanity, the American Red Cross and the Salvation Army through the ten fold. Good Turn for America, the work of the single group is duplicated through the ten fold when hundreds of other organizations, volunteers joined in the improvement of their community. While the program teaches you a lot of lessons about service and leadership, it has also enhanced the lives of adult volunteers by making a difference in happiness and health in our state. In 2010, Washington Scouts and volunteers donated more than three hundred seventy-four thousand hours of community service to our state. This volunteered time is valued nearly eight million dollars. That’s a lot of taxes. By continuing to recruit quality leadership inviting youth from all backgrounds and circumstances to join and offering a fun and exciting program we seek to help ordinary young people become extraordinary adults. On behalf of the six Boy Scouts Councils in Washington State, I would like to present Lieutenant Governor Brad Owen with a copy of the 2011 Report to the State.”

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Boy Scouts of America who were seated in the gallery.

MOTION

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

MOTION

On motion of Senator White, Senator Sheldon was excused.

MOTION

On motion of Senator Delvin, Senator Ericksen was excused.

SECOND READING

SENATE BILL NO. 5195, by Senators Kline, Regala and Hargrove

Requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions.

MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5195 was substituted for Senate Bill No. 5195 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5195 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5195.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5195 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Ericksen and Sheldon

SUBSTITUTE SENATE BILL NO. 5195, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5141, by Senators Rockefeller, Haugen, Delvin, Benton, Kilmer, Swecker, Hatfield, Sheldon, Shin and Roach

Limiting the issuance of motorcycle instruction permits.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Bill No. 5141 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, King and Benton spoke in favor of passage of the bill.

REMARKS BY SENATOR BENTON

Senator Benton: ...so commend this bill to you but I'm a little concerned. Mr. President just about the procedure. I was under the impression we were going to go to caucus, have an opportunity to talk about these bills and while I may not need to be informed on this bill, maybe some of my other members are. Our caucus was notified a little after nine o'clock this morning that we would be doing these bills and we haven't gone to caucus to discuss any of them. I'm just a little concerned about the process. It's not the end of session where things come up as surprises. It's the beginning of session and so I would just like to ask Mr. President that the Senate Secretary's staff and the majority party be a little more conscience of the fact that, you know, our members like to know exactly what they're voting on. There's not books on the desks. There's a shortage of that. We don't have a caucus to discuss it and so I'd just like to ask that in the future, Mr. President, we have more time to discuss these bills before we're asked to vote on them."

#### REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. Well, for the member's information the calendar that we are working off of is date February 2, Wednesday, so I believe you've had how many days to take a look at this. In fact we have caucused and had plenty of time but the bills before us this morning ladies and gentleman have been unanimously voted out of committee, they are not contentious, but I apologize if I did not let you know which bills were coming before us this morning. However, the books have been on your desks for well over a week. Thank you Mr. President."

The President declared the question before the Senate to be the final passage of Senate Bill No. 5141.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5141 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hatfield and Holmquist Newbry

Excused: Senators Ericksen and Sheldon

SENATE BILL NO. 5141, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5260, by Senators King, Haugen, Eide, Swecker, Delvin, Hobbs and Ericksen

Modifying combination of vehicle provisions.

The measure was read the second time.

#### MOTION

On motion of Senator King, the rules were suspended, Senate Bill No. 5260 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Honeyford: "Would Senator King yield to a question? Senator King, is this a recent change of Federal Law?"

Senator King: "I'm not honestly sure. I think it's a change that has occurred in the last couple of years if that's recent."

Senator Honeyford: "Ok, that would be recent because I had a bill similar to this and they said they couldn't do it because they would lose federal funding so I'm a little concerned. Either I was misinformed then or the law was changed."

Senator King: "Well, I honestly can't say what date but I think it was relatively recent, let's put it that way."

The President declared the question before the Senate to be the final passage of Senate Bill No. 5260.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5260 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Ericksen and Sheldon

SENATE BILL NO. 5260, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5185, by Senate Committee on Transportation (originally sponsored by Senators Delvin, Sheldon, Becker, Honeyford, Swecker, Stevens, Benton, Holmquist Newbry, Zarelli, Baumgartner, King, Schoesler, Hewitt, Ericksen and Roach)

Temporarily suspending certain motorcycle rules when operating in parades or public demonstrations.

#### MOTIONS

On motion of Senator Delvin, Senate Bill No. 5185 was substituted for Substitute Senate Bill No. 5185 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Delvin, the rules were suspended, Substitute Senate Bill No. 5185 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Delvin and Haugen spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5185.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5185 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Ericksen and Sheldon

SUBSTITUTE SENATE BILL NO. 5185, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:59 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, February 10, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## THIRTY SECOND DAY

## NOON SESSION

Senate Chamber, Olympia, Thursday, February 10, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

## MOTION

Pursuant to Rule 46, on motion of Senator Eide and without objection, the Committee on Labor, Commerce & Consumer Protection was granted special leave to meet during the day's floor session.

## MOTION

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

## MOTION

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

## REPORTS OF STANDING COMMITTEES

February 8, 2011

SB 5000 Prime Sponsor, Senator Haugen: Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5000 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5022 Prime Sponsor, Senator Kilmer: Clarifying the statute of limitations for any court action brought under RCW 42.56.550. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5022 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles and Regala.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell and Roach.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5065 Prime Sponsor, Senator Carrell: Preventing animal cruelty. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5065 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5073 Prime Sponsor, Senator Kohl-Welles: Concerning the medical use of cannabis. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5073 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Carrell; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Ways & Means.

February 8, 2011

SB 5101 Prime Sponsor, Senator Carrell: Placing certain synthetic cannabinoids into schedule I of the uniform controlled substances act. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5101 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5112 Prime Sponsor, Senator Hatfield: Changing restrictions on firearm noise suppressors. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5149 Prime Sponsor, Senator Keiser: Requiring the department of health to collect current and past employment information in the cancer registry program. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Parlette; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5168 Prime Sponsor, Senator Prentice: Reducing maximum sentences for gross misdemeanors by one day. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5168 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

MAJORITY recommendation: That Substitute Senate Bill No. 5214 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton and Keiser.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain; Haugen and Litzow.

February 9, 2011  
SB 5189 Prime Sponsor, Senator Hobbs: Regarding access to K-12 campuses for occupational or educational information. Reported by Committee on Early Learning & K-12 Education

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5189 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King and Tom.

February 8, 2011

SB 5215 Prime Sponsor, Senator Hobbs: Removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements. Reported by Committee on Transportation

MINORITY recommendation: Do not pass. Signed by Senator Nelson.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5215 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Sheldon and Shin.

February 8, 2011  
SB 5192 Prime Sponsor, Senator Nelson: Concerning provisions for notifications and appeals timelines under the shoreline management act. Reported by Committee on Government Operations, Tribal Relations & Elections

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5192 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

February 8, 2011

SB 5282 Prime Sponsor, Senator Chase: Regarding field investigations on privately owned lands. Reported by Committee on Government Operations, Tribal Relations & Elections

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5282 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

February 9, 2011  
SB 5201 Prime Sponsor, Senator Hargrove: Regarding issues that impact the department of fish and wildlife. Reported by Committee on Natural Resources & Marine Waters

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5201 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

February 8, 2011

SB 5298 Prime Sponsor, Senator White: Authorizing the use of digital outdoor advertising signs to expand the state's emergency messaging capabilities. Reported by Committee on Transportation

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5298 be substituted therefor, and the substitute bill do pass. Signed by Senators White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Ranker and Swecker.

February 8, 2011  
SB 5205 Prime Sponsor, Senator Kilmer: Concerning high capacity transportation system plan components and review. Reported by Committee on Transportation

MINORITY recommendation: Do not pass. Signed by Senators Haugen, Chair; Nelson and Shin.

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5303 Prime Sponsor, Senator Rockefeller: Regulating loans made under the consumer loan act. Reported by Committee on Financial Institutions, Housing & Insurance

February 9, 2011  
SB 5214 Prime Sponsor, Senator Hobbs: Concerning the use of surplus property for the development of affordable housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5303 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton and Keiser.

THIRTY SECOND DAY, FEBRUARY 10, 2011

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain and Litzow.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5337 Prime Sponsor, Senator Stevens: Authorizing the provision of financial assistance to privately owned airports available for general use of the public. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5337 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5383 Prime Sponsor, Senator Conway: Clarifying the manufactured housing and mobile home program functions and account. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5389 Prime Sponsor, Senator McAuliffe: Regarding membership of the early learning advisory council. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5392 Prime Sponsor, Senator McAuliffe: Including technology as a stated educational core concept and principle. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5392 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 8, 2011

SB 5444 Prime Sponsor, Senator Conway: Concerning the construction of a state boundary bridge. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; Eide; Hobbs; Nelson; Prentice; Ranker; Sheldon and Shin.

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MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King; Fain; Delvin; Hill and Swecker.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5446 Prime Sponsor, Senator Shin: Concerning the entry or removal of certain homes, models, or vehicles in manufactured housing communities with a nonconforming use status. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5482 Prime Sponsor, Senator Kohl-Welles: Authorizing existing funding to house victims of human trafficking and their families. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Haugen and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton; Fain and Litzow.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5497 Prime Sponsor, Senator Sheldon: Requiring the removal of a mobile home, manufactured home, or park model from a mobile home park by a secured party after default. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen and Litzow.

MINORITY recommendation: Do not pass. Signed by Senator Keiser.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5524 Prime Sponsor, Senator White: Creating an exemption from impact fees for low-income housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Haugen and Keiser.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton; Fain and Litzow.

MAJORITY recommendation: That Substitute Senate Joint Memorial No. 8005 be substituted therefor, and the substitute joint memorial do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5526 Prime Sponsor, Senator Regala: Concerning incentives for stirling converters. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Ways & Means.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5000 which was referred to the Committee on Transportation and Senate Bill No. 5214 which was referred to the Committee on Ways and Means.

MOTION

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

February 9, 2011

SB 5589 Prime Sponsor, Senator Morton: Addressing heavy haul industrial corridors. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 9, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

THOMAS (TOM) COWAN, appointed February 1, 2011, for the term ending June 30, 2016, as Member of the Transportation Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

February 9, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

YVONNE LOPEZ MORTON, reappointed June 21, 2010, for the term ending June 17, 2015, as Member of the Human Rights Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

February 9, 2011

SJM 8005 Prime Sponsor, Senator Shin: Supporting the participation of Taiwan as an observer in the United Nations framework convention on climate change and in the international civil aviation organization. Reported by Committee on Economic Development, Trade & Innovation

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

MESSAGE FROM THE HOUSE

February 9, 2011

MR. PRESIDENT:

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The House has passed:

SENATE BILL NO. 5135,

SENATE CONCURRENT RESOLUTION NO. 8400.

and the same are herewith transmitted.

Referred to Committee on Transportation.

BARBARA BAKER, Chief Clerk

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5755 by Senators Ranker and White

AN ACT Relating to county and city additional real estate excise tax authority; amending RCW 82.46.035; reenacting and amending RCW 82.46.035; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5756 by Senators Hobbs, Keiser and Kline

AN ACT Relating to expanding insurance coverage of neurodevelopmental therapies; amending RCW 48.21.310, 48.44.450, 48.46.520, and 41.05.170; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

SB 5757 by Senators Nelson and Kline

AN ACT Relating to protecting groundwater; amending RCW 18.104.055; adding a new section to chapter 43.21A RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5758 by Senators Kilmer, Zarelli, Tom, Holmquist Newbry, Kohl-Welles, Ericksen, Kastama, Schoesler and Shin

AN ACT Relating to improving management of dedicated accounts for comprehensive institutions of higher education; and reenacting and amending RCW 28B.35.370.

Referred to Committee on Ways & Means.

SB 5759 by Senators Shin, Becker and Conway

AN ACT Relating to animal disease traceability; and amending RCW 16.36.023 and 16.36.025.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5760 by Senators White, King, Haugen and Sheldon

AN ACT Relating to the clarifying regulations that impact freight rail operations necessary to improve Washington state's trade competitiveness, economic viability, and multimodal transportation infrastructure; amending RCW 49.17.400 and 49.17.410; and creating a new section.

SB 5761 by Senator Pridemore

AN ACT Relating to management and consolidation of information technology; amending RCW 43.105.835, 42.17A.705, 42.17.2401, 43.105.290, 43.105.020, 43.105.047, 43.105.052, 43.105.057, 43.105.060, and 41.80.020; reenacting and amending RCW 39.29.040 and 41.06.070; adding a new section to chapter 41.06 RCW; adding new sections to chapter 43.105 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 41 RCW; recodifying RCW 43.105.052, 43.105.172, 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and 43.105.835; repealing RCW 43.105.005, 43.105.013, 43.105.019, 43.105.032, 43.105.041, 43.105.095, 43.105.105, 43.105.160, 43.105.170, 43.105.180, 43.105.190, 43.105.200, 43.105.210, 43.105.330, 43.105.805, 43.105.815, and 43.105.820; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5762 by Senators Prentice, Swecker, Honeyford and Tom

AN ACT Relating to making interest arbitration panel determinations related to local government; amending RCW 41.56.450 and 41.56.465; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5763 by Senators Ranker, Ericksen, Morton, Fraser and Shin

AN ACT Relating to amending the existing nonresident retail sales tax exemption; amending RCW 82.08.0273; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5764 by Senators Kastama, Chase, Shin, Kilmer, Brown, Conway and McAuliffe

AN ACT Relating to innovate Washington; amending RCW 28B.50.902, 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, 70.210.070, 42.30.110, and 42.56.270; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; repealing RCW 28B.20.283, 28B.20.285, 28B.20.287, 28B.20.289, 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297, 28B.38.010, 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060, 28B.38.070, and 28B.38.900; and providing an effective date.

Referred to Committee on Economic Development, Trade & Innovation.

SB 5765 by Senators Benton, Prentice and McAuliffe

AN ACT Relating to providing a use tax exemption for items purchased from a nonprofit organization conducting

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fund-raising activities; and adding a new section to chapter 82.12 RCW.

SB 5770 by Senators Holmquist Newbry, King, Stevens and Kohl-Welles

Referred to Committee on Ways & Means.

AN ACT Relating to raffles; and amending RCW 9.46.0315.

SB 5766 by Senators Roach and Pridemore

Referred to Committee on Labor, Commerce & Consumer Protection.

AN ACT Relating to fire protection district commissioners; and amending RCW 52.14.010, 52.14.020, 52.14.013, 52.14.015, and 52.14.017.

SB 5771 by Senators White, Kastama, King, Haugen and Shin

Referred to Committee on Government Operations, Tribal Relations & Elections.

AN ACT Relating to implementing public-private partnership best practices for nontoll transportation projects; amending RCW 47.29.010, 47.29.030, 47.29.060, 47.29.140, 47.29.150, 47.29.170, 47.29.180, 47.29.280, 39.10.300, and 47.12.080; reenacting and amending RCW 39.08.010; adding a new section to chapter 47.29 RCW; adding a new section to chapter 39.10 RCW; and adding a new section to chapter 39.04 RCW.

SB 5767 by Senators Roach, Carrell and Delvin

AN ACT Relating to special hunting season permit preference points; amending RCW 77.32.370; and adding a new section to chapter 77.32 RCW.

Referred to Committee on Transportation.

Referred to Committee on Natural Resources & Marine Waters.

SB 5772 by Senators Becker, Carrell and Stevens

SB 5768 by Senators Haugen, Swecker and McAuliffe

AN ACT Relating to creating the department of heritage, arts, and culture; amending RCW 43.334.010, 43.334.020, 43.334.030, 43.334.050, 27.34.020, 27.34.060, 27.34.070, 27.34.220, 27.34.230, 27.34.330, 27.34.360, 27.34.365, 27.34.415, 40.14.020, 40.14.022, 40.14.025, 40.14.027, 40.14.030, 27.04.010, 43.07.363, 43.07.365, 43.07.370, 43.07.380, 43.330.094, 43.336.010, 43.330.092, 43.330.094, 43.07.129, 43.46.015, 43.46.030, 43.46.040, and 43.46.085; adding new sections to chapter 43.334 RCW; creating a new section; and recodifying RCW 27.34.010, 27.34.020, 27.34.060, 27.34.070, 27.34.075, 27.34.080, 27.34.200, 27.34.220, 27.34.230, 27.34.240, 27.34.250, 27.34.260, 27.34.270, 27.34.280, 27.34.330, 27.34.350, 27.34.360, 27.34.365, 27.34.370, 27.34.375, 27.34.380, 27.34.390, 27.34.395, 27.34.400, 27.34.410, 27.34.415, 27.34.900, 27.34.906, 27.34.910, 27.34.915, 27.34.916, 43.336.010, 43.336.020, 43.336.030, 43.336.040, 43.336.050, 43.336.060, 43.336.900, 43.07.363, 43.07.365, 43.07.370, 43.07.380, 43.07.129, 43.330.090, 43.330.092, and 43.330.094.

AN ACT Relating to the establishment of board of health rules on fluoridation levels where fluoridation is practiced by public drinking water systems; and amending RCW 43.20.050.

Referred to Committee on Health & Long-Term Care.

Referred to Committee on Government Operations, Tribal Relations & Elections.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SB 5769 by Senators Rockefeller, Pridemore, Kohl-Welles, White, Chase, Murray, Ranker, Regala, Fraser, Shin and Kline

EHB 1091 by Representatives Sells, Reykdal and Kenney

AN ACT Relating to coal-fired electric generation facilities; amending RCW 80.80.040, 80.80.070, 80.50.100, and 43.160.076; reenacting and amending RCW 80.80.010 and 80.80.060; adding new sections to chapter 80.80 RCW; adding a new section to chapter 43.155 RCW; adding a new chapter to Title 80 RCW; creating new sections; repealing RCW 82.08.811 and 82.12.811; providing an effective date; and providing an expiration date.

AN ACT Relating to modifying the unemployment insurance program; amending RCW 50.20.120, 50.29.021, 50.16.030, 50.22.010, 50.22.155, 50.20.099, 50.22.130, 50.22.155, 50.22.140, 50.24.014, 50.04.075, 50.20.130, 50.29.021, 50.22.157, and 50.29.025; adding a new section to chapter 50.20 RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 70.47 RCW; adding a new section to chapter 74.09 RCW; creating new sections; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Labor & Workforce Development.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5758 which was referred to the Committee on Ways & Means and Engrossed House Bill No. 1091 which was placed on the second reading calendar under suspension of the rules.

MOTION

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

Referred to Committee on Environment, Water & Energy.

MOTION

Senator Eide moved adoption of the following resolution:

## SENATE RESOLUTION

8621

By Senators Kohl-Welles, Fraser, Haugen, Kilmer, Harper, Rockefeller, Keiser, Hobbs, Nelson, Stevens, Parlette, Kline, Pridemore, Tom, Ranker, and Eide

WHEREAS, People of all ethnic and cultural heritage live in Washington State, sharing their traditions, histories, and cultures with the citizens of our state; and

WHEREAS, The State of Washington recognizes the great cultural contributions made by the many generations and individuals of Norwegian descent residing in our state, particularly in Ballard; and

WHEREAS, Since 1889, the greater Seattle area and beyond have joined in celebrating Norway's Constitution Day on the 17th of May by hosting a 17th of May, or "Syttende Mai," Festival and parade in Ballard to honor the day in 1814 when Norway declared its independence by signing its constitution; and

WHEREAS, The Ballard May 17th parade is one of the largest ethnic parades in the United States and the largest May 17th parade outside of Oslo, Norway; and

WHEREAS, On the 17th of May the Ballard community will join together to participate in a wide range of cultural festivities and events in celebration of all that is Norwegian;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Norway's Constitution Day, May 17, 2011, and encourage all citizens of Washington State to join in celebrating the culture and heritage of Norway; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Norwegian 17th of May Committee and to the Nordic Heritage Museum.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8621.

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

## MOTION

At 12:06 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, February 11, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 11, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hobbs and Litzow.

The Sergeant at Arms Color Guard consisting of Pages Sian Roche and Bradley Tate, presented the Colors. Senator Regala offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 10, 2011

SB 5152 Prime Sponsor, Senator Pflug: Regarding naturopathic physicians. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5152 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5198 Prime Sponsor, Senator Pridemore: Providing for the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5198 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton and Roach.

Passed to Committee on Rules for second reading.

February 9, 2011

SB 5361 Prime Sponsor, Senator Chase: Concerning the obligations of associate development organizations and the department of commerce. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Ericksen; Kilmer and Shin.

MINORITY recommendation: Do not pass. Signed by Senators Baumgartner and Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5458 Prime Sponsor, Senator Keiser: Concerning medicaid fraud. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5458 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5773 by Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry

AN ACT Relating to making a health savings account option and high deductible health plan available to public employees; and amending RCW 41.05.065.

Referred to Committee on Ways & Means.

SB 5774 by Senator Hargrove

AN ACT Relating to consolidation of Cascadia Community College and Lake Washington Technical College; amending RCW 28B.45.020, 28B.45.0201, and 28B.50.040; creating a new section; repealing RCW 28B.50.1406; and providing an effective date.

Referred to Committee on Higher Education & Workforce Development.

SB 5775 by Senator Chase

AN ACT Relating to providing greater transparency to the health professions disciplinary process; and adding a new section to chapter 18.130 RCW.

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Referred to Committee on Health &amp; Long-Term Care.

Referred to Committee on Natural Resources &amp; Marine Waters.

SB 5776 by Senator Chase

AN ACT Relating to requiring informed consent prior to the administration of any drug when the patient has a known allergy to that drug or that family of drugs; and amending RCW 7.70.050 and 18.130.180.

Referred to Committee on Judiciary.

SB 5784 by Senators Litzow, Ranker, Swecker, Hobbs, Fain, Hill, Pridemore, Nelson, Rockefeller, Regala, Shin and Kline

AN ACT Relating to advancing the regional ocean partnership; adding new sections to chapter 43.143 RCW; and creating a new section.

Referred to Committee on Natural Resources &amp; Marine Waters.

SB 5777 by Senator Chase

AN ACT Relating to protecting water quality; adding new sections to chapter 90.48 RCW; adding a new section to chapter 28A.230 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Environment, Water &amp; Energy.

SB 5785 by Senators Murray, Kohl-Welles, White, Kline, Prentice, Nelson, Brown, McAuliffe and Keiser

AN ACT Relating to reconvening the Alaskan Way viaduct and Seattle Seawall replacement project expert review panel; and adding a new section to chapter 47.01 RCW.

Referred to Committee on Transportation.

SB 5778 by Senators Chase, McAuliffe, Shin and Kline

AN ACT Relating to providing incentives for the collection and recycling of beverage containers; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Environment, Water &amp; Energy.

SB 5786 by Senators Conway, Kastama, Kilmer and Shin

AN ACT Relating to local retail sales and use tax for parks and recreation, trails, and open space allocation; and adding a new section to chapter 82.14 RCW.

Referred to Committee on Natural Resources &amp; Marine Waters.

SB 5779 by Senator Chase

AN ACT Relating to food service products; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Environment, Water &amp; Energy.

SJM 8006 by Senators Stevens, Shin and Delvin

Requesting that Congress approve the United States-Korea Free Trade Agreement.

Referred to Committee on Economic Development, Trade &amp; Innovation.

SB 5780 by Senators Chase and Kline

AN ACT Relating to retail store carryout bags; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Environment, Water &amp; Energy.

## MOTION

SB 5781 by Senator Chase

AN ACT Relating to petroleum-based beverage bottles; adding a new chapter to Title 70 RCW; and prescribing penalties.

Referred to Committee on Environment, Water &amp; Energy.

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

## SIGNED BY THE PRESIDENT

SB 5782 by Senators Sheldon and Shin

AN ACT Relating to cemetery district formation requirements; and amending RCW 68.52.100 and 68.52.170.

Referred to Committee on Government Operations, Tribal Relations &amp; Elections.

The President signed:

SENATE BILL NO. 5135,  
SENATE CONCURRENT RESOLUTION NO. 8400.

## MOTION

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

SB 5783 by Senators Hargrove and Shin

AN ACT Relating to helping to ensure the viability of small forest landowners; amending RCW 76.13.130 and 76.13.120; and creating new sections.

## MOTION

Senator Hatfield moved adoption of the following resolution:

## SENATE RESOLUTION

8618

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By Senators Hatfield, Schoesler, Kastama, Pridemore, Hargrove, Conway, King, Hobbs, Tom, Sheldon, Swecker, Prentice, Ericksen, Delvin, Murray, Holmquist Newbry, Morton, Kohl-Welles, Fraser, Chase, and White

South Beach Bulletin, the Montesano Vidette, the Longview Daily News, the Wahkiakum County Eagle, and the Pacific County Press.

Senator Hatfield spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8618.

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

WHEREAS, The sport of football is a physically challenging, character-building, and team-oriented sport; and

WHEREAS, After 100 years of the program's establishment, the South Bend High School football team has triumphantly won their first-ever state football championship; and

WHEREAS, South Bend's championship trophy commemorates a football program of sportsmanship and excellence for the past century; and

WHEREAS, The South Bend High School football team is composed of dedicated and diligent students who have worked all season to hone their skills; and

WHEREAS, The key to the South Bend High School football team's success was a belief in each other as individuals and in themselves as a team; and

WHEREAS, The South Bend High School football team was united by a commitment on and off the field toward a common goal and never lost sight of their mission; and

WHEREAS, The outstanding student athletes honorably recognized this day are Shaquille Acrey, Levi Bale, Austin Boyes, Terrell Boyes, Kristian Burger, Samuel Diaz, Justin Elliott, Kyle Geiger, Kyle Hillery, Dennis Johnson, Matt Lewis, Zak McDougall, Jordan McGee, Tanner McGovern, Bradley Neumeyer, Dalyn Ogilvie, Marcus Overstake, Thomas Perez, Ignacio Ramirez, Brett Rose, Marq Samplawski, Myron Smith, Eric Stigall, Tra Stigall, and Ryan Vongmixay; and

WHEREAS, The South Bend High School football team was successfully supported to victory by Managers Ben Byington, Shawn Fuller, T.J. Hodgson, A.J. Sanchez, and Drew Rose by their exceptional sustenance care; and

WHEREAS, The South Bend High School football team under the guidance of a dedicated and driven group of Coaches Shane Byington, Mike Matlock, Shawn Friese, and Rich Sanchez were motivated by a common goal and dream; and

WHEREAS, An enduring legacy of strong leadership led the Indians to success and revitalized pride was provided by Head Coach Tom Sanchez, who joins father Bud Sanchez as the first father-son duo to win state football titles since the playoffs were instituted in 1973;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor South Bend High School for their first-ever football championship on the centennial anniversary of the program's inception; and

BE IT FURTHER RESOLVED, That the Washington State Senate honor the outstanding achievement of the South Bend High School football team on their success on the field and in the classroom; and

BE IT FURTHER RESOLVED, That the assistant coaches and managers of the team be applauded for their dedication and expertise in preparing these athletes for their outstanding 2010 season; and

BE IT FURTHER RESOLVED, That the head coach be commended for his prevailing leadership, loyalty, and devotion in leading these athletes to their enduring victory; and

BE IT FURTHER RESOLVED, That the families of these athletes also be commended for their support of their sons as they pursued their dream of a championship season; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, South Bend High School, the Aberdeen Daily World, the Willapa Harbor Herald, the Chinook Observer, the

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the South Bend High School Football players and Coaches who were seated in the gallery.

MOTION

At 10:18 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:35 a.m. by President Owen.

MOTION

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

SECOND READING

ENGROSSED HOUSE BILL NO. 1091, by Representatives Sells, Reykdal and Kenney

Modifying the unemployment insurance program.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 1091 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Ericksen, Senator Litzow was excused.

Senator Holmquist Newbry spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senators Hobbs and Shin were excused.

Senators Kastama and Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1091.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed House Bill No. 1091 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Delvin, Ericksen, Honeyford and Schoesler

Excused: Senators Hobbs, Litzow and Shin

ENGROSSED HOUSE BILL NO. 1091, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

### SECOND READING

SENATE BILL NO. 5061, by Senators Swecker, Haugen, King and Shin

Reconciling changes made to vehicle and vessel registration and title provisions during the 2010 legislative sessions.

The measure was read the second time.

### MOTION

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

On page 132, line 22 strike “Subsections (3) and (4)” and insert “~~((Subsections (3) and (4))~~ Subsection (3)”

On page 133, line 23, after “RCW 79.100.100.” strike all material through “year.” On line 30 and insert the following:

“~~((If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1<sup>st</sup> of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.))~~”

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Senate Bill No. 5061.

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

### MOTION

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

On page 132, line 32, after “Subsection” strike “(6)” and insert “~~((6))~~ (5)”

On page 133, line 5, strike “General fund” and insert “~~((General fund))~~ Subsection (6) of this section”

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 132, line 32 to Senate Bill No. 5061.

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

### MOTION

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

On page 132, line 34, after “RCW 88.02.560(2)” strike “General fund” and insert “~~((General fund))~~ RCW 88.02.650”

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 132, line 34 to Senate Bill No. 5061.

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

### MOTION

On motion of Senator Swecker, the rules were suspended, Engrossed Senate Bill No. 5061 was advanced to third reading, the second reading considered; the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5061.

### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5061 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hobbs, Litzow and Shin

ENGROSSED SENATE BILL NO. 5061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

### MOTION

At 12:02 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

### AFTERNOON SESSION

The Senate was called to order at 1:36 p.m. by President Owen.

### MOTION

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

### MESSAGE FROM THE HOUSE

February 11, 2011

MR. PRESIDENT:

THIRTY THIRD DAY, FEBRUARY 11, 2011

2011 REGULAR SESSION

The Speaker has signed:

SENATE BILL NO. 5135,

SENATE CONCURRENT RESOLUTION NO. 8400.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 11, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 1091.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL NO. 1091.

MOTION

At 1:38 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, February 14, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY SIXTH DAY****NOON SESSION**

Senate Chamber, Olympia, Monday, February 14, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

February 11, 2011

**SB 5056** Prime Sponsor, Senator Kline: Concerning bail and pretrial release practices. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5056 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5092** Prime Sponsor, Senator Keiser: Concerning oversight of licensed or certified long-term care settings for vulnerable adults. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5092 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette; Pflug and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

Passed to Committee on Ways & Means.

February 10, 2011

**SB 5140** Prime Sponsor, Senator Hargrove: Allowing the department of corrections to deport criminal illegal immigrant offenders serving a sentence. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5140 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5164** Prime Sponsor, Senator Schoesler: Concerning the registration of charitable organizations. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5164 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5169** Prime Sponsor, Senator Rockefeller: Encouraging economic development by exempting certain counties from the forest land compensating tax. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5172** Prime Sponsor, Senator Brown: Authorizing the use of short-term, on-site child care for the children of facility employees. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5308** Prime Sponsor, Senator Kilmer: Concerning evaluating military training and experience toward meeting certain professional licensing requirements. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5308 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 10, 2011

**SB 5325** Prime Sponsor, Senator Shin: Concerning trade promotion. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5325 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Erickson and Hatfield.

THIRTY SIXTH DAY, FEBRUARY 14, 2011

2011 REGULAR SESSION

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5386 Prime Sponsor, Senator Pridemore: Creating an organ donation work group. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5386 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5426 Prime Sponsor, Senator Kohl-Welles: Allowing the department of early learning and the department of social and health services to share background check information. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5500 Prime Sponsor, Senator Baumgartner: Concerning the rule-making process for state economic policy. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry and Kilmer.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5508 Prime Sponsor, Senator Parlette: Reauthorizing the joint legislative select committee on health reform implementation. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5508 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5539 Prime Sponsor, Senator Kohl-Welles: Concerning Washington's motion picture competitiveness. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5539 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Ways &amp; Means.

February 10, 2011

SB 5594 Prime Sponsor, Senator Kohl-Welles: Regulating the handling of hazardous drugs. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5594 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 10, 2011

SGA 9003 ROBERT C ANDERSON, appointed on February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 10, 2011

SGA 9068 MIKE D MARAVE, reappointed on February 12, 2010, for the term ending October 1, 2012, as Member of the Small Business Export Finance Assistance Center Board of Directors. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5056 and Senate Bill No. 5169 which were referred to the Committee on Ways & Means.

#### MOTION

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

#### MESSAGE FROM THE SECRETARY OF STATE

February 14, 2011

To the Honorable Tom Hoemann  
Secretary of the Senate  
Legislative Building  
Olympia, WA 98501

Dear Secretary Hoemann:

I, Sam Reed, Secretary of the State of Washington and custodian of the Seal of the State of Washington, do hereby certify that the attached is a true and correct copy of the certificate of appointment of Jeffery H. Baxter for the office of State Senator for the 4<sup>th</sup> Legislative District of the State of Washington, which seat was recently vacated by the resignation of Senator Bob McCaslin.

I further certify that Jeffery H. Baxter has been duly appointed to the office of State Senator from the 4<sup>th</sup> Legislative District of the State of Washington.

IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the State of Washington. Done at the Capitol in Olympia, Washington, this 14<sup>th</sup> day of February, 2011.

SAM REED  
Secretary of State

(Seal)

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF SPOKANE COUNTY, WASHINGTON

No. 11-0138

IN THE MATTER OF FILLING THE VACANCY  
IN THE FOURTH LEGISLATIVE DISTRICT OF  
THE STATE SENATE WITHIN THE STATE OF  
WASHINGTON

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business, and

WHEREAS, pursuant to the provisions of Article II, Section 15 of the Washington State Constitution, when a vacancy occurs in either the House of the Legislature, or in any partisan County elected office, it shall be filled by appointment by the Board of County Commissioners of the County in which the vacancy occurs provided that the vacancy must be from the same legislative district, County, or County Commissioner District and the same political party as the legislator of partisan County elective officer whose office has been vacated, and shall be one of three persons who shall be nominated by the County Central Committee of that party; and

WHEREAS, Bob McCaslin submitted his resignation as State Senator from the 4<sup>th</sup> Legislative District of the State of Washington to the Governor of the State of Washington; and

WHEREAS, pursuant to the provisions of Article II, Section 15 of the Washington State Constitution, the Spokane County Republican Party, through correspondence dated January 18, 2011, submitted a letter to the Board of County Commissioners of Spokane County, containing the names of three persons who were nominated by the Spokane County Republican Party to fill the vacancy created by the resignation of Bob McCaslin,

NOW, THEREFORE, BE IT HERBY RESOLVED by the Board of County Commissioners of Spokane County, pursuant to the provisions of Article II, Section 15 of the Washington State Constitution and the letter submitted to the Board of County Commissioners dated January 18, 2011, from the Spokane County Republican Party, that the Board does hereby appoint:

Jeffery H. Baxter to fill the vacancy created by the resignation of Bob McCaslin as State Senator of the 4<sup>th</sup> Legislative District of the State of Washington to hold such office until his successor is elected at the next General Election.

PASSED AND ADOPTED this 11<sup>th</sup> day of February, 2011,

BOARD OF SPOKANE COMMISSIONERS OF  
SPOKANE COUNTY, WASHINGTON  
AL FRENCH, CHAIR  
TODD MIELKE, VICE CHAIR  
MARK RICHARD, COMMISSIONER

ATTEST:

DANIELA ERICKSON, Clerk of the Board

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 6, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

JUDI OWENS, reappointed January 6, 2011, for the term ending at the governor's pleasure, as Member of the Investment Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

February 14, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

WILLIAM H. CHAPMAN, reappointed February 1, 2011, for the term ending December 31, 2013, as a Chair of the Recreation and Conservation Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

February 14, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

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

PETER M. MAYER, appointed January 13, 2011, for the term ending December 31, 2013, as Member of the Recreation and Conservation Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

THIRTY SIXTH DAY, FEBRUARY 14, 2011

2011 REGULAR SESSION

MOTION

On motion of Senator Rockefeller, all appointees listed on the gubernatorial appointments report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5787 by Senators Becker, Holmquist Newbry, Hill, Stevens, Swecker, Shin and Honeyford

AN ACT Relating to state need grant student merit considerations; and amending RCW 28B.92.060.

Referred to Committee on Higher Education & Workforce Development.

SB 5788 by Senators Conway, Hewitt, Kohl-Welles and King

AN ACT Relating to the omnibus liquor act; amending RCW 66.28.290, 66.24.360, 66.24.371, 66.24.570, 66.24.580, 66.28.040, 66.28.042, 66.28.043, 66.28.155, 66.28.190, 66.24.240, 66.20.010, 66.24.310, 66.24.400, and 66.24.590; reenacting and amending RCW 66.28.310; repealing RCW 66.28.010; providing an effective date; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5789 by Senators Harper, Murray, Shin, McAuliffe, Hatfield, Pridemore, Nelson, Ranker, Conway, Kohl-Welles and Kline

AN ACT Relating to addressing workplace bullying by making it an unfair practice to subject an employee to an abusive work environment; adding a new section to chapter 49.60 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5790 by Senators Hargrove, Stevens, Regala and Shin

AN ACT Relating to crime-related boards and commissions; amending RCW 9.95.003, 9.95.005, 9.95.007, 9.95.140, 9.95.280, 9.95.300, 9.96.050, 71.05.385, 72.09.585, 9.94A.480, 9.94A.863, 13.50.010, 9.94A.74501, 9.94A.855, 9.94A.870, 9.94A.875, 9A.52.025, 10.98.140, 10.98.160, 72.09.350, and 72.66.016; reenacting and amending RCW 9.94A.030, 70.96A.350, and 43.15.020; adding a new section to chapter 43.280 RCW; decodifying RCW 4.24.5502; repealing RCW 13.40.005, 9.94A.850, 9.94A.860, 9.94A.8671, 9.94A.8672, 9.94A.8673, 9.94A.8674, 9.94A.8675, 9.94A.8676, 9.94A.8677, and 9.94A.8678; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 5791 by Senators Hobbs, Fain, King, Haugen and White

AN ACT Relating to commercial activity at certain park and ride lots; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 5792 by Senator Ericksen

AN ACT Relating to authorizing creation of innovation schools and innovation zones in school districts; amending RCW 28A.657.050; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; adding a new section to chapter 28A.150 RCW; adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.165 RCW; adding a new section to chapter 28A.170 RCW; adding a new section to chapter 28A.175 RCW; adding a new section to chapter 28A.180 RCW; adding a new section to chapter 28A.185 RCW; adding a new section to chapter 28A.190 RCW; adding a new section to chapter 28A.193 RCW; adding a new section to chapter 28A.194 RCW; adding a new section to chapter 28A.215 RCW; adding a new section to chapter 28A.220 RCW; adding a new section to chapter 28A.225 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.235 RCW; adding a new section to chapter 28A.245 RCW; adding a new section to chapter 28A.250 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.305 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 28A.325 RCW; adding a new section to chapter 28A.335 RCW; adding a new section to chapter 28A.340 RCW; adding a new section to chapter 28A.345 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.415 RCW; adding a new section to chapter 28A.600 RCW; adding a new section to chapter 28A.605 RCW; adding a new section to chapter 28A.620 RCW; adding a new section to chapter 28A.623 RCW; adding a new section to chapter 28A.625 RCW; adding a new section to chapter 28A.630 RCW; adding a new section to chapter 28A.635 RCW; adding a new section to chapter 28A.650 RCW; adding a new section to chapter 28A.655 RCW; adding a new section to chapter 28A.700 RCW; adding a new chapter to Title 28A RCW; and creating new sections.

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

SB 5793 by Senators Murray, White, Ranker, Kline, Chase, Eide, Kohl-Welles, Brown, Prentice, Nelson, McAuliffe, Keiser, Harper, Regala and Fraser

AN ACT Relating to civil marriage equality, recognizing the right of all citizens of Washington state, including couples of the same gender, to obtain civil marriage licenses; amending RCW 26.04.010 and 26.04.020; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5794 by Senators Kilmer and Schoesler

THIRTY SIXTH DAY, FEBRUARY 14, 2011

AN ACT Relating to the taxation of domestically brewed beer; amending RCW 66.24.290; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5795 by Senators Brown, Kohl-Welles, Conway, Harper, Shin, Ranker, White, Murray, Kastama and Kilmer

AN ACT Relating to funding higher education child care grants; and amending RCW 67.70.190.

Referred to Committee on Ways & Means.

SB 5796 by Senators Haugen, King and Shin

AN ACT Relating to public transportation systems; amending RCW 35.58.2795 and 35.58.2796; adding a new section to chapter 43.19 RCW; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SB 5797 by Senators Fain and Haugen

AN ACT Relating to eliminating the urban arterial trust account; amending RCW 36.70A.340, 46.68.090, 46.68.110, 47.26.084, 47.26.190, 47.26.140, 47.26.423, 47.26.425, 47.26.4252, and 47.26.4254; reenacting and amending RCW 43.84.092; decodifying RCW 46.68.160; and repealing RCW 47.26.080.

Referred to Committee on Transportation.

SB 5798 by Senators Fraser and Benton

AN ACT Relating to homeowners' associations; amending RCW 64.38.005, 64.38.010, 64.38.020, 64.38.025, 64.38.030, 64.38.035, and 64.38.040; and adding new sections to chapter 64.38 RCW.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5799 by Senators King, Honeyford, Delvin, Holmquist Newbry, Becker and Hewitt

AN ACT Relating to criminal street gangs; amending RCW 13.40.127, 9A.46.120, 9A.48.105, 9.94A.829, 9.94A.702, 59.18.075, 26.50.160, and 70.41.440; reenacting and amending RCW 9.94A.030; adding new sections to chapter 43.20A RCW; adding a new chapter to Title 7 RCW; adding a new chapter to Title 10 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SB 5800 by Senators King, Haugen and Shin

AN ACT Relating to authorizing the use of modified off-road motorcycles on public roads; amending RCW 46.09.470; adding a new section to chapter 46.04 RCW; adding a new section to chapter 46.61 RCW; adding a new section to chapter 46.16A RCW; and providing an effective date.

Referred to Committee on Transportation.

SB 5801 by Senators Kohl-Welles, Holmquist Newbry, Conway and Kline

AN ACT Relating to establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system; amending RCW 51.36.010; providing an effective date; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5802 by Senators Ranker, Swecker, Eide, Hargrove, Morton, Fraser, Holmquist Newbry and Honeyford

AN ACT Relating to prosecuting attorney salaries; amending RCW 36.17.020; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### MOTION

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

The President announced the appointment of Senator Baxter to the following committees:

The Committee on Judiciary, to fill an open slot;

The Committee on Human Services and Corrections, replacing Senator Ericksen;

The Committee on Ways & Means, to fill an open slot.

#### MOTION

On motion of Senator Rockefeller, the appointments were confirmed.

#### MOTION

At 12:06 p.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Tuesday, February 15, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY SEVENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, February 15, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

REPORTS OF STANDING COMMITTEES

February 11, 2011

SB 5028 Prime Sponsor, Senator Haugen: Concerning triage facilities. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5028 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell and Harper.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5087 Prime Sponsor, Senator Sheldon: Regarding noxious weed lists. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5087 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Delvin; Becker; Haugen; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 10, 2011

SB 5105 Prime Sponsor, Senator Carrell: Addressing the conditional release of persons committed as criminally insane to their county of origin. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5105 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5137 Prime Sponsor, Senator Pridemore: Authorizing use of hearing officers for street vacation hearings. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5137 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5171 Prime Sponsor, Senator Hobbs: Facilitating voting for service and overseas voters. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5171 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5206 Prime Sponsor, Senator Kohl-Welles: Concerning the installation of residential fire sprinkler systems. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5206 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5211 Prime Sponsor, Senator Haugen: Concerning forest practices applications leading to conversion of land for development purposes. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5211 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5222 Prime Sponsor, Senator Kastama: Increasing the flexibility for industrial development district levies for public port districts. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5222 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Kilmer; Shin and Zarelli.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5272 Prime Sponsor, Senator Fraser: Providing authority to create a community forest trust. Reported by Committee on Natural Resources & Marine Waters

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MAJORITY recommendation: That Substitute Senate Bill No. 5272 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Ways & Means.

February 14, 2011

SB 5306 Prime Sponsor, Senator Chase: Permitting federally recognized Indian tribes to certify counselors as agency affiliated counselors. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5306 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5314 Prime Sponsor, Senator Nelson: Regarding public disclosure of information relating to provision of child care and early learning services. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5314 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5322 Prime Sponsor, Senator Kastama: Creating a commission to restructure state government. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Nelson and Roach.

Passed to Committee on Economic Development, Trade & Innovation.

February 14, 2011

SB 5332 Prime Sponsor, Senator Rockefeller: Requiring the state to retrocede civil jurisdiction over Indians and Indian territory, reservations, country, and lands. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5332 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5340 Prime Sponsor, Senator Keiser: Concerning the criteria for the review of certificate of need applications. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5388 Prime Sponsor, Senator Parlette: Limiting liability for making certain land and water areas available for recreational use under a hydroelectric license. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5394 Prime Sponsor, Senator Keiser: Concerning primary care health homes and chronic care management. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5394 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell; Parlette and Pflug.

Passed to Committee on Ways & Means.

February 14, 2011

SB 5413 Prime Sponsor, Senator Kilmer: Allowing a majority of landowners to petition the county legislative authority to vacate and abandon the frontage of a county road. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5417 Prime Sponsor, Senator Becker: Allowing for the distribution of legislators' contact cards, newsletters, government guides, or similar printed materials produced with legislative resources in certain circumstances. Reported by Committee on Government Operations, Tribal Relations & Elections

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MAJORITY recommendation: That Substitute Senate Bill No. 5417 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Nelson and Roach.

providers. Reported by Committee on Human Services & Corrections

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell and Harper.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5436 Prime Sponsor, Senator Ranker: Reducing copper in antifouling paints used on recreational water vessels. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5436 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5631 Prime Sponsor, Senator Swecker: Concerning miscellaneous provisions regulated by the department of agriculture. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Delvin; Becker; Haugen; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5438 Prime Sponsor, Senator Morton: Concerning the sale of timber from lands managed by the department of fish and wildlife. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5438 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5715 Prime Sponsor, Senator Kohl-Welles: Requiring adoption of core competencies for early care and education professionals. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5715 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hobbs; King; Nelson and Rockefeller.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5538 Prime Sponsor, Senator White: Concerning members of certain nonprofit conservation corps programs. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5538 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5748 Prime Sponsor, Senator Rockefeller: Regarding cottage food operations. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5748 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Delvin; Becker; Haugen; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5222 which was referred to the Committee on Ways & Means.

MOTION

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

MESSAGE FROM THE HOUSE

February 14, 2011

February 14, 2011

SB 5614 Prime Sponsor, Senator White: Establishing procedures for requesting the funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements with the University of Washington under chapter 41.80 RCW. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5614 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 11, 2011

SB 5625 Prime Sponsor, Senator Harper: Authorizing implementation of a nonexpiring license for early learning

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1015,  
SUBSTITUTE HOUSE BILL NO. 1019,

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HOUSE BILL NO. 1176,  
 HOUSE BILL NO. 1182,  
 HOUSE BILL NO. 1190,  
 HOUSE BILL NO. 1221,  
 HOUSE BILL NO. 1225,  
 HOUSE BILL NO. 1229,  
 HOUSE BILL NO. 1274,  
 HOUSE BILL NO. 1293,  
 SUBSTITUTE HOUSE BILL NO. 1304,  
 HOUSE BILL NO. 1306,  
 HOUSE BILL NO. 1345,  
 HOUSE BILL NO. 1358,  
 HOUSE BILL NO. 1424,  
 HOUSE BILL NO. 1454,  
 HOUSE BILL NO. 1486,  
 SUBSTITUTE HOUSE BILL NO. 1571,  
 HOUSE JOINT MEMORIAL NO. 4004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

February 14, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1488.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### INTRODUCTION AND FIRST READING

SB 5803 by Senator Morton

AN ACT Relating to the allowance of point-of-entry and point-of-use treatment in public water systems in certain circumstances; adding a new section to chapter 70.119A RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5804 by Senators White, Nelson, Tom and Murray

AN ACT Relating to the right to control the disposition of human remains; and amending RCW 68.50.160.

Referred to Committee on Judiciary.

SB 5805 by Senator Honeyford

AN ACT Relating to natural resources enforcement on state lands; amending RCW 77.15.075, 77.08.010, 43.12.065, 10.93.020, and 79A.05.160; and reenacting and amending RCW 79A.05.030.

Referred to Committee on Natural Resources & Marine Waters.

SB 5806 by Senators Conway, Swecker, Kastama, Hobbs, Roach, Kilmer, Shin and Kline

AN ACT Relating to a veteran lottery raffle; amending RCW 67.70.240; adding a new section to chapter 67.70 RCW; and creating a new section.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5807 by Senators Nelson, Conway, Murray, Kline, Keiser, Brown, Fraser, Shin, Kohl-Welles and McAuliffe

AN ACT Relating to language access provider services; amending RCW 74.04.025; and adding a new section to chapter 74.09 RCW.

Referred to Committee on Human Services & Corrections.

SB 5808 by Senators Kastama and McAuliffe

AN ACT Relating to the innovative industries for economic development; and adding a new chapter to Title 43 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1015 by Representatives Bailey, Cody, Hinkle, Appleton, Seaquist, Roberts, Kagi, Jinkins, Johnson, Warnick, Orcutt, Moeller, Pedersen, Billig, Ladenburg and Van De Wege

AN ACT Relating to exemption from immunization; and amending RCW 28A.210.090.

Referred to Committee on Health & Long-Term Care.

SHB 1019 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Roberts, Walsh, Kagi, Green, Darneille, Hasegawa, Goodman, Hurst, Ladenburg, Appleton and Dickerson)

AN ACT Relating to constraining the department of corrections' authority to transfer offenders out of state; and amending RCW 72.68.010.

Referred to Committee on Human Services & Corrections.

HB 1176 by Representatives Green, Harris, Cody, Hinkle, Appleton, Roberts, Kenney and Kagi

AN ACT Relating to providing licensed midwives online access to health care resources through the University of Washington health sciences library; and amending RCW 43.70.110.

Referred to Committee on Higher Education & Workforce Development.

HB 1182 by Representatives Goodman, Ross, Kirby, Johnson, Hope, Hurst, Kelley, Maxwell, Frockt, Klippert, Lias, Miloscia, Moscoso, Pearson, Billig, Warnick and Ladenburg

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AN ACT Relating to the unit of prosecution for tampering with or intimidating a witness; amending RCW 9A.72.110 and 9A.72.120; and creating a new section.

Referred to Committee on Judiciary.

HB 1190 by Representatives Hinkle, Kelley, Van De Wege, Lias and Stanford

AN ACT Relating to billing for anatomic pathology services; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

HB 1221 by Representatives Finn, Rodne, Eddy, Shea, Klippert and Kelley

AN ACT Relating to rights of higher education students involved in military service; and amending RCW 28B.10.270.

Referred to Committee on Higher Education & Workforce Development.

HB 1225 by Representatives Angel, Takko, Warnick, Van De Wege and Fitzgibbon

AN ACT Relating to clarification of the method of calculating public port district commissioner compensation; and amending RCW 53.12.260.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1229 by Representatives Moscoso, Armstrong and Kenney

AN ACT Relating to the certification of commercial driver's license holders and applicants; amending RCW 46.25.010; reenacting and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW; and providing an effective date.

Referred to Committee on Transportation.

HB 1274 by Representatives Smith, Lytton, Morris, Bailey, Kristiansen and Pearson

AN ACT Relating to the population restrictions for a geographic area to qualify as a rural public hospital district; and amending RCW 70.44.460.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1293 by Representative Miloscia

AN ACT Relating to the public disclosure of information relating to child care and early learning services; and amending RCW 42.56.230.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1304 by House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Harris, Green, Cody, Van De Wege, Kelley, Schmick, Bailey, Clibborn, Moeller, Hinkle and Reykdal)

AN ACT Relating to administration of drugs by health care assistants; amending RCW 18.135.130; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 1306 by Representatives Lytton, Bailey, Dahlquist, Billig, Clibborn, Armstrong, McCune, Blake, Lias, Takko, Chandler, Johnson, Frockt, Fitzgibbon and Smith

AN ACT Relating to removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements; amending RCW 46.25.060; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

HB 1345 by Representatives Rivers, Pedersen and Rodne

AN ACT Relating to the uniform unsworn foreign declarations act; and adding a new chapter to Title 5 RCW.

Referred to Committee on Judiciary.

HB 1358 by Representatives Klippert, Lias and Sells

AN ACT Relating to combination of vehicles; and amending RCW 46.44.037.

Referred to Committee on Transportation.

HB 1424 by Representatives Jacks, Haler and Upthegrove

AN ACT Relating to administrative consistency between conditional scholarship and loan repayment student financial aid programs; amending RCW 28B.115.020, 28B.115.120, and 28B.102.060; reenacting and amending RCW 28B.115.110; and repealing RCW 28B.115.060.

Referred to Committee on Higher Education & Workforce Development.

HB 1454 by Representatives Van De Wege, Hinkle, Green, Jinkins, Cody, Takko, Hurst, Lias, Hope, Stanford and Overstreet

AN ACT Relating to testing for bloodborne pathogens; amending RCW 70.24.340; and reenacting and amending RCW 70.24.105.

Referred to Committee on Health & Long-Term Care.

HB 1486 by Representatives Green, Jinkins, Cody, Hinkle, Moeller, Bailey, Schmick, Clibborn, Kelley and Condotta

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AN ACT Relating to authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states; and amending RCW 69.50.101.

Referred to Committee on Health & Long-Term Care.

HB 1488 by Representatives Jinkins, Schmick, Cody, Hinkle, Moeller and Roberts

AN ACT Relating to updating the authority of the state board of health; amending RCW 43.20.050, 59.20.190, 70.01.010, and 70.05.150; and repealing RCW 43.20.110, 43.20.140, and 43.20.200.

Referred to Committee on Health & Long-Term Care.

SHB 1571 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, McCoy, Crouse, Frockt, Kelley, Short, Jacks, Fitzgibbon and Billig)

AN ACT Relating to electric vehicle battery charging facilities; amending RCW 80.04.010; and adding a new section to chapter 80.28 RCW.

Referred to Committee on Environment, Water & Energy.

HJM 4004 by Representatives Short, Blake, Bailey, Hunt, Crouse, Nealey, Haler, Rodne, McCune, Buys, Asay, Klippert, Warnick, Shea, Kelley, Johnson, Seaquist, Taylor, Roberts, Haigh, Ross, Ahern, Upthegrove, Smith and Kristiansen

Requesting the designation of an "Honor and Remember Flag" as an official symbol to recognize Armed Forces members who have died in the line of duty.

Referred to Committee on Government Operations, Tribal Relations & Elections.

MOTION

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

MOTION

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

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8622

By Senators McAuliffe, Fain, Chase, Tom, Harper, Nelson, Hill, Rockefeller, and Hobbs

WHEREAS, Civic education is the foundation for an educated citizenry and a representative democracy; and

WHEREAS, In order to adequately prepare our state's youth for meaningful participation in our democratic institutions and

processes, it is important to have strong educational resources aimed at teaching students and the public about the fragile nature of our Constitution; and

WHEREAS, Civic education is part of the fabric of our country and for all students in our public schools; and

WHEREAS, Civic education is a vital tool to promote greater understanding of the role of legislators in a representative democracy and the legislative process; and

WHEREAS, By gathering educators in the state capitol, we recognize the value of civic education in Washington State; and

WHEREAS, By so doing, a forum is established for civic educators across the state to collaborate with legislators and other supporters; and

WHEREAS, Many organizations such as the Legislative Youth Advisory Council, We the People Foundation, Washington Media Association, Washington State Council of Social Studies, 4-H, YMCA Youth & Government, Washington State Bar Association, Office of the Secretary of State, Washington State Historical Society, Legislative Scholars Program, and Service Learning of Washington are dedicated to making civic education a priority for Washington State and its citizens; and

WHEREAS, The contributions of committed teachers, principals, community leaders, parents, state employees, and volunteers contribute to the goals of these laudable organizations to create an engaged citizenry; and

WHEREAS, The Washington State Senate recognizes Kristina Wilkinson of Maple Valley, Washington; Don Smith of Cashmere, Washington; and Gretchen Wulfing of Lacey, Washington as Washington State Legislature's Civic Educators of the Year for 2011; and

WHEREAS, On February 23, 2011, the Washington State Senate honors civic education;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognizes the responsibility of civic educators across the state to serve and inform all Washingtonians and honor civic educators across the state; and

BE IT FURTHER RESOLVED, That the Washington State Senate honors, thanks, and celebrates the civic educators of the state.

Senators McAuliffe and Rockefeller spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8622.

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

MOTION

At 12:07 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Wednesday, February 16, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY EIGHTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, February 16, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hill, Holmquist Newbry and Zarelli.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 15, 2011

SB 5021 Prime Sponsor, Senator Pridemore: Enhancing election campaign disclosure requirements to promote greater transparency for the public. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5021 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5194 Prime Sponsor, Senator White: Limiting the use of fertilizer containing phosphorus. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5194 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Honeyford and Morton.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5221 Prime Sponsor, Senator Swecker: Establishing the intrastate building safety mutual aid system. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5221 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5248 Prime Sponsor, Senator Hobbs: Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Prentice, Vice Chair and Benton.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5265 Prime Sponsor, Senator Swecker: Authorizing multijurisdiction flood control zones. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5281 Prime Sponsor, Senator Hobbs: Addressing public utility districts and deferred compensation and supplemental savings plans. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5294 Prime Sponsor, Senator Swecker: Regarding hours of availability of special purpose districts for inspection and copying of public records. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5294 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton and Chase.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5350 Prime Sponsor, Senator Honeyford: Concerning the unlawful dumping or depositing of solid waste. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5350 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5360 Prime Sponsor, Senator Swecker: Delaying or modifying certain regulatory and statutory requirements affecting cities and counties. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5360 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase and Nelson.

Passed to Committee on Natural Resources & Marine Waters.

February 15, 2011

SB 5420 Prime Sponsor, Senator Hobbs: Establishing the intrastate mutual aid system. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5420 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton and Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5468 Prime Sponsor, Senator Pridemore: Creating the office of forecast councils. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Roach.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5485 Prime Sponsor, Senator Hargrove: Maximizing the use of our state's natural resources. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5485 be substituted therefor, and the substitute bill do

pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser; Morton and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Delvin.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5509 Prime Sponsor, Senator Kline: Mitigating carbon dioxide emissions resulting from fossil-fueled electrical generation. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5509 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5555 Prime Sponsor, Senator Parlette: Concerning interbasin transfers of water rights. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5555 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser; Morton and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Delvin and Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5635 Prime Sponsor, Senator Honeyford: Concerning changes in the point of a diversion under a surface water right permit. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5635 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

THIRTY EIGHTH DAY, FEBRUARY 16, 2011

2011 REGULAR SESSION

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

## INTRODUCTION AND FIRST READING

SB 5809 by Senator Rockefeller

AN ACT Relating to prohibiting the use of tradable evidence of nonpower attributes as a declared resource for electric utility fuel mix disclosures; and amending RCW 19.29A.010.

Referred to Committee on Environment, Water & Energy.

SB 5810 by Senators Kline, Keiser, Conway and Kohl-Welles

AN ACT Relating to residential mortgage loan servicers; and amending RCW 31.04.015 and 31.04.290.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5811 by Senator Morton

AN ACT Relating to the allowance of point-of-entry and point-of-use treatment in public water systems in certain circumstances; adding a new section to chapter 70.119A RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SB 5812 by Senators Chase and Prentice

AN ACT Relating to studying Washington's fiscal resources, structure, and needs; creating new sections; and providing an expiration date.

Referred to Committee on Ways & Means.

SB 5813 by Senators Kohl-Welles, Hargrove, Regala and Shin

AN ACT Relating to increasing fee assessments for prostitution crimes; and amending RCW 9A.88.120.

Referred to Committee on Human Services & Corrections.

SB 5814 by Senators Fraser, Honeyford, Shin, Swecker, Haugen and King

AN ACT Relating to extending current use valuation to the residential property of small farms that is integral to the use of classified land for agricultural purposes; amending RCW 84.34.020; and creating new sections.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5815 by Senator Fraser

AN ACT Relating to rates and charges established by local boards of health to finance on-site sewage programs; and adding a new section to chapter 70.05 RCW.

Referred to Committee on Environment, Water & Energy.

SB 5816 by Senators Chase, Kohl-Welles, Rockefeller, Nelson, Keiser, Kline, Conway, Prentice and Fraser

AN ACT Relating to terminating certain tax preferences to provide funding for maintaining basic health program enrollment; amending RCW 82.04.4292, 82.48.010, 82.48.020, 82.48.030, 82.48.070, 82.48.080, 82.48.110, 47.68.230, 82.48.090, 82.12.020, and 82.12.035; reenacting and amending RCW 82.04.050 and 82.12.010; adding a new section to chapter 82.48 RCW; adding a new section to chapter 82.04 RCW; creating a new section; repealing RCW 82.08.811 and 82.12.811; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5817 by Senator Prentice

AN ACT Relating to extending the expiration of the agency council on coordinated transportation; and amending RCW 47.06B.900 and 47.06B.901.

Referred to Committee on Transportation.

SB 5818 by Senator Litzow

AN ACT Relating to mandating certain long-term care facilities to report incidents of death caused by health care-associated infections; adding a new section to chapter 18.20 RCW; adding a new section to chapter 18.51 RCW; and adding a new section to chapter 70.128 RCW.

Referred to Committee on Health & Long-Term Care.

SB 5819 by Senator Litzow

AN ACT Relating to guardian and limited guardian duties; amending RCW 11.92.043; and providing an effective date.

Referred to Committee on Judiciary.

SJM 8007 by Senators Kline, Conway and Kohl-Welles

Requesting Congress to amend the United States Constitution that provides corporations are not persons under the laws of the United States or any of its jurisdictional subdivisions.

Referred to Committee on Judiciary.

## MOTION

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

## MOTION

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

The Senate was called to order at 11:07 a.m. by President Owen.

## MOTION

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

## MESSAGE FROM THE HOUSE

February 16, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086 and asks the Senate to for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Alexander, Hunter, Sullivan and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 1086 and the Senate amendment(s) thereto.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 1086 and the House amendment(s) there to: Senators Murray, Zarelli and Hobbs.

## MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

## MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Brown moved that Gubernatorial Appointment No. 9139, Chris Marr, as a member of the Liquor Control Board, be confirmed.

Senators Brown and Baumgartner spoke in favor of passage of the motion.

## MOTION

On motion of Senator Ericksen, Senators Hill and Holmquist Newbry were excused.

## APPOINTMENT OF CHRIS MARR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9139, Chris Marr as a member of the Liquor Control Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9139, Chris Marr as a member of

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the Liquor Control Board and the appointment was confirmed by the following vote: Yeas, 43; Nays, 3; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Benton, Honeyford and Ranker

Absent: Senator Zarelli

Excused: Senators Hill and Holmquist Newbry

Gubernatorial Appointment No. 9139, Chris Marr, having received the constitutional majority was declared confirmed as a member of the Liquor Control Board.

## JOINT SESSION

The Sergeant at Arms announced the arrival of the House. The President requested that the Sergeant at Arms of the Senate and the Sergeant at Arms of the House escort Speaker Pro Tempore Jim Moeller to his seat on the Rostrum. The Representatives were invited to seats within the Chamber.

The President called the joint session to order. The Secretary called the roll of the members of the Senate and House and announced a quorum was present.

The President introduced the statewide elected officials: the Honorable Christine Gregoire, Governor; The Honorable Barbara Madsen, Chief Justice of the Supreme Court; The Honorable Mary Fairhurst, of Justice of the Supreme Court.

The Washington State Patrol Honor Guard presented the colors.

Sergeant Tim Coley of the Washington State Patrol performed the National Anthem.

## REMARKS BY THE PRESIDENT

President Owen: "Members of the Legislature and distinguished guests. The purpose of this joint session is to conduct a memorial service in memory of departed former members of the legislature and to honor their service. This has been our longstanding custom.

For more than a century the Senate and House have met as we do today to pay special and fitting tribute to the lives and service of these valued public servants and to express our sympathies to their families and friends. One hundred years ago on this occasion, a speaker noted that the legislators who now occupy the place of those who have passed gathered to pay tribute to their memory and express gratitude for the worth of their character and their fortitude in framing this greatest state of the northwest.

A century later, that remains the purpose of our joint session today.

On behalf of the Senate and the House of Representatives, I would like to extend a warm welcome to the family members, friends and colleagues of those we remember and honor today."

The President called upon the Speaker Pro Tempore Moeller to preside over the Joint Session.

Reverend Jimmie James, Greater Things Ministries of Kent offered the Invocation: "Today we are here to remember those that have served our state of Washington in the humbled yet noble positions of senators and representatives in these legislative

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bodies. We share in the loss and grief of their passing, but rejoice in the courage and strength of their servant hood leadership to make Washington state a better place to live, not just for the few, but for all.

I believe if they were here today, witnessing the economic burden the legislature is challenged with today, they might quote the psalmist David saying, ‘God is our refuge and strength, an ever-present help in trouble.

therefore we will not fear, though the earth give way and the mountains fall into the heart of the sea,

though its waters roar and foam and the mountains quake with their surging. There is a river whose streams make glad the city of God, the holy place where the Most High dwells. God is within her, she will not fall;

God will help her at break of day nations are in uproar, kingdoms fall; He lifts His voice, the earth melts. The Lord Almighty is with us:’

A legislative member’s most fundamental responsibility is to protect citizens from the errant conduct of their neighbors, help preserve order—allowing people to live peaceful lives, and insuring that ‘justice runs down like water and righteousness like a mighty stream.’ We thank God for all those who have served the people of Washington in this capacity.

We must never forget our gift of freedom and those who gave all to make sure future generations continue to know life in a free, democratic society. It is not a mistake that we are following the steps of those we honor today. We should meditate on the meaning of the words of prophet Jeremiah; that God says. ‘for I know the plans I have for you,’ declares the Lord, ‘plans to prosper you and not to harm you. Plans to give you hope and a future.’

So, in the spirit of that hope, in the spirit of that future, in the spirit of the legacy left to us by those we remember today; Let us pray.

O awesome and excellent God, remembering those who have passed is only half of the task that is before us today. We must also carry their love, honor and duty forward to the future generations that will pass. Our children must know who they were, what they did and why they did it. To do anything less, will be a disservice to their sacrifice and their memories. Though sadly missed, they are lovingly remembered; though absent in body, their spirit of justice, righteousness love, peace and joy rings throughout these hallowed halls of government.

May their legacy be implanted in our hearts to move us to think the right things and do the right things; to encourage us and strengthen us; to walk by faith and not by sight. That you God, are with us always, guiding us and leading us—always.

Thanks be to God. Amen”

Sergeant Tim Coley of the Washington State Patrol performed “Ave Maria.”

REMARKS BY THE SPEAKER

Mr. Speaker (Representative Moeller presiding): “We gather today to pay tribute to the contributions of the distinguished former members of the Washington State Senate and House of Representatives who have passed from among us. The people of our state are grateful for their service.

The Sixty-second Legislature conveys its respect for these deceased legislators. They once sat in these chambers, answered roll calls on critical bills, attended committee meetings, and sought always to make our state a better place to live. While their journey in this life is complete, their achievements, public record,

and valued service are recorded in the journals of the Senate and House, and are forever a permanent part of our state’s history.

We express our sympathies to their families, friends and colleagues of these public servants. We also share with them on this memorable occasion the fond and happy memories of these legislators. They leave a legacy of dedicated service that remains always in our hearts, our memories and the history of our state.”

Speaker Pro Tempore Moeller and the President called the roll of the deceased former members of the Senate and the House of Representatives. The deceased former members were memorialized by the senators and representatives assisted by candle lighters: Miss Emily Grubbs, Senate Page and Mr. Zach Barker, House Page.

| <u>Member</u>              | <u>District and Years served</u>  |
|----------------------------|---|
| John Bagnariol             | 11 <sup>th</sup> & 35 <sup>th</sup> District<br>House 1967-81<br>Memorialized by Senator Prentice                   |
| Arthur C. Brown            | 1 <sup>st</sup> District<br>House 1969-76<br>Memorialized by Representative Hunt                                    |
| Keith H. Campbell          | 5 <sup>th</sup> District<br>House 1957-65<br>Memorialized by Representative Orsnby                                  |
| Charles W. “Bill” Fromhold | 49 <sup>th</sup> District<br>House 2001-09<br>Memorialized by Senators Conway, Pridemore and Representative Moeller |
| Audrey Gruger              | 1 <sup>st</sup> District<br>House 1976-82<br>Senate 1957-69<br>Memorialized by Senator McAuliffe                    |
| Harold Bruce “Jerry” Hanna | 12 <sup>th</sup> District<br>House 1955-57<br>Memorialized by Senator Parlette                                      |
| Wanda H. Hansen            | 13 <sup>th</sup> District<br>Senate 1992<br>Memorialized by Representative Warnick                                  |
| Jeannette S. Hayner        | 16 <sup>th</sup> District<br>House 1973-77<br>Senate 1977-93<br>Memorialized by Senator Hewitt                      |
| Gordon C. Herr             | 31 <sup>st</sup> District<br>House 1963-64<br>Senate 1964-79<br>Memorialized by Representative Dammeier             |
| Raymond E. “Bud” Isaacson  | 8 <sup>th</sup> District<br>House 1979-87<br>Memorialized by Representative Haler                                   |
| Arthur R. Paulsen          | 28 <sup>th</sup> District<br>House 1947-53  |

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Memorialized by Representative Kelley

John A. "Jack" Petrich

26<sup>th</sup> District

House 1957-59

Senate 1959-67

Memorialized by Senator Regala

Richard R. "Dick" Schoon

30<sup>th</sup> District

House 1983-91

Memorialized by Senator Eide

William E. "Bill" Young

43<sup>rd</sup> District

House 1963-65

Memorialized by Representative Pedersen

Rabbi Seth Goldstein Temple Beth Hatfiloh Olympia offered the Memorial Prayer: Rabbi Seth Goldstein of Temple Beth Hatfiloh of Olympia offered the Memorial Prayer: "The late, Jewish-Israeli poet Yehuda Amichai wrote, 'When a man dies, they say of him, 'He was gathered unto his ancestors. As long as he is alive, his ancestors are gathered within him, each and every cell of his body and soul is an emissary of one of his countless ancestors from the beginning of all the generations.' We gather here today to remember our ancestors, our legislative ancestors, our previous generations of public servants, our fore bearers of civic leadership. We recall the lives of these distinguished men and women and we mourn their passing. They led lives of dignity and dedication, generosity and sacrifice. Their loss weighs heavily upon us as individuals and upon this institution, as well it should. And as we remember them, we too recall that they continue to live within us. We are their emissaries, as the poet says. Their spirit continues to animate our lives. It is our prayer that we be worthy of that sacred task. May we bring honor to those that have passed on through our words and deeds. May those who serve this state continue to follow the guiding light lit by those who came before us. And may we all learn by their example.

Source of all life, we pray that those we remember here today will continue to be a source of inspiration for us all. May their commitment to service continue to guide us. May the work of their hands endure. Our days are limited, as we know. The psalmist writes, [A quote in Hebrew from the Psalms]: 'We are like a breath, our days like a fleeting shadow.' Yet we also learn, [A quote in Hebrew from the Psalms]: 'Teach us to treasure our days that we may attain a heart of wisdom.' Through the gift of memory and the power of love, we too can attain wisdom so that our short span on this earth will be one of meaning and import as was of those who we remember here this day. [A recitation in Hebrew.] God, full of mercy, may the souls of those legislators who have passed on be bound up in the bond of eternal life, may they find peace and rest in Your presence, eternal comfort in Your embrace. We remember their lives. We remember their legacies. May their memories be for a blessing always. [A recitation in Hebrew.] Amen."

The Olympia High School Chamber Choir under the direction of Mr. Don Schwartz performed "Set me as a Seal"

Father Peter Mactutis of St. Francis Cabrini Catholic Church, of Lakewood offered the Closing Prayer: "As we pray I would like to utter a sincere word of gratitude to all those here who carry a very special, a great responsibility and, at times, a great burden for our communities. So, for you, we offer, a prayer of gratitude. To loved ones here of those whom are remembered today, also a

word of gratitude to you for sharing your loved ones with us and our communities. Let us pray.

Lord Jesus Christ. You have entrusted to us many possibilities and at times burdens. Sometimes too heavy to bear, but you tell us. You instruct us as leaders to be peace makers and yet at times we can't even find peace in our own hearts. You tell us clearly to hunger and thirst for righteousness and justice. At times we are attempted to quit and abandon it all because of the overwhelming challenges before us. But we know that You have never given up on us and will never. And so we spend this moment in prayer and gratitude because those whom remembered today never gave up either. May You help us to never forget the sacrifice and good example of these individuals so that we too will never give up. For, in the end, we long to hear Your voice whisper into our ears the same words you promised to these faithful departed 'Well done, good and faithful servant. Enter the kingdom prepared for you from the foundation of the world.' I would ask those of you here present who wish to join me in praying the prayer that our Lord taught us and is most appropriate in times like these:

'Our Father who art in heaven, hallowed be thy name, thy kingdom come, Thy will be done on earth as it is heaven

Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation but deliver us from evil for Thine is the kingdom, the power and the glory now and forever. Amen."

Speaker Pro Tempore Moeller returned the gavel to President Owen.

#### REMARKS BY THE PRESIDENT

President Owen: "Thank you to the members who participated by memorializing the deceased member.

Our special thanks to our participating clergy, the Washington State Patrol and the Olympia High School Choir. The President hopes that the loved ones of those we honor today will draw comfort from today's observance."

#### MOTION

On motion of Senator Eide, the Joint Session was dissolved.

The President asked the Sergeant at Arms of the Senate and Sergeant at Arms of the House to escort Speaker Pro Tempore Jim Moeller, and the members of the Washington State House of Representatives from the Senate Chamber.

#### PERSONAL PRIVILEGE

Senator Eide: "Thank you Mr. President. Well, I know today when I came to my desk I had a couple of cookies and I wanted to make sure that I thank the good President and the good wife of the President, your beautiful wife Linda for the cookies this year for Valentine's Day."

#### MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, February 17, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRTY NINTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, February 17, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 14, 2011

SB 5038 Prime Sponsor, Senator Haugen: Concerning vehicle and vessel quick title. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5038 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5068 Prime Sponsor, Senator Conway: Addressing the abatement of violations of the Washington industrial safety and health act during an appeal. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5068 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5079 Prime Sponsor, Senator Conway: Modifying consumer protection act provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5079 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles; Regala and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Carrell.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5142 Prime Sponsor, Senator Stevens: Regarding alternative learning programs. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5142 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5186 Prime Sponsor, Senator Kastama: Prohibiting skiing in areas closed to skiing. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5186 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Regala, Vice Chair; Morton and Stevens.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5253 Prime Sponsor, Senator White: Concerning landscape conservation and local infrastructure. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5253 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Benton; Chase and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5261 Prime Sponsor, Senator Hobbs: Developing training for manufactured housing community managers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5261 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

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SB 5266 Prime Sponsor, Senator Swecker: Improving the permitting process at certain natural resources agencies. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5266 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5275 Prime Sponsor, Senator Kline: Addressing homeowner foreclosures. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5275 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5283 Prime Sponsor, Senator Hobbs: Providing cost-saving measures and allocation of vouchers for low-income housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5283 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain and Litzow.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5292 Prime Sponsor, Senator Honeyford: Exempting irrigation and drainage ditches from the definition of critical areas. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5292 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5310 Prime Sponsor, Senator Kline: Concerning false claims against the government. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5310 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles; Regala and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5355 Prime Sponsor, Senator Morton: Regarding notice requirements for special meetings of public agencies. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5355 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5356 Prime Sponsor, Senator Morton: Establishing seasons for hunting cougars with the aid of dogs. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5356 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Morton; Hargrove; Stevens and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Regala, Vice Chair.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5373 Prime Sponsor, Senator Chase: Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5373 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5387 Prime Sponsor, Senator Hobbs: Addressing the regulation of self-insurance programs by the state risk manager. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5387 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Haugen and Litzow.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fain.

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Passed to Committee on Rules for second reading.

February 14, 2011

SB 5407 Prime Sponsor, Senator Haugen: Concerning the issuance of drivers' licenses, drivers' instruction permits, juvenile agricultural driving permits, and identicards. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5407 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; King; Fain; Eide; Hill; Hobbs; Litzow; Sheldon; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators White, Vice Chair; Nelson; Prentice and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Delvin.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5427 Prime Sponsor, Senator McAuliffe: Regarding an assessment of students in state-funded full-day kindergarten classrooms. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5427 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

February 14, 2011

SB 5430 Prime Sponsor, Senator McAuliffe: Modifying state route number 527. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5432 Prime Sponsor, Senator Regala: Reducing pollution from wood stoves. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5432 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5448 Prime Sponsor, Senator Schoesler: Conforming certain manufactured/mobile home dispute resolution program definitions with certain manufactured/mobile home landlord-tenant act definitions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5448 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5475 Prime Sponsor, Senator Murray: Regarding education funding. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5475 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Eide; Hobbs; Nelson; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Litzow; Fain and King.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5488 Prime Sponsor, Senator Hatfield: Facilitating integration of behavioral health care and primary care. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5493 Prime Sponsor, Senator Delvin: Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5493 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5547 Prime Sponsor, Senator Prentice: Removing the cap on the maximum number of small loans a borrower may have in a twelve-month period. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Vice Chair; Benton; Fain and Litzow.

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MINORITY recommendation: Do not pass. Signed by Senators Hobbs, Chair and Haugen.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Keiser.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5550 Prime Sponsor, Senator Regala: Concerning the annual rent rate for marinas. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5550 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fraser and Stevens.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5561 Prime Sponsor, Senator Swecker: Designating the state rock. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridmore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5574 Prime Sponsor, Senator Harper: Concerning collection agencies. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5574 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Regala and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5578 Prime Sponsor, Senator White: Modifying the frequency of meetings of the motorcycle safety education advisory board. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5578 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Erickson; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5579 Prime Sponsor, Senator Kline: Modifying harassment provisions. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5579 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair;

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Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 14, 2011

SB 5585 Prime Sponsor, Senator Carrell: Concerning street rod and custom vehicles. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5585 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Erickson; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5590 Prime Sponsor, Senator Benton: Concerning lien holder requirements for certain foreclosure sales. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5590 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Litzow.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5600 Prime Sponsor, Senator Nelson: Placing restrictions on, and enforcing the restrictions on, making small loans. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5600 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Haugen and Keiser.

MINORITY recommendation: Do not pass. Signed by Senators Fain and Litzow.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5607 Prime Sponsor, Senator Hobbs: Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5607 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

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SB 5616 Prime Sponsor, Senator Tom: Creating the launch year program. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5616 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5617 Prime Sponsor, Senator Hobbs: Making certain lines of group disability insurance more available. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5620 Prime Sponsor, Senator Becker: Requiring the certification of dental anesthesia assistants. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5620 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Pflug.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5639 Prime Sponsor, Senator McAuliffe: Creating a student-focused state-level education governance system. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5639 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Hobbs; King; Nelson; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fain.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5685 Prime Sponsor, Senator Swecker: Specifying penalties for public records violations. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5685 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Chase and Nelson.

Passed to Committee on Rules for second reading.

February 16, 2011  
SB 5696 Prime Sponsor, Senator Prentice: Clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5730 Prime Sponsor, Senator Rockefeller: Authorizing mileage-based automobile insurance. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5730 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Haugen and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain and Litzow.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5798 Prime Sponsor, Senator Fraser: Concerning homeowners' associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5798 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Haugen and Keiser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain and Litzow.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 16, 2011

SGA 9007 CHRISTOPHER P BARRY, appointed on February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9029 KIM A EKKER, appointed on March 2, 2010, for the term ending January 19, 2014, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

THIRTY NINTH DAY, FEBRUARY 17, 2011

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: That said appointment not be confirmed. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9041 GARY HARRIS, reappointed on February 10, 2009, for the term ending January 19, 2013, as Member of the Board of Pharmacy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: That said appointment not be confirmed. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9128 AMANDA ZELLER, appointed on October 22, 2010, for the term ending June 30, 2011, as Member of the Board of Trustees, Eastern Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9132 ROBERT (BOB) A ROEGNER, appointed on January 3, 2011, for the term ending September 30, 2015, as Member of the Board of Trustees, Community College District No. 9 (Highline Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9133 LINDA S COWAN, appointed on January 3, 2011, for the term ending September 30, 2014, as Member of the Board of Trustees, Community College District No. 10 (Green River Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

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February 16, 2011

SGA 9135 DENNY HECK, appointed on January 3, 2011, for the term ending September 30, 2016, as Member of the Board of Trustees, The Evergreen State College. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9138 LOUIS A MENDOZA, appointed on January 3, 2011, for the term ending September 30, 2011, as Member of the Board of Trustees, Community College District No. 30 (Cascadia Community College). Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SGA 9141 RICHARD J THOMPSON, appointed on November 9, 2010, for the term ending September 30, 2015, as Member of the Board of Trustees, Western Washington University. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5730 which was referred to the Committee on Rules.

## MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 16, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ALFRED HALLOWELL, reappointed February 3, 2011, for the term ending January 17, 2017, as Member of the Horse Racing Commission.

Sincerely,

THIRTY NINTH DAY, FEBRUARY 17, 2011

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CHRISTINE O. GREGOIRE, Governor

SB 5823

by Senators Regala and Kline

Referred to Committee on Labor, Commerce & Consumer Protection.

AN ACT Relating to the disposition and collection of court income; amending RCW 3.62.020, 12.40.020, and 36.18.018; reenacting and amending RCW 3.62.060 and 36.18.020; providing an effective date; and declaring an emergency.

July 6, 2010

Referred to Committee on Judiciary.

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

SB 5824

by Senator Pridemore

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

FRANCES J. YOUN, appointed July 1, 2010, for the term ending June 30, 2011, as Member, Board of Regents, University of Washington.

AN ACT Relating to market share in electronic waste; amending RCW 70.95N.020, 70.95N.040, 70.95N.050, 70.95N.140, 70.95N.160, 70.95N.180, 70.95N.190, 70.95N.200, 70.95N.220, 70.95N.270, 70.95N.290, and 70.95N.300; and repealing RCW 70.95N.100 and 70.95N.110.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

Referred to Committee on Environment, Water & Energy.

MOTION

On motion of Senator Rockefeller, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

SB 5825

by Senators Kilmer and Parlette

AN ACT Relating to grant and loan programs; amending RCW 43.330.005, 79A.15.070, 79A.15.130, 43.63A.125, 43.63A.135, 43.63A.750, and 27.34.330; and reenacting and amending RCW 79A.15.060 and 79A.15.120.

MOTION

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

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING

SB 5820

by Senator Tom

AN ACT Relating to naming the state bird; and amending RCW 1.20.040.

SB 5826

by Senators Kohl-Welles, Kline, Chase, Nelson, White, Keiser and Prentice

AN ACT Relating to the screening of prospective tenants; amending RCW 59.18.257; reenacting and amending RCW 59.18.030; adding a new section to chapter 59.18 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5821

by Senator Regala

AN ACT Relating to public and private partnership in addressing adverse childhood experiences; amending RCW 70.190.040, 43.121.100, 43.215.146, 43.215.147, 13.40.462, 43.70.555, and 74.14A.060; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 70 RCW; recodifying RCW 70.190.040; repealing RCW 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.910, 70.190.005, 70.190.010, 70.190.020, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.920, and 74.14C.050; and providing effective dates.

SB 5827

by Senator Ericksen

AN ACT Relating to endorsements to the spirits, beer, and wine private club license for nonclub, member-sponsored events using club liquor; and amending RCW 66.24.450.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5822

by Senator Hobbs

AN ACT Relating to the state route number 9 Snohomish river bridge project; adding a new section to chapter 47.01 RCW; creating a new section; and making an appropriation.

SB 5828

by Senators Benton, Baxter, Morton, Swecker and Carrell

AN ACT Relating to preventing illegal immigrants from qualifying as resident students for purposes of in-state tuition and financial aid; and amending RCW 28B.15.012.

Referred to Committee on Transportation.

Referred to Committee on Higher Education & Workforce Development.

MOTION

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

MOTION

At 12:04 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Friday, February 18, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Friday, February 18, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Eide and McAuliffe.

The Sergeant at Arms Color Guard consisting of Pages Braydon Anderson and Kyra Bruce, presented the Colors. Pastor Tim Heffer of Hidden Creek Community Church offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 16, 2011

SB 5071 Prime Sponsor, Senator Murray: Providing licensed midwives online access to the University of Washington health services library. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5071 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5136 Prime Sponsor, Senator Kastama: Establishing the first nonprofit online university. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5136 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama and Kilmer.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator White.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5182 Prime Sponsor, Senator White: Establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5182 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner; Becker and Ericksen.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5217 Prime Sponsor, Senator Shin: Allowing appointment of student members on the boards of trustees of community colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5217 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Baumgartner; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Ericksen.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5225 Prime Sponsor, Senator Murray: Regulating soil science and wetland science professions. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pflug; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner; Baxter and Hewitt.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5228 Prime Sponsor, Senator Rockefeller: Regarding the siting of small alternative energy resource facilities. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5228 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5244 Prime Sponsor, Senator Fraser: Addressing law enforcement crime prevention efforts regarding security alarm systems and crime watch programs for residential and commercial locations. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5244 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5268 Prime Sponsor, Senator Pridemore: Enacting the college efficiency and savings act. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Ericksen; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner and Becker.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5315 Prime Sponsor, Senator Becker: Regarding the provision of doctorate programs at the research university branch campuses in Washington. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5318 Prime Sponsor, Senator Eide: Addressing the office of regulatory assistance. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5318 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer; Shin and Zarelli.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5322 Prime Sponsor, Senator Kastama: Creating a commission to restructure state government. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Ericksen; Holmquist Newbry and Zarelli.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5324 Prime Sponsor, Senator Shin: Extending the Washington customized employment training program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hill; Baumgartner; Becker and Ericksen.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5342 Prime Sponsor, Senator Haugen: Concerning the standard of evidence for appeals of valuation of property for purposes of taxation. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5342 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5343 Prime Sponsor, Senator Haugen: Concerning air emissions from anaerobic digesters. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5343 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5348 Prime Sponsor, Senator Nelson: Concerning the taxation of prepaid wireless telecommunications service. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5348 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Ways & Means.

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SB 5433 Prime Sponsor, Senator Fraser: Modifying certain provisions of the manufactured/mobile home landlord-tenant act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5462 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

MAJORITY recommendation: That Substitute Senate Bill No. 5433 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5439 Prime Sponsor, Senator Ranker: Concerning oil spills. Reported by Committee on Natural Resources & Marine Waters

SB 5463 Prime Sponsor, Senator Kilmer: Requiring the college board to establish minimum standards for common student identifiers. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

MAJORITY recommendation: That Substitute Senate Bill No. 5439 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

February 16, 2011

Passed to Committee on Rules for second reading.

SB 5483 Prime Sponsor, Senator Shin: Regarding administrative consistency in student financial aid programs. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5442 Prime Sponsor, Senator Shin: Requiring the development of accelerated baccalaureate programs at state colleges and universities. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5442 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Ericksen; Kastama; Kilmer and White.

SB 5484 Prime Sponsor, Senator Shin: Concerning the higher education coordinating board's responsibilities with regard to health sciences and services authorities. Reported by Committee on Higher Education & Workforce Development

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Becker.

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5459 Prime Sponsor, Senator Kline: Regarding transition services for people with developmental disabilities. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5459 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette; Pflug and Pridemore.

SB 5487 Prime Sponsor, Senator Schoesler: Establishing a certification program for commercial egg laying chicken operations. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5487 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 15, 2011

SB 5462 Prime Sponsor, Senator Kilmer: Requiring the college board to act as a clearinghouse for state and federal financial aid. Reported by Committee on Higher Education & Workforce Development

SB 5491 Prime Sponsor, Senator Nelson: Limiting the authority of boundary review boards. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

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MINORITY recommendation: Do not pass. Signed by Senator Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5499 Prime Sponsor, Senator Chase: Concerning utility donations to hunger programs. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5499 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Chase; Fraser; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5516 Prime Sponsor, Senator Tom: Allowing advance payments for equipment maintenance services for institutions of higher education. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5517 Prime Sponsor, Senator Tom: Exempting institutions of higher education that do not use archives and records management services from payment for those services. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5519 Prime Sponsor, Senator Tom: Changing public contracting authority. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5519 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hill; Baumgartner; Becker and Ericksen.

Passed to Committee on Ways & Means.

SB 5521 Prime Sponsor, Senator Tom: Regarding commercialization of state university technology. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5524 Prime Sponsor, Senator White: Creating an exemption from impact fees for low-income housing. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Conway; Fraser; Hatfield; Hewitt; Keiser; Kohl-Welles; Pflug; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner and Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5525 Prime Sponsor, Senator Kilmer: Addressing hospital benefit zones that have already formed. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Benton.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5537 Prime Sponsor, Senator White: Regarding time restrictions on soliciting or accepting campaign contributions. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5537 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Swecker; Benton and Roach.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5553 Prime Sponsor, Senator Roach: Requiring public agencies, special purpose districts, and municipalities to

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post certain information on their web sites. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5553 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5569 Prime Sponsor, Senator Honeyford: Addressing postretirement employment at institutions of higher education. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Ericksen; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Becker.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5595 Prime Sponsor, Senator Parlette: Concerning distribution of the public utility district privilege tax. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5595 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5610 Prime Sponsor, Senator Conway: Creating the board on geographic names. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5610 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5618 Prime Sponsor, Senator Chase: Limiting private activity bond issues by out-of-state issuers. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That Substitute Senate Bill No. 5618 be substituted therefor, and the substitute bill do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Haugen and Keiser.

MINORITY recommendation: Do not pass. Signed by Senators Benton and Fain.

Passed to Committee on Rules for second reading.

February 17, 2011  
SB 5622 Prime Sponsor, Senator Ranker: Concerning recreation access on state lands. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5622 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5633 Prime Sponsor, Senator Pridemore: Exempting agricultural fair premiums from the unclaimed property act. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 16, 2011

SB 5647 Prime Sponsor, Senator Fraser: Modifying the Columbia river basin management program. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5661 Prime Sponsor, Senator Nelson: Regarding derelict fishing gear. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5671 Prime Sponsor, Senator Ericksen: Modifying hospital and emergency service personnel reporting requirements to local enforcement. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5671 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

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SB 5674 Prime Sponsor, Senator Eide: Creating the aerospace training student loan program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5676 Prime Sponsor, Senator Kastama: Concerning projects of statewide significance for economic development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5676 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer; Shin and Zarelli.

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

February 15, 2011

SB 5683 Prime Sponsor, Senator Morton: Authorizing a city utility infrastructure sales and use tax. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Pridemore, Chair; Swecker; Chase and Nelson.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5687 Prime Sponsor, Senator Harper: Creating a division of Indian education in the office of the superintendent of public instruction. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5687 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; Nelson and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senator King.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5705 Prime Sponsor, Senator Kilmer: Concerning community redevelopment financing in apportionment districts. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5705 be substituted therefor, and the substitute bill do

pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield; Kilmer and Shin.

MINORITY recommendation: Do not pass. Signed by Senator Zarelli.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5713 Prime Sponsor, Senator Haugen: Implementing recommendations of the Ruckelshaus Center process. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5713 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Ways & Means.

February 16, 2011

SB 5717 Prime Sponsor, Senator Tom: Implementing the higher education funding task force recommendations. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5717 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Ericksen; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hill; Baumgartner and Becker.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5731 Prime Sponsor, Senator Chase: Concerning Washington manufacturing services. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer; Shin and Zarelli.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5732 Prime Sponsor, Senator Chase: Exempting certain manufacturing research and development activities from business and occupation taxation. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5732 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Holmquist Newbry; Kilmer and Shin.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hatfield and Zarelli.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5735 Prime Sponsor, Senator Chase: Encouraging economic development by removing the expiration date from the research and development spending business and occupation tax credit. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5741 Prime Sponsor, Senator Kastama: Concerning the economic development commission. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5741 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Ericksen and Hatfield.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5807 Prime Sponsor, Senator Nelson: Concerning language access provider services for certain medicare patients and public assistance applicants and recipients. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter and Harper.

Passed to Committee on Ways & Means.

February 17, 2011

SJR 8213 Prime Sponsor, Senator Kilmer: Providing for community redevelopment financing in apportionment districts. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Joint Resolution No. 8213 be substituted therefor, and the substitute joint resolution do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES

February 17, 2011

SGA 9074 PATRICK MCELLIGOT, reappointed on January 1, 2010, for the term ending December 31, 2012, as Member of the Investment Board. Reported by Committee on Ways & Means

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

February 17, 2011

SGA 9137 GEORGE MASTEN, reappointed on January 1, 2011, for the term ending December 31, 2013, as Member of the Investment Board. Reported by Committee on Ways & Means

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5136, Senate Bill No. 5342, Senate Bill No. 5462, Senate Bill No. 5517, Senate Bill No. 5705, Senate Bill No. 5732, Senate Bill No. 5735, Senate Bill No. 5741 and Senate Joint Resolution No. 8213 which were referred to the Committee on Ways & Means and Senate Bill No. 5687 which was referred to the Committee on Rules.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5829 by Senator McAuliffe

AN ACT Relating to providing school districts with temporary flexibility in implementing compensation adjustments made in the omnibus appropriations act; amending RCW 28A.305.140, 28A.400.200, and 41.35.010; reenacting and amending RCW 41.32.010 and 41.40.010; adding a new section to chapter 28A.400 RCW; creating a new section; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5830 by Senators Delvin, Eide, Schoesler, Benton, Morton, Zarelli, Ranker, Ericksen, Swecker, Honeyford and Murray

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AN ACT Relating to increasing access to state government through accessible parking; adding a new section to chapter 46.61 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5831 by Senators Chase and Kohl-Welles

AN ACT Relating to incorporating state tax expenditures into the state budget process; amending RCW 43.06.400 and 43.88.030; and adding a new section to chapter 43.88 RCW.

Referred to Committee on Ways & Means.

SB 5832 by Senators Chase and Roach

AN ACT Relating to information included in the voters' pamphlet; adding a new section to chapter 29A.32 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5833 by Senator Fraser

AN ACT Relating to employment of members of the public employees' retirement system plan 1 by labor guilds, associations, or organizations; and amending RCW 41.40.023.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5834 by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain and Eide

AN ACT Relating to permitting counties to direct an existing portion of local lodging taxes to programs for arts and heritage; and amending RCW 67.28.180.

Referred to Committee on Ways & Means.

SJM 8008 by Senators Brown, Hewitt, Kohl-Welles, Holmquist Newbry, Conway, Parlette, Fraser, Kilmer, White and Hatfield

Requesting that the United States Department of Labor provide Washington with unemployment tax relief equal to any benefit provided to other states.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### MOTION

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

#### MOTION

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced officials of the National Assembly of the Republic of South Korea who were seated in the gallery: Mr. Jinwoong Choi; Mr. Chan II Hwang; Mr. Junghan Kim; Mr. Min Chul Kim and Mr. Seong Hwan Mun.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed The Honorable Michael Robert Polley, Speaker and Deputy Clerk Peter Bennison of the House of Assembly, Tasmania, Australia who were seated on the rostrum.

#### MOTION

Senator Schoesler moved adoption of the following resolution:

#### SENATE RESOLUTION 8616

By Senators Schoesler and Brown

WHEREAS, On the evening of January 7, 2011, the Eastern Washington University Eagles and the University of Delaware Fightin' Blue Hens met for the NCAA Division I football championship game; and

WHEREAS, Eastern Washington University qualified for the playoffs after winning a share of the 2010 Big Sky Conference football title, going 7-1 in conference play and finishing the regular season with a 9-2 record and the number-one ranking in all of NCAA Division I football; and

WHEREAS, Upon entering the playoffs, Coach Beau Baldwin's squad proceeded to host and defeat Southeast Missouri State, North Dakota State, and Villanova universities, despite losing All-American running back Taiwan Jones in the second playoff game; and

WHEREAS, The Eagles left Cheney for the championship game in Frisco, Texas, having achieved a perfect 8-0 record in their first year at the new home of Eagle football, Roos Field, known as "The Inferno" for its red turf; and

WHEREAS, The Eagles trailed Delaware 19-0 late in the third quarter of the FCS championship, having gone scoreless in the first half for the first time all season, and knowing the Blue Hens were 6-0 in 2010 when their top-rated defense kept opponents off the board in the first half; and

WHEREAS, Late-game heroics had already produced six wins for Eastern during the season, and that flair for comebacks displayed itself again as the Eagles caught fire, scoring three touchdowns in just 14 minutes to take a fourth-quarter lead over Delaware and ultimately triumph in their first national championship game by a 20-to-19 score; and

WHEREAS, Senior linebacker J.C. Sherritt, winner of the 2010 Buck Buchanan Award as national defensive player of the year, set the Eastern career record for tackles at 432 and broke his own single season record with 176, counting his 18 tackles against the Blue Hens, who were held scoreless in their final four possessions; and

WHEREAS, Junior quarterback Bo Levi Mitchell, who passed for the three second-half touchdowns against Delaware and set an Eastern record with 37 touchdown passes on the season, was selected as the game's Most Outstanding Player; and

WHEREAS, The game-winning touchdown pass with less than three minutes to go was caught by sophomore wide receiver Brandon Kaufman, who finished with 120 yards receiving and two touchdowns; and

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WHEREAS, Sophomore Jeff Minnerly, who holds a 3.91 grade-point average in accounting while playing safety on a team with an overall grade-point average is 3.06, received the NCAA's "Elite 88" honor for being the student-athlete with the highest GPA at the national championship game; and

WHEREAS, The Eagles' victory made January 7, 2011, the most exciting day in the history of Eastern Washington University athletics; and

WHEREAS, It was the fifth time Eastern has reached the playoffs in seven years, and the second consecutive playoff appearance by the Eagles in Beau Baldwin's three years as football coach; and

WHEREAS, 67 of the 89 players on the 2010 Eastern roster are Washingtonians, and 16 of the 22 Eastern players who started in the national championship game are eligible to return next year;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate congratulate Eastern Washington University, led by president Dr. Rodolfo Arévalo, and its national championship football team and honor the student-athletes and their coaches for this historic accomplishment.

Senators Schoesler, Rockefeller and Baumgartner spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8616.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Eastern Washington University Football Team; Eagle's Coach Beau Baldwin; players, JC Sherritt, Matt Martin, Nikolai Myers, Bo Levi Mitchell, Renard Williams and Brandon Kaufman; Dr Rodolfo Arevalo, EWU President and Mrs. Nadine Arevalo; David Buri, EWU Director of Government Relations; Bill Chaves, EWU Director of Athletics; Marc Hughes, EWU Associate Athletic Director; Dr. Anthony Flinn, EWU Facility Representative; and Alex Clardy, EWU Student Representative who were seated in the gallery.

The business of the Senate was suspended to allow Speaker Polley to address the senate.

REMARKS BY MICHAEL ROBERT POLLEY

Michael Robert Polley: "Thank you very much for this opportunity, Lieutenant Governor as Chairman of the Senate. First of all I'd like to also recognize the South Korean delegation, of course. Coming from the same region that I come from and also it's rather unique to have an Australian, South Koreans and Americans together as we're all allies, supporters and friends of each other. It's great to be in the great state of Washington. It reminds me of home. Coming from Tasmania, of course, which is the most southern state. The weather patterns to be similar to ours so I've had the last four days here. I must say the people of this state are extremely friendly and very, very helpful. I look forward the rest of the discussions I will have during my visit here. I also would like to congratulate and, without being controversial, I believe I get uniform supported in saying that the legislature here doesn't have limited terms and as I've served thirty-nine years in my own support state legislature, I do commend the Supreme Court of your state for striking that down because I think you must have a continuity of ongoing service to have that memory and experience to serve your state in the best possible way. I conclude by saying God Bless Washington, God Bless the United

States of America and may we go on being allies into the future. Thank you very much."

PERSONAL PRIVILEGE

Senator Rockefeller: "Mr. President, I've noticed that there are still a few stray Valentine's Day cookies here and I'm not sure that we took the opportunity to thank you and your lovely wife Linda, for your annual gift of wonderful cookies. They're so delectable I just wonder if it's ok for us to eat them at this time?"

REMARKS BY THE PRESIDENT

President Owen: "As you may be aware there are two times that the President does slip on occasion and forgets the rules and decorum. One is when Linda offers cookies to you. I would be foolish to go home without allowing you to eat them. The second is if the Girl Scouts are selling their cookies in the Capitol. The President will allow cookies on occasions to be eaten at that time. This is one of those occasions, please enjoy."

PERSONAL PRIVILEGE

Senator Delvin: "Well, I wanted to thank all the members that showed up at the Tri Cities reception last night. I know you all had a good time. Especially I wanted to thank you Mr. President, for providing the entertainment with the music, with your band. You guys did a great job. You allowed some of our Tri Citians to sing with you and they really appreciated that. I think a good time was had by all and I just really appreciate the effort you put into that too, Mr. President."

REMARKS BY THE PRESIDENT

President Owen: "Well, thank you very much. It allows the President revert to his high school days."

PERSONAL PRIVILEGE

Senator Kline: "I'd like to remind the members there are two rules, one of them rather controversial, that apply to Valentine's Day cookies that are left on other members' desks. First, is the rule of eminent domain. Now I understand this is controversial with some members and in order to avoid controversy I'd be more than happy to use the alternate theory of adverse possession. The adverse possession goes back hundreds of years and it states that you can claim property if close to yours and looks good. So, with that I want to thank you for your indulgence. By the way, thank you and your wife for these cookies in the first place."

REMARKS BY THE PRESIDENT

President Owen: "And you actually made it through law school? Interesting."

MOTION

At 10:24 a.m., on motion of Senator Rockefeller, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:10 a.m. by President Owen.

MOTION

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

REPORT OF THE CONFERENCE COMMITTEE  
Engrossed Substitute House Bill No. 1086  
February 17, 2011

MR. PRESIDENT:  
MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 1086, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"PART I  
GENERAL GOVERNMENT**

**Sec. 101.** 2010 1st sp.s. c 37 s 103 (uncodified) is amended to read as follows:

|  |                          |
|--|--------------------------|
| FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE |                          |
| General Fund--State Appropriation (FY 2010) .....    | \$2,874,000              |
| General Fund--State Appropriation (FY 2011) .....    | <del>(\$3,152,000)</del> |
| .....  | <u>\$2,954,000</u>       |
| TOTAL APPROPRIATION .....                            | <del>(\$6,026,000)</del> |
| .....  | <u>\$5,828,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2009-11 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the effect of risk management practices on tort payouts. This review shall include an analysis of the state's laws, policies, procedures, and practices as they relate to the conduct of post-incident reviews and the impact of such reviews on the state's conduct and liability.

(3) ((Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance costs.

(4)) Within the amounts appropriated in this section, the committee shall prepare an evaluation of the implementation of legislation designed to improve communication, collaboration, and expedited medicaid attainment with regard to persons released from confinement who have mental health or chemical dependency disorders. The review shall evaluate the implementation of: (a) Chapter 166, Laws of 2004 (E2SSB 6358); (b) sections 507 and 508 of chapter 504, Laws of 2005 (E2SSB 5763); (c) sections 12 and 13 of chapter 503, Laws of 2005 (E2SHB 1290); and (d) section 8 of chapter 359, Laws of 2007 (2SHB 1088). The departments of corrections and social and health services, the administrative office of the courts, institutions for mental disease, city and county jails, city and county courts, county clerks, and mental health and chemical dependency treatment providers shall provide the committee with information necessary for the study.

~~((5))~~ (4) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a review of the state's recreational boating programs. This review shall include examination of the following:

- (a) Revenue sources for state recreational boating programs;
- (b) Expenditures for state boating programs;
- (c) Methods of administrating state recreational boating programs, including the roles of both state and local government entities; and
- (d) Approaches other states have taken to funding and administering their recreational boating programs.

The committee shall complete the review by October 31, 2010.

~~((6))~~ (5) Within the amount appropriated in this section, the joint legislative audit and review committee shall examine the operations of employment and day services as provided by the department of social and health services, division of developmental disabilities and administered by the counties. The examination shall include a thorough review of the contracts for all services including, but not limited to, employment services, day services, child development services and other uses of state dollars for county administration of services to the developmentally disabled. In its final report, due to the legislature by September 1, 2010, the joint legislative audit and review committee shall provide: A description of how funds are used and the rates paid to vendors, and a recommendation on best practices the agency may use for the development of a consistent, outcome-based contract for services provided under contract with the counties.

~~((7))~~ (6) Within the amount appropriated in this section, the joint legislative audit and review committee shall conduct a study of the relationship between the cost of school districts and their enrollment size. The study shall be completed by June 2010 and shall include:

(a) An analysis of how categories of costs vary related to size, including but not limited to facility costs, transportation costs, educational costs, and administrative costs;

(b) A review of other factors that may impact costs, such as revenues available from local levies and other sources, geographic dispersion, demographics, level of services received from educational service districts, and whether districts operate a high school;

(c) Case studies on the change in cost patterns occurring after school district consolidations and for school districts operating under state oversight condition specified in RCW 28A.505.110; and

(d) A review of available research on nonfinancial benefits and impacts associated with school and school district size.

~~((8))~~ (7) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided for the committee to contract with a consultant specializing in medicaid programs nationwide to review Washington state's medicaid program and report on cost containment strategies for the 2011-13 biennial budget. The report is due to the fiscal committees of the legislature by June 1, 2011.

~~((9))~~ (8) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the joint legislative audit and review committee to complete a report that includes the following: (a) An analysis of the availability within eastern Washington of helicopters that are privately owned or owned by nonstate governmental entities that are sufficiently outfitted to participate in wildfire suppression efforts of the department of natural resources; (b) a comparison of the costs to the department of natural resources for maintaining the existing helicopter fleet versus entering into exclusive use contracts with the helicopters noted in (a) of this subsection; and (c) an analysis that compares the use and funding of helicopters utilized for wildfire suppression in the states of California, Oregon, Idaho, and Montana. The committee shall submit the report to the appropriate fiscal committees of the

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legislature and the office of financial management no later than December 1, 2010.

~~((40))~~ (9)(a) The task force for reform of executive and legislative procedures dealing with tax preferences is hereby established. The task force must:

(i) Review current executive and legislative budget and policy practices and procedures associated with the recommendation, development, and consideration of tax preferences, assess the effectiveness of budgeting requirements and practices, the general rigor of justifications and evaluations typically provided during legislative consideration of tax preferences, and the role and value of methodologies currently used to measure the public benefits and costs, including opportunity costs, of tax preferences, as defined in RCW 43.136.021.

(ii) Consider but not be limited to, the factors listed in RCW 43.136.055.

(b) The task force may make recommendations to improve the effectiveness of the review process conducted by the citizen commission on performance measurement of tax preferences process as described in chapter 43.136 RCW. The task force may also recommend changes or improvements in the manner in which both the executive branch and legislative branch of state government address tax preferences generally, including those in effect as well as those that may be hereafter proposed, in order to protect the public interest and assure transparency, fairness, and equity in the state tax code.

(c) The task force may recommend structural or procedural changes that it feels will enhance both executive and legislative procedures and ensure consistent and rigorous examination of such preferences.

(d) The task force must report its recommendations to the governor and legislative fiscal committees by November 15, 2010.

(e) The task force has eleven voting members as follows:

(i) One member is the state treasurer;

(ii) One member is the chair of the joint legislative audit and review committee;

(iii) One member is the director of financial management;

(iv) A member, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus; and

(v) An appointee who is not a legislator, four in all, of each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives, appointed by the chair of each caucus.

(f) Persons appointed by the caucus chairs under (e)(v) of this subsection should be individuals who have a basic understanding of state tax policy, government operations, and public services.

(g) The task force must elect a chair from among its members. Decisions of the task force must be made using the sufficient consensus model. For the purposes of this subsection, "sufficient consensus" means the point at which the substantial majority of the commission favors taking a particular action. The chair may determine when a vote must be taken. The task force must allow a minority report to be included with a decision of the task force if requested by a member of the task force.

(h) The joint legislative audit and review committee must provide clerical, technical, and management personnel to the task force to serve as the task force's staff. The staff of the legislative fiscal committees, legislative counsel, and the office of financial management must also provide technical assistance to the task force. The department of revenue must provide necessary support and information to the joint task force.

(i) The task force must meet at least once a quarter and may hold additional meetings at the call of the chair or by a majority vote of the members of the task force. The members of the task force must

be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 102.** 2010 2nd sp.s. c 1 s 104 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE STATE ACTUARY

General Fund--State Appropriation (FY 2010) .....\$200,000

General Fund--State Appropriation (FY 2011) .....\$19,000

Department of Retirement Systems Expense

Account--State Appropriation.....\$3,305,000

TOTAL APPROPRIATION .....\$3,524,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000 of the department of retirement systems--state appropriation is provided solely for the continued study of local government liabilities for postretirement medical benefits for members of plan 1 of the law enforcement officers' and firefighters' retirement system.

(2) \$51,000 of the department of retirement systems expense account--state appropriation is provided solely for the state actuary to contract with the Washington state institute for public policy for a study of the disability benefits provided to the plan 2 and plan 3 members of the public employees' retirement system, the teachers' retirement system, and the school employees' retirement system. Among the options the institute shall examine include statutory changes to the retirement systems and insurance products. The institute shall report its findings and recommendations to the select committee on pension policy by November 1, 2009.

(3) \$30,000 of the department of retirement systems expense account--state appropriation is provided solely for the state actuary to contract with the Washington state institute for public policy to continue the study of long-term disability benefits for public employees as authorized by subsection (2) of this section during the 2010 legislative interim. The purpose of the study is to develop the options identified in the 2009 legislative interim disability benefit study, including options related to the public employees' benefits board programs, other long-term disability insurance programs, and public employee retirement system benefits. The institute shall report no later than November 17, 2010, new findings and any additional recommendations on the options to the select committee on pension policy, the senate committee on ways and means, and the house committee on ways and means. The Washington state institute for public policy shall work with the health care authority to coordinate analysis and recommendations with its contracted disability vendor and appropriate stakeholders.

(4) \$175,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the office of the state actuary to conduct an independent assessment of alternatives for assuring the long-term financial solvency of the guaranteed education tuition program including suspension of the program. In conducting this review, the office may contract for assistance, and shall consult with the higher education coordinating board, the operating budget committees of the legislature, the office of financial management, and the state's public colleges and universities. The office shall report findings, an assessment of the major alternatives, and suggested actions to the governor and to the relevant legislative committees by November 15, 2009.

(5) Following the report required in subsection (4) of this section, and for the remainder of the 2009-2011 biennium, the office of the state actuary shall provide actuarial assistance to the committee on advanced tuition payments pursuant to chapter 28B.95 RCW. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

**Sec. 103.** 2010 1st sp.s. c 37 s 106 (uncodified) is amended to read as follows:

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FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,652,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$8,506,000)</del>  |
| .....   | <u>\$7,971,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$17,158,000)</del> |
| .....   | <u>\$16,623,000</u>       |

**Sec. 104.** 2010 1st sp.s. c 37 s 107 (uncodified) is amended to read as follows:

FOR THE STATUTE LAW COMMITTEE

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,611,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$4,864,000)</del> |
| .....   | <u>\$4,558,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$9,475,000)</del> |
| .....   | <u>\$9,169,000</u>       |

**Sec. 105.** 2010 2nd sp.s. c 1 s 105 (uncodified) is amended to read as follows:

FOR THE REDISTRICTING COMMISSION

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$992,000)</del> |
| .....   | <u>\$1,045,000</u>     |

The appropriations in this section are subject to the following conditions and limitations: ~~(\$505,000)~~ \$473,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the support of legislative redistricting efforts. Prior to the appointment of the redistricting commission, the secretary of the senate and chief clerk of the house of representatives may jointly authorize the expenditure of these funds to facilitate preparations for the 2012 redistricting effort. Following the appointment of the commission, the house of representatives and senate shall enter into an interagency agreement with the commission authorizing the continued expenditure of these funds for legislative redistricting support.

**Sec. 106.** 2010 2nd sp.s. c 1 s 109 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....                 | \$52,644,000               |
| General Fund--State Appropriation (FY 2011) .....                 | <del>(\$49,760,000)</del>  |
| .....   | <u>\$49,260,000</u>        |
| General Fund--Federal Appropriation .....                         | \$979,000                  |
| Judicial Information Systems Account--State<br>Appropriation..... | \$33,406,000               |
| Judicial Stabilization Trust Account--State<br>Appropriation..... | \$6,598,000                |
| TOTAL APPROPRIATION .....   | <del>(\$143,387,000)</del> |
| .....   | <u>\$142,887,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,800,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$1,687,000)~~ \$1,387,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030. Absences from school occurring in the months of May and June 2011 do not count towards the number of absences allowed under RCW 28A.225.030. Reductions in appropriations in this section reflect reduced workload associated with filing petitions generated through absences occurring in May and June.

(2)(a) \$8,252,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$7,734,000)~~ \$7,534,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$5,700,000 of the judicial information systems account--state appropriation is provided solely for modernization and integration of the judicial information system.

(a) Of this amount, \$1,700,000 is for the development of a comprehensive enterprise-level information technology strategy and detailed business and operational plans in support of that strategy, and \$4,000,000 is to continue to modernize and integrate current systems and enhance case management functionality on an incremental basis.

(b) The amount provided in this subsection may not be expended without prior approval by the judicial information system committee. The administrator shall regularly submit project plan updates for approval to the judicial information system committee.

(c) The judicial information system committee shall review project progress on a regular basis and may require quality assurance plans. The judicial information systems committee shall provide a report to the appropriate committees of the legislature no later than November 1, 2011, on the status of the judicial information system modernization and integration, and the consistency of the project with the state's architecture, infrastructure and statewide enterprise view of service delivery.

(d) \$100,000 of the judicial information systems account--state appropriation is provided solely for the administrative office of the courts, in coordination with the judicial information system committee, to conduct an independent third-party executive-level review of the judicial information system. This review shall examine, at a minimum, the scope of the current project plan, governance structure, and organizational change management procedures. The review will also benchmark the system plans against similarly sized projects in other states or localities, review the large scale program risks, and estimate life cycle costs, including capital and on-going operational expenditures.

(5) \$3,000,000 of the judicial information systems account--state appropriation is provided solely for replacing computer equipment at state courts, and at state judicial agencies. The administrator for the courts shall prioritize equipment replacement purchasing and shall fund those items that are most essential or critical. By October 1, 2010, the administrative office

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of the courts shall report to the appropriate legislative fiscal committees on expenditures for equipment under this subsection.

(6) \$12,000 of the judicial information systems account--state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1954 (sealing juvenile records). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$106,000 of the general fund--state appropriation for fiscal year 2010 and \$106,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the twenty-third superior court judge position in Pierce county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(8) It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(9) \$44,000 of the judicial information systems account--state appropriation is provided solely to implement chapter 272, Laws of 2010 (SHB 2680; guardianship).

(10) \$274,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(11) \$3,797,000 of the judicial information systems account--state appropriation is provided solely for continued planning and implementation of improvements to the court case management system.

(12) In accordance with RCW 43.135.055, the administrative office of the courts is authorized to adopt and increase the fees set forth in and previously authorized in section 6, chapter 491, Laws of 2009.

**Sec. 107.** 2010 2nd sp.s. c 1 s 114 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$21,105,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$13,535,000)</del> |
| .....   | <u>\$13,612,000</u>       |
| General Fund--Federal Appropriation .....         | \$8,082,000               |
| Archives and Records Management Account--State    |                           |
| Appropriation.....                                | \$8,990,000               |
| Charitable Organization Education Account--State  |                           |
| Appropriation.....                                | \$76,000                  |
| Department of Personnel Service Account--State    |                           |
| Appropriation.....                                | \$757,000                 |
| Election Account--State Appropriation .....       | \$77,000                  |
| Local Government Archives Account--State          |                           |
| Appropriation.....                                | \$11,515,000              |
| Election Account--Federal Appropriation .....     | \$31,163,000              |
| TOTAL APPROPRIATION .....                         | <del>(\$95,300,000)</del> |
| .....   | <u>\$95,377,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,101,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund--state appropriation for fiscal year 2010 and \$1,845,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television

coverage of state government deliberations and other events of statewide significance during the 2009-2011 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) The appropriations in this section are based upon savings assumed from the implementation of Senate Bill No. 6122 (election costs).

(4) In implementing budget reductions, the office of the secretary of state must make its first priority to maintain funding for the elections division.

(5) \$76,000 of the charitable organization education account--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute House Bill No. 2576 (corporation and charity fees). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$77,000 of the general fund--state appropriation for fiscal year ~~(2010)~~ 2011 is provided solely for deposit to the election account.

**Sec. 108.** 2010 1st sp.s. c 37 s 118 (uncodified) is amended to read as follows:

FOR THE PUBLIC DISCLOSURE COMMISSION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,249,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,212,000)</del> |
| .....   | <u>\$1,969,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$4,461,000)</del> |
| .....   | <u>\$4,218,000</u>       |

**Sec. 109.** 2010 1st sp.s. c 37 s 120 (uncodified) is amended to read as follows:

FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$275,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$262,000)</del> |
| .....   | <u>\$233,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$537,000)</del> |
| .....   | <u>\$508,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees.

The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

**Sec. 110.** 2010 1st sp.s. c 37 s 121 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS**

|   |                               |
|---|-------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$216,000                     |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$236,000)</del>        |
| .....   | <u>\$221,000</u>              |
| <b>TOTAL APPROPRIATION .....</b>                  | <b><del>(\$452,000)</del></b> |
|   | \$437,000                     |

**Sec. 111.** 2010 1st sp.s. c 37 s 123 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

|   |                                  |
|---|----------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$722,000                        |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$717,000)</del>           |
| .....   | \$638,000                        |
| State Auditing Services Revolving                 |                                  |
| Account--State Appropriation.....                 | \$10,749,000                     |
| <b>TOTAL APPROPRIATION .....</b>                  | <b><del>(\$12,188,000)</del></b> |
|   | \$12,109,000                     |

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$722,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$717,000)~~ \$638,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

(4) The legislature finds that the major changes in personnel funding in this budget and the long term effects of the ongoing economic recession combine with structural changes in the nature of work and employment in many state agencies to require a continuing review of the workforce examination begun under chapter 534, Laws of 2009 (exempt employment practices). The legislature notes the ongoing management reforms of the Washington management service being undertaken by the department of personnel, and anticipates a continuing legislative committee examination of the architecture and cost of the state's career and executive workforce. To that end, the office of state auditor is invited to provide by September 1, 2010, a general survey of new and best practices for executive and career workforce management now in use by other states and relevant industries.

**Sec. 112.** 2010 1st sp.s. c 37 s 124 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

|   |                               |
|---|-------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$168,000                     |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$206,000)</del>        |
| .....   | <u>\$193,000</u>              |
| <b>TOTAL APPROPRIATION .....</b>                  | <b><del>(\$374,000)</del></b> |
|   | <u>\$361,000</u>              |

**Sec. 113.** 2010 2nd sp.s. c 1 s 115 (uncodified) is amended to read as follows:

**FOR THE ATTORNEY GENERAL**

|   |                                   |
|---|-----------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$5,732,000                       |
| General Fund--State Appropriation (FY 2011) ..... | \$5,272,000                       |
| General Fund--Federal Appropriation .....         | \$4,026,000                       |
| New Motor Vehicle Arbitration Account--State      |                                   |
| Appropriation.....                                | \$1,350,000                       |
| Legal Services Revolving Account--State           |                                   |
| Appropriation.....                                | <del>(\$220,909,000)</del>        |
| .....   | <u>\$224,523,000</u>              |
| Tobacco Prevention and Control Account--State     |                                   |
| Appropriation.....                                | \$270,000                         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b><del>(\$237,559,000)</del></b> |
|   | <u>\$241,173,000</u>              |

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The office of the attorney general is authorized to expend \$2,100,000 from the Zyprexa and other cy pres awards towards consumer protection costs in accordance with uses authorized in the court orders.

(4) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(5) The executive ethics board must produce a report by the end of the calendar year for the legislature regarding performance measures on the efficiency and effectiveness of the board, as well as on performance measures to measure and monitor the ethics and integrity of all state agencies.

(6) \$53,000 of the legal services revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 3026 (school district compliance with state and federal civil rights laws).

**Sec. 114.** 2010 1st sp.s. c 37 s 126 (uncodified) is amended to read as follows:

**FOR THE CASELOAD FORECAST COUNCIL**

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|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$766,000                |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$742,000)</del>   |
| .....   | <u>\$660,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>(\$1,508,000)</del> |
| .....   | <u>\$1,426,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund--state appropriation for fiscal year 2010 and \$7,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Substitute House Bill No. 2106 (improving child welfare outcomes through the phased implementation of strategic and proven reforms). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 115.** 2010 1st sp.s. c 37 s 127 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMERCE

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$49,670,000               |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$40,577,000)</del>  |
| .....  | <u>\$36,739,000</u>        |
| General Fund--Federal Appropriation .....  | <del>(\$381,918,000)</del> |
| .....  | <u>\$385,601,000</u>       |
| General Fund--Private/Local Appropriation.....   | <del>(\$10,622,000)</del>  |
| .....  | <u>\$10,972,000</u>        |
| Public Works Assistance Account--State<br>Appropriation.....   | \$2,974,000                |
| Tourism Development and Promotion Account--State<br>Appropriation.....                                       | <del>(\$1,003,000)</del>   |
| .....  | <u>\$798,000</u>           |
| Drinking Water Assistance Administrative<br>Account--State Appropriation.....                                | \$433,000                  |
| Lead Paint Account--State Appropriation .....  | \$35,000                   |
| Building Code Council Account--State Appropriation .....   | \$688,000                  |
| Home Security Fund Account--State Appropriation.....   | <del>(\$25,486,000)</del>  |
| .....  | <u>\$24,486,000</u>        |
| Affordable Housing for All Account--State<br>Appropriation.....  | \$11,896,000               |
| Washington Auto Theft Prevention Authority<br>Account--State Appropriation.....                              | \$300,000                  |
| Independent Youth Housing Account--State<br>Appropriation.....   | \$220,000                  |
| County Research Services Account--State Appropriation.....   | \$469,000                  |
| Community Preservation and Development Authority<br>Account--State Appropriation.....                        | \$350,000                  |
| Financial Fraud and Identity Theft Crimes Investigation<br>and Prosecution Account--State Appropriation..... | \$1,166,000                |
| Low-Income Weatherization Assistance Account--State<br>Appropriation.....                                    | \$6,882,000                |
| City and Town Research Services Account--State<br>Appropriation.....   | \$2,246,000                |
| Manufacturing Innovation and Modernization<br>Account--State Appropriation.....                              | \$230,000                  |
| Community and Economic Development Fee<br>Account--State Appropriation.....                                  | \$6,922,000                |
| Washington Housing Trust Account--State<br>Appropriation.....  | \$15,348,000               |
| Prostitution Prevention and Intervention Account--<br>State Appropriation.....                               | \$125,000                  |
| Public Facility Construction Loan Revolving<br>Account--State Appropriation.....                             | \$754,000                  |
| TOTAL APPROPRIATION .....  | <del>(\$560,314,000)</del> |
| .....  | <u>\$559,304,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,378,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,379,000)~~ \$2,117,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities.

(2) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(3) \$100,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$100,000)~~ \$89,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement section 2(7) of Engrossed Substitute House Bill No. 1959 (land use and transportation planning for marine container ports).

(4) \$102,000 of the building code council account--state appropriation is provided solely for the implementation of sections 3 and 7 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If sections 3 and 7 of the bill are not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(5)(a) \$10,500,000 of the general fund--federal appropriation is provided for training and technical assistance associated with low income weatherization programs. Subject to federal requirements, the department shall provide: (i) Up to \$4,000,000 to the state board for community and technical colleges to provide workforce training related to weatherization and energy efficiency; (ii) up to \$3,000,000 to the Bellingham opportunity council to provide workforce training related to energy efficiency and weatherization; and (iii) up to \$3,500,000 to community-based organizations and to community action agencies consistent with the provisions of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). Any funding remaining shall be expended in project 91000013, weatherization, in the omnibus capital appropriations act, Substitute House Bill No. 1216 (capital budget).

(b) \$6,787,000 of the general fund--federal appropriation is provided solely for the state energy program, including not less than \$5,000,000 to provide credit enhancements consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings).

(c) Of the general fund--federal appropriation the department shall provide: \$14,500,000 to the Washington State University for the purpose of making grants for pilot projects providing community-wide urban, residential, and commercial energy efficiency upgrades consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings); \$500,000 to Washington State University to conduct farm energy assessments. In contracting with the Washington State University for the provision of these services, the total administration of Washington State University and the department shall not exceed 3 percent of the amounts provided.

(d) \$38,500,000 of the general fund--federal appropriation is provided for deposit in the energy recovery act account to establish a revolving loan program, consistent with the provisions of Engrossed Substitute House Bill No. 2289 (expanding energy freedom program).

(e) \$10,646,000 of the general fund--federal appropriation is provided pursuant to the energy efficiency and conservation block grant under the American reinvestment and recovery act. The department may use up to \$3,000,000 of the amount provided in this subsection to provide technical assistance for energy programs

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administered by the agency under the American reinvestment and recovery act.

(6) \$14,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5560 (state agency climate leadership). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$22,400,000 of the general fund--federal appropriation is provided solely for the justice assistance grant program and is contingent upon the department transferring: \$1,200,000 to the department of corrections for security threat mitigation, \$2,336,000 to the department of corrections for offender reentry, \$1,960,000 to the Washington state patrol for law enforcement activities, \$2,087,000 to the department of social and health services, division of alcohol and substance abuse for drug courts, and \$428,000 to the department of social and health services for sex abuse recognition training. The remaining funds shall be distributed by the department to local jurisdictions.

(8) \$20,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$20,000)~~) \$18,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to KCTS public television to support Spanish language programming and the V-me Spanish language channel.

(9) \$500,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$500,000)~~) \$447,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(10) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6015 (commercialization of technology). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(11) By June 30, 2011, the department shall request information that describes what jurisdictions have adopted, or are in the process of adopting, plans that address RCW 36.70A.020 and helps achieve the greenhouse gas emission reductions established in RCW 70.235.020. This information request in this subsection applies to jurisdictions that are required to review and if necessary revise their comprehensive plans in accordance with RCW 36.70A.130.

(12) During the 2009-11 fiscal biennium, the department shall allot all of its appropriations subject to allotment by object, account, and expenditure authority code to conform with the office of financial management's definition of an option 2 allotment. For those funds subject to allotment but not appropriation, the agency shall submit option 2 allotments to the office of financial management.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$50,000)~~) \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the state's participation in the Pacific Northwest economic region.

(14) \$712,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$712,000)~~) \$559,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of crime victims advocacy. These funds shall be contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(15) \$306,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$306,000)~~) \$274,000 of the general fund--state

appropriation for fiscal year 2011 are provided solely for a grant to the retired senior volunteer program.

(16) \$65,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(17) \$371,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$371,000)~~) \$290,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the northwest agriculture business center.

(18) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties.

(19) \$212,000 of the general fund--federal appropriation is provided solely for implementation of Second Substitute House Bill No. 1172 (development rights transfer). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(20) \$69,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$66,000)~~) \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(21) \$350,000 of the community development and preservation authority account--state appropriation is provided solely for a grant to a community development authority established under chapter 43.167 RCW. The community preservation and development's board of directors may contract with nonprofit community organizations to aid in mitigating the effects of increased public impact on urban neighborhoods due to events in stadia that have a capacity of over 50,000 spectators.

(22) \$300,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for a contract with a community group to build local community capacity and economic development within the state by strengthening political relationships between economically distressed communities and governmental institutions. The community group shall identify opportunities for collaboration and initiate activities and events that bring community organizations, local governments, and state agencies together to address the impacts of poverty, political disenfranchisement, and economic inequality on communities of color. These funds must be matched by other nonstate sources on an equal basis.

(23) \$1,800,000 of the home security fund--state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(24) \$5,000,000 of the home security fund--state appropriation is provided solely for the operation, repair, and staffing of shelters in the homeless family shelter program.

(25) \$253,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$283,000)~~) \$253,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington new Americans program.

(26) \$438,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$438,000)~~) \$394,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington asset building coalitions.

(~~(27)~~) (27) \$3,231,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$3,231,000)~~) \$2,953,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for associate development organizations.

(~~(28)~~) (28) \$5,400,000 of the community and economic development fee account is provided as follows: \$1,000,000 is provided solely for the department of commerce for services for

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homeless families through the Washington families fund; \$2,600,000 is provided solely for housing trust fund operations and maintenance; \$800,000 is provided solely for housing trust fund portfolio management; \$500,000 is provided solely for foreclosure counseling and support; and \$500,000 is provided solely for use as a reserve in the account.

~~((32) \$250,000))~~ (29) \$237,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to administer a competitive grant program to fund economic development activities designed to further regional cluster growth and to integrate its sector-based and cluster-based strategies with its support for the development of innovation partnership zones. Grant recipients must provide matching funds equal to the size of the grant. Grants may be awarded to support the formation of sector associations or cluster associations, the identification of the technology and commercialization needs of a sector or cluster, facilitating working relationships between a sector association or cluster association and an innovation partnership zone, expanding the operations of an innovation partnership zone, and developing and implementing plans to meet the technology development and commercialization needs of industry sectors, industry clusters, and innovation partnership zones. The projects receiving grants must not duplicate the purpose or efforts of industry skill panels but priority must be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

~~((33) \$100,000))~~ (30) \$62,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to:

(a) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(b) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

~~((34) \$1,000,000))~~ (31) \$750,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement the provisions of chapter 13, Laws of 2010 (global health program).

~~((35))~~ (32) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the creation of the Washington entrepreneurial development and small business reference service in the department of commerce.

(a) The department must:

(i) In conjunction with and drawing on information compiled by the work force training and education coordinating board and the Washington economic development commission:

(A) Establish and maintain an inventory of the public and private entrepreneurial training and technical assistance services, programs, and resources available in the state;

(B) Disseminate information about available entrepreneurial development and small business assistance services, programs, and resources via in-person presentations and electronic and printed materials and undertake other activities to raise awareness of entrepreneurial training and small business assistance offerings; and

(C) Evaluate the extent to which existing entrepreneurial training and technical assistance programs in the state are effective and represent a consistent, integrated approach to meeting the needs of start-up and existing entrepreneurs;

(ii) Assist providers of entrepreneurial development and small business assistance services in applying for federal and private funding to support the entrepreneurial development and small business assistance activities in the state;

(iii) Distribute awards for excellence in entrepreneurial training and small business assistance; and

(iv) Report to the governor, the economic development commission, the work force training and education coordinating board, and the appropriate legislative committees its recommendations for statutory changes necessary to enhance operational efficiencies or enhance coordination related to entrepreneurial development and small business assistance.

(b) In carrying out the duties under this section, the department must seek the advice of small business owners and advocates, the Washington economic development commission, the work force training and education coordinating board, the state board for community and technical colleges, the employment security department, the Washington state microenterprise association, associate development organizations, impact Washington, the Washington quality award council, the Washington technology center, the small business export finance assistance center, the Spokane intercollegiate research and technology institute, representatives of the University of Washington business school and the Washington State University college of business and economics, the office of minority and women's business enterprises, the Washington economic development finance authority, and staff from small business development centers.

(c) The director may appoint an advisory board or convene such other individuals or groups as he or she deems appropriate to assist in carrying out the department's duties under this section.

~~((37) \$50,000))~~ (33) \$45,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a grant to HistoryLink.

**Sec. 116.** 2010 1st sp.s. c 37 s 128 (uncodified) is amended to read as follows:

FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$711,000                |
| General Fund--State Appropriation (FY 2011) ..... | <del>((772,000))</del>   |
| .....   | <u>\$723,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>((1,483,000))</del> |
| .....   | <u>\$1,434,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The economic and revenue forecast council, in its quarterly revenue forecasts, shall forecast the total revenue for the state lottery.

**Sec.117.** 2010 1st sp.s. c 37 s 130 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving

|                                   |                           |
|-----------------------------------|---------------------------|
| Account--State Appropriation..... | <del>((33,978,000))</del> |
| .....                             | <u>\$34,468,000</u>       |

The appropriation in this section is subject to the following conditions and limitations: \$725,000 of the administrative hearings revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 118.** 2010 1st sp.s. c 37 s 133 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$250,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>((255,000))</del> |
| .....   | <u>\$227,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>((505,000))</del> |
| .....   | <u>\$477,000</u>       |

**Sec. 119.** 2010 1st sp.s. c 37 s 134 (uncodified) is amended to read as follows:

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FOR THE COMMISSION ON AFRICAN-AMERICAN  
AFFAIRS

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$243,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$236,000)</del> |
| .....   | <u>\$210,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$479,000)</del> |
| .....   | <u>\$453,000</u>       |

**Sec. 120.** 2010 2nd sp.s. c 1 s 117 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....      | \$109,472,000              |
| General Fund--State Appropriation (FY 2011) ...        | <del>(\$113,279,000)</del> |
| .....  | <u>\$107,662,000</u>       |
| Timber Tax Distribution Account--State                 |                            |
| Appropriation.....                                     | \$5,933,000                |
| Waste Reduction/Recycling/Litter                       |                            |
| Control--State Appropriation.....                      | \$130,000                  |
| Waste Tire Removal Account--State Appropriation .....  | \$2,000                    |
| Real Estate Excise Tax Grant Account--State            |                            |
| Appropriation.....                                     | \$3,429,000                |
| State Toxics Control Account--State Appropriation..... | \$87,000                   |
| Oil Spill Prevention Account--State Appropriation..... | \$19,000                   |
| TOTAL APPROPRIATION .....                              | <del>(\$232,351,000)</del> |
| .....  | <u>\$226,734,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$469,000 of the general fund--state appropriation for fiscal year 2010 and \$374,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Substitute Senate Bill No. 5368 (annual property revaluation). If the bill is not enacted by June 30, 2009, the amounts in this subsection shall lapse.

(2) \$4,653,000 of the general fund--state appropriation for fiscal year 2010 and \$4,242,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of revenue enhancement strategies. The strategies must include increased out-of-state auditing and compliance, the purchase of third party data sources for enhanced audit selection, and increased traditional auditing and compliance efforts.

(3) \$3,127,000 of the general fund--state appropriation for fiscal year 2010 and \$1,737,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Senate Bill No. 6173 (sales tax compliance). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$1,294,000 of the general fund--state appropriation for fiscal year 2010 and \$3,085,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Engrossed Substitute Senate Bill No. 6143 (excise tax law modifications). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) \$163,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Substitute Senate Bill No. 6846 (enhanced 911 services). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) ~~(\$1,200,000)~~ \$304,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for making the necessary preparations for implementation of the working families tax exemption pursuant to RCW 82.08.0206 in 2012.

**Sec. 121.** 2010 1st sp.s. c 37 s 138 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,346,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,318,000)</del> |
| .....   | <u>\$1,195,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$2,664,000)</del> |
| .....   | <u>\$2,541,000</u>       |

**Sec. 122.** 2010 1st sp.s. c 37 s 141 (uncodified) is amended to read as follows:

|   |                           |
|---|---------------------------|
| FOR THE DEPARTMENT OF GENERAL ADMINISTRATION            |                           |
| General Fund--State Appropriation (FY 2010) .....       | \$815,000                 |
| General Fund--State Appropriation (FY 2011) .....       | <del>(\$3,963,000)</del>  |
| .....   | <u>\$3,527,000</u>        |
| General Fund--Federal Appropriation .....               | \$2,956,000               |
| Building Code Council Account--State Appropriation..... | <del>(\$593,000)</del>    |
| .....   | <u>\$875,000</u>          |
| General Fund--Private/Local Appropriation.....          | \$84,000                  |
| General Administration Service Account--State           |                           |
| Appropriation.....                                      | <del>(\$31,748,000)</del> |
| .....   | <u>\$31,397,000</u>       |
| TOTAL APPROPRIATION .....                               | <del>(\$40,159,000)</del> |
| .....   | <u>\$39,654,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$28,000)~~ \$14,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of section 8 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If section 8 of the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) ~~(\$3,545,000)~~ \$3,197,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall enter into an interagency agreement with these agencies by July 1, 2010, to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The agencies named in this subsection shall continue to enjoy all of the same rights of occupancy, support, and space use on the capitol campus as historically established.

(3) \$84,000 of the general fund--private/local appropriation and \$593,000 of the building code council account--state appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2658 (refocusing the department of commerce, including transferring programs). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(4) In accordance with RCW 46.08.172 and 43.135.055, the department is authorized to increase parking fees in fiscal year 2011 as necessary to meet the actual costs of conducting business.

**Sec. 123.** 2010 1st sp.s. c 37 s 142 (uncodified) is amended to read as follows:

|   |                           |
|---|---------------------------|
| FOR THE DEPARTMENT OF INFORMATION SERVICES        |                           |
| General Fund--State Appropriation (FY 2010) ..... | \$1,086,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,080,000)</del>  |
| .....   | <u>\$1,012,000</u>        |
| General Fund--Federal Appropriation .....         | \$701,000                 |
| General Fund--Private/Local Appropriation.....    | \$178,000                 |
| Data Processing Revolving Account--State          |                           |
| Appropriation.....                                | \$7,601,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$10,646,000)</del> |
| .....   | <u>\$10,578,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of Engrossed

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Second Substitute House Bill No. 1701 (high-speed internet), including expenditure for deposit to the community technology opportunity account. If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The department shall implement some or all of the following strategies to achieve savings on information technology expenditures through: (a) Holistic virtualization strategies; (b) wide-area network optimization strategies; (c) replacement of traditional telephone communications systems with alternatives; and (d) migration of external voice mail systems to internal voice mail systems coordinated by the department. The department shall report to the office of financial management and the fiscal committees of the legislature semiannually on progress made towards the implementation of savings strategies and the savings realized to date. No later than June 30, 2011, the department shall submit a final report on its findings and savings realized to the office of financial management and the fiscal committees of the legislature.

(3) \$178,000 of the general fund--private/local appropriation is provided solely for the implementation of the opportunity portal under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(4) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

(5) The department is prohibited from expending any amounts appropriated in this section or any amounts from other funds managed by the department for the purchase, restoration, installation, or deployment of equipment for the new state data center authorized in section 6031(8), chapter 497, Laws of 2009. The department may continue planning activities related to consolidation of data centers and other cost-effective solutions.

Sec. 124. 2010 1st sp.s. c 37 s 146 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

|   |                            |
|---|----------------------------|
| Liquor Control Board Construction and Maintenance Account--State Appropriation..... | \$8,817,000                |
| Liquor Revolving Account--State Appropriation ( <del>(\$156,580,000)</del> ) .....  | <u>\$156,691,000</u>       |
| TOTAL APPROPRIATION .....   | <del>(\$165,397,000)</del> |
| .....   | <u>\$165,508,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,306,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open five new state stores.

(2) \$40,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to open ten new contract stores.

(3) (~~(\$3,059,000)~~) \$2,810,000 of the liquor revolving account--state appropriation is provided solely for the liquor control board to increase state and local revenues from new retail strategies including opening nine state stores on Sunday, opening state liquor stores on seven holidays, opening six mall locations during the holiday season, and increasing lottery sales.

(4) \$173,000 of the liquor revolving account--state appropriation is provided solely for the Engrossed House Bill No. 2040 (beer and wine regulation commission). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(5) \$130,000 of the liquor revolving account appropriation is provided to implement chapter 141, Laws of 2010 (SSB 6329).

(6) Within the amounts appropriated in this section, the liquor control board shall monitor the tasting endorsement authorized by

chapter 141, Laws of 2010 (SSB 6329) and report to the appropriate committees of the legislature by June 30, 2011, on the enforcement of the endorsement. The report must include the number of compliance checks conducted by the liquor board during tasting activities, whether the checks were conducted with the knowledge of the licensee, the number of compliance checks passed, the number and type of notices of violation issued, the penalties imposed for the violations, the number of complaints received about tasting activities, and other information related to the enforcement of the endorsement. If the bill is not enacted by June 30, 2010, the requirements of this subsection shall be null and void.

(7) The board shall prepare a plan to transition selected state liquor stores to contract stores. The plan must identify stores for transition that the board determines will result in the greatest efficiency and cost-effectiveness for the state. The plan must provide for the conversion of at least twenty state liquor stores to contract liquor stores and for that conversion to occur between July 1, 2011, and July 1, 2013. The plan must also include an analysis of the revenue generating capacity and costs for the stores before and after the conversion as well as an analysis of access to liquor by intoxicated and underage persons. The board shall submit the plan to the appropriate policy and fiscal committees of the legislature by November 1, 2010.

Sec. 125. 2010 1st sp.s. c 37 s 148 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....                            | \$9,350,000                |
| General Fund--State Appropriation (FY 2011) .....                            | <del>(\$8,874,000)</del>   |
| .....  | <u>\$7,898,000</u>         |
| General Fund--Federal Appropriation .....                                    | \$168,599,000              |
| Enhanced 911 Account--State Appropriation.....                               | \$44,508,000               |
| Disaster Response Account--State Appropriation .....                         | \$28,350,000               |
| Disaster Response Account--Federal Appropriation .....                       | \$114,496,000              |
| Military Department Rent and Lease Account--State Appropriation.....         | \$612,000                  |
| Military Department Active State Service Account--Federal Appropriation..... | \$592,000                  |
| Worker and Community Right-to-Know Account--State Appropriation.....         | \$341,000                  |
| Nisqually Earthquake Account--State Appropriation.....                       | \$307,000                  |
| Nisqually Earthquake Account--Federal Appropriation .....                    | \$1,067,000                |
| TOTAL APPROPRIATION .....  | <del>(\$377,096,000)</del> |
| .....  | <u>\$376,120,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,326,000 of the disaster response account--state appropriation and \$114,496,000 of the disaster response account--federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(2) \$307,000 of the Nisqually earthquake account--state appropriation and \$1,067,000 of the Nisqually earthquake account--federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing earthquake recovery costs, including: (a) Estimates of total costs; (b)

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incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(3) \$85,000,000 of the general fund--federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit an annual report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate.

(4) \$500,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and may not use any of the funds for administrative purposes.

**Sec. 126.** 2010 1st sp.s. c 37 s 150 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|  |                          |
|--|--------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$2,667,000              |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$2,635,000)</del> |
| .....  | <u>\$2,345,000</u>       |
| Higher Education Personnel Services Account--State |                          |
| Appropriation.....                                 | \$250,000                |
| Department of Personnel Service Account--State     |                          |
| Appropriation.....                                 | \$3,263,000              |
| TOTAL APPROPRIATION .....                          | <del>(\$8,815,000)</del> |
| .....  | <u>\$8,525,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Substitute Senate Bill No. 6726 (language access provider bargaining).

**Sec. 127.** 2010 1st sp.s. c 37 s 151 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,371,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,382,000)</del> |
| .....   | <u>\$1,230,000</u>       |
| General Fund--Federal Appropriation .....         | \$2,293,000              |
| General Fund--Private/Local Appropriation.....    | \$14,000                 |
| TOTAL APPROPRIATION .....                         | <del>(\$5,060,000)</del> |
| .....   | <u>\$4,908,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$44,000 of the general fund--state appropriation for fiscal year 2011 is provided for implementation of Substitute House Bill No. 2704 (Washington main street program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 128.** 2010 2nd sp.s. c 1 s 118 (uncodified) is amended to read as follows:

|   |             |
|---|-------------|
| FOR THE GROWTH MANAGEMENT HEARINGS BOARD          |             |
| General Fund--State Appropriation (FY 2010) ..... | \$1,642,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$1,334,000 |
| TOTAL APPROPRIATION .....                         | \$2,976,000 |

The appropriations in this section are subject to the following conditions and limitations: ~~(\$13,000)~~ \$12,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for Substitute House Bill No. 2935 (hearings boards/environment and land use). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 129.** 2010 1st sp.s. c 37 s 153 (uncodified) is amended to read as follows:

|  |                            |
|--|----------------------------|
| FOR THE STATE CONVENTION AND TRADE CENTER        |                            |
| State Convention and Trade Center Account--State |                            |
| Appropriation.....                               | <del>(\$60,127,000)</del>  |
| .....  | <u>\$35,127,000</u>        |
| State Convention and Trade Center Operating      |                            |
| Account--State Appropriation.....                | <del>(\$56,694,000)</del>  |
| .....  | <u>\$31,694,000</u>        |
| TOTAL APPROPRIATION .....                        | <del>(\$116,821,000)</del> |
| .....  | <u>\$66,821,000</u>        |

**NEW SECTION. Sec. 130.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the utilities and transportation commission is authorized to increase the fees set forth in and previously authorized in section 147, chapter 37, Laws of 2010 1st sp.s.

**NEW SECTION. Sec. 131.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the office of financial management is authorized to adopt and increase the fees set forth in and previously authorized in section 13, chapter 314, Laws of 2009.

(End of part)

**PART II  
HUMAN SERVICES**

**Sec. 201.** 2010 2nd sp.s. c 1 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$315,002,000                |
| General Fund--State Appropriation (FY 2011) ...         | <del>(\$293,707,000)</del>   |
| .....   | <u>\$287,643,000</u>         |
| General Fund--Federal Appropriation .....               | <del>(\$497,964,000)</del>   |
| .....   | <u>\$494,136,000</u>         |
| General Fund--Private/Local Appropriation.....          | \$3,320,000                  |
| Home Security Fund Appropriation .....                  | <del>(\$9,983,000)</del>     |
| .....   | <u>\$8,406,000</u>           |
| Domestic Violence Prevention Account--State             |                              |
| Appropriation.....                                      | \$1,154,000                  |
| Education Legacy Trust Account--State Appropriation ... | \$725,000                    |
| TOTAL APPROPRIATION .....                               | <del>(\$1,121,855,000)</del> |
| .....   | <u>\$1,110,386,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$937,000 of the general fund--state appropriation for fiscal year 2010 and \$696,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age.

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Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(2) \$369,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$366,000)~~) \$343,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$316,000)~~) \$306,000 of the general fund--federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(3) \$2,500,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$88,000)~~) \$46,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$2,256,000)~~) \$2,098,000 of the home security fund--state appropriation are provided solely for secure crisis residential centers. Within appropriated amounts, the department shall collaborate with providers to maintain no less than forty-five beds that are geographically representative of the state. The department shall examine current secure crisis residential staffing requirements, flexible payment options, center specific waivers, and other appropriate methods to accomplish this outcome.

(4) A maximum of (~~(\$73,209,000)~~) \$69,190,000 of the general fund--state appropriations and (~~(\$54,596,000)~~) \$54,443,000 of the general fund--federal appropriations for the 2009-11 biennium shall be expended for behavioral rehabilitative services and these amounts are provided solely for this purpose. The department shall work with behavioral rehabilitative service providers to safely keep youth with emotional, behavioral, or medical needs at home, with relatives, or with other permanent placement resources and decrease the length of service through improved emotional, behavioral, or medical outcomes for children in behavioral rehabilitative services in order to achieve the appropriated levels.

(a) Contracted providers shall act in good faith and accept the hardest to serve children, to the greatest extent possible, in order to improve their emotional, behavioral, or medical conditions.

(b) The department and the contracted provider shall mutually agree and establish an exit date for when the child is to exit the behavioral rehabilitative service provider. The department and the contracted provider should mutually agree, to the greatest extent possible, on a viable placement for the child to go to once the child's treatment process has been completed. The child shall exit only when the emotional, behavioral, or medical condition has improved or if the provider has not shown progress toward the outcomes specified in the signed contract at the time of exit. This subsection (b) does not prevent or eliminate the department's responsibility for removing the child from the provider if the child's emotional, behavioral, or medical condition worsens or is threatened.

(c) The department is encouraged to use performance-based contracts with incentives directly tied to outcomes described in this section. The contracts should incentivize contracted providers to accept the hardest to serve children and incentivize improvement in children's emotional, mental, and medical well-being within the established exit date. The department is further encouraged to increase the use of behavioral rehabilitative service group homes,

wrap around services to facilitate and support placement of youth at home with relatives, or other permanent resources, and other means to control expenditures.

(d) The total foster care per capita amount shall not increase more than four percent in the 2009-11 biennium and shall not include behavioral rehabilitative service.

(5) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

(6) (~~(\$14,187,000)~~) \$13,387,000 of the general fund--state appropriation for fiscal year 2011 and \$6,231,000 of the general fund--federal appropriation are provided solely for the department to provide contracted prevention and early intervention services. The legislature recognizes the need for flexibility as the department transitions to performance-based contracts. The following services are included in the prevention and early intervention block grant: Crisis family intervention services, family preservation services, intensive family preservation services, evidence-based programs, public health nurses, and early family support services. The legislature intends for the department to maintain and build on existing evidence-based and research-based programs with the goal of utilizing contracted prevention and intervention services to keep children safe at home and to safely reunify families. Priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts and shall provide the legislature and governor a report regarding the allocation of resources in this subsection by September 30, 2010. The department shall expend federal funds under this subsection in compliance with federal regulations.

(7) \$36,000 of the general fund--state appropriation for fiscal year 2010, \$34,000 of the general fund--state appropriation for fiscal year 2011, and \$29,000 of the general fund--federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007 (child welfare).

(8) \$125,000 of the general fund--state appropriation for fiscal year 2010 and \$118,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for continuum of care services. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2010. \$95,000 of this amount is for Casey family partners and \$23,000 of this amount is for volunteers of America crosswalk in fiscal year 2011.

(9) \$1,904,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$1,717,000)~~) \$1,441,000 of the general fund--state appropriation for fiscal year 2011, and \$335,000 of the general fund--federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families and for foster care assessments. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. The department will maintain the availability of comprehensive foster care assessments and follow up services for children in out-of-home care who do not have permanent plans, comprehensive safety assessments for families receiving in-home child protective services or family voluntary services, and comprehensive safety assessments for families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral

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related to the infant due to the substance exposure. The department must consolidate contracts, streamline administration, and explore efficiencies to achieve savings.

(10) \$7,679,000 of the general fund--state appropriation for fiscal year 2010, \$6,226,000 of the general fund--state appropriation for fiscal year 2011, and \$4,658,000 of the general fund--federal appropriation are provided solely for court-ordered supervised visits between parents and dependent children and for sibling visits. The department shall work collaboratively with the juvenile dependency courts and revise the supervised visit reimbursement procedures to stay within appropriations without impeding reunification outcomes between parents and dependent children. The department shall report to the legislative fiscal committees on September 30, 2010, and December 30, 2010, the number of children in foster care who receive supervised visits, their frequency, length of time of each visit, and whether reunification is attained.

(11) \$145,000 of the general fund--state appropriation for fiscal year 2010, \$817,000 of the general fund--state appropriation for fiscal year 2011, and ~~(\$724,000)~~ \$668,000 of the home security fund--state appropriation is provided solely for street youth program services.

(12) \$1,522,000 of the general fund--state appropriation for fiscal year 2010, \$1,256,000 of the general fund--state appropriation for fiscal year 2011, and \$1,372,000 of the general fund--federal appropriation are provided solely for the department to recruit foster parents. The recruitment efforts shall include collaborating with community-based organizations and current or former foster parents to recruit foster parents.

(13) \$493,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$284,000)~~ \$102,000 of the general fund--state appropriation for fiscal year 2011, \$466,000 of the general fund--private/local appropriation, \$182,000 of the general fund--federal appropriation, and \$725,000 of the education legacy trust account--state appropriation are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. Funding is provided solely for contracted education coordinators to assist foster children in succeeding in K-12 and higher education systems. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

(14) ~~(\$1,677,000)~~ \$1,273,000 of the home security fund account--state appropriation is provided solely for HOPE beds.

(15) ~~(\$5,193,000)~~ \$4,234,000 of the home security fund account--state appropriation is provided solely for the crisis residential centers.

(16) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(17) Within the amounts appropriated in this section, the department shall contract for a pilot project with family and community networks in Whatcom county and up to four additional counties to provide services. The pilot project shall be designed to provide a continuum of services that reduce out-of-home placements and the lengths of stay for children in out-of-home placement. The department and the community networks shall collaboratively select the additional counties for the pilot project and shall collaboratively design the contract. Within the framework of the pilot project, the contract shall seek to maximize federal funds. The pilot project in each county shall include the creation of

advisory and management teams which include members from neighborhood-based family advisory committees, residents, parents, youth, providers, and local and regional department staff. The Whatcom county team shall facilitate the development of outcome-based protocols and policies for the pilot project and develop a structure to oversee, monitor, and evaluate the results of the pilot projects. The department shall report the costs and savings of the pilot project to the appropriate committees of the legislature by November 1 of each year.

(18) \$157,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$148,000)~~ \$78,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with a nonprofit entity for a reunification pilot project in Whatcom and Skagit counties. The contract for the reunification pilot project shall include a rate of \$46.16 per hour for evidence-based interventions, in combination with supervised visits, to provide 3,564 hours of services to reduce the length of stay for children in the child welfare system. The contract shall also include evidence-based intensive parenting skills building services and family support case management services for 38 families participating in the reunification pilot project. The contract shall include the flexibility for the nonprofit entity to subcontract with trained providers.

(19) \$303,000 of the general fund--state appropriation for fiscal year 2010, \$392,000 of the general fund--state appropriation for fiscal year 2011, and \$241,000 of the general fund--federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1961 (increasing adoptions act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) \$98,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$92,000)~~ \$49,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with an agency that is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support.

(21) The legislature intends for the department to reduce the time a child remains in the child welfare system. The department shall establish a measurable goal and report progress toward meeting that goal to the legislature by January 15 of each fiscal year of the 2009-11 fiscal biennium. To the extent that actual caseloads exceed those assumed in this section, it is the intent of the legislature to address those issues in a manner similar to all other caseload programs.

(22) \$715,000 of the general fund--state appropriation for fiscal year 2010 and \$671,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for services provided through children's advocacy centers.

(23) \$10,000 of the general fund--state appropriation for fiscal year 2011 and \$3,000 of the general fund--federal appropriation are provided solely for implementation of chapter 224, Laws of 2010 (confinement alternatives). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(24) \$1,867,000 of the general fund--state appropriation for fiscal year 2010, \$1,677,000 of the general fund--state appropriation for fiscal year 2011, and \$4,379,000 of the general fund--federal appropriation are provided solely for the department to contract for medicaid treatment child care (MTCC) services. Children's administration case workers, local public health nurses and case workers from the temporary assistance for needy families program shall refer children to MTCC services, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC services.

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(25) The department shall contract for at least one pilot project with adolescent services providers to deliver a continuum of short-term crisis stabilization services. The pilot project shall include adolescent services provided through secure crisis residential centers, crisis residential centers, and hope beds. The department shall work with adolescent service providers to maintain availability of adolescent services and maintain the delivery of services in a geographically representative manner. The department shall examine current staffing requirements, flexible payment options, center-specific licensing waivers, and other appropriate methods to achieve savings and streamline the delivery of services. The legislature intends for the pilot project to provide flexibility to the department to improve outcomes and to achieve more efficient utilization of existing resources, while meeting the statutory goals of the adolescent services programs. The department shall provide an update to the appropriate legislative committees and governor on the status of the pilot project implementation by December 1, 2010.

(26) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(27) Receipts from fees per chapter 289, Laws of 2010, as deposited into the prostitution prevention and intervention account for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs shall be used to expand capacity for secure crisis residential centers and not supplant existing funding.

(28) The appropriations in this section reflect reductions to the foster care maintenance payment rates during fiscal year 2011.

**Sec. 202.** 2010 2nd sp.s. c 1 s 202 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....    | \$103,437,000              |
| General Fund--State Appropriation (FY 2011) .....    | <del>(\$96,167,000)</del>  |
|  | <u>\$90,240,000</u>        |
| General Fund--Federal Appropriation .....            | \$1,715,000                |
| General Fund--Private/Local Appropriation.....       | \$1,899,000                |
| Washington Auto Theft Prevention Authority Account-- |                            |
| State Appropriation.....                             | \$3,896,000                |
| Juvenile Accountability Incentive Account--Federal   |                            |
| Appropriation.....                                   | \$2,805,000                |
| State Efficiency and Restructuring Account--State    |                            |
| Appropriation.....                                   | \$4,958,000                |
| TOTAL APPROPRIATION .....                            | <del>(\$214,877,000)</del> |
|  | <u>\$208,950,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$353,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$353,000)~~ \$331,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$3,408,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$2,898,000)~~ \$2,716,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,716,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$3,716,000)~~ \$3,482,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$1,427,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$1,206,000)~~ \$1,130,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,066,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$3,066,000)~~ \$2,873,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,287,000 of the general fund--state appropriation for fiscal year 2010 and \$1,287,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) For the fiscal year ending June 30, 2011, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into

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account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) It is the intent of the legislature that the juvenile rehabilitation administration phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of three percent in fiscal year 2011, five percent in fiscal year 2012, and five percent in fiscal year 2013. It is further the intent of the legislature that the evidence-based expansion grants be incorporated into the block grant formula by fiscal year 2013 and SSODA remain separate unless changes would result in increasing the cost benefit savings to the state as identified in (c) of this subsection.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(e) By December 1, 2010, the Washington state institute for public policy shall report to the office of financial management and appropriate committees of the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.

(8) \$3,700,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for competitive grants to community-based organizations to provide at-risk youth intervention services, including but not limited to, case management, employment services, educational services, and street outreach intervention programs. Projects funded should focus on preventing, intervening, and suppressing behavioral problems and violence while linking at-risk youth to pro-social activities. The department may not expend more than \$1,850,000 per fiscal year. The costs of administration must not exceed four percent of appropriated funding for each grant recipient. Each entity receiving funds must report to the juvenile rehabilitation administration on the number and types of youth served, the services provided, and the impact of those services upon the youth and the community.

(9) The appropriations in this section assume savings associated with the transfer of youthful offenders age eighteen or older whose sentences extend beyond age twenty-one to the department of corrections to complete their sentences. Prior to transferring an offender to the department of corrections, the juvenile rehabilitation administration shall evaluate the offender to determine the offender's physical and emotional suitability for transfer.

**Sec. 203.** 2010 2nd sp.s. c 1 s 203 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$273,648,000                |
| General Fund--State Appropriation (FY 2011) ...   | <del>(\$278,530,000)</del>   |
| .....   | <u>\$263,993,000</u>         |
| General Fund--Federal Appropriation .....         | <del>(\$519,456,000)</del>   |
| .....   | <u>\$520,024,000</u>         |
| General Fund--Private/Local Appropriation.....    | <del>(\$16,674,000)</del>    |
| .....   | <u>\$16,951,000</u>          |
| Hospital Safety Net Assessment Fund--State        |                              |
| Appropriation.....                                | \$3,476,000                  |
| TOTAL APPROPRIATION .....                         | <del>(\$1,091,784,000)</del> |
| .....   | <u>\$1,078,092,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$113,689,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$113,689,000)~~ \$101,089,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$11,606,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2009 prior to supplemental budget reductions. This \$11,606,000 reduction shall be distributed among

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regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) \$10,400,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$9,100,000)~~) \$8,814,000 of the general fund--state appropriation for fiscal year 2011, and \$1,300,000 of the general fund--federal appropriation are provided solely for the department and regional support networks to contract for implementation of high-intensity program for active community treatment (PACT) teams. The department shall work with regional support networks and the center for medicare and medicaid services to integrate eligible components of the PACT service delivery model into medicaid capitation rates no later than January 2011, while maintaining consistency with all essential elements of the PACT evidence-based practice model.

(c) \$6,500,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$6,500,000)~~) \$6,091,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 617 per day during the first quarter of fiscal year 2010, (~~and~~) 587 per day through the second quarter of fiscal year 2011, and 557 per day thereafter. Beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. The department shall separately charge regional support networks for persons served in the PALS program.

(e) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(f) \$4,582,000 of the general fund--state appropriation for fiscal year 2010 and \$4,582,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

(g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

(h) \$750,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$750,000)~~) \$703,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

(i) \$1,500,000 of the general fund--state appropriation for fiscal year 2010 and \$1,500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

(j) The department shall return to the Spokane regional support network fifty percent of the amounts assessed against the network during the last six months of calendar year 2009 for state hospital utilization in excess of its contractual limit. The regional support network shall use these funds for operation during its initial months of a new sixteen-bed evaluation and treatment facility that will enable the network to reduce its use of the state hospital, and for diversion and community support services for persons with dementia who would likely otherwise require care at the state hospital.

(k) The department is directed to identify and implement program efficiencies and benefit changes in its delivery of medicaid managed-care services that are sufficient to operate within the state and federal appropriations in this section. Such actions may include but are not limited to methods such as adjusting the care access standards; improved utilization management of ongoing, recurring, and high-intensity services; and increased uniformity in provider payment rates. The department shall ensure that the capitation rate adjustments necessary to accomplish these efficiencies and changes are distributed uniformly and equitably across all regional support networks statewide. The department is directed to report to the relevant legislative fiscal and policy committees at least thirty days prior to implementing rate adjustments reflecting these changes.

(l) In developing the new medicaid managed care rates under which the public mental health managed care system will operate during the five years beginning in fiscal year 2011, the department should seek to estimate the reasonable and necessary cost of efficiently and effectively providing a comparable set of medically necessary mental health benefits to persons of different acuity levels regardless of where in the state they live. Actual prior period spending in a regional administrative area shall not be a key determinant of future payment rates. The department shall report to the office of financial management and to the relevant fiscal and policy committees of the legislature on its proposed new waiver and mental health managed care rate-setting approach by October 1, 2009, and again at least sixty days prior to implementation of new capitation rates.

(m) In implementing the new public mental health managed care payment rates for fiscal year 2011, the department shall to the maximum extent possible within each regional support network's allowable rate range establish rates so that there is no increase or decrease in the total state and federal funding that the regional support network would receive if it were to continue to be paid at its October 2009 through June 2010 rates. The department shall additionally revise the draft rates issued January 28, 2010, to more accurately reflect the lower practitioner productivity inherent in the delivery of services in extremely rural regions in which a majority of the population reside in frontier counties, as defined and designated by the national center for frontier communities.

(n) \$1,529,000 of the general fund--state appropriation for fiscal year 2010 and \$1,529,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

(o) The legislature intends and expects that regional support networks and contracted community mental health agencies shall make all possible efforts to, at a minimum, maintain current compensation levels of direct care staff. Such efforts shall include, but not be limited to, identifying local funding that can preserve client services and staff compensation, achieving administrative reductions at the regional support network level, and engaging stakeholders on cost-savings ideas that maintain client services and staff compensation. For purposes of this section, "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance.

(p) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

(2) INSTITUTIONAL SERVICES

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$119,423,000              |
| General Fund--State Appropriation (FY 2011) ...   | <del>(\$118,010,000)</del> |
| .....   | <u>\$112,514,000</u>       |
| General Fund--Federal Appropriation .....         | <del>(\$153,425,000)</del> |
| .....   | <u>\$152,195,000</u>       |
| General Fund--Private/Local Appropriation.....    | <del>(\$64,614,000)</del>  |
| .....   | <u>\$63,873,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$455,472,000)</del> |
| .....   | <u>\$448,005,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund--state appropriation for fiscal year 2008 and ~~(\$231,000)~~ \$216,000 of the general fund--state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$45,000)~~ \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) ~~(\$200,000)~~ \$187,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for support of the psychiatric security review panel established pursuant to Senate

Bill No. 6610. If Senate Bill No. 6610 is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(3) SPECIAL PROJECTS

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,819,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,092,000)</del> |
| .....   | <u>\$1,961,000</u>       |
| General Fund--Federal Appropriation .....         | \$2,142,000              |
| TOTAL APPROPRIATION .....                         | <del>(\$6,053,000)</del> |
| .....   | <u>\$5,922,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$1,511,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$1,511,000)~~ \$1,416,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(b) ~~(\$100,000)~~ \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for consultation, training, and technical assistance to regional support networks on strategies for effective service delivery in very sparsely populated counties.

(c) ~~(\$60,000)~~ \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with chapter 263, Laws of 2010.

(d) ~~(\$60,000)~~ \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with section 1, chapter 280, Laws of 2010.

(e) ~~(\$60,000)~~ \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of sections 2 and 3, chapter 280, Laws of 2010. The department shall use these funds to contract with the Washington state institute for public policy for completion of an assessment of (i) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to increase as a result of the revised commitment standards; (ii) the availability of community treatment capacity to accommodate that increase; (iii) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (iv) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations.

(4) PROGRAM SUPPORT

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,078,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$3,958,000)</del>  |
| .....   | <u>\$3,722,000</u>        |
| General Fund--Federal Appropriation .....         | \$7,207,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$15,243,000)</del> |
| .....   | <u>\$15,007,000</u>       |

The department is authorized and encouraged to continue its contract with the Washington state institute for public policy to provide a longitudinal analysis of long-term mental health outcomes as directed in chapter 334, Laws of 2001 (mental health performance audit); to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

**Sec. 204.** 2010 2nd sp.s. c 1 s 204 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

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|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$307,348,000                |
| General Fund--State Appropriation (FY 2011) ...   | <del>(\$337,658,000)</del>   |
| .....   | <u>\$321,752,000</u>         |
| General Fund--Federal Appropriation .....         | <del>(\$902,043,000)</del>   |
| .....   | <u>\$890,274,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>(\$1,547,049,000)</del> |
| .....   | <u>\$1,519,374,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b)(i) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(ii) \$508,000 of the general fund--state appropriation for fiscal year 2011 and \$822,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reductions to in-home care that are taken in (b)(i) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by April 1, 2011. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

(d) \$302,000 of the general fund--state appropriation for fiscal year 2010, \$831,000 of the general fund--state appropriation for fiscal year 2011, and \$1,592,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(e)(i) \$682,000 of the general fund--state appropriation for fiscal year 2010, \$1,651,000 of the general fund--state appropriation for fiscal year 2011, and \$1,678,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(ii) The federal portion of the amounts in this subsection (g) is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(iii) Expenditures for the purposes specified in this subsection (g) shall not exceed the amounts provided in this subsection.

(f) Within the amounts appropriated in this subsection (1), the department shall implement all necessary rules to facilitate the transfer to a department home and community-based services (HCBS) waiver of all eligible individuals who (i) currently receive services under the existing state-only employment and day program

or the existing state-only residential program, and (ii) otherwise meet the waiver eligibility requirements. The amounts appropriated are sufficient to ensure that all individuals currently receiving services under the state-only employment and day and state-only residential programs who are not transferred to a department HCBS waiver will continue to receive services.

(g) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(h) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(i) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(i) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(ii) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(iii) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(j) The amounts appropriated in this subsection reflect a reduction in funds available for employment and day services. In administering this reduction the department shall negotiate with counties and their vendors so that this reduction, to the greatest extent possible, is achieved by reducing vendor rates and allowable contract administrative charges (overhead) and not through reductions to direct client services or direct service delivery or programs.

(k) As part of the needs assessment instrument, the department may collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department may ensure that this information is collected as part of the client assessment process.

(l) \$116,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$2,689,000)~~ \$2,133,000 of the general fund--state appropriation for fiscal year 2011, and \$1,772,000 of the general fund--federal appropriation are provided solely for employment services and required waiver services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients. ~~((Fifty percent of the general fund appropriation shall be utilized for graduates served on a home and community-based services waiver and fifty percent of the general fund appropriation shall be used for nonwaiver clients.))~~

(m) \$81,000 of the general fund--state appropriation for fiscal year 2010, \$599,000 of the general fund--state appropriation for fiscal year 2011, and \$1,111,000 of the general fund--federal

appropriation are provided solely for the department to provide employment and day services for eligible students who are currently on a waiver and will graduate from high school during fiscal years 2010 and 2011.

(n) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(o) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the restoration of direct support to local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.

(2) INSTITUTIONAL SERVICES

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,422,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$64,404,000)</del>  |
| .....   | <u>\$62,551,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$207,986,000)</del> |
| .....   | <u>\$205,440,000</u>       |
| General Fund--Private/Local Appropriation.....    | <del>(\$22,441,000)</del>  |
| .....   | <u>\$22,357,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$356,253,000)</del> |
| .....   | <u>\$351,770,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The developmental disabilities program is authorized to use funds appropriated in this subsection to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(c) \$721,000 of the general fund--state appropriation for fiscal year 2010 and \$721,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(d) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) PROGRAM SUPPORT

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,407,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,369,000)</del> |
| .....   | <u>\$1,341,000</u>       |
| General Fund--Federal Appropriation .....         | <del>(\$1,301,000)</del> |
| .....   | <u>\$1,263,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$4,077,000)</del> |
| .....   | <u>\$4,011,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) SPECIAL PROJECTS

|   |                          |
|---|--------------------------|
| General Fund--Federal Appropriation ..... | <del>(\$9,631,000)</del> |
| .....                                     | <u>\$10,171,000</u>      |

The appropriations in this subsection are subject to the following conditions and limitations: The appropriations in this subsection are available solely for the infant toddler early intervention program and the money follows the person program as defined by this federal grant.

Sec. 205. 2010 2nd sp.s. c 1 s 205 (uncodified) is amended to read as follows:

|  |                              |
|--|------------------------------|
| FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM |                              |
| General Fund--State Appropriation (FY 2010) .....                                  | \$616,837,000                |
| General Fund--State Appropriation (FY 2011) ...                                    | <del>(\$639,163,000)</del>   |
| .....  | <u>\$606,962,000</u>         |
| General Fund--Federal Appropriation .....  | <del>(\$1,954,300,000)</del> |
| .....  | <u>\$1,917,607,000</u>       |
| General Fund--Private/Local Appropriation.....                                     | \$18,013,000                 |
| Traumatic Brain Injury Account--State Appropriation..                              | \$4,136,000                  |
| TOTAL APPROPRIATION .....  | <del>(\$3,232,449,000)</del> |
| .....  | <u>\$3,163,555,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed \$169.85 for fiscal year 2010 and shall not exceed ~~(\$166.24)~~ \$161.86 for fiscal year 2011, including the rate add-on described in subsection (12) of this section. There will be no adjustments for economic trends and conditions in fiscal years 2010 and 2011. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Substitute House Bill No. 3202 or Substitute Senate Bill No. 6872 (nursing facility medicaid payments) provide sufficient reimbursement to efficient and economically operating nursing facilities and bears a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2010 and no new certificates of capital authorization for fiscal year 2011 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal year 2011.

(4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

(5) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

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(a) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(b) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(c) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(6)(a) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(b) \$3,070,000 of the general fund--state appropriation for fiscal year 2011 and \$4,980,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reduction to in-home care that are taken in (a) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(7) \$536,000 of the general fund--state appropriation for fiscal year 2010, \$1,477,000 of the general fund--state appropriation for fiscal year 2011, and \$2,830,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(8)(a) \$1,212,000 of the general fund--state appropriation for fiscal year 2010, \$2,934,000 of the general fund--state appropriation for fiscal year 2011, and \$2,982,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(b) \$330,000 of the general fund--state appropriation for fiscal year 2010, \$660,000 of the general fund-state appropriation for fiscal year 2011, and \$810,000 of the general fund--federal appropriation are provided solely for transfer from the department to the training partnership, as provided in RCW 74.39A.360, for infrastructure and instructional costs associated with training of individual providers, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(c) The federal portion of the amounts in this subsection is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(d) Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

(9) Within the amounts appropriated in this section, the department may expand the new freedom waiver program to accommodate new waiver recipients throughout the state. As possible, and in compliance with current state and federal laws, the department shall allow current waiver recipients to transfer to the new freedom waiver.

(10) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible

for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(11) \$3,955,000 of the general fund--state appropriation for fiscal year 2010, (~~(\$4,239,000)~~) \$3,972,000 of the general fund--state appropriation for fiscal year 2011, and \$10,190,000 of the general fund--federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

(12) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(13) \$1,840,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$1,877,000)~~) \$1,759,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for operation of the volunteer services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(15) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(16) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery

and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(17) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(18) \$209,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$781,000)~~ \$732,000 of the general fund--state appropriation for fiscal year 2011, and \$1,293,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(19) In accordance with RCW 18.51.050, 18.20.050, and 43.135.055, the department is authorized to increase nursing facility and boarding home fees in fiscal year 2011 as necessary to meet the actual costs of conducting the licensure, inspection, and regulatory programs.

(a) \$1,035,000 of the general fund--private/local appropriation assumes that the current annual renewal license fee for nursing facilities shall be increased to \$327 per bed beginning in fiscal year 2011.

(b) \$1,806,000 of the general fund--local appropriation assumes that the current annual renewal license fee for boarding homes shall be increased to \$106 per bed beginning in fiscal year 2011.

(20) \$2,566,000 of the traumatic brain injury account--state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in RCW 74.31.020 through 74.31.050. The TBI advisory council shall provide a report to the legislature by December 1, 2010, on the effectiveness of the functions overseen by the council and shall provide recommendations on the development of critical services for individuals with traumatic brain injury.

(21) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(22) For calendar year 2009, the department shall calculate split settlements covering two periods January 1, 2009, through June 30, 2009, and July 1, 2009, through December 31, 2009. For the second period beginning July 1, 2009, the department may partially or totally waive settlements only in specific cases where a nursing home can demonstrate significant decreases in costs from the first period.

(23) \$72,000 of the traumatic brain injury account appropriation and \$116,000 of the general fund--federal appropriation are provided solely for a direct care rate add-on to any nursing facility specializing in the care of residents with traumatic brain injuries where more than 50 percent of residents are classified with this condition based upon the federal minimum data set assessment.

(24) \$69,000 of the general fund--state appropriation for fiscal year 2010, \$1,289,000 of the general fund--state appropriation for fiscal year 2011, and \$2,050,000 of the general fund--federal

appropriation are provided solely for the department to maintain enrollment in the adult day health services program. New enrollments are authorized for up to 1,575 clients or to the extent that appropriated funds are available to cover additional clients.

(25) ~~(\$1,000,000)~~ \$937,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract for the provision of an individual provider referral registry.

(26) ~~(\$100,000)~~ \$94,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the general fund--federal appropriation are provided solely for the department to contract with a consultant to evaluate and make recommendations on a pay-for-performance payment subsidy system. The department shall organize one workgroup meeting with the consultant where nursing home stakeholders may provide input on pay-for-performance ideas. The consultant shall review pay-for-performance strategies used in other states to sustain and enhance quality-improvement efforts in nursing facilities. The evaluation shall include a review of the centers for medicare and medicaid services demonstration project to explore the feasibility of pay-for-performance systems in medicare certified nursing facilities. The consultant shall develop a report to include:

- (a) Best practices used in other states for pay-for-performance strategies incorporated into medicaid nursing home payment systems;
- (b) The relevance of existing research to Washington state;
- (c) A summary and review of suggestions for pay-for-performance strategies provided by nursing home stakeholders in Washington state; and
- (d) An evaluation of the effectiveness of a variety of performance measures.

(27) \$4,100,000 of the general fund--state appropriation for fiscal year 2010, \$4,174,000 of the general fund--state appropriation for fiscal year 2011, and \$8,124,000 of the general fund--federal appropriation are provided for the operation of the management services division of the aging and disability services administration. This includes but is not limited to the budget, contracts, accounting, decision support, information technology, and rate development activities for programs administered by the aging and disability services administration. Nothing in this subsection is intended to exempt the management services division of the aging and disability services administration from reductions directed by the secretary. However, funds provided in this subsection shall not be transferred elsewhere within the department nor used for any other purpose.

(28) The department is authorized to place long-term care clients residing in nursing homes and paid for with state only funds into less restrictive community care settings while continuing to meet the client's care needs.

(29) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in section 206(19), chapter 37, Laws of 2010 1st sp.s.

**Sec. 206.** 2010 2nd sp.s. c 1 s 206 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM

|  |                              |
|--|------------------------------|
| General Fund--State Appropriation (FY 2010) .....                          | \$564,242,000                |
| General Fund--State Appropriation (FY 2011) ... <del>(\$565,617,000)</del> |                              |
| .....  | <u>\$540,549,000</u>         |
| General Fund--Federal Appropriation .....                                  | <del>(\$1,220,752,000)</del> |
| .....  | <u>\$1,219,423,000</u>       |
| General Fund--Private/Local Appropriation.....                             | <del>(\$31,816,000)</del>    |
| .....  | <u>\$37,816,000</u>          |
| Administrative Contingency Account--State                                  |                              |
| Appropriation.....   | \$24,336,000                 |
| TOTAL APPROPRIATION .....  | <del>(\$2,406,763,000)</del> |

.....\$2,386,366,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$303,393,000 of the general fund--state appropriation for fiscal year 2010, \$285,057,000 of the general fund--state appropriation for fiscal year 2011 net of child support pass-through recoveries, \$24,336,000 of the administrative contingency account--state appropriation, and \$778,606,000 of the general fund-- federal appropriation are provided solely for all components of the WorkFirst program. The department shall use moneys from the administrative contingency account for WorkFirst job placement services provided by the employment security department. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. In addition, within the amounts provided for WorkFirst the department shall:

(a) Establish a career services work transition program;

(b) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

(c) Submit a report electronically by October 1, 2009, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2009-2011 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;

(d) Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund--state and general fund--federal by activity.

(2) The department and the office of financial management shall electronically report quarterly the expenditures, maintenance of effort allotments, expenditure amounts, and caseloads for the WorkFirst program to the legislative fiscal committees.

(3) \$16,783,000 of the general fund--state appropriation for fiscal year 2011 and \$62,000,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program in order to maintain services to January 2011. The legislature intends to work with the governor to design and implement fiscal and programmatic modifications to provide for the sustainability of the program. The funding in this subsection assumes that no other expenditure reductions will be made prior to January 2011 other than those assumed in the appropriation levels in this act.

(4) \$94,322,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$84,904,000)~~) \$76,979,000 of the general fund--state appropriation for fiscal year 2011, net of recoveries, are provided solely for cash assistance and other services to recipients in the cash program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), including persons in the unemployable, expedited, and aged, blind, and disabled components of the program. It is the intent of the legislature that the lifeline incapacity determination and progressive evaluation process regulations be carefully designed to accurately identify those persons who have been or will be incapacitated for at least ninety days. The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010; except that provisions related to the use of administrative review teams may be amended, and obsolete terminology and functional assessment language may be updated on

or after July 1, 2010, in a manner that only minimally impacts the outcome of incapacity evaluations. After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.

(a) The department and the caseload forecast council shall, by September 21, 2010, submit a report to the legislature based upon the most recent caseload forecast and actual expenditure data available, as to whether expenditures for the lifeline-unemployable grants in fiscal year 2011 will exceed \$69,648,000 for fiscal year 2011 in the 2010 supplemental operating budget by three percent or more. If expenditures will exceed the appropriated amount for lifeline-unemployable grants by three percent or more, the department may adopt regulations modifying incapacity determination and progressive evaluation process regulations after September 30, 2010.

(b) On or before September 21, 2010, the department shall submit a report to the relevant policy and fiscal committees of the legislature that includes the following information regarding any regulations proposed for adoption that would modify the lifeline incapacity determination and progressive evaluation process:

(i) A copy of the proposed changes and a concise description of the changes;

(ii) A description of the persons who would likely be affected by adoption of the regulations, including their impairments, age, education, and work history;

(iii) An estimate of the number of persons who, on a monthly basis through June 2013, would be denied lifeline benefits if the regulations were adopted, expressed as a number, as a percentage of total applicants, and as a percentage of the number of persons granted lifeline benefits in each month;

(iv) An estimate of the number of persons who, on a monthly basis through June 2013, would have their lifeline benefits terminated following an eligibility review if the regulations were adopted, expressed as a number, as a percentage of the number of persons who have had an eligibility review in each month, and as a percentage of the total number of persons currently receiving lifeline-unemployable benefits in each month; and

(v) Intended improvements in employment or treatment outcomes among persons receiving lifeline benefits that could be attributable to the changes in the regulations.

(c) Within these amounts:

(i) The department shall aggressively pursue opportunities to transfer lifeline clients to general assistance expedited coverage and to facilitate client applications for federal supplemental security income when the client's incapacities indicate that he or she would be likely to meet the federal disability criteria for supplemental security income. The department shall initiate and file the federal supplemental security income interim agreement as quickly as possible in order to maximize the recovery of federal funds;

(ii) The department shall review the lifeline caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

(iii) The department shall actively coordinate with local workforce development councils to expedite access to worker retraining programs for lifeline clients in those regions of the state with the greatest number of such clients;

(iv) By July 1, 2009, the department shall enter into an interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veteran's services. This agreement must include outstationing department of veterans' affairs staff in selected community service

office locations in King and Pierce counties to facilitate applications for veterans' services; and

(v) In addition to any earlier evaluation that may have been conducted, the department shall intensively evaluate those clients who have been receiving lifeline benefits for twelve months or more as of July 1, 2009, or thereafter, if the available medical and incapacity related evidence indicates that the client is unlikely to meet the disability standard for federal supplemental security income benefits. The evaluation shall identify services necessary to eliminate or minimize barriers to employment, including mental health treatment, substance abuse treatment and vocational rehabilitation services. The department shall expedite referrals to chemical dependency treatment, mental health and vocational rehabilitation services for these clients.

(vi) The appropriations in this subsection reflect a change in the earned income disregard policy for lifeline clients. It is the intent of the legislature that the department shall adopt the temporary assistance for needy families earned income policy for the lifeline program.

(5) \$750,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$750,000)~~ \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for naturalization services.

(6)~~(\$3,550,000)~~ \$3,550,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services; and ~~(\$3,550,000)~~ \$2,050,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for refugee employment services, of which ~~(\$2,650,000)~~ \$1,540,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

((b) The legislature intends that the appropriation in this subsection for the 2009-11 fiscal biennium will maintain funding for refugee programs at a level at least equal to expenditures on these programs in the 2007-09 fiscal biennium.))

(7) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(8) \$855,000 of the general fund--state appropriation for fiscal year 2011, \$719,000 of the general fund--federal appropriation, and \$2,907,000 of the general fund--private/local appropriation are provided solely for the implementation of the opportunity portal, the food stamp employment and training program, and the disability lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(9) ~~(\$200,000)~~ \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to award grants to small mutual assistance or small community-based organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to provide funding for community groups to provide transitional assistance, language skills, and other resources to improve refugees' economic self-sufficiency through the effective use of social services, financial services, and medical assistance.

(10) To ensure expenditures remain within available funds appropriated in this section, the legislature establishes the benefit under the state food assistance program, made pursuant to RCW 74.08A.120, to be fifty percent of the federal supplemental nutrition assistance program benefit amount.

**Sec. 207.** 2010 2nd sp.s. c 1 s 207 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$81,982,000               |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$82,379,000)</del>  |
| .....  | <u>\$77,065,000</u>        |
| General Fund--Federal Appropriation .....          | <del>(\$148,018,000)</del> |
| .....  | <u>\$151,574,000</u>       |
| General Fund--Private/Local Appropriation.....     | \$2,718,000                |
| Criminal Justice Treatment Account--State          |                            |
| Appropriation.....                                 | \$17,743,000               |
| Problem Gambling Account--State Appropriation..... | \$1,456,000                |
| TOTAL APPROPRIATION .....                          | <del>(\$334,296,000)</del> |
| .....  | <u>\$332,538,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients.

(3) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) ~~(\$2,247,000 of the general fund--state appropriation for fiscal year 2011 is provided solely)~~ Funding is provided for the implementation of the lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) \$3,500,000 of the general fund--federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

**Sec. 208.** 2010 2nd sp.s. c 1 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM

|  |                              |
|--|------------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$1,697,203,000              |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$1,752,373,000)</del> |
| .....  | <u>\$1,737,303,000</u>       |
| General Fund--Federal Appropriation .....          | <del>(\$6,047,652,000)</del> |
| .....  | <u>\$6,047,405,000</u>       |
| General Fund--Private/Local Appropriation.....     | <del>(\$37,249,000)</del>    |
| .....  | <u>\$38,509,000</u>          |
| Emergency Medical Services and Trauma Care Systems |                              |
| Trust Account--State Appropriation .....           | \$15,075,000                 |
| Tobacco Prevention and Control Account--           |                              |
| State Appropriation.....                           | \$4,464,000                  |
| Hospital Safety Net Assessment Fund--State         |                              |
| Appropriation.....                                 | <del>(\$260,036,000)</del>   |
| .....  | <u>\$260,057,000</u>         |
| TOTAL APPROPRIATION .....                          | <del>(\$9,844,052,000)</del> |
| .....  | <u>\$9,800,016,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

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(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) In accordance with RCW 74.46.625, \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) (~~(\$1,110,000)~~) \$649,000 of the general fund--federal appropriation and (~~(\$1,105,000)~~) \$644,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) (~~(\$9,818,000)~~) \$5,729,000 of the general fund--state appropriation for fiscal year 2011, and (~~(\$9,865,000)~~) \$5,776,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access

hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$20,403,000 of the general fund--state appropriation for fiscal year 2010, of which \$6,570,000 is appropriated in section 204(1) of this act, and \$29,480,000 of the general fund--state appropriation for fiscal year 2011, of which \$6,570,000 is appropriated in section 204(1) of this act, are provided solely for state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945

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(Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(12) A maximum of \$241,141,000 in total funds from the general fund--state, general fund--federal, and tobacco and prevention control account--state appropriations may be expended in the fiscal biennium for the medical program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of lifeline benefits. Pursuant to RCW 74.09.035, the department shall not expend for the lifeline medical care services program any amounts in excess of the amounts provided in this subsection.

(13) Mental health services shall be included in the services provided through the managed care system for lifeline clients under chapter 8, Laws of 2010 1st sp. sess. In transitioning lifeline clients to managed care, the department shall attempt to deliver care to lifeline clients through medical homes in community and migrant health centers. The department, in collaboration with the carrier, shall seek to improve the transition rate of lifeline clients to the federal supplemental security income program. The department shall renegotiate the contract with the managed care plan that provides services for lifeline clients to maximize state retention of future hospital savings as a result of improved care coordination. The department, in collaboration with stakeholders, shall propose a new name for the lifeline program.

(14) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(15) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(16) State funds shall not be used by hospitals for advertising purposes.

(17) \$24,356,000 of the general fund--private/local appropriation and \$35,707,000 of the general fund--federal appropriation are provided solely for the implementation of professional services supplemental payment programs. The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1, 2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal

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committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(18) \$9,075,000 of the general fund--state appropriation for fiscal year 2010, \$8,588,000 of the general fund--state appropriation for fiscal year 2011, and \$39,747,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(19) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(21) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(22) \$425,000 of the general fund--state appropriation for fiscal year 2010 and \$790,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(23) The department, in conjunction with the office of financial management, shall implement a prorated inpatient payment policy.

(24) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based medicine and protection of patient access without significant disruption in treatment.

(25) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(26) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

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(27) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(28) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race. The department shall prioritize evidence-based practices for delivery of maternity support services. To the extent practicable, the department shall develop a mechanism to increase federal funding for maternity support services by leveraging local public funding for those services.

(29) \$260,036,000 of the hospital safety net assessment fund--state appropriation and \$255,448,000 of the general fund--federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(30) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(31) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(32) \$73,000 of the general fund--state appropriation for fiscal year 2011 and \$50,000 of the general fund--federal appropriation is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence pursuant to chapter 224, Laws of 2010 (Substitute Senate Bill No. 6639).

(33) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520 until December 31, 2010.

(34) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect providers, direct client services, or direct service delivery or programs.

(35) \$331,000 of the general fund--state appropriation for fiscal year 2010, \$331,000 of the general fund--state appropriation for fiscal year 2011, and \$1,228,000 of the general fund--federal appropriation are provided solely for the department to support the activities of the Washington poison center. The department shall seek federal authority to receive matching funds from the federal government through the children's health insurance program.

(36) \$528,000 of the general fund--state appropriation and \$2,955,000 of the general fund--federal appropriation are provided solely for the implementation of the lifeline program under chapter 8, Laws of 2010 1st sp. sess. (security lifeline act).

(37) Reductions in dental services are to be achieved by focusing on the fastest growing areas of dental care. Reductions in preventative care, particularly for children, will be avoided to the extent possible.

(38) \$1,307,000 of the general fund--state appropriation for fiscal year 2011 and \$1,770,000 of the general fund--federal appropriation are provided solely to continue to provide dental services in calendar year 2011 for qualifying adults with developmental disabilities. Services shall include preventive, routine, and emergent dental care, and support for continued operation of the dental education in care of persons with disabilities (DECOD) program at the University of Washington.

(39) The department shall develop the capability to implement apple health for kids express lane eligibility enrollments for children receiving basic food assistance by June 30, 2011.

(40)(a) The department, in coordination with the health care authority, shall actively continue to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide federal matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW and the medical care services program under RCW 74.09.035.

(b) If the waiver in (a) of this subsection is granted, the department and the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(41) \$704,000 of the general fund--state appropriation for fiscal year 2010, \$812,000 of the general fund--state appropriation for fiscal year 2011, and \$1,516,000 of the general fund--federal appropriation are provided solely for maintaining employer-sponsored insurance program staff, coordination of benefits unit staff, the payment integrity audit team, and family planning nursing.

(42) Every effort shall be made to maintain current employment levels and achieve administrative savings through vacancies and employee attrition. Efficiencies shall be implemented as soon as possible in order to minimize actual reduction in force. The department shall implement a management strategy that minimizes disruption of service and negative impacts on employees.

(43) \$1,199,000 of the general fund--private/local appropriation for fiscal year 2011 and \$1,671,000 of the general fund--federal appropriation are provided solely to support medical airlift services.

(44) \$5,000,000 of the general fund--state appropriation for fiscal year 2011 and \$7,191,000 of the general fund--federal appropriation are provided solely for payments to federally qualified health clinics and rural health centers under a new alternative payment methodology that the department shall develop in consultation with the legislature and the office of financial management.

(45) \$33,000 of the general fund--state appropriation for fiscal year 2011 and \$61,000 of the general fund--federal appropriation are provided solely to continue operation by a nonprofit organization of a toll-free line that assists families to learn about and enroll in apple health for kids, which provides publicly funded medical and dental care for families with incomes below 300 percent of the federal poverty level.

(46) \$150,000 of the general fund--state appropriation for fiscal year 2011 and \$150,000 of the general fund--federal appropriation are provided solely for initiation of a prescriptive practices

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improvement collaborative focusing upon atypical antipsychotics and other medications commonly used in the treatment of severe and persistent mental illnesses among adults. The project shall promote collaboration among community mental health centers, other major prescribers of atypical antipsychotic medications to adults enrolled in state medical assistance programs, and psychiatrists, pharmacists, and other specialists at the University of Washington department of psychiatry and/or other research universities. The collaboration shall include patient-specific prescriber consultations by psychiatrists and pharmacists specializing in treatment of severe and persistent mental illnesses among adults; production of profiles to assist prescribers and clinics track their prescriptive practices and their patients' medication use and adherence relative to evidence-based practice guidelines, other prescribers, and patients at other clinics; and in-service seminars at which participants can share and increase their knowledge of evidence-based and other effective prescriptive practices.

(47) \$75,000 of the general fund--state appropriation for fiscal year 2011 and \$75,000 of the general fund--federal appropriation are provided solely to assist with development and implementation of evidence-based strategies regarding the appropriate, safe, and effective role of C-section surgeries and early induced labor in births and neonatal care. The strategies shall be identified and implemented in consultation with clinical research specialists, physicians, hospitals, advanced registered nurse practitioners, and organizations concerned with maternal and child health.

**Sec. 209.** 2010 2nd sp.s. c 1 s 209 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$10,327,000               |
| General Fund--State Appropriation (FY 2011) .....   | <del>(\$10,045,000)</del>  |
| .....   | <u>\$9,443,000</u>         |
| General Fund--Federal Appropriation .....   | \$107,848,000              |
| Telecommunications Devices for the Hearing and Speech Impaired--State Appropriation ..... | <del>(\$5,976,000)</del>   |
| .....   | <u>\$6,056,000</u>         |
| TOTAL APPROPRIATION .....   | <del>(\$134,196,000)</del> |
| .....   | <u>\$133,674,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) The vocational rehabilitation program shall coordinate closely with the economic services program to serve lifeline clients under chapter 8, Laws of 2010 1st sp. sess. who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

(2) \$80,000 of the telecommunications devices for the hearing and speech impaired account--state appropriation is provided solely for the office of deaf and hard of hearing to enter into an interagency agreement with the department of services for the blind to support contracts for services that provide employment support and help with life activities for deaf-blind individuals in King county.

**Sec. 210.** 2010 2nd sp.s. c 1 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SPECIAL COMMITMENT PROGRAM

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$48,827,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$47,051,000)</del> |
| .....   | <u>\$48,536,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$95,878,000)</del> |
| .....   | <u>\$97,363,000</u>       |

**Sec. 211.** 2010 2nd sp.s. c 1 s 211 (uncodified) is amended to read as follows:

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FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$33,579,000               |
| General Fund--State Appropriation (FY 2011) .....       | <del>(\$29,166,000)</del>  |
| .....   | <u>\$27,745,000</u>        |
| General Fund--Federal Appropriation .....               | <del>(\$50,981,000)</del>  |
| .....   | <u>\$51,304,000</u>        |
| General Fund--Private/Local Appropriation.....          | \$1,121,000                |
| Institutional Impact Account--State Appropriation ..... | \$22,000                   |
| TOTAL APPROPRIATION .....                               | <del>(\$114,869,000)</del> |
| .....   | <u>\$113,771,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(1) \$333,000 of the general fund--state appropriation for fiscal year 2010 and \$300,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund--state appropriation for fiscal year 2010 and \$445,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund--state appropriation for fiscal year 2010 and \$178,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the juvenile detention alternatives initiative.

(4) Amounts appropriated in this section reflect a reduction to the family policy council. The family policy council shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(5) Amounts appropriated in this section reflect a reduction to the council on children and families. The council on children and families shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

**Sec. 212.** 2010 1st sp.s. c 37 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,985,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$61,461,000)</del>  |
| .....   | <u>\$63,793,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$56,572,000)</del>  |
| .....   | <u>\$56,855,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$180,018,000)</del> |
| .....   | <u>\$182,633,000</u>       |

**Sec. 213.** 2010 2nd sp.s. c 1 s 212 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....                            | \$208,258,000              |
| General Fund--State Appropriation (FY 2011) .....                            | <del>(\$129,087,000)</del> |
| .....  | <u>\$108,749,000</u>       |
| General Fund--Federal Appropriation .....                                    | <del>(\$34,727,000)</del>  |
| .....  | <u>\$31,975,000</u>        |
| State Health Care Authority Administration Account--State Appropriation..... | \$34,880,000               |
| Medical Aid Account--State Appropriation .....                               | \$527,000                  |

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Basic Health Plan Stabilization Account—State

|                            |                           |
|----------------------------|---------------------------|
| <u>Appropriation</u> ..... | <u>\$6,000,000</u>        |
| TOTAL APPROPRIATION .....  | <u>(((\$407,479,000))</u> |
| .....                      | <u>\$390,389,000</u>      |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4)(a) In order to maximize the funding appropriated for the basic health plan, the health care authority is directed to make modifications that will reduce the total number of subsidized enrollees to approximately 65,000 by January 1, 2010. In addition to the reduced enrollment, other modifications may include changes in enrollee premium obligations, changes in benefits, enrollee cost-sharing, and termination of the enrollment of individuals concurrently enrolled in a medical assistance program as provided in Substitute House Bill No. 2341.

(b) The health care authority shall coordinate with the department of social and health services to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW.

(c) If the waiver in (b) of this subsection is granted, the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(5) \$250,000 of the general fund--state appropriation for fiscal year 2010 and \$250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of

Substitute Senate Bill No. 5360 (community collaboratives). If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(6) The authority shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(7) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$63,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 220, Laws of 2010 (accountable care organizations).

(8) As soon as practicable after February 28, 2011, enrollment in the subsidized basic health plan shall be limited to only include persons who qualify as subsidized enrollees as defined in RCW 70.47.020 and who (a) qualify for services under 1115 medicaid demonstration project number 11-W-00254/10; or (b) are foster parents licensed under chapter 74.15 RCW.

**Sec. 214.** 2010 1st sp.s. c 37 s 215 (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

|   |                             |
|---|-----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,638,000                 |
| General Fund--State Appropriation (FY 2011) ..... | <del>(((\$2,511,000))</del> |
| .....   | <u>\$2,353,000</u>          |
| General Fund--Federal Appropriation .....         | \$1,584,000                 |
| TOTAL APPROPRIATION .....                         | <del>(((\$6,733,000))</del> |
| .....   | <u>\$6,575,000</u>          |

**Sec. 215.** 2010 1st sp.s. c 37 s 217 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$17,273,000                 |
| General Fund--State Appropriation (FY 2011) .....       | <del>(((\$17,843,000))</del> |
| .....   | <u>\$16,721,000</u>          |
| General Fund--Federal Appropriation .....               | \$143,000                    |
| General Fund--Private/Local Appropriation.....          | <del>(((\$1,303,000))</del>  |
| .....   | <u>\$1,378,000</u>           |
| Death Investigations Account--State Appropriation ..... | \$148,000                    |
| Municipal Criminal Justice Assistance Account--         |                              |
| State Appropriation.....                                | \$460,000                    |
| Washington Auto Theft Prevention Authority Account--    |                              |
| State Appropriation.....                                | <del>(((\$5,844,000))</del>  |
| .....   | <u>\$6,432,000</u>           |
| TOTAL APPROPRIATION .....                               | <del>(((\$43,014,000))</del> |
| .....   | <u>\$42,555,000</u>          |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,191,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$1,191,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRS) and the statewide automated victim information and notification system (SAVIN).

(2) \$5,000,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000,000 of the general fund--state appropriation for fiscal year 2011, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

- (i) For level I offenders, every twelve months;
- (ii) For level II offenders, every six months; and
- (iii) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31, each year.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing-to-register offenses.

(3) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute House Bill No. 2078 (persons with developmental disabilities in correctional facilities or jails). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$171,000 of the general fund--local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions with one hundred or more full-time commissioned officers shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(5) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

((6) \$1,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuing the enforcement of illegal drug laws in the rural pilot project enforcement areas as set forth in chapter 339, Laws of 2006.))

**Sec. 216.** 2010 1st sp.s. c 37 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

|  |                           |
|--|---------------------------|
| General Fund--State Appropriation (FY 2010) .....                          | \$24,975,000              |
| General Fund--State Appropriation (FY 2011) .....                          | <del>(\$19,336,000)</del> |
| .....  | <u>\$18,120,000</u>       |
| General Fund--Federal Appropriation .....                                  | <del>(\$10,100,000)</del> |
| .....  | <u>\$11,316,000</u>       |
| Asbestos Account--State Appropriation .....                                | \$923,000                 |
| Electrical License Account--State Appropriation .....                      | \$36,977,000              |
| Farm Labor Revolving Account--Private/Local Appropriation .....            | \$28,000                  |
| Worker and Community Right-to-Know Account--State Appropriation .....      | \$1,987,000               |
| Public Works Administration Account--State Appropriation .....             | \$6,021,000               |
| Manufactured Home Installation Training Account--State Appropriation ..... | \$143,000                 |
| Accident Account--State Appropriation .....                                | \$250,509,000             |
| Accident Account--Federal Appropriation .....                              | \$13,621,000              |
| Medical Aid Account--State Appropriation .....                             | \$249,232,000             |
| Medical Aid Account--Federal Appropriation .....                           | \$3,186,000               |
| Plumbing Certificate Account--State Appropriation .....                    | \$1,704,000               |
| Pressure Systems Safety Account--State Appropriation .....                 | \$4,144,000               |
| TOTAL APPROPRIATION .....  | \$622,886,000             |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor

registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$424,000 of the accident account--state appropriation and \$76,000 of the medical aid account--state appropriation are provided solely for implementation of a community agricultural worker safety grant at the department of agriculture. The department shall enter into an interagency agreement with the department of agriculture to implement the grant.

(3) \$4,850,000 of the medical aid account--state appropriation is provided solely to continue the program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and that priority is given to projects fostering accident prevention through cooperation between employers and employees or their representatives.

(4) \$150,000 of the medical aid account--state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(5) The department shall continue to conduct utilization reviews of physical and occupational therapy cases at the 24th visit. The department shall continue to report performance measures and targets for these reviews on the agency web site. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(6) The appropriations in this section reflect reductions in the appropriations for the department of labor and industries' administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing administrative costs only.

(7) \$500,000 of the accident account--state appropriation is provided solely for the department to contract with one or more independent experts to oversee and assist the department's implementation of improvements to the rating plan under chapter 51.18 RCW, in collaboration with the department and with the department's work group of retrospective rating and workers' compensation stakeholders. The independent experts will validate the impact of recommended changes on retrospective rating participants and nonparticipants, confirm implementation technology changes, and provide other implementation assistance as determined by the department.

(8) \$194,000 of the accident account--state appropriation and \$192,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5346 (health care administrative procedures).

(9) \$131,000 of the accident account--state appropriation and \$128,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5613 (stop work orders).

(10) \$68,000 of the accident account--state appropriation and \$68,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5688 (registered domestic partners).

(11) \$320,000 of the accident account--state appropriation and \$147,000 of the medical aid account--state appropriation are

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provided solely for implementation of Senate Bill No. 5873 (apprenticeship utilization).

(12) \$73,000 of the general fund--state appropriation for fiscal year 2010, \$66,000 of the general fund--state appropriation for fiscal year 2011, \$606,000 of the accident account--state appropriation, and \$600,000 of the medical aid account--state appropriation are provided solely for the implementation of House Bill No. 1555 (underground economy).

(13) \$574,000 of the accident account--state appropriation and \$579,000 of the medical account--state appropriation are provided solely for the implementation of House Bill No. 1402 (industrial insurance appeals).

(14) Within statutory guidelines, the boiler program shall explore opportunities to increase program efficiency. Strategies may include the consolidation of routine multiple inspections to the same site and trip planning to ensure the least number of miles traveled.

(15) \$16,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(16) \$48,000 of the accident account--state appropriation and \$48,000 of the medical aid account--state appropriation are provided solely for the implementation of Substitute House Bill No. 2789 (issuance of subpoenas for purposes of agency investigations of underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(17) \$71,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Senate Bill No. 6349 (farm internship program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(18) \$127,000 of the general fund--state appropriation for fiscal year 2010 and \$133,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to provide benefits in excess of the cap established by sections 1 and 2, chapter 122, Laws of 2010. These benefits shall be paid for claimants who were determined eligible for and who were receiving crime victims' compensation benefits because they were determined to be permanently and totally disabled, as defined by RCW 51.08.160, prior to April 1, 2010. The director shall establish, by May 1, 2010, a process to aid crime victims' compensation recipients in identifying and applying for appropriate alternative benefit programs.

(19) \$155,000 of the public works administration account--state appropriation is provided solely for the implementation of Engrossed House Bill No. 2805 (offsite prefabricated items). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 217. 2010 1st sp.s. c 37 s 219 (uncodified) is amended to read as follows:

FOR THE INDETERMINATE SENTENCE REVIEW BOARD

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,882,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,864,000)</del> |
| .....   | <u>\$1,659,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$3,746,000)</del> |

.....\$3,541,000

Sec. 218. 2010 1st sp.s. c 37 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

|  |             |
|--|-------------|
| General Fund--State Appropriation (FY 2010) .....  | \$1,913,000 |
| General Fund--State Appropriation (FY 2011) .....  | \$1,865,000 |
| Charitable, Educational, Penal, and Reformatory Institutions Account--State Appropriation..... | \$10,000    |
| TOTAL APPROPRIATION .....  | \$3,788,000 |

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(2) FIELD SERVICES

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2010) .....                   | \$4,885,000  |
| General Fund--State Appropriation (FY 2011) .....                   | \$4,964,000  |
| General Fund--Federal Appropriation .....                           | \$2,382,000  |
| General Fund--Private/Local Appropriation.....                      | \$4,512,000  |
| Veterans Innovations Program Account--State Appropriation.....      | \$897,000    |
| Veteran Estate Management Account--Private/Local Appropriation..... | \$1,072,000  |
| TOTAL APPROPRIATION .....   | \$18,712,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$648,000 of the veterans innovations program account--state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(c) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) INSTITUTIONAL SERVICES

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010).....  | \$3,318,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,371,000)</del>  |
| .....   | <u>\$1,793,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$50,353,000)</del> |
| .....   | <u>\$50,931,000</u>       |
| General Fund--Private/Local Appropriation.....    | \$34,189,000              |
| TOTAL APPROPRIATION .....                         | \$90,231,000              |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(b) The reductions in this subsection shall be achieved through savings from contract revisions and shall not impact the availability of goods and services for residents of the three state veterans homes.

**Sec. 219.** 2010 2nd sp.s. c 1 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

|  |                              |
|--|------------------------------|
| General Fund--State Appropriation (FY 2010) .....                            | \$98,414,000                 |
| General Fund--State Appropriation (FY 2011) .....                            | <del>(\$81,735,000)</del>    |
|  | <u>\$72,427,000</u>          |
| General Fund--Federal Appropriation .....                                    | \$564,379,000                |
| General Fund--Private/Local Appropriation.....                               | \$162,237,000                |
| Hospital Data Collection Account--State Appropriation..                      | \$218,000                    |
| Health Professions Account--State Appropriation .....                        | \$82,850,000                 |
| Aquatic Lands Enhancement Account--State Appropriation .....                 | \$603,000                    |
| Emergency Medical Services and Trauma Care Systems                           |                              |
| ..... Trust Account--State Appropriation                                     |                              |
| .....  | \$13,206,000                 |
| Safe Drinking Water Account--State Appropriation .....                       | \$2,731,000                  |
| Drinking Water Assistance Account--Federal                                   |                              |
| Appropriation.....   | \$22,862,000                 |
| Waterworks Operator Certification--State                                     |                              |
| Appropriation.....   | \$1,522,000                  |
| Drinking Water Assistance Administrative Account--                           |                              |
| State Appropriation.....   | \$326,000                    |
| State Toxics Control Account--State Appropriation ( <del>\$4,106,000</del> ) |                              |
| .....  | <u>\$4,348,000</u>           |
| Medical Test Site Licensure Account--State                                   |                              |
| Appropriation.....   | \$2,261,000                  |
| Youth Tobacco Prevention Account--State Appropriation                        |                              |
| .....  | \$1,512,000                  |
| Public Health Supplemental Account--Private/Local                            |                              |
| Appropriation.....   | \$3,804,000                  |
| Community and Economic Development Fee Account--State                        |                              |
| Appropriation.....   | \$298,000                    |
| Accident Account--State Appropriation .....                                  | \$292,000                    |
| Medical Aid Account--State Appropriation .....                               | \$48,000                     |
| Tobacco Prevention and Control Account--State                                |                              |
| Appropriation.....   | \$41,196,000                 |
| Biotoxin Account--State Appropriation.....                                   | \$1,163,000                  |
| TOTAL APPROPRIATION .....  | <del>(\$1,085,763,000)</del> |
|  | <u>\$1,076,697,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year

2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, dentist, mental health counselor, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, social worker, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW.

(3) Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is authorized to establish fees by the amount necessary to fully support the cost of activities related to the administration of long-term care worker certification. The department is further authorized to increase fees by the amount necessary to implement the regulatory requirements of the following bills: House Bill No. 1414 (health care assistants), House Bill No. 1740 (dental residency licenses), and House Bill No. 1899 (retired active physician licenses).

(4) \$764,000 of the health professions account--state appropriation is provided solely for the medical quality assurance commission to maintain disciplinary staff and associated costs sufficient to reduce the backlog of disciplinary cases and to continue to manage the disciplinary caseload of the commission.

(5) \$57,000 of the general fund--state appropriation for fiscal year 2010 and (~~\$58,000~~) \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery. The appropriations in this section assume that the current application and renewal fee for midwives shall be increased by fifty dollars and all other fees for midwives be adjusted accordingly.

(6) Funding for the human papillomavirus vaccine shall not be included in the department's universal vaccine purchase program in fiscal year 2010. Remaining funds for the universal vaccine purchase program shall be used to continue the purchase of all other vaccines included in the program until May 1, 2010, at which point state funding for the universal vaccine purchase program shall be discontinued.

(7) Beginning July 1, 2010, the department, in collaboration with the department of social and health services, shall maximize the use of existing federal funds, including section 317 of the federal public health services act direct assistance as well as federal funds that may become available under the American recovery and reinvestment act, in order to continue to provide immunizations for low-income, nonmedicaid eligible children up to three hundred percent of the federal poverty level in state-sponsored health programs.

(8) The department shall eliminate outreach activities for the health care directives registry and use the remaining amounts to maintain the contract for the registry and minimal staffing necessary to administer the basic entry functions for the registry.

(9) Funding in this section reflects a temporary reduction of resources for the 2009-11 fiscal biennium for the state board of health to conduct health impact reviews.

(10) Pursuant to RCW 43.135.055 and 43.70.125, the department is authorized to adopt rules to establish a fee schedule to apply to applicants for initial certification surveys of health care facilities for purposes of receiving federal health care program reimbursement. The fees shall only apply when the department has determined that federal funding is not sufficient to compensate the department for the cost of conducting initial certification surveys. The fees for initial certification surveys may be established as follows: Up to \$1,815 for ambulatory surgery centers, up to \$2,015

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for critical access hospitals, up to \$980 for end stage renal disease facilities, up to \$2,285 for home health agencies, up to \$2,285 for hospice agencies, up to \$2,285 for hospitals, up to \$520 for rehabilitation facilities, up to \$690 for rural health clinics, and up to \$7,000 for transplant hospitals.

(11) Funding for family planning grants for fiscal year 2011 is reduced in the expectation that federal funding shall become available to expand coverage of services for individuals through programs at the department of social and health services. In the event that such funding is not provided, the legislature intends to continue funding through a supplemental appropriation at fiscal year 2010 levels. (~~(\$4,500,000)~~) \$4,360,000 of the general fund--state appropriation is provided solely for the department of health-funded family planning clinic grants due to federal funding not becoming available.

(12) \$16,000,000 of the tobacco prevention and control account--state appropriation is provided solely for local health jurisdictions to conduct core public health functions as defined in RCW 43.70.514.

(13) \$100,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1414 (health care assistants). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(14) \$42,000 of the health professions account--state appropriation is provided solely to implement Substitute House Bill No. 1740 (dentistry license issuance). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(15) \$23,000 of the health professions account--state appropriation is provided solely to implement Second Substitute House Bill No. 1899 (retired active physician licenses). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(16) \$12,000 of the general fund--state appropriation for fiscal year 2010 and \$67,000 of the general fund--private/local appropriation are provided solely to implement House Bill No. 1510 (birth certificates). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(17) \$31,000 of the health professions account is provided for the implementation of Second Substitute Senate Bill No. 5850 (human trafficking). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(18) \$282,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5752 (dentists cost recovery). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(19) \$106,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5601 (speech language assistants). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(20) Subject to existing resources, the department of health is encouraged to examine, in the ordinary course of business, current and prospective programs, treatments, education, and awareness of cardiovascular disease that are needed for a thriving and healthy Washington.

(21) \$390,000 of the health professions account--state appropriation is provided solely to implement chapter 169, Laws of 2010 (nursing assistants). The amount provided in this subsection is from fee revenue authorized by Engrossed Substitute Senate Bill No. 6582.

(22) \$10,000 of the health professions account--state appropriation for fiscal year 2010 and \$40,000 of the health professions account--state appropriation for fiscal year 2011 are provided solely for the department to study cost effective options for collecting demographic data related to the health care professions workforce to be submitted to the legislature by December 1, 2010.

(23) \$66,000 of the health professions account--state appropriation is provided solely to implement chapter 209, Laws of 2010 (pain management).

(24) \$10,000 of the health professions account--state appropriation is provided solely to implement chapter 92, Laws of 2010 (cardiovascular invasive specialists).

...(25) \$23,000 of the general fund--state appropriation is provided solely to implement chapter 182, Laws of 2010 (tracking ephedrine, etc.)

(26) The department is authorized to coordinate a tobacco cessation media campaign using all appropriate media with the purpose of maximizing the use of quit-line services and youth smoking prevention.

(27) It is the intent of the legislature that the reductions in appropriations to the AIDS/HIV programs shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing these programs.

(28) \$400,000 of the state toxics control account--state appropriation is provided solely for granting to a willing local public entity to provide emergency water supplies or water treatment for households with individuals at high public health risk from nitrate-contaminated wells in the lower Yakima basin.

(29) \$100,000 of the state toxics control account--state appropriation is provided solely for an interagency contract to the department of ecology to grant to agencies involved in improving groundwater quality in the lower Yakima Valley. These agencies will develop a local plan for improving water quality and reducing nitrate contamination. The department of ecology will report to the appropriate committees of the legislature and to the office of financial management no later than December 1, 2010, summarizing progress towards developing and implementing this plan.

(30) In accordance with RCW 43.135.055, the department is authorized to adopt and increase all fees set forth in and previously authorized in section 221(2), chapter 37, Laws of 2010 1st sp.s.

**Sec. 220.** 2010 2nd sp.s. c 1 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

(1) ADMINISTRATION AND SUPPORT SERVICES

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$55,772,000         |
| General Fund--State Appropriation (FY 2011) ..... | \$51,929,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$107,701,000</b> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(b) \$35,000 of the general fund--state appropriation for fiscal year 2010 and \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

(2) CORRECTIONAL OPERATIONS

|  |                                  |
|--|----------------------------------|
| General Fund--State Appropriation (FY 2010) .....                              | \$458,503,000                    |
| General Fund--State Appropriation (FY 2011) ... (( <del>\$562,483,000</del> )) |                                  |
| .....  | <u>\$562,084,000</u>             |
| General Fund--Federal Appropriation .....                                      | (( <del>\$186,719,000</del> ))   |
| .....  | <u>\$186,651,000</u>             |
| Washington Auto Theft Prevention Authority Account--                           |                                  |
| State Appropriation.....   | \$5,936,000                      |
| State Efficiency and Restructuring Account--State                              |                                  |
| Appropriation.....   | \$34,522,000                     |
| TOTAL APPROPRIATION .....  | (( <del>\$1,248,163,000</del> )) |
| .....  | <u>\$1,247,696,000</u>           |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) During the 2009-11 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors:

(i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(d) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(e) A political subdivision which is applying for funding to mitigate one-time impacts associated with construction or expansion of a correctional institution, consistent with WAC 137-12A-030, may apply for the mitigation funds in the fiscal biennium in which the impacts occur or in the immediately succeeding fiscal biennium.

(f) Within amounts provided in this subsection, the department, jointly with the department of social and health services, shall identify the number of offenders released through the extraordinary medical placement program, the cost savings to the department of corrections, including estimated medical cost savings, and the costs for medical services in the community incurred by the department of social and health services. The department and the department of social and health services shall jointly report to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010.

(g) \$11,863,000 of the general fund--state appropriation for fiscal year 2010, ((~~\$7,467,000~~)) \$7,953,000 of the general fund--state appropriation for fiscal year 2011, and \$2,336,000 of the general fund-private/local appropriation are provided solely for in-prison evidence-based programs and for the reception diagnostic center program as part of the offender re-entry initiative.

(h) The appropriations in this subsection are based on savings assumed from the closure of the McNeil Island corrections center,

the Ahtanum View corrections center, and the Pine Lodge corrections center for women.

(3) COMMUNITY SUPERVISION

|  |                                |
|--|--------------------------------|
| General Fund--State Appropriation (FY 2010) .....                              | \$150,729,000                  |
| General Fund--State Appropriation (FY 2011) ... (( <del>\$134,744,000</del> )) |                                |
| .....  | <u>\$134,840,000</u>           |
| TOTAL APPROPRIATION .....  | (( <del>\$285,473,000</del> )) |
| .....  | <u>\$285,569,000</u>           |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$2,083,000 of the general fund--state appropriation for fiscal year 2010 and \$2,083,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Senate Bill No. 5525 (state institutions/release). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(c) The appropriations in this subsection are based upon savings assumed from the implementation of Engrossed Substitute Senate Bill No. 5288 (supervision of offenders).

(d) \$2,791,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$3,166,000~~)) \$2,680,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for evidence-based community programs and for community justice centers as part of the offender re-entry initiative.

(e) \$418,300 of the general fund--state appropriation for fiscal year 2010 is provided solely for the purposes of settling all claims in *Hilda Solis, Secretary of Labor, United States Department of Labor v. State of Washington, Department of Corrections*, United States District Court, Western District of Washington, Cause No. C08-cv-05362-RJB. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If settlement is not fully executed by June 30, 2010, the amount provided in this subsection shall lapse.

(f) \$984,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence, pursuant to chapter 224, Laws of 2010 (confinement alternatives).

(4) CORRECTIONAL INDUSTRIES

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,574,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$2,441,000 |
| TOTAL APPROPRIATION .....                         | \$5,015,000 |

The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund--state appropriation for fiscal year 2010 and \$132,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2010) ..... | \$40,728,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$38,629,000 |
| TOTAL APPROPRIATION .....                         | \$79,357,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

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(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

(6) Funding in this section may not be used to purchase radios or base station repeaters related to the movement to narrowband frequencies, or for reprogramming existing narrowband radios.

**Sec. 221.** 2010 1st sp.s. c 37 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,504,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,390,000)</del>  |
| .....   | <u>\$2,160,000</u>        |
| General Fund--Federal Appropriation .....         | \$18,116,000              |
| General Fund--Private/Local Appropriation.....    | \$30,000                  |
| TOTAL APPROPRIATION .....                         | <del>(\$23,040,000)</del> |
| .....   | <u>\$22,810,000</u>       |

(The amounts appropriated in this section are subject to the following conditions and limitations: Sufficient amounts are appropriated in this section to support contracts for services that provide employment support and help with life activities for deaf and blind individuals in King county.)

**Sec. 222.** 2010 1st sp.s. c 37 s 225 (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$962,000                |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$948,000)</del>   |
| .....   | <u>\$844,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>(\$1,910,000)</del> |
| .....   | <u>\$1,806,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the sentencing guidelines commission, in partnership with the courts, shall develop a plan to implement an evidence-based system of community custody for adult felons that will include the consistent use of evidence-based risk and needs assessment tools, programs, supervision modalities, and monitoring of program integrity. The plan for the evidence-based system of community custody shall include provisions for identifying cost-effective rehabilitative programs; identifying offenders for whom such programs would be cost-effective; monitoring the system for cost-effectiveness; and reporting annually to the legislature. In developing the plan, the sentencing guidelines shall consult with: The Washington state institute for public policy; the legislature; the department of corrections; local governments; prosecutors; defense attorneys; victim advocate groups; law enforcement; the Washington federation of state employees; and other interested entities. The sentencing guidelines commission shall report its recommendations to the governor and the legislature by December 1, 2009.

(2)(a) Except as provided in subsection (b), during the 2009-11 biennium, the reports required by RCW 9.94A.480(2) and 9.94A.850(2) (d) and (h) shall be prepared within the available funds and may be delayed or suspended at the discretion of the commission.

(b) The commission shall submit the analysis described in section 15 of Engrossed Substitute Senate Bill No. 5288 no later than December 1, 2011.

(3) Within the amounts appropriated in this section, the sentencing guidelines commission shall survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence-based practice, investigate the implementation of such a

policy in other states, and estimate the fiscal impacts of implementing such a policy in Washington state. The sentencing guidelines commission shall report its findings to the governor and the legislature by December 1, 2010.

**Sec. 223.** 2010 1st sp.s. c 37 s 226 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$2,054,000                |
| General Fund--State Appropriation (FY 2011) .....       | <del>(\$5,053,000)</del>   |
| .....   | <u>\$4,735,000</u>         |
| General Fund--Federal Appropriation .....               | \$324,135,000              |
| General Fund--Private/Local Appropriation.....          | \$33,640,000               |
| Unemployment Compensation Administration Account--      |                            |
| Federal Appropriation.....                              | <del>(\$362,740,000)</del> |
| .....   | <u>\$348,000,000</u>       |
| Administrative Contingency Account--State Appropriation |                            |
| .....   | \$345,000                  |
| Employment Service Administrative Account--State        |                            |
| Appropriation.....                                      | \$37,775,000               |
| TOTAL APPROPRIATION .....                               | <del>(\$765,742,000)</del> |
| .....   | <u>\$750,684,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$59,829,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(2) ~~(\$32,067,000)~~ \$17,327,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to fund the replacement of the unemployment insurance tax information system (TAXIS) for the employment security department. This section is subject to section 902 of this act. After the effective date of this section, the employment security department may not incur further obligations for the replacement of the unemployment insurance tax information system (TAXIS). Nothing in this act prohibits the department from meeting obligations incurred prior to the effective date of this section.

(3) \$110,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5804 (leaving part time work voluntarily).

(4) \$1,263,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5963 (unemployment insurance).

(5) \$159,000 of the unemployment compensation account--federal appropriation is provided solely for the implementation of House Bill No. 1555 (underground economy) from funds made available to the state by section 903(d) of the social security act (Reed act).

(6) \$295,000 of the administrative contingency--state appropriation for fiscal year 2010 is provided solely for the implementation of House Bill No. 2227 (evergreen jobs act).

(7) ~~(\$7,000,000)~~ \$2,000,000 of the general fund--state appropriation for fiscal year 2010 ~~(is)~~ and \$4,682,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Senate Bill No. 5809 (WorkForce employment and training).

(8) \$444,000 of the unemployment compensation administration account--federal appropriation is provided solely for the implementation of Substitute Senate Bill No. 6524 (unemployment insurance penalties and contribution rates) from

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funds made available to the state by section 903 (d) or (f) of the social security act (Reed 12 act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$232,000 of the unemployment compensation administration account--federal appropriation from funds made available to the state by section 903(c) or (f) of the social security act (Reed act) is provided solely for the implementation of Substitute House Bill No. 2789 (underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(End of Part)

**PART III  
NATURAL RESOURCES**

**Sec. 301.** 2010 2nd sp.s. c 1 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$58,552,000           |
| General Fund--State Appropriation (FY 2011) .....   | \$46,925,000           |
| General Fund--Federal Appropriation .....   | \$82,079,000           |
| General Fund--Private/Local Appropriation.....  | \$16,688,000           |
| Special Grass Seed Burning Research Account--State<br>Appropriation.....                              | \$14,000               |
| Reclamation Account--State Appropriation .....  | \$3,649,000            |
| Flood Control Assistance Account--State Appropriation   | \$1,943,000            |
| State Emergency Water Projects Revolving Account--<br>State Appropriation.....                        | \$240,000              |
| Waste Reduction/Recycling/Litter Control--State<br>Appropriation.....                                 | \$12,467,000           |
| State Drought Preparedness Account--State<br>Appropriation.....                                       | \$4,000,000            |
| State and Local Improvements Revolving Account<br>(Water Supply Facilities)--State Appropriation..... | \$424,000              |
| Freshwater Aquatic Algae Control Account--State<br>Appropriation.....                                 | \$508,000              |
| Water Rights Tracking System Account--State<br>Appropriation.....                                     | \$116,000              |
| Site Closure Account--State Appropriation.....  | \$922,000              |
| Wood Stove Education and Enforcement Account--State<br>Appropriation.....                             | <del>(\$612,000)</del> |
|   | <u>\$582,000</u>       |
| Worker and Community Right-to-Know Account--State<br>Appropriation.....                               | \$1,663,000            |
| State Toxics Control Account--State Appropriation..   | \$106,642,000          |
| State Toxics Control Account--Private/Local<br>Appropriation.....                                     | \$379,000              |
| Local Toxics Control Account--State Appropriation ..  | \$24,690,000           |
| Water Quality Permit Account--State Appropriation.  | \$37,018,000           |
| Underground Storage Tank Account--State<br>Appropriation.....   | \$3,270,000            |
| Biosolids Permit Account--State Appropriation.....  | \$1,866,000            |
| Hazardous Waste Assistance Account--State<br>Appropriation.....                                       | \$5,880,000            |
| Air Pollution Control Account--State Appropriation( <del>\$2,111,000</del> )<br>.....                 | <u>\$1,565,000</u>     |
| Oil Spill Prevention Account--State Appropriation.....  | \$10,599,000           |
| Air Operating Permit Account--State Appropriation.....  | \$2,758,000            |
| Freshwater Aquatic Weeds Account--State Appropriation<br>.....  | \$1,693,000            |
| Oil Spill Response Account--State Appropriation.....  | \$7,077,000            |
| Metals Mining Account--State Appropriation.....   | \$14,000               |
| Water Pollution Control Revolving Account--State<br>Appropriation.....                                | \$535,000              |
| Water Pollution Control Revolving Account--Federal  |                        |

|   |                                   |
|---|-----------------------------------|
| Appropriation.....  | \$2,210,000                       |
| Water Rights Processing Account--State Appropriation .... | \$68,000                          |
| <b>TOTAL APPROPRIATION .....</b>                          | <b><del>(\$437,612,000)</del></b> |
|   | <u><b>\$437,036,000</b></u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$170,000 of the oil spill prevention account--state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) \$240,000 of the woodstove education and enforcement account--state appropriation is provided solely for citizen outreach efforts to improve understanding of burn curtailments, the proper use of wood heating devices, and public awareness of the adverse health effects of woodsmoke pollution.

(3) \$3,000,000 of the general fund--private/local appropriation is provided solely for contracted toxic-site cleanup actions at sites where multiple potentially liable parties agree to provide funding.

(4) \$3,600,000 of the local toxics account--state appropriation is provided solely for the standby emergency rescue tug stationed at Neah Bay.

(5) \$811,000 of the state toxics account--state appropriation is provided solely for oversight of toxic cleanup at facilities that treat, store, and dispose of hazardous wastes.

(6) \$1,456,000 of the state toxics account--state appropriation is provided solely for toxic cleanup at sites where willing parties negotiate prepayment agreements with the department and provide necessary funding.

(7) \$558,000 of the state toxics account--state appropriation and \$3,000,000 of the local toxics account--state appropriation are provided solely for grants and technical assistance to Puget Sound-area local governments engaged in updating shoreline master programs.

(8) \$950,000 of the state toxics control account--state appropriation is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery, beginning in fiscal year 2011.

(9) RCW 70.105.280 authorizes the department to assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that involves both a nonradioactive hazardous component and a radioactive component. Service charges may not exceed the costs to the department in carrying out the duties in RCW 70.105.280. The current service charges do not meet the costs of the department to carry out its duties. Pursuant to RCW 43.135.055 and 70.105.280, the department is authorized to increase the service charges no greater than 18 percent for fiscal year 2010 and no greater than 15 percent for fiscal year 2011. Such service charges shall include all costs of public participation grants awarded to qualified entities by the department pursuant to RCW 70.105D.070(5) for facilities at which such grants are recognized as a component of a community relations or public participation plan authorized or required as an element of a consent order, federal facility agreement or agreed order entered into or issued by the department pursuant to any federal or state law governing investigation and remediation of releases of hazardous substances. Public participation grants funded by such service charges shall be in addition to, and not in place of, any other grants made pursuant to RCW 70.105D.070(5). Costs for the public participation grants shall be billed individually to the mixed waste facility associated with the grant.

(10) The department is authorized to increase the following fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business and the appropriation levels in this section:

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Environmental lab accreditation, dam safety and inspection, biosolids permitting, air emissions new source review, and manufacturer registration and renewal.

(11) \$63,000 of the state toxics control account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(12) \$225,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$193,000)~~) \$181,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$150,000)~~) \$141,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for watershed planning implementation grants to continue ongoing efforts to develop and implement water agreements in the Nooksack Basin and the Bertrand watershed. These amounts are intended to support project administration; monitoring; negotiations in the Nooksack watershed between tribes, the department, and affected water users; continued implementation of a flow augmentation project; plan implementation in the Fishtap watershed; and the development of a water bank.

(14) \$215,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$235,000)~~) \$220,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to provide watershed planning implementation grants for WRIA 32 to implement Substitute House Bill No. 1580 (pilot local water management program). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(15) \$200,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$200,000)~~) \$187,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purpose of supporting the trust water rights program and processing trust water right transfer applications that improve instream flow.

(16)(a) The department shall convene a stock water working group that includes: Legislators, four members representing agricultural interests, three members representing environmental interests, the attorney general or designee, the director of the department of ecology or designee, the director of the department of agriculture or designee, and affected federally recognized tribes shall be invited to send participants.

(b) The group shall review issues surrounding the use of permit-exempt wells for stock-watering purposes and may develop recommendations for legislative action.

(c) The working group shall meet periodically and report its activities and recommendations to the governor and the appropriate legislative committees by December 1, 2009.

(17) \$73,000 of the water quality permit account--state appropriation is provided solely to implement Substitute House Bill No. 1413 (water discharge fees). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(18) The department shall continue to work with the Columbia Snake River irrigators' association to determine how seasonal water operation and maintenance conservation can be utilized. In implementing this proviso, the department shall also consult with the Columbia River policy advisory group as appropriate.

(19) The department shall track any changes in costs, wages, and benefits that would have resulted if House Bill No. 1716 (public contract living wages), as introduced in the 2009 regular session of the legislature, were enacted and made applicable to contracts and related subcontracts entered into, renewed, or extended during the 2009-11 biennium. The department shall submit a report to the

house of representatives commerce and labor committee and the senate labor, commerce, and consumer protection committee by December 1, 2011. The report shall include data on any aggregate changes in wages and benefits that would have resulted during the 2009-11 biennium.

(20) Within amounts appropriated in this section the department shall develop recommendations by December 1, 2009, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts throughout the state. The department shall consider options including but not limited to, a producer-funded program, a recycler-supported or recycle fee program, a consumer fee at the time of purchase, general fund appropriations, or a currently existing dedicated account. The department shall involve and consult with stakeholders including persons who represent retailers, waste haulers, recyclers, mercury-containing light manufacturers or wholesalers, cities, counties, environmental organizations and other interested parties. The department shall report its findings and recommendations for a recycling program for mercury-containing lights to the appropriate committees of the legislature by December 1, 2009.

(21) \$140,000 of the freshwater aquatic algae control account--state appropriation is provided solely for grants to cities, counties, tribes, special purpose districts, and state agencies for capital and operational expenses used to manage and study excessive saltwater algae with an emphasis on the periodic accumulation of sea lettuce on Puget Sound beaches.

(22) By December 1, 2009, the department in consultation with local governments shall conduct a remedial action grant financing alternatives report. The report shall address options for financing the remedial action grants identified in the department's report, entitled "House Bill 1761, Model Toxics Control Accounts Ten-Year Financing Plan" and shall include but not be limited to the following: (a) Capitalizing cleanup costs using debt insurance; (b) capitalizing cleanup costs using prefunded cost-cap insurance; (c) other contractual instruments with local governments; and (d) an assessment of overall economic benefits of the remedial action grants funded using the instruments identified in this section.

(23) \$220,000 of the site closure account--state appropriation is provided solely for litigation expenses associated with the lawsuit filed by energy solutions, inc., against the Northwest interstate compact on low-level radioactive waste management and its executive director.

(24) \$68,000 of the water rights processing account--state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6267 (water rights processing). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(25) \$10,000 of the state toxics control account--state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5543 (mercury-containing lights). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(26) \$300,000 of the state toxics control account--state appropriation is provided solely for piloting and evaluating two coordinated, multijurisdictional permitting teams for nontransportation projects.

(27)(a) \$4,000,000 of the state drought preparedness account--state appropriation is provided solely for response to a drought declaration pursuant to chapter 43.83B RCW. If such a drought declaration occurs, the department of ecology may provide funding to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival.

(b) Projects or measures for which funding will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. The department shall issue guidelines outlining grant program and matching fund requirements within ten days of a drought declaration.

(28) In accordance with RCW 43.135.055, the department is authorized to increase the fees set forth in and previously authorized in section 302(10), chapter 564, Laws of 2009.

(29) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in sections 3, 5, 7, and 12, chapter 285, Laws of 2010.

**Sec. 302.** 2010 2nd sp.s. c 1 s 303 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....                                   | \$23,176,000               |
| General Fund--State Appropriation (FY 2011) .....                                   | \$18,309,000               |
| General Fund--Federal Appropriation.....  | \$6,892,000                |
| General Fund--Private/Local Appropriation.....                                      | \$73,000                   |
| Winter Recreation Program Account--State Appropriation .....                        | \$1,556,000                |
| Off Road Vehicle Account--State Appropriation .....                                 | \$239,000                  |
| Snowmobile Account--State Appropriation .....                                       | \$4,842,000                |
| Aquatic Lands Enhancement Account--State Appropriation .....                        | \$368,000                  |
| Recreation Resources Account--State Appropriation( <del>(\$9,802,000)</del> ) ..... | <del>\$9,469,000</del>     |
| NOVA Program Account--State Appropriation .....                                     | <del>(\$9,560,000)</del>   |
| .....   | <del>\$9,164,000</del>     |
| Parks Renewal and Stewardship Account--State Appropriation.....                     | \$72,975,000               |
| Parks Renewal and Stewardship Account--Private/Local Appropriation .....            | \$300,000                  |
| TOTAL APPROPRIATION .....   | <del>(\$148,092,000)</del> |
| .....   | <del>\$147,363,000</del>   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$79,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$79,000)~~) \$74,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the operation of the Northwest avalanche center.

(2) Proceeds received from voluntary donations given by motor vehicle registration applicants shall be used solely for the operation and maintenance of state parks.

(3) With the passage of Substitute House Bill No. 2339 (state parks system donation), the legislature finds that it has provided sufficient funds to ensure that all state parks remain open during the 2009-11 biennium. The commission shall not close state parks unless the bill is not enacted by June 30, 2009, or revenue collections are insufficient to fund the ongoing operation of state parks. By January 10, 2010, the commission shall provide a report to the legislature on their budget and resources related to operating parks for the remainder of the biennium.

(4) The commission shall work with the department of general administration to evaluate the commission's existing leases with the intention of increasing net revenue to state parks. The commission shall provide to the office of financial management and the legislative fiscal committees no later than September 30, 2009, a list of leases the commission proposes be managed by the department of general administration.

**Sec. 303.** 2010 2nd sp.s. c 1 s 304 (uncodified) is amended to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) .....                                   | \$1,486,000               |
| General Fund--State Appropriation (FY 2011) .....                                   | \$1,312,000               |
| General Fund--Federal Appropriation .....   | <del>(\$10,322,000)</del> |
| .....   | <del>\$10,427,000</del>   |
| General Fund--Private/Local Appropriation.....                                      | \$250,000                 |
| Aquatic Lands Enhancement Account--State Appropriation .....                        | \$278,000                 |
| Firearms Range Account--State Appropriation .....                                   | \$39,000                  |
| Recreation Resources Account--State Appropriation( <del>(\$2,710,000)</del> ) ..... | <del>\$2,738,000</del>    |
| NOVA Program Account--State Appropriation .....                                     | <del>(\$1,049,000)</del>  |
| .....   | <del>\$1,059,000</del>    |
| TOTAL APPROPRIATION .....   | <del>(\$17,446,000)</del> |
| .....   | <del>\$17,589,000</del>   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$204,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$244,000)~~) \$194,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute House Bill No. 2157 (salmon recovery). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The recreation and conservation office, under the direction of the salmon recovery funding board, shall assess watershed and regional-scale capacity issues relating to the support and implementation of salmon recovery. The assessment shall examine priority setting and incentives to further promote coordination to ensure that effective and efficient mechanisms for delivery of salmon recovery funding board funds are being utilized. The salmon recovery funding board shall distribute its operational funding to the appropriate entities based on this assessment.

(3) The recreation and conservation office shall negotiate an agreement with the Puget Sound partnership to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

**Sec. 304.** 2010 2nd sp.s. c 1 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) .....                         | \$41,263,000              |
| General Fund--State Appropriation (FY 2011) .....                         | \$30,560,000              |
| General Fund--Federal Appropriation .....                                 | <del>(\$85,799,000)</del> |
| .....   | <del>\$88,799,000</del>   |
| General Fund--Private/Local Appropriation.....                            | \$47,211,000              |
| Off Road Vehicle Account--State Appropriation .....                       | \$413,000                 |
| Aquatic Lands Enhancement Account--State Appropriation .....              | \$6,739,000               |
| Recreational Fisheries Enhancement--State Appropriation.....              | \$3,472,000               |
| Warm Water Game Fish Account--State Appropriation.....                    | \$2,861,000               |
| Eastern Washington Pheasant Enhancement Account--State Appropriation..... | \$851,000                 |
| Aquatic Invasive Species Enforcement Account--State Appropriation.....    | \$207,000                 |
| Aquatic Invasive Species Prevention Account-- State Appropriation.....    | \$833,000                 |
| Wildlife Account--State Appropriation .....                               | <del>(\$86,878,000)</del> |
| .....   | <del>\$86,998,000</del>   |
| Wildlife Account--Federal Appropriation .....                             | \$101,000                 |

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|  |                 |
|--|-----------------|
| Wildlife Account--Private/Local Appropriation.....                           | \$39,000        |
| Game Special Wildlife Account--State Appropriation..                         | \$2,367,000     |
| Game Special Wildlife Account--Federal Appropriation                         | \$3,426,000     |
| Game Special Wildlife Account--Private/Local<br>Appropriation.....           | \$487,000       |
| Wildlife Rehabilitation Account--State Appropriation.....                    | \$269,000       |
| Regional Fisheries Salmonid Recovery Account--<br>Federal Appropriation..... | \$5,001,000     |
| Oil Spill Prevention Account--State Appropriation.....                       | \$876,000       |
| Oyster Reserve Land Account--State Appropriation.....                        | \$916,000       |
| TOTAL APPROPRIATION .....  | (\$320,569,000) |
| .....  | \$323,689,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$294,000 of the aquatic lands enhancement account--state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund--state appropriation for fiscal year 2010 and \$422,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2011-2013 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and

the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, 2010.

(5) \$1,232,000 of the state wildlife account--state appropriation is provided solely to implement Substitute House Bill No. 1778 (fish and wildlife). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$400,000 of the general fund--state appropriation for fiscal year 2010 and \$400,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(7) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for removal of derelict gear in Washington waters.

(8) The department of fish and wildlife shall dispose of all Cessna aircraft it currently owns. The proceeds from the aircraft shall be deposited into the state wildlife account. Disposal of the aircraft must occur no later than June 30, 2010. The department shall coordinate with the department of natural resources on the installation of fire surveillance equipment into its Partenavia aircraft. The department shall make its Partenavia aircraft available to the department of natural resources on a cost-reimbursement basis for its use in coordinating fire suppression efforts. The two agencies shall develop an interagency agreement that defines how they will share access to the plane.

(9) \$50,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for an electron project fish passage study consistent with the recommendations and protocols contained in the 2008 electron project downstream fish passage final report.

(10) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) If sufficient new revenues are not identified to continue hatchery operations, within the constraints of legally binding tribal agreements, the department shall dispose of, by removal, sale, lease, reversion, or transfer of ownership, the following hatcheries: McKernan, Colville, Omak, Bellingham, Arlington, and Mossyrock. Disposal of the hatcheries must occur by June 30, 2011, and any proceeds received from disposal shall be deposited in the state wildlife account. Within available funds, the department shall provide quarterly reports on the progress of disposal to the office of financial management and the appropriate fiscal committees of the legislature. The first report shall be submitted no later than September 30, 2009.

(12) \$100,000 of the eastern Washington pheasant enhancement account--state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(13) Within the amounts appropriated in this section, the department of fish and wildlife shall develop a method for allocating its administrative and overhead costs proportionate to program fund use. As part of its 2011-2013 biennial operating budget, the department shall submit a decision package that rebalances expenditure authority for all agency funds based upon proportionate contributions.

(14) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(15) Within the amounts appropriated in this section, the department shall work with stakeholders to develop a long-term funding model that sustains the department's work of conserving species and habitat, providing sustainable recreational and commercial opportunities and using sound business practices. The funding model analysis shall assess the appropriate uses of each fund source and whether the department's current and projected revenue levels are adequate to sustain its current programs. The department shall report its recommended funding model including supporting analysis and stakeholder participation summary to the office of financial management and the appropriate committees of the legislature by October 1, 2010.

(16) By October 1, 2010, the department shall enter into an interagency agreement with the department of natural resources for land management services for the department's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. In the agreement, the department shall define its roles and responsibilities. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(17) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(18) The department must work with appropriate stakeholders to facilitate the disposition of salmon to best utilize the resource, increase revenues to regional fisheries enhancement groups, and enhance the provision of nutrients to food banks. By November 1, 2010, the department must provide a report to the appropriate committees of the legislature summarizing these discussions, outcomes, and recommendations. After November 1, 2010, the department shall not solicit or award a surplus salmon disposal contract without first giving due consideration to implementing the recommendations developed during the stakeholder process.

(19) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for increased fish production at Voight Creek hatchery.

**Sec. 305.** 2010 2nd sp.s. c 1 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) .....               | \$48,822,000              |
| General Fund--State Appropriation (FY 2011) .....               | <del>(\$33,387,000)</del> |
| .....   | <u>\$37,321,000</u>       |
| General Fund--Federal Appropriation .....                       | \$28,784,000              |
| General Fund--Private/Local Appropriation.....                  | \$2,369,000               |
| Forest Development Account--State Appropriation....             | \$41,640,000              |
| Off Road Vehicle Account--State Appropriation .....             | \$4,406,000               |
| Surveys and Maps Account--State Appropriation .....             | \$2,332,000               |
| Aquatic Lands Enhancement Account--State<br>Appropriation.....  | \$8,315,000               |
| Resources Management Cost Account--State<br>Appropriation.....  | \$78,704,000              |
| Surface Mining Reclamation Account--State<br>Appropriation..... | \$3,494,000               |
| Disaster Response Account--State Appropriation .....            | \$5,000,000               |

|   |                            |
|---|----------------------------|
| Forest and Fish Support Account--State Appropriation                                  | \$8,000,000                |
| Aquatic Land Dredged Material Disposal Site<br>Account--State Appropriation.....      | \$1,333,000                |
| Natural Resources Conservation Areas Stewardship<br>Account--State Appropriation..... | \$184,000                  |
| State Toxics Control Account--State Appropriation.....                                | \$720,000                  |
| Air Pollution Control Account--State Appropriation .                                  | <del>(\$568,000)</del>     |
| .....   | <u>\$478,000</u>           |
| NOVA Program Account--State Appropriation .....                                       | \$974,000                  |
| Derelict Vessel Removal Account--State Appropriation                                  | \$1,749,000                |
| Agricultural College Trust Management Account--<br>State Appropriation.....           | \$1,941,000                |
| TOTAL APPROPRIATION .....   | <del>(\$272,722,000)</del> |
| .....   | <u>\$276,566,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,355,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$349,000)~~ \$327,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) \$22,670,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$11,128,000)~~ \$15,089,000 of the general fund--state appropriation for fiscal year 2011, and \$5,000,000 of the disaster response account--state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$600,000 of the derelict vessel removal account--state appropriation is provided solely for removal of derelict and abandoned vessels that have the potential to contaminate Puget Sound.

(5) \$666,000 of the general fund--federal appropriation is provided solely to implement House Bill No. 2165 (forest biomass energy project). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$5,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute House Bill No. 1038 (specialized forest products). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) \$440,000 of the state general fund--state appropriation for fiscal year 2010 and \$440,000 of the state general fund--state appropriation for fiscal year 2011 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp at the level provided in fiscal year 2008. The department shall consider using up to \$2,000,000 of the general fund--federal appropriation to support and utilize correctional camp crews to implement natural resource projects approved by the federal government for federal stimulus funding.

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(8) The department of natural resources shall dispose of the King Air aircraft it currently owns. Before disposal and within existing funds, the department shall transfer specialized equipment for fire surveillance to the department of fish and wildlife's Partenavia aircraft. Disposal of the aircraft must occur no later than June 30, 2010, and the proceeds from the sale of the aircraft shall be deposited into the forest and fish support account. ~~((No later than June 30, 2011, the department shall lease facilities in eastern Washington sufficient to house the necessary aircraft, mechanics, and pilots used for forest fire prevention and suppression.))~~

(9) \$30,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$30,000)~~ \$28,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$1,030,000 of the aquatic lands enhancement account--state appropriation for fiscal year 2011 is provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(11) Within available funds, the department of natural resources shall review the statutory method for determining aquatic lands lease rates for private marinas, public marinas not owned and operated by port districts, yacht clubs, and other entities leasing state land for boat moorage. The review shall consider alternative methods for determining rents for these entities for a fair distribution of rent, consistent with the department management mandates for state aquatic lands.

(12) ~~(\$40,000)~~ \$37,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the aquatic lands enhancement account--state appropriation are provided solely to install up to twenty mooring buoys in Eagle Harbor and to remove abandoned boats, floats, and other trespassing structures.

(13) By October 1, 2010, the department shall enter into an interagency agreement with the department of fish and wildlife for providing land management services on the department of fish and wildlife's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(14) \$41,000 of the forest development account--state appropriation, \$44,000 of the resources management cost account--state appropriation, and \$2,000 of the agricultural college trust management account--state appropriation are provided solely for the implementation of Second Substitute House Bill No. 2481 (DNR forest biomass agreements). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 306.** 2010 2nd sp.s. c 1 s 309 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$12,320,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$15,830,000)</del> |
| .....   | <u>\$15,391,000</u>       |
| General Fund--Federal Appropriation .....         | <del>(\$20,947,000)</del> |
| .....   | <u>\$21,047,000</u>       |
| General Fund--Private/Local Appropriation.....    | \$193,000                 |
| Aquatic Lands Enhancement Account--State          |                           |
| Appropriation.....                                | <del>(\$2,551,000)</del>  |
| .....   | <u>\$2,564,000</u>        |

|   |                           |
|---|---------------------------|
| State Toxics Control Account--State Appropriation.....  | \$4,724,000               |
| Water Quality Permit Account--State Appropriation ..... | \$61,000                  |
| TOTAL APPROPRIATION .....                               | <del>(\$56,626,000)</del> |
| .....   | <u>\$56,300,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the aquatic lands enhancement account appropriation is provided solely for funding to the Pacific county noxious weed control board to eradicate remaining spartina in Willapa Bay.

(2) \$19,000 of the general fund--state appropriation for fiscal year 2010 and \$6,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) The department is authorized to establish or increase the following fees in the 2009-11 biennium as necessary to meet the actual costs of conducting business: Christmas tree grower licensing, nursery dealer licensing, plant pest inspection and testing, and commission merchant licensing.

(4) ~~(\$5,420,000)~~ \$5,179,000 of the general fund--state appropriation for fiscal year 2011 and \$2,782,000 of the general fund--federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6341 (food assistance/department of agriculture). Within amounts appropriated in this subsection, \$65,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to this contract. If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) The department shall, if public or private funds are available, partner with eligible public and private entities with experience in food collection and distribution to review funding sources for eight full-time volunteers in the AmeriCorps VISTA program to conduct outreach to local growers, agricultural donors, and community volunteers. Public and private partners shall also be utilized to coordinate gleaned unharvested tree fruits and fresh produce for distribution to individuals throughout Washington state.

(6) When reducing laboratory activities and functions, the department shall not impact any research or analysis pertaining to bees.

**Sec. 307.** 2010 2nd sp.s. c 1 s 310 (uncodified) is amended to read as follows:

**FOR THE PUGET SOUND PARTNERSHIP**

|  |                           |
|--|---------------------------|
| General Fund--State Appropriation (FY 2010) .....      | \$3,143,000               |
| General Fund--State Appropriation (FY 2011) .....      | <del>(\$2,684,000)</del>  |
| .....  | <u>\$2,528,000</u>        |
| General Fund--Federal Appropriation .....              | <del>(\$7,214,000)</del>  |
| .....  | <u>\$8,096,000</u>        |
| Aquatic Lands Enhancement Account--State Appropriation |                           |
| .....  | \$493,000                 |
| State Toxics Control Account--State Appropriation..... | \$794,000                 |
| TOTAL APPROPRIATION .....                              | <del>(\$14,328,000)</del> |
| .....  | <u>\$15,054,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$305,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery.

(2) \$794,000 of the state toxics control account--state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of

independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(3) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(4) The Puget Sound partnership shall work with Washington State University and the environmental protection agency to secure funding for the beach watchers program.

(5) \$839,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$764,000)~~) \$608,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support public education and volunteer programs. The partnership is directed to distribute the majority of funding as grants to local organizations, local governments, and education, communication, and outreach network partners. The partnership shall track progress for this activity through the accountability system of the Puget Sound partnership.

(6) The Puget Sound partnership shall negotiate an agreement with the recreation and conservation office to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

(End of part)

**PART IV  
TRANSPORTATION**

**Sec. 401.** 2010 1st sp.s. c 37 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

|  |                               |
|--|-------------------------------|
| General Fund--State Appropriation (FY 2010) .....          | \$1,436,000                   |
| General Fund--State Appropriation (FY 2011) .....          | ( <del>(\$1,524,000)</del> )  |
| .....  | <u>\$1,322,000</u>            |
| Architects' License Account--State Appropriation .....     | \$923,000                     |
| Professional Engineers' Account--State                     |                               |
| Appropriation .....  | \$3,568,000                   |
| Real Estate Commission Account--State Appropriation        | \$9,987,000                   |
| Master License Account--State Appropriation .....          | \$15,718,000                  |
| Uniform Commercial Code Account--State Appropriation       |                               |
| .....  | \$3,090,000                   |
| Real Estate Education Account--State Appropriation .....   | \$276,000                     |
| Real Estate Appraiser Commission Account--State            |                               |
| Appropriation .....  | \$1,683,000                   |
| Business and Professions Account--State Appropriation      |                               |
| .....  | \$15,188,000                  |
| Real Estate Research Account--State Appropriation .....    | \$471,000                     |
| Geologists' Account--State Appropriation .....             | \$53,000                      |
| Derelict Vessel Removal Account--State Appropriation ..... | \$31,000                      |
| TOTAL APPROPRIATION .....                                  | ( <del>(\$53,948,000)</del> ) |
| .....  | <u>\$53,746,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for cosmetologists, funeral directors, cemeteries, court reporters and appraisers. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$1,352,000 of the business and professions account--state appropriation is provided solely to implement Substitute Senate Bill No. 5391 (tattoo and body piercing). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$358,000 of the business and professions account--state appropriation is provided solely to implement Senate Bill No. 6126 (professional athletics). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$151,000 of the real estate research account appropriation is provided solely to implement chapter 156, Laws of 2010 (real estate broker licensure fees).

(5) \$158,000 of the architects' license account--state appropriation is provided solely to implement chapter 129, Laws of 2010 (architect licensing).

(6) \$60,000 of the master license account--state appropriation is provided solely to implement chapter 174, Laws of 2010 (vaccine association). The amount provided in this subsection shall be from fee revenue authorized in chapter 174, Laws of 2010.

**Sec. 402.** 2010 1st sp.s. c 37 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

|  |                                |
|--|--------------------------------|
| General Fund--State Appropriation (FY 2010) .....        | \$38,977,000                   |
| General Fund--State Appropriation (FY 2011) .....        | ( <del>(\$36,059,000)</del> )  |
| .....  | <u>\$33,292,000</u>            |
| General Fund--Federal Appropriation .....                | \$15,793,000                   |
| General Fund--Private/Local Appropriation .....          | \$4,986,000                    |
| Death Investigations Account--State Appropriation .....  | \$5,580,000                    |
| Enhanced 911 Account--State Appropriation .....          | \$603,000                      |
| County Criminal Justice Assistance Account--State        |                                |
| Appropriation .....                                      | \$3,146,000                    |
| Municipal Criminal Justice Assistance Account--State     |                                |
| Appropriation .....                                      | \$1,255,000                    |
| Fire Service Trust Account--State Appropriation .....    | \$131,000                      |
| Disaster Response Account--State Appropriation .....     | \$8,002,000                    |
| Fire Service Training Account--State Appropriation ..... | \$8,821,000                    |
| Aquatic Invasive Species Enforcement Account--State      |                                |
| Appropriation .....                                      | \$54,000                       |
| State Toxics Control Account--State Appropriation .....  | \$509,000                      |
| Fingerprint Identification Account--State                |                                |
| Appropriation .....                                      | \$10,454,000                   |
| TOTAL APPROPRIATION .....                                | ( <del>(\$134,370,000)</del> ) |
| .....  | <u>\$131,603,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account--state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account--state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

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(3) The 2010 legislature will review the use of king air planes by the executive branch and the adequacy of funding in this budget regarding maintaining and operating the planes to successfully accomplish their mission.

(4) The appropriations in this section reflect reductions in the appropriations for the agency's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(5) \$400,000 of the fire service training account--state appropriation is provided solely for the firefighter apprenticeship training program.

(6) \$48,000 of the fingerprint identification account--state appropriation is provided solely to implement Substitute House Bill No. 1621 (consumer loan companies). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) In accordance with RCW 43.43.942, 46.52.085, and 43.135.055, the state patrol is authorized to increase the following fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Collision records requests; fire training academy courses; and fire training academy dorm accommodations.

(8) \$24,000 of the fingerprint identification account--state appropriation is provided solely for implementation of chapter 47, Laws of 2010 (criminal background checks).

(End of part)

**PART V  
EDUCATION**

**Sec. 501.** 2010 2nd sp.s. c 1 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$35,415,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$29,696,000)</del>  |
| .....   | <u>\$30,196,000</u>        |
| General Fund--Federal Appropriation .....         | \$87,081,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$152,192,000)</del> |
| .....   | <u>\$152,692,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$23,096,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$19,570,000)~~ \$20,070,000 of the general fund--state appropriation for fiscal year 2011 is for state agency operations.

(a) \$11,226,000 of the general fund--state appropriation for fiscal year 2010 and \$9,709,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within amounts appropriated in this subsection (1)(a), the office of the superintendent of public instruction, consistent with WAC 392-121-182 (alternative learning experience requirements) which requires documentation of alternative learning experience student headcount and full-time equivalent (FTE) enrollment claimed for basic education funding, shall provide, monthly, accurate monthly headcount and FTE enrollments for students in

alternative learning experience (ALE) programs as well as information about resident and serving districts.

(iii) Within amounts provided in this subsection (1)(a), the state superintendent of public instruction shall share best practices with school districts regarding strategies for increasing efficiencies and economies of scale in school district noninstructional operations through shared service arrangements and school district cooperatives, as well as other practices.

(b) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a science, technology, engineering, and mathematics (STEM) working group to develop a comprehensive plan with a shared vision, goals, and measurable objectives to improve policies and practices to ensure that a pathway is established for elementary schools, middle schools, high schools, postsecondary degree programs, and careers in the areas of STEM, including improving practices for recruiting, preparing, hiring, retraining, and supporting teachers and instructors while creating pathways to boost student success, close the achievement gap, and prepare every student to be college and career ready. The working group shall be composed of the director of STEM at the office of the superintendent of public instruction who shall be the chair of the working group, and at least one representative from the state board of education, professional educator standards board, state board of community and technical colleges, higher education coordinating board, workforce training and education coordinating board, the achievement gap oversight and accountability committee, and others with appropriate expertise. The working group shall develop a comprehensive plan and a report with recommendations, including a timeline for specific actions to be taken, which is due to the governor and the appropriate committees of the legislature by December 1, 2010.

(c) \$920,000 of the general fund--state appropriation for fiscal year 2010 and \$491,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research and development activities associated with the development of options for new school finance systems, including technical staff, reprogramming, and analysis of alternative student funding formulae. Within this amount is \$150,000 for the state board of education for further development of accountability systems, and \$150,000 for the professional educator standards board for continued development of teacher certification and evaluation systems.

(d) \$965,000 of the general fund--state appropriation for fiscal year 2010 and \$887,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(e) \$5,366,000 of the general fund--state appropriation for fiscal year 2010 and \$3,103,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the professional educator standards board for the following:

(i) \$1,070,000 in fiscal year 2010 and \$985,000 in fiscal year 2011 are for the operation and expenses of the Washington professional educator standards board;

(ii) \$4,106,000 of the general fund--state appropriation for fiscal year 2010 and \$1,936,000 of the general fund--state appropriation for fiscal year 2011 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(f)(ii) is also provided for the recruiting Washington teachers program.

(iii) \$102,000 of the general fund--state appropriation for fiscal year 2010 is provided for the implementation of Second Substitute

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Senate Bill No. 5973 (student achievement gap). \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the ongoing work of the achievement gap oversight and accountability committee and implementation of the committee's recommendations.

(f) \$1,349,000 of the general fund--state appropriation for fiscal year 2010 and \$144,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.

(g) \$1,140,000 of the general fund--state appropriation for fiscal year 2010 and \$1,227,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.

(h) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to promote the financial literacy of students. The effort will be coordinated through the financial education public-private partnership. It is expected that nonappropriated funds available to the public-private partnership will be sufficient to continue financial literacy activities.

(i) To the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.

(j) \$44,000 of the general fund--state appropriation for fiscal year 2010 and \$45,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5248 (enacting the interstate compact on educational opportunity for military children).

(k) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$700,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5410 (online learning).

(l) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$12,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(m) \$2,518,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Substitute House Bill No. 2776 (K-12 education funding). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(n) \$89,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3026 (state and federal civil rights laws). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(o) Beginning in the 2010-11 school year, the superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives.

(p) \$55,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a technical working group to establish standards, guidelines, and definitions for what constitutes a basic

education program for highly capable students and the appropriate funding structure for such a program, and to submit recommendations to the legislature for consideration. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. The working group must consult with and seek input from nationally recognized experts; researchers and academics on the unique educational, emotional, and social needs of highly capable students and how to identify such students; representatives of national organizations and associations for educators of or advocates for highly capable students; school district representatives who are educators, counselors, and classified school employees involved with highly capable programs; parents of students who have been identified as highly capable; representatives from the federally recognized tribes; and representatives of cultural, linguistic, and racial minority groups and the community of persons with disabilities. The working group shall make recommendations to the quality education council and to appropriate committees of the legislature by December 1, 2010. The recommendations shall take into consideration that access to the program for highly capable students is not an individual entitlement for any particular student. The recommendations shall seek to minimize underrepresentation of any particular demographic or socioeconomic group by better identification, not lower standards or quotas, and shall include the following:

(i) Standardized state-level identification procedures, standards, criteria, and benchmarks, including a definition or definitions of a highly capable student. Students who are both highly capable and are students of color, are poor, or have a disability must be addressed;

(ii) Appropriate programs and services that have been shown by research and practice to be effective with highly capable students but maintain options and flexibility for school districts, where possible;

(iii) Program administration, management, and reporting requirements for school districts;

(iv) Appropriate educator qualifications, certification requirements, and professional development and support for educators and other staff who are involved in programs for highly capable students;

(v) Self-evaluation models to be used by school districts to determine the effectiveness of the program and services provided by the school district for highly capable programs;

(vi) An appropriate state-level funding structure; and

(vii) Other topics deemed to be relevant by the working group.

(q) (~~(\$500,000)~~ \$1,000,000) of the general fund--state appropriation for fiscal year 2011 is provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(r) \$24,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Substitute Senate Bill No. 6759 (requiring a plan for a voluntary program of early learning as a part of basic education). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection (1)(r) shall lapse.

(s) \$950,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for office of the attorney general costs related to *McCleary v. State of Washington*.

(2) \$12,320,000 of the general fund--state appropriation for fiscal year 2010, \$10,127,000 of the general fund--state appropriation for fiscal year 2011, and \$55,890,000 of the general fund--federal appropriation are for statewide programs.

(a) HEALTH AND SAFETY

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(i) \$2,541,000 of the general fund--state appropriation for fiscal year 2010 and \$2,381,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$94,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iii) \$9,670,000 of the general fund--federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(iv) \$96,000 of the general fund--state appropriation for fiscal year 2010 and \$90,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(v) \$70,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the youth suicide prevention program.

(vi) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$47,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) TECHNOLOGY

(i) \$1,842,000 of the general fund--state appropriation for fiscal year 2010 and \$1,635,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) \$1,475,000 of the general fund--state appropriation for fiscal year 2010, \$1,045,000 of the general fund--state appropriation for fiscal year 2011, and \$435,000 of the general fund--federal appropriation are provided solely for implementing a comprehensive data system to include financial, student, and educator data. The office of the superintendent of public instruction will convene a data governance group to create a comprehensive needs-requirement document, conduct a gap analysis, and define operating rules and a governance structure for K-12 data collections.

(c) GRANTS AND ALLOCATIONS

(i) \$1,329,000 of the general fund--state appropriation for fiscal year 2010 and \$664,000 of the general fund--state appropriation for

fiscal year 2011 are provided solely for the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.016.

(ii) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(iii) \$25,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(iv) \$175,000 of the general fund--state appropriation for fiscal year 2010 and \$87,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(v) \$2,898,000 of the general fund--state appropriation for fiscal year 2010 and \$2,924,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(vi) \$627,000 of the general fund--state appropriation for fiscal year 2010 and \$225,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of a statewide program for comprehensive dropout prevention, intervention, and retrieval.

(vii) \$40,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection (2)(c)(vii), the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs.

(viii) \$60,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

(ix) \$145,000 of the general fund--state appropriation for fiscal year 2010 and \$37,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction to enhance the reading skills of students with dyslexia by implementing the findings of the dyslexia pilot program. Funds shall be used to provide information and training to classroom teachers and reading specialists, for development of a dyslexia handbook, and to take other statewide actions to improve the reading skills of students with dyslexia. The training program shall be delivered regionally through the educational service districts.

(x) \$97,000 of the general fund--state appropriation for fiscal year 2010 and \$48,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support vocational student leadership organizations.

(xi) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for drop-out prevention programs at the office of the superintendent of public instruction including the jobs for America's graduates (JAG) program.

Sec. 502. 2010 2nd sp.s. c 1 s 502 (uncodified) is amended to read as follows:

|  |                                   |
|--|-----------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPORTIONMENT      |                                   |
| General Fund--State Appropriation (FY 2010) .....                            | \$5,126,153,000                   |
| General Fund--State Appropriation (FY 2011) ( <del>(\$4,912,103,000)</del> ) |                                   |
| .....  | <u>\$4,887,369,000</u>            |
| General Fund--Federal Appropriation .....                                    | \$208,098,000                     |
| TOTAL APPROPRIATION .....  | ( <del>(\$10,246,354,000)</del> ) |
| .....  | <u>\$10,221,620,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) The appropriations in this section include federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund), which shall be used to support general apportionment program funding. In distributing general apportionment allocations under this section for the 2010-11 school year, the superintendent shall include the entire allocation from the federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund) as part of each district's general apportionment allocation.

(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) ((For the 2009-10 school year and the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011:))

(A)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, as in effect on November 1, 2009(~~(:)~~): For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in

grades K through three and, for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(II) For all other districts for the 2009-10 school year, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010 school year from September 1, 2010, through January 31, 2011, a minimum of forty-nine certificated instructional staff units per thousand full-time equivalent students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182 as in effect on November 1, 2009: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, (~~(forty-seven and forty-three)~~) forty-six and twenty-seven one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of (~~(forty-seven and forty-three)~~) forty-six and twenty-seven one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) For the portion of the 2010-11 school year beginning February 1, 2010:

(A) Forty-nine certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through three;

(B) Forty-six certificated instructional staff units per thousand full-time equivalent students in grade 4;

(iv) All allocations for instructional staff units per thousand full-time equivalent students above forty-nine in grades kindergarten through three and forty-six in grade four shall occur in apportionments in the monthly periods prior to February 1, 2011;

(v) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(vi) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time

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equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students;

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 16.59 percent in the 2009-10 school year and 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-10 school year and a maximum of \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of ~~(\$7,286,000)~~ \$5,452,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of ~~(\$2,385,000)~~ \$600,000 for the 2011 fiscal year (~~20 percent of each fiscal year amount may carry over from one year to the next~~);

(iii) A maximum of \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 ~~(each fiscal year)~~ for fiscal year 2010 and \$436,000 for fiscal year 2011 may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing.

(14) \$2,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the superintendent for financial contingency funds for eligible school districts. The financial contingency funds shall be allocated to eligible districts in the form of an advance of their respective general apportionment allocations.

(a) Eligibility:

The superintendent shall determine a district's eligibility for receipt of financial contingency funds, and districts shall be eligible only if the following conditions are met:

(i) A petition is submitted by the school district as provided in RCW 28A.510.250 and WAC 392-121-436; and

(ii) The district's projected general fund balance for the month of March is less than one-half of one percent of its budgeted general fund expenditures as submitted to the superintendent for the 2010-11 school year on the F-196 report.

(b) Calculations:

The superintendent shall calculate the financial contingency allocation to each district as the lesser of:

(i) The amount set forth in the school district's resolution;

(ii) An amount not to exceed 10 percent of the total amount to become due and apportionable to the district from September 1st through August 31st of the current school year;

(iii) The highest negative monthly cash and investment balance of the general fund between the date of the resolution and May 31st of the school year based on projections approved by the county treasurer and the educational service district.

(c) Repayment:

For any amount allocated to a district in state fiscal year 2011, the superintendent shall deduct in state fiscal year 2012 from the district's general apportionment the amount of the emergency contingency allocation and any earnings by the school district on the investment of a temporary cash surplus due to the emergency contingency allocation. Repayments or advances will be accomplished by a reduction in the school district's apportionment payments on or before June 30th of the school year following the distribution of the emergency contingency allocation. All disbursements, repayments, and outstanding allocations to be repaid of the emergency contingency pool shall be reported to the office of financial management and the appropriate fiscal committees of the legislature on July 1st and January 1st of each year.

**Sec. 503.** 2010 1st sp.s. c 37 s 505 (uncodified) is amended to read as follows:

|  |                            |
|--|----------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION     |                            |
| General Fund--State Appropriation (FY 2010) .....                          | \$317,116,000              |
| General Fund--State Appropriation (FY 2011) ... <del>(\$296,747,000)</del> |                            |
| .....  | <u>\$296,408,000</u>       |
| TOTAL APPROPRIATION .....  | <del>(\$613,863,000)</del> |
| .....  | <u>\$613,524,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

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(2) A maximum of \$878,000 of this fiscal year 2010 appropriation and a maximum of ~~(((\$892,000))~~ \$803,000 of the fiscal year 2011 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) Allocations for transportation of students shall be based on reimbursement rates of \$48.15 per weighted mile in the 2009-10 school year and \$48.37 per weighted mile in the 2010-11 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(4) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(5) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

(6) Funding levels in this section reflect reductions from the implementation of Substitute House Bill No. 1292 (authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks).

**Sec. 504.** 2010 1st sp.s. c 37 s 506 (uncodified) is amended to read as follows:

|  |                               |
|--|-------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS |                               |
| General Fund--State Appropriation (FY 2010) .....                              | \$3,159,000                   |
| General Fund--State Appropriation (FY 2011) .....                              | <del>(((\$3,159,000))</del>   |
| .....  | <u>\$7,111,000</u>            |
| General Fund--Federal Appropriation .....                                      | <del>(((\$391,988,000))</del> |
| .....  | <u>\$448,588,000</u>          |
| TOTAL APPROPRIATION .....  | <del>(((\$398,306,000))</del> |
| .....  | <u>\$458,858,000</u>          |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$3,000,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$100,000 of the 2011 fiscal year appropriation are))~~ is provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$59,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or

reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

(4) \$7,111,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for state matching money for federal child nutrition programs, and may support the meals for kids program through the following allowable uses:

(a) Elimination of breakfast copays and lunch copays for students in grades kindergarten through third grade who are eligible for reduced price lunch;

(b) Assistance to school districts for supporting summer food service programs, and initiating new summer food service programs in low-income areas; and

(c) Reimbursements to school districts for school breakfasts served to students eligible for free and reduced price lunch, pursuant to chapter 287, Laws of 2005.

**Sec. 505.** 2010 1st sp.s. c 37 s 507 (uncodified) is amended to read as follows:

|  |                                 |
|--|---------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS |                                 |
| General Fund--State Appropriation (FY 2010) .....                            | \$632,136,000                   |
| General Fund--State Appropriation (FY 2011) ...                              | <del>(((\$650,856,000))</del>   |
| .....  | <u>\$626,099,000</u>            |
| General Fund--Federal Appropriation .....                                    | \$664,601,000                   |
| Education Legacy Trust Account--State Appropriation.....                     | \$756,000                       |
| TOTAL APPROPRIATION .....  | <del>(((\$1,948,349,000))</del> |
| .....  | <u>\$1,923,592,000</u>          |

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2009-10 and 2010-11 school years, the superintendent shall make allocations to each district based on the sum of:

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(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools in the 2009-10 school year. In the 2010-11 school year, the per student allocation under this subsection (5)(b) shall include the same factors as in the 2009-10 school year, but shall also include the classified staff enhancements included in section 502(3)(b).

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

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

Each district's general fund--state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, (~~(\$44,269,000)~~) \$19,512,000 of the general fund--state appropriation and \$29,574,000 of the general fund-- federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

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

associated with (b) and (c) of this subsection shall not exceed the total of a district's specific determination of need.

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

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

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

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

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(g) ((The office of the superintendent of public instruction, at the conclusion of each school year, shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible)) Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for state safety net funding in August of each school year. Determinations on school district eligibility for state safety net awards shall be based on analysis of actual expenditure data from the current school year.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

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

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

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

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

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

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(14) A school district may carry over from one year to the next year up to 10 percent of the general fund--state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(15) \$262,000 of the general fund--state appropriation for fiscal year 2010 and \$251,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

(16) \$50,000 of the general fund--state appropriation for fiscal year 2010, \$50,000 of the general fund--state appropriation for fiscal 2011, and \$100,000 of the general fund--federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

Sec. 506. 2010 1st sp.s. c 37 s 508 (uncodified) is amended to read as follows:

|   |                           |
|---|---------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR EDUCATIONAL SERVICE DISTRICTS |                           |
| General Fund--State Appropriation (FY 2010) .....                               | \$8,394,000               |
| General Fund--State Appropriation (FY 2011) .....                               | <del>(\$8,319,000)</del>  |
| .....   | <u>\$7,487,000</u>        |
| TOTAL APPROPRIATION .....   | <del>(\$16,713,000)</del> |
| .....   | <u>\$15,881,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$3,355,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$3,355,000)~~ \$3,020,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. Funding shall be distributed among the educational service districts in the same proportion as distributions in the 2007-2009 biennium. Each educational service district shall use this funding solely for salary and benefits for a certificated instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

Sec. 507. 2010 1st sp.s. c 37 s 511 (uncodified) is amended to read as follows:

|  |                           |
|--|---------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS |                           |
| General Fund--State Appropriation (FY 2010) .....                                      | \$9,189,000               |
| General Fund--State Appropriation (FY 2011) .....                                      | <del>(\$9,188,000)</del>  |
| .....  | <u>\$9,162,000</u>        |
| TOTAL APPROPRIATION .....  | <del>(\$18,377,000)</del> |
| .....  | <u>\$18,351,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$401.08 per funded student for the 2009-10 school year and \$401.08 per funded student for the 2010-11 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. For the 2009-10 and 2010-11 school years, the number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) \$90,000 of the fiscal year 2010 appropriation and ~~(\$90,000)~~ \$81,000 of the fiscal year 2011 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

(4) \$170,000 of the fiscal year 2010 appropriation and ~~(\$170,000)~~ \$153,000 of the fiscal year 2011 appropriation are provided for the centrum program at Fort Worden state park.

Sec. 508. 2010 2nd sp.s. c 1 s 503 (uncodified) is amended to read as follows:

|   |                            |
|---|----------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS |                            |
| General Fund--State Appropriation (FY 2010) .....                       | \$93,642,000               |
| General Fund--State Appropriation (FY 2011) .....                       | <del>(\$92,643,000)</del>  |
| .....   | <u>\$85,691,000</u>        |
| General Fund--Federal Appropriation .....                               | \$154,627,000              |
| Education Legacy Trust Account--State Appropriation .....               | <del>(\$100,381,000)</del> |
| .....   | <u>\$98,981,000</u>        |
| TOTAL APPROPRIATION .....   | <del>(\$441,293,000)</del> |
| .....   | <u>\$432,941,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$35,804,000 of the general fund--state appropriation for fiscal year 2010, \$31,850,000 of the general fund--state appropriation for fiscal year 2011, \$1,350,000 of the education legacy trust account--state appropriation, and \$17,869,000 of the general fund--federal appropriation are provided solely for development and implementation of the Washington state assessment system, including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas; and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student assessment results, on or around June 10th of each year.

(2) \$3,249,000 of the general fund--state appropriation for fiscal year 2010 and \$3,249,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the design of the state assessment system and the implementation of end of course assessments for high school math.

(3) Within amounts provided in subsections (1) and (2) of this section, the superintendent of public instruction, in consultation with the state board of education, shall develop a statewide high school end-of-course assessment measuring student achievement of the state science standards in biology to be implemented statewide in the 2011-12 school year. By December 1, 2010, the superintendent of public instruction shall recommend whether additional end-of-course assessments in science should be developed and in

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which content areas. Any recommendation for additional assessments must include an implementation timeline and the projected cost to develop and administer the assessments.

(4) \$1,014,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days for fourth and fifth grade teachers during the 2008-2009 school year. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(5) \$3,241,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math and science teachers during the 2008-2009 school year, as well as specialized training for one math and science teacher in each middle school and high school during the 2008-2009 school year. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(6) \$3,773,000 of the education legacy trust account--state appropriation is provided solely for a math and science instructional coaches program pursuant to chapter 396, Laws of 2007. Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities for up to twenty-five instructional coaches in middle and high school math and twenty-five instructional coaches in middle and high school science in each year of the biennium; and up to \$300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program.

(7) \$1,740,000 of the general fund--state appropriation for fiscal year 2010 and \$1,775,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. If Second Substitute Senate Bill No. 5676 is enacted the allocations are formula-driven, otherwise the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection.

(8) \$139,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of \$2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

(9) \$1,473,000 of the general fund--state appropriation for fiscal year 2010 and \$197,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events. Funding shall be distributed to the various

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LASER activities in a manner proportional to LASER program spending during the 2007-2009 biennium.

(10) \$88,981,000 of the education legacy trust account--state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in chapter 400, Laws of 2007. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

(11) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$450,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

(12) \$105,754,000 of the general fund--federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(13) \$1,960,000 of the general fund--state appropriation for fiscal year 2010 and \$761,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Funding in this subsection shall be used for focused assistance programs for individual schools or school districts. The office of the superintendent of public instruction shall report to the fiscal

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committees of the legislature by September 1, 2011, providing an accounting of the uses of focused assistance funds during the 2009-11 fiscal biennium, including a list of schools served and the types of services provided.

(14) \$1,667,000 of the general fund--state appropriation for fiscal year 2010 (~~and \$1,667,000 of the general fund--state appropriation for fiscal year 2011 are~~) is provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(15) \$5,285,000 of the general fund--state appropriation for fiscal year 2010 (~~and \$5,285,000 of the general fund--state appropriation for fiscal year 2011 are~~) is provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(16) \$1,003,000 of the general fund--state appropriation for fiscal year 2010 and \$528,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2009 through August 31, 2011.

(17) \$3,269,000 of the general fund--state appropriation for fiscal year 2010 and \$3,594,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(18) \$1,861,000 of the general fund--state appropriation for fiscal year 2010 and \$1,836,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(19) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

(20) \$246,000 of the education legacy trust account--state appropriation is provided solely for costs associated with the office of the superintendent of public instruction's statewide director of technology position.

(21)(a) \$28,715,000 of the general fund--state appropriation for fiscal year 2010 and \$36,168,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of \$5,000 per teacher beginning in the 2007-08 school year and adjusted for

inflation in each school year thereafter in which Initiative 732 cost of living adjustments are provided;

(ii) An additional \$5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a pro-rated manner; and

(iv) During the 2009-10 and 2010-11 school years, and within the available state and federal appropriations, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The assessment fee for national certification is provided in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the assessment fee, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits.

(22) \$2,475,000 of the general fund--state appropriation for fiscal year 2010 and \$456,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. This funding may additionally be used to support FIRST Robotics programs. In fiscal year 2011, if equally matched by private donations, \$300,000 of the appropriation shall be used to support FIRST Robotics programs, including FIRST Robotics professional development.

(23) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of House Bill No. 2621 (K-12 school resource programs). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(24) \$300,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the local farms-healthy kids program as described in chapter 215, Laws of 2008. The program is suspended in the 2011 fiscal year, and not eliminated.

(25) \$2,348,000 of the general fund--state appropriation for fiscal year 2010 and \$1,000,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding beginning in the 2009-10 school year. The superintendent shall implement this program in 5 to 15 school districts and/or regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor;

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development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators. The superintendent of public instruction shall adopt rules to establish and operate a research-based beginning educator support program no later than August 31, 2009. OSPI must evaluate the program's progress and may contract for this work. A report to the legislature about the beginning educator support program is due November 1, 2010.

(26) (~~(\$1,790,000)~~) \$390,000 of the education legacy trust account-state appropriation is provided solely for the development and implementation of diagnostic assessments, consistent with the recommendations of the Washington assessment of student learning work group.

(27) Funding within this section is provided for implementation of Engrossed Substitute Senate Bill No. 5414 (statewide assessments and curricula).

(28) \$530,000 of the general fund--state appropriation for fiscal year 2010 and \$265,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(29) Funding for the community learning center program, established in RCW 28A.215.060, and providing grant funding for the 21st century after-school program, is suspended and not eliminated.

(30) \$2,357,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6696 (education reform). Of the amount provided, \$142,000 is provided to the professional educators' standards board and \$120,000 is provided to the system of the educational service districts, to fulfill their respective duties under the bill.

(End of part)

**PART VI  
HIGHER EDUCATION**

**Sec. 601.** 2010 2nd sp.s. c 1 s 602 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) .....         | \$269,571,000        |
| General Fund--State Appropriation (FY 2011) .....         | \$259,706,000        |
| General Fund--Federal Appropriation .....                 | \$43,971,000         |
| Education Legacy Trust Account--State Appropriation ..... | \$54,534,000         |
| Accident Account--State Appropriation .....               | \$6,750,000          |
| Medical Aid Account--State Appropriation .....            | \$6,540,000          |
| Biotoxin Account--State Appropriation.....                | \$449,000            |
| <b>TOTAL APPROPRIATION .....</b>                          | <b>\$641,521,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special

education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for forestry research by the Olympic natural resources center.

(4) \$150,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the William D. Ruckelshaus center for facilitation, support, and analysis to support the nurse staffing steering committee in its work to apply best practices related to patient safety and nurse staffing.

(5) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the University of Washington geriatric education center to provide a voluntary adult family home certification program. In addition to the minimum qualifications required under RCW 70.128.120, individuals participating in the voluntary adult family home certification program shall complete fifty-two hours of class requirements as established by the University of Washington geriatric education center. Individuals completing the requirements of RCW 70.128.120 and the voluntary adult family home certification program shall be issued a certified adult family home license by the department of social and health services. The department of social and health services shall adopt rules implementing the provisions of this subsection.

(6) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$52,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the center for international trade in forest products in the college of forest resources.

(7) \$250,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for joint planning to increase the number of residency positions and programs in eastern Washington and Spokane within the existing Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) regional medical education program partnership between the University of Washington school of medicine, Washington State University, and area physicians and hospitals. The joint planning efforts are to include preparation of applications for new residency programs in family medicine, internal medicine, obstetrics, psychiatry and general surgery; business plans for those new programs; and for increasing the number of positions in existing programs among regional academic and hospital partners and networks. The results of the joint planning efforts, including the status of the application preparation and business plan, must be reported to the house of representatives committee on higher education and the senate committee on higher education and workforce development by December 1, 2010.

(8) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of chapter 164, Laws of 2010 (local government infrastructure). The University of Washington shall use a qualified researcher to report the percentage probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the projects. In making this report, the qualified researcher shall work with the department of revenue and the applicants to develop a series of factors that are based on available economic metrics and sound principles.

(9) Appropriations in section 609 of this act reflect reductions to the state need grant. The University of Washington shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, the University of Washington shall report to the appropriate legislative fiscal and policy committees

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regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 602.** 2010 2nd sp.s. c 1 s 603 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) | \$169,462,000        |
| General Fund--State Appropriation (FY 2011) | \$170,699,000        |
| General Fund--Federal Appropriation .....   | \$15,772,000         |
| Education Legacy Trust Account--            |                      |
| State Appropriation .....                   | \$34,435,000         |
| <b>TOTAL APPROPRIATION .....</b>            | <b>\$390,368,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) When implementing reductions for fiscal year 2010 and fiscal year 2011, Washington State University shall minimize reductions to extension services and agriculture extension services. Agriculture extension includes:

(a) Faculty with extension appointments working within the following departments in the college of agricultural, human, and natural resource sciences with extension appointments: Animal sciences, crop and soil sciences, entomology, horticulture, and plant pathology;

(b) The portion of county extension educators' appointments assigned to the "agricultural programs" area;

(c) Staff with extension appointments and extension operating allocations located at the irrigated agriculture research and extension center (Prosser), northwest Washington research and extension center (Mt. Vernon), and tree fruit research and extension center (Wenatchee); and

(d) Extension contributions to the center for precision agricultural systems, center for sustaining agriculture and natural resources, and the agriculture weather network.

(4) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research related to honeybee colony collapse disease.

(5) Appropriations in section 609 of this act reflect reductions to the state need grant. Washington State University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Washington State University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 603.** 2010 2nd sp.s. c 1 s 604 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2010) ..... | \$34,689,000 |
| General Fund--State Appropriation (FY 2011) ..... | \$35,126,000 |

|   |                     |
|---|---------------------|
| General Fund--Federal Appropriation .....                 | \$5,522,000         |
| Education Legacy Trust Account--State Appropriation ..... |                     |
| .....   | \$16,041,000        |
| <b>TOTAL APPROPRIATION .....</b>                          | <b>\$91,378,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the northwest autism center.

(4) Appropriations in section 609 of this act reflect reductions to the state need grant. Eastern Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Eastern Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 604.** 2010 2nd sp.s. c 1 s 605 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....         | \$30,289,000        |
| General Fund--State Appropriation (FY 2011) .....         | \$32,383,000        |
| General Fund--Federal Appropriation .....                 | \$6,975,000         |
| Education Legacy Trust Account--State Appropriation ..... |                     |
| .....   | \$19,012,000        |
| <b>TOTAL APPROPRIATION .....</b>                          | <b>\$88,659,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) Appropriations in section 609 of this act reflect reductions to the state need grant. Central Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Central Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall

provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 605.** 2010 2nd sp.s. c 1 s 606 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$20,514,000        |
| General Fund--State Appropriation (FY 2011) .....   | \$17,728,000        |
| General Fund--Federal Appropriation.....            | \$2,366,000         |
| Education Legacy Trust Account--State Appropriation | \$5,417,000         |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$46,025,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the college shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3)(a) At least \$100,000 of the general fund--state appropriation for fiscal year 2010 shall be expended on the labor education and research center.

(b) In fiscal year 2011 the labor education and research center shall be transferred from The Evergreen State College to south Seattle community college.

(4) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state institute for public policy to report to the legislature regarding efficient and effective programs and policies. The report shall calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies that influence crime, K-12 education outcomes, child maltreatment, substance abuse, mental health, public health, public assistance, employment, and housing. The institute for public policy shall provide the legislature with a comprehensive list of programs and policies that improve these outcomes for children and adults in Washington and result in more cost-efficient use of public resources. The institute shall submit interim reports by December 15, 2009, and October 1, 2010, and a final report by June 30, 2011. The institute may receive additional funds from a private organization for the purpose of conducting this study.

(5) To the extent federal or private funding is available for this purpose, the Washington state institute for public policy and the center for reinventing public education at the University of Washington shall examine the relationship between participation in pension systems and teacher quality and mobility patterns in the state. The department of retirement systems shall facilitate researchers' access to necessary individual-level data necessary to effectively conduct the study. The researchers shall ensure that no individually identifiable information will be disclosed at any time. An interim report on project findings shall be completed by November 15, 2010, and a final report shall be submitted to the governor and to the relevant committees of the legislature by October 15, 2011.

(6) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Washington center for undergraduate education.

(7) \$15,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to examine the need for and methods to increase the availability of nonfood items, such as personal hygiene supplies, soaps, paper products, and other items, to needy persons in the state. The study shall examine existing private and public programs that provide such products, and develop recommendations for the most cost-effective incentives for private and public agencies to increase local distribution outlets and local and regional networks of supplies. A final report shall be delivered to the legislature and the governor by December 1, 2009.

(8) \$17,000 of the general fund--state appropriation for fiscal year 2010 and \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided to the Washington state institute for public policy to implement Second Substitute House Bill No. 2106 (child welfare outcomes). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(9) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$23,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5882 (racial disproportionality). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute of public policy to evaluate the adequacy of and access to financial aid and independent living programs for youth in foster care. The examination shall include opportunities to improve efficiencies within these programs. The institute shall report its findings by December 1, 2009.

(11) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to conduct an assessment of the general assistance unemployable program and other similar programs. The assessment shall include a review of programs in other states that provide similar services and will include recommendations on promising approaches that both improve client outcomes and reduce state costs. A report is due by December 1, 2009.

(12) To the extent funds are available, the Washington state institute for public policy is encouraged to continue the longitudinal analysis of long-term mental health outcomes directed in chapter 334, Laws of 2001 (mental health performance audit), to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the institute for public policy to provide research support to the council on quality education.

(14) At least \$119,207 of the general fund--state appropriation for fiscal year 2011 shall be expended on the longhouse center.

(15) At least \$103,146 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Northwest Indian applied research institute.

(16) Appropriations in section 609 of this act reflect reductions to the state need grant. The Evergreen State College shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, The Evergreen State College shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

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**Sec. 606.** 2010 2nd sp.s. c 1 s 607 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2010) .....         | \$43,146,000  |
| General Fund--State Appropriation (FY 2011) .....         | \$46,359,000  |
| General Fund--Federal Appropriation .....                 | \$8,885,000   |
| Education Legacy Trust Account--State Appropriation ..... |               |
| .....   | \$12,917,000  |
| TOTAL APPROPRIATION .....                                 | \$111,307,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) Appropriations in section 609 of this act reflect reductions to the state need grant. Western Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Western Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 607.** 2010 2nd sp.s. c 1 s 601 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) .....         | \$631,804,000   |
| General Fund--State Appropriation (FY 2011) .....         | \$603,296,000   |
| General Fund--Federal Appropriation .....                 | \$17,171,000    |
| Education Legacy Trust Account--State Appropriation ..... |                 |
| .....   | \$95,035,000    |
| Opportunity Express Account--State Appropriation .....    | \$18,556,000    |
| TOTAL APPROPRIATION .....                                 | \$1,365,862,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,761,000 of the general fund--state appropriation for fiscal year 2010, \$28,761,000 of the general fund--state appropriation for fiscal year 2011, and \$17,556,000 of the opportunity express account--state appropriation are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2010 and at least 9,984 full-time equivalent students in fiscal year 2011.

(2) \$2,725,000 of the general fund--state appropriation for fiscal year 2010 and \$2,725,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational

sector and region of the state, and the results of the partnerships supported by these funds.

(3) Of the amounts appropriated in this section, \$3,500,000 is provided solely for the student achievement initiative.

(4) When implementing the appropriations in this section, the state board and the trustees of the individual community and technical colleges shall minimize impact on academic programs, maximize reductions in administration, and shall at least maintain, and endeavor to increase, enrollment opportunities and degree and certificate production in high employer-demand fields of study at their academic year 2008-09 levels.

(5) Within the board's 2009-11 biennial budget allocation to Bellevue College, and pursuant to RCW 28B.50.810, the college may implement, on a tuition and fee basis, an additional applied baccalaureate degree in interior design. This program is intended to provide students with additional opportunities to earn baccalaureate degrees and to respond to emerging job and economic growth opportunities. The program reviews and approval decisions required by RCW 28B.50.810 (3) and (4) shall be completed by July 31, 2009, so that the degree may be offered during the 2009-10 academic year.

(6) In accordance with the recommendations of the higher education coordinating board's 2008 *Kitsap region higher education center study*, the state board shall facilitate development of university centers by allocating thirty 2-year and 4-year partnership full-time enrollment equivalencies to Olympic College and ten 2-year and 4-year partnership full-time enrollment equivalencies to Peninsula College. The colleges shall use the allocations to establish a partnership with a baccalaureate university or universities for delivery of upper division degree programs in the Kitsap region. The Olympic and Peninsula Community College districts shall additionally work together to ensure coordinated development of these and other future baccalaureate opportunities through coordinated needs assessment, planning, and scheduling.

(7) By September 1, 2009, the state board for community and technical colleges, the higher education coordinating board, and the office of financial management shall review and to the extent necessary revise current 2009-11 performance measures and targets based on the level of state, tuition, and other resources appropriated or authorized in this act and in the omnibus 2009-11 omnibus capital budget act. The boards and the office of financial management shall additionally develop new performance targets for the 2011-13 and the 2013-15 biennia that will guide and measure the community and technical college system's contributions to achievement of the state's higher education master plan goals.

(8) \$2,250,000 of the general fund--state appropriation for fiscal year 2010 and \$2,250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the hospital employee education and training program under which labor, management, and college partnerships develop or expand and evaluate training programs for incumbent hospital workers that lead to careers in nursing and other high-demand health care occupations. The board shall report student progress, outcomes, and costs to the relevant fiscal and policy committees of the legislature by November 2009 and November 2010.

(9) Community and technical colleges are not required to send mass mailings of course catalogs to residents of their districts. Community and technical colleges shall consider lower cost alternatives, such as mailing postcards or brochures that direct individuals to online information and other ways of acquiring print catalogs.

(10) \$1,112,000 of the general fund--state appropriation for fiscal year 2010 and \$1,113,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the state board to enhance online distance learning and open courseware

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technology. Funds shall be used to support open courseware, open textbooks, open licenses to increase access, affordability and quality of courses in higher education. The state board for community and technical colleges shall select the most appropriate courses to support open courseware based solely upon criteria of maximizing the value of instruction and reducing costs of textbooks and other instructional materials for the greatest number of students in higher education, regardless of the type of institution those students attend.

(11) \$158,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement House Bill No. 2694 (B.S. in nursing/university center). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(12)(a) The labor education and research center is transferred from The Evergreen State College to south Seattle community college and shall begin operations on July 1, 2010.

(b) At least \$164,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the labor education and research center to provide outreach programs and direct educational and research services to labor unions and worker-centered organizations.

(13) \$1,000,000 of the opportunity express account--state appropriation is provided solely for the opportunity grant program as specified in RCW 28B.50.271.

(14) \$1,750,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the state board for community and technical colleges to contract with the aerospace training and research center on Paine field in Everett, Washington to support industry-identified training in the aerospace sector.

(15) Sufficient amounts are provided in this section to implement the food stamp employment and training program under Second Substitute House Bill No. 2782 (security lifeline act).

(16) Appropriations in section 609 of this act reflect reductions to the state need grant. The state board for community and technical colleges shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, the state board for community and technical colleges shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 608.** 2010 1st sp.s. c 37 s 610 (uncodified) is amended to read as follows:

|  |                                  |
|--|----------------------------------|
| <b>FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION</b> |                                  |
| General Fund--State Appropriation (FY 2010) .....  | \$6,402,000                      |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$5,561,000)</del>         |
| .....  | <u>\$5,183,000</u>               |
| General Fund--Federal Appropriation .....  | \$4,332,000                      |
| <b>TOTAL APPROPRIATION .....</b>   | <del><b>(\$16,295,000)</b></del> |
| .....  | <u><b>\$15,917,000</b></u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the funds appropriated in this section, the higher education coordinating board shall complete a system design planning project that defines how the current higher education delivery system can be shaped and expanded over the next ten years to best meet the needs of Washington citizens and businesses for high quality and accessible post-secondary education. The board shall propose policies and specific, fiscally feasible implementation recommendations to accomplish the goals established in the 2008 strategic master plan for higher education. The project shall

specifically address the roles, missions, and instructional delivery systems both of the existing and of proposed new components of the higher education system; the extent to which specific academic programs should be expanded, consolidated, or discontinued and how that would be accomplished; the utilization of innovative instructional delivery systems and pedagogies to reach both traditional and nontraditional students; and opportunities to consolidate institutional administrative functions. The study recommendations shall also address the proposed location, role, mission, academic program, and governance of any recommended new campus, institution, or university center. During the planning process, the board shall inform and actively involve the chairs from the senate and house of representatives committees on higher education, or their designees. The board shall report the findings and recommendations of this system design planning project to the governor and the appropriate committees of the legislature by December 1, 2009.

(2) \$146,000 of the general fund--state appropriation for fiscal year 2010 and \$65,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to administer Engrossed Second Substitute House Bill No. 2021 (revitalizing student financial aid). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) \$167,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$71,000)~~ \$67,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Engrossed Second Substitute House Bill No. 1946 (regarding higher education online technology). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$350,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to contract with the Pacific Northwest university of health sciences to conduct training and education of health care professionals to promote osteopathic physician services in rural and underserved areas of the state.

**Sec. 609.** 2010 1st sp.s. c 37 s 611 (uncodified) is amended to read as follows:

|  |                                   |
|--|-----------------------------------|
| <b>FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS</b> |                                   |
| General Fund--State Appropriation (FY 2010) .....                                    | \$188,332,000                     |
| General Fund--State Appropriation (FY 2011) ...                                      | <del>(\$122,218,000)</del>        |
| .....  | <u>\$96,833,000</u>               |
| General Fund--Federal Appropriation .....  | \$13,129,000                      |
| Education Legacy Trust Account--State Appropriation .....                            | \$116,060,000                     |
| Opportunity Pathways Account--State Appropriation .....                              | \$73,500,000                      |
| <b>TOTAL APPROPRIATION .....</b>   | <del><b>(\$513,239,000)</b></del> |
| .....  | <u><b>\$487,854,000</b></u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$178,726,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$120,572,000)~~ \$95,187,000 of the general fund--state appropriation for fiscal year 2011, \$109,188,000 of the education legacy trust account appropriation, \$73,500,000 of the opportunity pathways appropriation, and \$2,545,000 of the general fund--federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including up to a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. State need grant and the Washington award for vocational excellence shall be adjusted to offset the cost of the resident undergraduate tuition increases, limited to those tuition increases authorized under this act. The Washington scholars

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program shall provide awards sufficient to offset ninety percent of the total tuition and fee award.

(2)(a) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(b) Grant awards for students at private four-year colleges shall be set at the same level as the student would receive if attending one of the public research universities.

(3) To the maximum extent practicable, the board shall provide state work study subsidies only to resident students during the 2010-11 academic year. Additionally, in order to provide work opportunities to as many resident students as possible, the board is encouraged to increase the proportion of student wages that is to be paid by both proprietary and nonprofit, public, and private employers.

(4) \$3,872,000 of the education legacy trust account--state appropriation is provided solely for the passport to college scholarship program pursuant to chapter 28B.117 RCW. The higher education coordinating board shall contract with a college scholarship organization with expertise in managing scholarships for low-income, high-potential students and foster care children and young adults to administer the program. Of the amount in this subsection, \$39,000 is provided solely for the higher education coordinating board for administration of the contract and the remaining shall be contracted out to the organization for the following purposes:

(a) \$384,000 is provided solely for program administration, and

(b) \$3,449,000 is provided solely for student financial aid for up to 151 students and to fund student support services. Funds are provided for student scholarships, provider training, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for students while school is not in session, personal expenses, health insurance, and emergency services.

(5) \$1,250,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the health professional scholarship and loan program. The funds provided in this subsection shall be:

(a) Prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) allocated between loan repayments and scholarships proportional to current program allocations.

(6) For fiscal year 2010 and fiscal year 2011, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(7) \$246,000 of the general fund--state appropriation for fiscal year 2010 and \$246,000 of the general fund--state appropriation for fiscal year 2011 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least \$2,000 in

new moneys for college scholarships after the effective date of this section. Groups may receive no more than one \$2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of \$46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(8) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for state need grants provided to students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. Total state expenditures on this program shall not exceed the amounts provided in this subsection.

(9) \$2,500,000 of the education legacy trust account--state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(11) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuation of the leadership 1000 scholarship sponsorship and matching program.

(12) In 2010 and 2011, the board shall continue to designate Washington scholars and scholar-alternates and to recognize them at award ceremonies as provided in RCW 28A.600.150, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.660, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

(13) Fiscal year 2011 appropriations in this section reflect general fund-state reductions to the state need grant. In implementing these reductions, the board shall reduce state need grant payments to each of the following institutions in the following amounts:

|  |                     |
|--|---------------------|
| <u>University of Washington</u> .....                      | <u>\$5,658,000</u>  |
| <u>Washington State University</u> .....                   | <u>\$3,718,000</u>  |
| <u>Eastern Washington University</u> .....                 | <u>\$765,000</u>    |
| <u>Central Washington University</u> .....                 | <u>\$705,000</u>    |
| <u>The Evergreen State College</u> .....                   | <u>\$386,000</u>    |
| <u>Western Washington University</u> .....                 | <u>\$1,010,000</u>  |
| <u>State Board for Community and Technical Colleges</u> .. | <u>\$13,143,000</u> |

If any of these institutions has received state need grant payments in excess of the amount to which it is entitled after application of the reductions in this section, that institution shall remit to the board the amount of the overpayment.

**Sec. 610.** 2010 1st sp.s. c 37 s 612 (uncodified) is amended to read as follows:

**FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,465,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,444,000)</del>  |
| .....   | <u>\$1,353,000</u>        |
| General Fund--Federal Appropriation .....         | \$54,020,000              |
| TOTAL APPROPRIATION .....                         | <del>(\$56,929,000)</del> |
| .....   | <u>\$56,838,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

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(2) In 2010 and 2011, the board shall continue to designate recipients of the Washington award for vocational excellence and to recognize them at award ceremonies as provided in RCW 28C.04.535, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.670, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

Sec. 611. 2010 1st sp.s. c 37 s 613 (uncodified) is amended to read as follows:

FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,598,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,490,000)</del> |
| .....   | <u>\$1,327,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$3,088,000)</del> |
| .....   | <u>\$2,925,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: Within existing resources, the Spokane intercollegiate research and technology institute shall coordinate with the Washington technology center to identify gaps and overlaps in programs and evaluate strategies to reduce administrative overhead expenses per section 122(27) of this act.

Sec. 612. 2010 1st sp.s. c 37 s 614 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EARLY LEARNING

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$60,400,000               |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$21,241,000)</del>  |
| .....  | <u>\$19,335,000</u>        |
| General Fund--Federal Appropriation .....          | <del>(\$265,305,000)</del> |
| .....  | <u>\$266,004,000</u>       |
| Opportunity Pathways Account--State Appropriation. | \$40,000,000               |
| TOTAL APPROPRIATION .....                          | <del>(\$386,946,000)</del> |
| .....  | <u>\$385,739,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$54,878,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$14,685,000)~~ \$14,405,000 of the general fund--state appropriation for fiscal year 2011, and \$40,000,000 of the opportunity pathways account appropriation are provided solely for early childhood education and assistance program services. This appropriation temporarily reduces the number of slots for the 2009-11 fiscal biennium for the early childhood education and assistance program. The department shall reduce slots where providers serve both federal headstart and early childhood education and assistance program children, to the greatest extent possible, in order to achieve no reduction of slots across the state. The amounts in this subsection also reflect reductions to the administrative expenditures for the early childhood education and assistance program. The department shall reduce administrative expenditures, to the greatest extent possible, prior to reducing early childhood education and assistance program slots. Of these amounts, \$10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(2) \$1,000,000 of the general fund--federal appropriation is provided to the department to contract with Thrive by Five, Washington for a pilot project for a quality rating and improvement system to provide parents with information they need to choose quality child care and education programs and to improve the quality of early care and education programs. The department in collaboration with Thrive by Five shall operate the pilot projects in King, Yakima, Clark, Spokane, and Kitsap counties. The department shall use child care development fund quality money for this purpose.

(3) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$213,000 of the general fund--state appropriation for fiscal year 2011, and \$850,000 of the general fund--federal appropriation are provided solely for child care resource and referral network services. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(4) ~~\$750,000 of the general fund--state appropriation for fiscal year 2010~~ and \$1,500,000 of the general fund--federal appropriation are provided solely for the career and wage ladder program created by chapter 507, Laws of 2005. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(5) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to work with stakeholders and the office of the superintendent of public instruction to identify and test a kindergarten assessment process and tools in geographically diverse school districts. School districts may participate in testing the kindergarten assessment process on a voluntary basis. The department shall report to the legislature on the kindergarten assessment process not later than January 15, 2011. Expenditure of amounts provided in this subsection is contingent on receipt of an equal match from private sources. As matching funds are made available, the department may expend the amounts provided in this subsection.

(6) \$1,600,000 of the general fund--federal appropriation is provided solely for the department to fund programs to improve the quality of infant and toddler child care through training, technical assistance, and child care consultation.

(7) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers.

(8) The legislature notes that the department of early learning is developing a plan for improving child care licensing and is consulting, as practicable, with parents, licensed child care providers, and stakeholders from the child care community. The plan shall outline the processes and specify the resources necessary for improvements such as continuing licenses, child care licensing technology, and weighted child care regulations, including development of risk-based decision making models and inclusive, evidence-based rule making. The department shall submit to the appropriate committees of the legislature a plan by January 15, 2011.

(9) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

(11) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees. The report shall also identify the

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number of cases participating in both temporary assistance for needy families and working connections child care.

(12) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(13) \$500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the private-public partnership established in chapter 43.215 RCW for home visitation programs. Of this amount, \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for expenditure into the home visiting services account created in Part IX of this act to be used for contracts for home visitation with the private-public partnership.

(14) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center licensure fees by fifty-two dollars for the first twelve children and an additional four dollars per additional child in fiscal year 2011 for costs to the department for the licensure activity, including costs of necessary inspection.

(15) In accordance with RCW 43.135.055, the department of early learning is authorized to adopt and increase the fees set forth in and previously authorized in section 3, chapter 231, Laws of 2010.

(16) As of January 31, 2011, the department may not adopt, enforce, or implement any rules or policies restricting the eligibility of consumers for child care subsidy benefits to a countable income level below one hundred seventy-five percent of the federal poverty guidelines.

**Sec. 613.** 2010 1st sp.s. c 37 s 615 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$5,902,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$5,985,000)</del>  |
| .....   | <u>\$5,509,000</u>        |
| General Fund--Private/Local Appropriation.....    | \$1,942,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$13,829,000)</del> |
| .....   | <u>\$13,353,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund--private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

**Sec. 614.** 2010 1st sp.s. c 37 s 616 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,593,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$8,782,000)</del>  |
| .....   | <u>\$8,230,000</u>        |
| General Fund--Private/Local Appropriation.....    | \$526,000                 |
| TOTAL APPROPRIATION .....                         | <del>(\$17,901,000)</del> |
| .....   | <u>\$17,349,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$210,000 of the general fund--private/local appropriation is provided solely for the operation of the shared reading video outreach program. The school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 1879 (deaf and hard of hearing). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 615.** 2010 1st sp.s. c 37 s 617 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE ARTS COMMISSION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,844,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,347,000)</del> |
| .....   | <u>\$1,230,000</u>       |
| General Fund--Federal Appropriation .....         | \$1,944,000              |
| General Fund--Private/Local Appropriation.....    | \$1,052,000              |
| TOTAL APPROPRIATION .....                         | <del>(\$6,187,000)</del> |
| .....   | <u>\$6,070,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 616.** 2010 1st sp.s. c 37 s 618 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,592,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,607,000)</del> |
| .....   | <u>\$2,381,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$5,199,000)</del> |
| .....   | <u>\$4,973,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 617.** 2010 1st sp.s. c 37 s 619 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,612,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,632,000)</del> |
| .....   | <u>\$1,490,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$3,244,000)</del> |
| .....   | <u>\$3,102,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**NEW SECTION. Sec. 618.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, each governing board of the state research universities, the state regional universities, and The Evergreen State University is authorized to adopt and increase all charges and all fees set forth in and previously authorized in section 603 (4), (7), and (8), chapter 564, Laws of 2009.

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**NEW SECTION. Sec. 619.** A new section is added to 2009 c 564 (uncodified) to read as follows:

In accordance with RCW 43.135.055, the trustees of the state's community and technical colleges are authorized to adopt and increase all charges and all fees set forth in and previously authorized in section 604 (7), (8), and (9), chapter 564, Laws of 2009.

(End of part)

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 2010 1st sp.s. c 37 s 705 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH--COUNTY PUBLIC HEALTH ASSISTANCE

General Fund--State Appropriation (FY 2011) ..... ((\$24,000,000))  
.....\$22,303,000

The appropriations in this section are subject to the following conditions and limitations: The director of the department of health shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

| <b>((Health District</b>                                | <b>FY 2011</b> |
|---|----------------|
| Adams County Health District                            | \$30,951       |
| Asotin County Health District                           | \$67,714       |
| Benton-Franklin Health District                         | \$1,165,612    |
| Chelan-Douglas Health District                          | \$184,761      |
| Clallam County Health and Human Services-<br>Department | \$141,752      |
| Southwest Washington Health District                    | \$1,084,473    |
| Columbia County Health District                         | \$40,529       |
| Cowlitz County Health Department                        | \$278,560      |
| Garfield County Health District                         | \$15,028       |
| Grant County Health District                            | \$118,596      |
| Grays Harbor Health Department                          | 183,870        |
| Island County Health Department                         | \$91,892       |
| Jefferson County Health and Human Services              | \$85,782       |
| Seattle-King County Department of Public-<br>Health     | \$9,531,747    |
| Bremerton-Kitsap County Health District                 | \$554,669      |
| Kittitas County Health Department                       | \$92,499       |
| Klickitat County Health Department                      | \$62,402       |
| Lewis County Health Department                          | \$105,801      |
| Lincoln County Health Department                        | \$29,705       |
| Mason County Department of Health Services              | \$95,988       |
| Okanogan County Health District                         | \$63,458       |
| Pacific County Health Department                        | \$77,427       |
| Tacoma-Pierce County Health Department                  | \$2,820,590    |
| San Juan County Health and Community-<br>Services       | \$37,531       |
| Skagit County Health Department                         | \$223,927      |
| Snohomish Health District                               | \$2,258,207    |
| Spokane County Health District                          | \$2,101,429    |

|  |                       |
|--|-----------------------|
| <u>Northeast Tri-County Health District</u>      | \$110,454             |
| <u>Thurston County Health Department</u>         | \$600,419             |
| <u>Wahkiakum County Health Department</u>        | \$13,772              |
| <u>Walla Walla County-City Health Department</u> | \$172,062             |
| <u>Whatcom County Health Department</u>          | \$855,863             |
| <u>Whitman County Health Department</u>          | \$78,733              |
| <u>Yakima Health District</u>                    | \$623,797             |
| <b>TOTAL APPROPRIATIONS</b>                      | <b>\$24,000,000))</b> |

| <b><u>Health District</u></b>                                  | <b><u>FY 2011</u></b> |
|--|-----------------------|
| <u>Clallam County Health and Human Services<br/>Department</u> | <u>\$131,729</u>      |
| <u>Clark County Health District</u>                            | <u>\$982,997</u>      |
| <u>Skamania County Health Department</u>                       | <u>\$24,794</u>       |
| <u>Columbia County Health District</u>                         | <u>\$37,663</u>       |
| <u>Cowlitz County Health Department</u>                        | <u>\$258,863</u>      |
| <u>Garfield County Health District</u>                         | <u>\$13,965</u>       |
| <u>Grant County Health District</u>                            | <u>\$110,210</u>      |
| <u>Grays Harbor Health Department</u>                          | <u>\$170,869</u>      |
| <u>Island County Health Department</u>                         | <u>\$85,394</u>       |
| <u>Jefferson County Health and Human Services</u>              | <u>\$79,716</u>       |
| <u>Seattle-King County Department of Public<br/>Health</u>     | <u>\$8,857,773</u>    |
| <u>Bremerton-Kitsap County Health District</u>                 | <u>\$515,449</u>      |
| <u>Kittitas County Health Department</u>                       | <u>\$85,959</u>       |
| <u>Klickitat County Health Department</u>                      | <u>\$57,990</u>       |
| <u>Lewis County Health Department</u>                          | <u>\$98,320</u>       |
| <u>Lincoln County Health Department</u>                        | <u>\$27,605</u>       |
| <u>Mason County Department of Health Services</u>              | <u>\$89,201</u>       |
| <u>Okanogan County Health District</u>                         | <u>\$58,971</u>       |
| <u>Pacific County Health Department</u>                        | <u>\$71,952</u>       |
| <u>Tacoma-Pierce County Health Department</u>                  | <u>\$2,621,151</u>    |
| <u>San Juan County Health and Community<br/>Services</u>       | <u>\$34,877</u>       |
| <u>Skagit County Health Department</u>                         | <u>\$208,093</u>      |
| <u>Snohomish Health District</u>                               | <u>\$2,098,533</u>    |
| <u>Spokane County Health District</u>                          | <u>\$1,952,840</u>    |
| <u>Northeast Tri-County Health District</u>                    | <u>\$102,644</u>      |
| <u>Thurston County Health Department</u>                       | <u>\$557,964</u>      |
| <u>Wahkiakum County Health Department</u>                      | <u>\$12,798</u>       |
| <u>Walla Walla County-City Health Department</u>               | <u>\$159,896</u>      |
| <u>Whatcom County Health Department</u>                        | <u>\$795,346</u>      |
| <u>Whitman County Health Department</u>                        | <u>\$73,166</u>       |
| <u>Yakima Health District</u>                                  | <u>\$579,689</u>      |
| <u>Adams County Health District</u>                            | <u>\$28,763</u>       |
| <u>Asotin County Health District</u>                           | <u>\$62,926</u>       |
| <u>Benton-Franklin Health District</u>                         | <u>\$1,083,194</u>    |
| <u>Chelan-Douglas Health District</u>                          | <u>\$171,697</u>      |
| <b>TOTAL APPROPRIATIONS</b>                                    | <b>\$22,303,000</b>   |

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**Sec. 702.** 2010 1st sp.s. c 37 s 707 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--CAPITOL BUILDING CONSTRUCTION ACCOUNT

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,912,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$3,615,000)</del> |
| .....   | <u>\$1,815,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$5,527,000)</del> |
| .....   | <u>\$3,727,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the capitol building construction account.

**Sec. 703.** 2010 1st sp.s. c 37 s 711 (uncodified) is amended to read as follows:

INFORMATION TECHNOLOGY

Pursuant to section 11, chapter 282, Laws of 2010 (state government technology use), the office of financial management shall work with the appropriate state agencies to generate savings of \$30,000,000 from technology efficiencies from the state general fund. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by ~~(\$30,000,000)~~ \$24,841,000 for fiscal year 2011. The office of financial management shall, utilizing existing fund balance, reduce the data processing revolving account rates in an amount to reflect up to half of the reductions identified in this section. The office of financial management may use savings or existing fund balances from information technology accounts to achieve savings in this section. The allotment reductions shall be placed in unallotted status and remain unexpended. Nothing in this section is intended to impact revenue collection efforts by the department of revenue.

**Sec. 704.** 2009 c 564 s 711 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--EDUCATION TECHNOLOGY REVOLVING ACCOUNT

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,000,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$8,000,000)</del>  |
| .....   | <u>\$7,000,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$16,000,000)</del> |
| .....   | <u>\$15,000,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for expenditure into the education technology revolving account for the purpose of covering ongoing operational and equipment replacement costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

**NEW SECTION. Sec. 705.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--WASHINGTON OPPORTUNITY PATHWAYS ACCOUNT

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2011) ..... | \$19,000,000 |
|---|--------------|

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the Washington opportunity pathways account.

**NEW SECTION. Sec. 706.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--EDUCATION LEGACY TRUST ACCOUNT

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2011) ..... | \$1,501,000 |
|---|-------------|

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the education legacy trust account.

**NEW SECTION. Sec. 707.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--EMPLOYEE SALARY REDUCTION SAVINGS

From the appropriations provided in this act and in chapter 470, Laws of 2009, the office of financial management shall reduce general fund--state allotments by \$3,422,000 for fiscal year 2011 and allotments in other dedicated funds and accounts by \$4,568,000 as shown in LEAP document 2011-SA1 dated February 3, 2011. These reductions reflect savings associated with a temporary three percent reduction in salaries, effective April 1, 2011, for state employees not subject to a collective bargaining agreement. State troopers, elected officials, and employees of the state printer, the marine division of the department of transportation, and the state institutions of higher education are not subject to the salary reduction in this section. The allotment reductions in this section shall be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 708.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--REDUCTION IN COMMUNICATIONS AND PUBLIC RELATIONS STAFF

The office of financial management shall develop a plan to generate savings of \$1,000,000 from reductions in staffing and other efficiencies in communications and public relations by state agencies of the executive branch. It is the intent of the legislature that the reduction plan developed and implemented in accordance with this section shall prioritize essential communication functions for public information as well as executive and legislative branch oversight. From the appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$1,000,000 for fiscal year 2011. The allotment reductions shall be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 709.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--MANAGEMENT EFFICIENCIES IN THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

The department of social and health services, in consultation with the office of financial management, shall develop a plan to generate savings of at least \$1,728,000 from reductions in management staffing and other efficiencies in addition to other administrative savings generated by this act. It is the intent of the legislature that the reduction plan developed and implemented in accordance with this section shall focus on achieving management efficiencies and will avoid, to the extent possible, direct impact on client services and program operations. After reviewing and approving the management reduction and efficiency plan, from the appropriations in this act, the office of financial management shall reduce general fund--state allotments to the department of social and health services by at least \$1,728,000 for fiscal year 2011. The allotment reductions shall be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 710.** A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT--MULTIPLE LANGUAGE ASSIGNMENT PAY

To the extent permitted by collective bargaining agreements, court orders, and court-approved settlements, the department of social and health services shall cease providing additional compensation for employees on the basis of proficiency in multiple languages after March 31, 2011. From the appropriations in this act, the office of financial management shall reduce general

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fund--state allotments by \$250,000 for fiscal year 2011 to reflect the savings expected from the elimination of multiple-language assignment pay. The allotment reductions shall be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 711.** A new section is added to 2009 c 564 (uncodified) to read as follows:

**BASIC HEALTH PLAN STABILIZATION ACCOUNT**

The basic health plan stabilization account is created in the state treasury, to consist of such revenues, appropriations, and transfers as may be directed by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for the support of the basic health plan under chapter 70.47 RCW.

(End of part)

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 2010 2nd sp.s. c 1 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

State Treasurer's Service Account: For transfer to the state general fund, \$16,400,000 for fiscal year 2010 and (~~(\$26,400,000)~~) \$29,400,000 for fiscal year 2011 ..... (~~(\$42,800,000)~~) \$45,800,000

Waste Reduction, Recycling and Litter Control Account: For transfer to the state general fund, \$3,000,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011 ..... \$6,000,000

State Toxics Control Account: For transfer to the state general fund, \$15,340,000 for fiscal year 2010 and \$37,780,000 for fiscal year 2011 ..... \$53,120,000

Local Toxics Control Account: For transfer to the state general fund, \$37,060,000 for fiscal year 2010 and (~~(\$48,759,000)~~) \$65,759,000 for fiscal year 2011 ..... (~~(\$85,819,000)~~) \$102,819,000

Education Construction Account: For transfer to the state general fund, \$105,228,000 for fiscal year 2010 and \$106,451,000 for fiscal year 2011 ..... \$211,679,000

Aquatics Lands Enhancement Account: For transfer to the state general fund, \$8,520,000 for fiscal year 2010 and (~~(\$5,050,000)~~) \$12,550,000 for fiscal year 2011 ..... (~~(\$13,570,000)~~) \$21,070,000

Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account ..... \$28,600,000

Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,500,000 for fiscal year 2010 and (~~(\$2,500,000)~~) \$3,900,000 for fiscal year 2011 ..... (~~(\$5,000,000)~~) \$6,400,000

Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed by more than \$26,000,000 the actual amount of the annual payment to the tobacco settlement account ..... \$204,098,000

Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed \$26,000,000 less than the actual amount of the strategic contribution supplemental payment to the tobacco settlement account ..... \$39,170,000

General Fund: For transfer to the streamline sales and

use tax account, \$24,274,000 for fiscal year 2010 and \$24,182,000 for fiscal year 2011 ..... \$48,456,000

State Convention and Trade Center Account: For transfer to the state convention and trade center operations account, \$1,000,000 for fiscal year 2010 and \$3,100,000 for fiscal year 2011 ..... \$4,100,000

Tobacco Prevention and Control Account: For transfer to the state general fund, \$1,961,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011 ..... \$4,961,000

Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2010 ..... \$500,000

Judicial Information Systems Account: For transfer to the state general fund, \$3,250,000 for fiscal year 2010 and \$3,250,000 for fiscal year 2011 ..... \$6,500,000

Department of Retirement Systems Expense Account: For transfer to the state general fund, \$1,000,000 for fiscal year 2010 and \$1,500,000 for fiscal year 2011 ..... \$2,500,000

State Emergency Water Projects Account: For transfer to the state general fund, \$390,000 for fiscal year 2011 ..... \$390,000

The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$5,550,000 for fiscal year 2010 and (~~(\$5,550,000)~~) \$4,450,000 for fiscal year 2011 ..... (~~(\$11,100,000)~~) \$10,000,000

Energy Freedom Account: For transfer to the state general fund, \$4,038,000 for fiscal year 2010 and \$2,978,000 for fiscal year 2011 ..... \$7,016,000

Thurston County Capital Facilities Account: For transfer to the state general fund, \$8,604,000 for fiscal year 2010 and (~~(\$5,538,000)~~) \$5,156,000 for fiscal year 2011 ..... (~~(\$14,142,000)~~) \$13,760,000

Public Works Assistance Account: For transfer to the state general fund, \$279,640,000 for fiscal year 2010 and \$229,560,000 for fiscal year 2011 ..... \$509,200,000

Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010 ..... \$45,130,000

Liquor Revolving Account: For transfer to the state general fund, \$31,000,000 for fiscal year 2010 and \$31,000,000 for fiscal year 2011 ..... \$62,000,000

Public Works Assistance Account: For transfer to the city-county assistance account, \$5,000,000 on July 1, 2009, and \$5,000,000 on July 1, 2010 ..... \$10,000,000

Public Works Assistance Account: For transfer to the drinking water assistance account, \$6,930,000 for fiscal year 2010 and \$4,000,000 for fiscal year 2011 ..... \$10,930,000

Shared Game Lottery Account: For transfer to the education legacy trust account, \$3,600,000 for fiscal year 2010 and \$2,400,000 for fiscal year 2011 ..... \$6,000,000

State Lottery Account: For transfer to the education legacy trust account, \$9,500,000 for fiscal year 2010 and \$9,500,000 for fiscal year 2011 ..... \$19,000,000

College Faculty Awards Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund and \$1,957,000 for fiscal year 2011 ..... (~~(\$4,000,000)~~) \$5,957,000

Washington Distinguished Professorship Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash

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balance of the fund and \$2,966,000 for fiscal year 2011 ..... ~~(\$6,000,000)~~  
\$8,966,000

Washington Graduate Fellowship Trust Account:  
 For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund and \$1,008,000 for fiscal year 2011 ..... ~~(\$2,000,000)~~  
\$3,008,000

GET Ready for Math and Science Scholarship Account:  
 For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance not comprised of or needed to match private contributions ..... \$1,800,000

Financial Services Regulation Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011 ..... \$9,000,000

Data Processing Revolving Fund: For transfer to the state general fund, \$5,632,000 for fiscal year 2010 and \$4,159,000 for fiscal year 2011 ..... ~~(\$5,632,000)~~  
\$9,791,000

Public Service Revolving Account: For transfer to the state general fund, \$8,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011 ..... \$15,000,000

Water Quality Capital Account: For transfer to the state general fund, \$278,000 for fiscal year 2011 ..... \$278,000

Performance Audits of Government Account: For transfer to the state general fund, \$10,000,000 for fiscal year 2010 and ~~(\$5,000,000)~~ \$7,000,000 for fiscal year 2011 ..... ~~(\$15,000,000)~~  
\$17,000,000

Job Development Account: For transfer to the state general fund, \$20,930,000 for fiscal year 2010 ..... \$20,930,000

Savings Incentive Account: For transfer to the state general fund, \$10,117,000 for fiscal year 2010 and \$32,075,000 for fiscal year 2011 ..... ~~(\$10,117,000)~~  
\$42,192,000

Education Savings Account: For transfer to the state general fund, ~~(\$100,767,000)~~ \$90,690,000 for fiscal year 2010 and \$53,384,000 for fiscal year 2011 ..... ~~(\$100,767,000)~~  
\$144,074,000

Cleanup Settlement Account: For transfer to the state efficiency and restructuring account for fiscal year 2011 ..... \$39,480,000

Disaster Response Account: For transfer to the state drought preparedness account, \$4,000,000 for fiscal year 2010 ..... \$4,000,000

Washington State Convention and Trade Center Account:  
 For transfer to the state general fund, \$10,000,000 for fiscal year 2011. The transfer in this section shall occur on June 30, 2011, only if by that date the Washington state convention and trade center is not transferred to a public facilities district pursuant to Substitute Senate Bill No. 6889 (convention and trade center) ..... \$10,000,000

Institutional Welfare/Betterment Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2010 and \$2,000,000 for fiscal year 2011 ..... \$4,000,000

Future Teacher Conditional Scholarship Account: For transfer to the state general fund, \$2,150,000 for fiscal year 2010 and \$2,150,000 for fiscal year 2011 ..... \$4,300,000

Fingerprint Identification Account: For transfer to the state general fund, \$800,000 for fiscal year 2011 ..... \$800,000

Prevent or Reduce Owner-Occupied Foreclosure Program Account: For transfer to the financial education public-private partnership account for fiscal year 2010, an amount not to exceed the actual cash balance of the fund as of June 30, 2010 ..... \$300,000

Nisqually Earthquake Account: For transfer to the state general fund for fiscal year 2011 ..... ~~(\$1,000,000)~~  
\$696,000

Disaster Response Account: For transfer to the state general fund for fiscal year 2011 ..... ~~(\$15,000,000)~~  
\$14,500,000

Washington Auto Theft Prevention Account: For transfer to the state general fund, \$1,500,000 for fiscal year 2011 ..... \$1,500,000

Tourism Enterprise Account: For transfer to the state general fund, \$590,000 for fiscal year 2011 ..... \$590,000

Tourism Development and Promotion Account: For transfer to the state general fund, \$205,000 for fiscal year 2011 ..... \$205,000

Life Sciences Discovery Fund: For transfer to the basic health plan stabilization account ..... \$6,000,000

Life Sciences Discovery Fund: For transfer to the state general fund for fiscal year 2011 ..... \$2,200,000

Industrial Insurance Premium Refund Account: For transfer to the state general fund, \$4,500,000 for fiscal year 2011 ..... \$4,500,000

Distressed County Assistance Account: For transfer to the state general fund, \$205,000 for fiscal year 2011 ..... \$205,000

State Drought Preparedness Account: For transfer to the state general fund, \$4,000,000 for fiscal year 2011 ..... \$4,000,000

Freshwater Aquatic Algae Control Account: For transfer to the state general fund, \$400,000 for fiscal year 2011 ..... \$400,000

Freshwater Aquatic Weeds Account: For transfer to the state general fund, \$300,000 for fiscal year 2011 ..... \$300,000

Liquor Control Board Construction and Maintenance Account: For transfer to the state general fund for fiscal year 2011 ..... \$3,000,000

Sec. 802. 2010 1st sp.s. c 31 s 1 (uncodified) is amended to read as follows:

(1) The state treasurer shall transfer two hundred ~~(twenty nine)~~ twenty-three million two hundred nine thousand dollars or as much of that amount as is available from the budget stabilization account to the state general fund for fiscal year 2011.

(2) The transfer in subsection (1) of this section is to minimize reductions to public school programs in the 2010 supplemental omnibus operating budget.

(End of part)

PART IX

**Sec. 901.** 2010 1st sp.s. c 32 s 3 (uncodified) is amended to read as follows:

(1)(a) The office of financial management shall certify to each executive branch state agency and institution of higher education the compensation reduction amount to be achieved by that agency or institution. Each agency and institution shall achieve compensation expenditure reductions as provided in the omnibus appropriations act.

(b) Each executive branch state agency other than institutions of higher education may submit to the office of financial management a compensation reduction plan to achieve the cost reductions as provided in the omnibus appropriations act. The compensation reduction plan of each executive branch agency may include, but is not limited to, employee leave without pay, including additional mandatory and voluntary temporary layoffs, reductions in the agency workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, and other incentive programs authorized by section 912, chapter 564, Laws of 2009. The amount of compensation cost reductions to be achieved by each agency shall be adjusted to reflect voluntary and mandatory temporary layoffs at the agency during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(c) Each institution of higher education must submit to the office of financial management a compensation and operations reduction plan to achieve at least the cost reductions as provided in the omnibus appropriations act. For purposes of the reduction plan, the state board of community and technical colleges shall submit a single plan on behalf of all community and technical colleges. The reduction plan of each institution may include, but is not limited to, employee leave without pay, including mandatory and voluntary temporary layoffs, reductions in the institution workforce, compensation reductions, and reduced work hours, as well as voluntary retirement, separation, incentive programs authorized by section 912, chapter 564, Laws of 2009, as well as other reductions to the cost of operations. The amount of cost reductions to be achieved by each institution shall be adjusted to reflect voluntary and mandatory temporary layoffs at the institution during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010, but not adjusted by other compensation reduction plans adopted as a result of the enactment of chapter 564, Laws of 2009, or the enactment of other compensation cost reduction measures applicable to the 2009-2011 fiscal biennium.

(d) The director of financial management shall review, approve, and submit to the legislative fiscal committees those executive branch state agencies and higher education institution plans that achieves the cost reductions as provided in the omnibus appropriations act. For those executive branch state agencies and institutions of higher education that do not have an approved compensation and operations reduction plan, the institution shall be closed on the dates specified in subsection (2) of this section.

(e) For each agency of the legislative branch, the chief clerk of the house of representatives and the secretary of the senate shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieves the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(f) For each agency of the judicial branch, the supreme court shall review and approve a plan of employee mandatory and voluntary leave for the 2009-2011 fiscal biennium that achieve the cost reductions as provided in the omnibus appropriations act. The amount of compensation cost reductions to be achieved shall be adjusted, if necessary, to reflect voluntary and mandatory temporary layoffs at the agencies during the 2009-2011 fiscal biennium and implemented prior to January 1, 2010.

(2) Each state agency of the executive, legislative, and judicial branch, and any institution that does not have an approved plan in accordance with subsection (1) of this section shall be closed on the following dates in addition to the legal holidays specified in RCW 1.16.050:

- (a) Monday, July 12, 2010;
- (b) Friday, August 6, 2010;
- (c) Tuesday, September 7, 2010;
- (d) Monday, October 11, 2010;
- (e) Monday, December 27, 2010;
- (f) Friday, January 28, 2011;
- (g) Tuesday, February 22, 2011;
- (h) Friday, March ((++)) 28, 2011;
- (i) Friday, April 22, 2011;
- (j) Friday, June 10, 2011.

(3) If the closure of state agencies or institutions under subsection (2) of this section prevents the performance of any action, the action shall be considered timely if performed on the next business day.

(4) The following activities of state agencies and institutions of higher education are exempt from subsections (1) and (2) of this section:

(a) Direct custody, supervision, and patient care in: (i) Corrections; (ii) juvenile rehabilitation; (iii) institutional care of veterans, or individuals with mental illness, and individuals with developmental disabilities; (iv) state hospitals, the University of Washington medical center, and Harborview medical center; (v) the special commitment center; (vi) the school for the blind; (vii) the state center for childhood deafness and hearing loss; and (viii) the Washington youth academy;

(b) Direct protective services to children and other vulnerable populations, child support enforcement, disability determination services, complaint investigators, and residential care licensors and surveyors in the department of social and health services and the department of health;

(c) Washington state patrol investigative services and field enforcement;

(d) Hazardous materials response or emergency response and cleanup;

(e) Emergency public health and patient safety response and the public health laboratory;

(f) Military operations and emergency management within the military department;

(g) Firefighting;

(h) Enforcement officers in the department of fish and wildlife, the liquor control board, the gambling commission, the department of financial institutions, and the department of natural resources;

(i) State parks operated by the parks and recreation commission;

(j) In institutions of higher education, classroom instruction, operations not funded from state funds or tuition, campus police and security, emergency management and response, work performed by student employees if the duties were not previously assigned to nonstudents during the current or prior school year, and student health care;

(k) Operations of liquor control board business enterprises and games conducted by the state lottery;

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(l) Agricultural commodity commissions and boards, and agricultural inspection programs operated by the department of agriculture;

(m) The unemployment insurance program and reemployment services of the employment security department;

(n) The workers' compensation program and workplace safety and health compliance activities of the department of labor and industries;

(o) The operation, maintenance, and construction of state ferries and state highways;

(p) The department of revenue;

(q) Licensing service offices in the department of licensing that are open no more than two days per week, and no licensing service office closures may occur on Saturdays as a result of this section;

(r) The governor, lieutenant governor, legislative agencies, and the office of financial management, during sessions of the legislature under Article II, section 12 of the state Constitution and the twenty-day veto period under Article IV, section 12 of the state Constitution;

(s) The office of the attorney general, except for management and administrative functions not directly related to civil, criminal, or administrative actions;

(t) The labor relations office of the office of financial management through November 1, 2010;

(u) The minimal use of state employees on the specified closure dates as necessary to protect public assets and information technology systems, and to maintain public safety; and

(v) The operations of the office of the insurance commissioner that are funded by industry regulatory fees.

(5)(a) The closure of an office of a state agency or institution of higher education under this section shall result in the temporary layoff of the employees of the agency or institution. The compensation of the employees shall be reduced proportionately to the duration of the temporary layoff. Temporary layoffs under this section shall not affect the employees' vacation leave accrual, seniority, health insurance, or sick leave credits. For the purposes of chapter 430, Laws of 2009, the compensation reductions under this section are deemed to be an integral part of an employer's expenditure reduction efforts and shall not result in the loss of retirement benefits in any state defined benefit retirement plan for an employee whose period of average final compensation includes a portion of the period from the effective date of this section through June 30, 2011.

(b)(i) During the closure of an office or institution under this section, any employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less may, at the employee's option, use accrued vacation leave in lieu of temporary layoff during the closure. Solely for this purpose, and during the 2009-2011 fiscal biennium only, the department of personnel shall adopt rules to permit employees with less than six months of continuous state employment to use accrued vacation leave.

(ii) If an employee with a monthly full-time equivalent salary of two thousand five hundred dollars or less has no accrued vacation leave, that employee may use shared leave, if approved by the agency director, and if made available through donations under RCW 41.04.665 in lieu of temporary layoff during the closure.

(6) Except as provided in subsection (4) of this section, for employees not scheduled to work on a day specified in subsection (2) of this section, the employing agency must designate an alternative day during that month on which the employee is scheduled to work that the employee will take temporary leave without pay.

(7) To the extent that the implementation of this section is subject to collective bargaining under chapter 41.80 RCW, the bargaining shall be conducted pursuant to section 4 of this act. To

the extent that the implementation of this section is subject to collective bargaining under chapters 28B.52, 41.56, 41.76, or 47.64 RCW, the bargaining shall be conducted pursuant to these chapters.

(8) For all or a portion of the employees of an agency of the executive branch, the office of financial management may approve the substitution of temporary layoffs on an alternative date during that month for any date specified in subsection (2) of this section as necessary for the critical work of any agency.

(9)(a) If any state agency of the executive, legislative, and judicial branch is unable to achieve its full amount of cost reductions as provided in the omnibus appropriations act through its approved plan in accordance with subsection (1) of this section or through ten days of temporary layoffs in accordance with subsections (2) and (8) of this section, the remaining amount is a reduction to the agency's cost of operations and may include savings as a result of sections 601 through 604 of chapter 3, Laws of 2010.

(b) If any state agency of the executive, legislative, and judicial branch is able to achieve its full amount of cost reductions as provided in the omnibus appropriations act through ten days or less of temporary layoffs in accordance with subsections (2) and (8) of this section, any residual amount of cost reductions that cannot be achieved through a full day of closure is a reduction to the agency's cost of operations and may include savings as a result of sections 601 through 604 of chapter 3, Laws of 2010.

**Sec. 902.** RCW 43.03.220 and 2010 1st sp.s. c 7 s 142 are each amended to read as follows:

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

(3) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~and~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(4) Beginning July 1, 2010, through June 30, 2011, class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 903.** RCW 43.03.230 and 2010 1st sp.s. c 7 s 143 are each amended to read as follows:

(1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the

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group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(--and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 904.** RCW 43.03.240 and 2010 1st sp.s. c 7 s 144 are each amended to read as follows:

(1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical

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presence at one location must be held in state facilities whenever possible(~~(--and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 905.** RCW 43.03.250 and 2010 1st sp.s. c 7 s 145 are each amended to read as follows:

(1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) Beginning July 1, 2010, through June 30, 2011, class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(--and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

**Sec. 906.** RCW 43.03.265 and 2010 1st sp.s. c 7 s 146 are each amended to read as follows:

(1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state

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local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) Beginning July 1, 2010, through June 30, 2011, no person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 605, chapter 3, Laws of 2010. Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. Meetings that require a member's physical presence at one location must be held in state facilities whenever possible(~~(, and)~~). Meetings conducted using private facilities must be approved by the director of the office of financial management, except for facilities provided free of charge.

(5) Beginning July 1, 2010, through June 30, 2011, class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 907.** RCW 43.21A.660 and 1999 c 251 s 1 are each amended to read as follows:

Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program. Funds shall be expended as follows:

(1) No less than two-thirds of the appropriated funds shall be issued as grants to (a) cities, counties, tribes, special purpose districts, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds; (b) fund demonstration or pilot projects consistent with the purposes of this section; and (c) fund hydrilla eradication activities in waters of the state. Except for hydrilla eradication activities, such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp or which are designated by the department of fish and wildlife for fly-fishing. The department shall give preference to projects having matching funds or in-kind services; (~~and~~)

(2) No more than one-third of the appropriated funds shall be expended to:

(a) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds; and

(b) Provide technical assistance to local governments and citizen groups; and

(3) During the 2009-2011 fiscal biennium, the legislature may transfer from the freshwater aquatic weeds account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 908.** RCW 43.21A.667 and 2009 c 564 s 933 are each amended to read as follows:

(1) The freshwater aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW (~~(88.02.050)~~) 88.02.560 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the freshwater aquatic algae control account may be appropriated to the department to develop a freshwater aquatic algae control program. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies to manage excessive freshwater algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and during the 2009-2011 fiscal biennium to provide grants for sea lettuce research and removal to assist Puget Sound communities that are impacted by hyperblooms of sea lettuce; (~~and~~)

(b) To provide technical assistance to applicants and the public about aquatic algae control; and

(c) During the 2009-2011 fiscal biennium, the legislature may transfer from the freshwater aquatic algae control account to the state general fund such amounts as reflect the excess fund balance of the account.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

**Sec. 909.** RCW 43.79.460 and 2010 1st sp.s. c 37 s 928 are each amended to read as follows:

(1) The savings incentive account is created in the custody of the state treasurer. The account shall consist of all moneys appropriated to the account by the legislature. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account.

(2) Within the savings incentive account, the state treasurer may create subaccounts to be credited with incentive savings attributable to individual state agencies, as determined by the office of financial management in consultation with the legislative fiscal committees. Moneys deposited in the subaccounts may be expended only on the authorization of the agency's executive head or designee and only for the purpose of one-time expenditures to improve the quality, efficiency, and effectiveness of services to customers of the state, such as one-time expenditures for employee training, employee incentives, technology improvements, new work processes, or performance measurement. Funds may not be expended from the account to establish new programs or services, expand existing programs or services, or incur ongoing costs that would require future expenditures.

(3) For purposes of this section, "incentive savings" means state general fund appropriations that are unspent as of June 30th of a fiscal year, excluding any amounts included in across-the-board reductions under RCW 43.88.110 and excluding unspent appropriations for:

(a) Caseload and enrollment in entitlement programs, except to the extent that an agency has clearly demonstrated that efficiencies have been achieved in the administration of the entitlement program. "Entitlement program," as used in this section, includes programs for which specific sums of money are appropriated for pass-through to third parties or other entities;

(b) Enrollments in state institutions of higher education;

(c) A specific amount contained in a condition or limitation to an appropriation in the biennial appropriations act, if the agency did not achieve the specific purpose or objective of the condition or limitation;

(d) Debt service on state obligations; and

(e) State retirement system obligations.

(4) The office of financial management, after consulting with the legislative fiscal committees, shall report the amount of savings incentives achieved.

(5) ((For fiscal year 2009, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008.)) For fiscal year 2010, the legislature may transfer from the savings incentive

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account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2009. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2010. For fiscal year 2011, the legislature may transfer from the savings incentive account to the state general fund eight million dollars or as much as reflects the fund balance of the account attributable to unspent agency credits prior to fiscal year 2009. Credits for legislative and judicial agencies are not included in this action, with the exception and upon consent of the supreme court, court of appeals, office of public defense, and office of civil legal aid.

**Sec. 910.** RCW 43.79.465 and 2010 1st sp.s. c 37 s 929 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, and (e) for fiscal year ~~((2010))~~ 2011, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year ~~((2009))~~ 2010.

**Sec. 911.** RCW 43.83B.430 and 2002 c 371 s 910 are each amended to read as follows:

The state drought preparedness account is created in the state treasury. All receipts from appropriated funds designated for the account and funds transferred from the state emergency water projects revolving account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for drought preparedness. During the ~~((2001-2003))~~ 2009-2011 fiscal biennium, the legislature may transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 912.** RCW 43.105.080 and 2010 1st sp.s. c 37 s 931 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly

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determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance ~~((associated with the information technology pool)).~~

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 913.** RCW 43.330.094 and 2009 c 565 s 6 are each amended to read as follows:

The tourism development and promotion account is created in the state treasury. All receipts from RCW 36.102.060(10) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington. During the 2009-2011 fiscal biennium, the legislature may transfer from the tourism development and promotion account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 914.** RCW 43.336.050 and 2007 c 228 s 105 are each amended to read as follows:

The tourism enterprise account is created in the custody of the state treasurer.

(1) All receipts from RCW 43.336.030(2)(a) must be deposited into the account. Only the executive director or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Moneys transferred from the state convention and trade ~~((center))~~ center account to this account ~~((as provided in RCW 67.40.040.))~~ shall be available for expenditure in accordance with the requirements of this section. As provided under subsection (3) of this section, moneys must be matched with private sector cash contributions, the value of an advertising equivalency contribution, or through an in-kind contribution. The commission shall determine criteria for what qualifies as an in-kind contribution. The moneys subject to match may be expended as private match is received or with evidence of qualified expenditure.

(3)(a) Twenty-five percent of the moneys transferred in fiscal year 2009 are subject to a match;

(b) Fifty percent of the moneys transferred in fiscal year 2010 are subject to a match; and

(c) One hundred percent of the moneys transferred in fiscal year 2011, and thereafter, are subject to a match.

(4) Expenditures from the account may be used by the department of ~~((community, trade, and economic development))~~ commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington.

(5) During the 2009-2011 fiscal biennium, the legislature may transfer from the tourism enterprise account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 915.** RCW 46.66.080 and 2009 c 564 s 945 are each amended to read as follows:

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(1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement. During the 2009-2011 fiscal biennium, the legislature may appropriate moneys from the Washington auto theft prevention authority account for criminal justice purposes and community building and may transfer funds to the state general fund such amounts as reflect the excess fund balance of the account.

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

- (a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;
- (b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;
- (c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and
- (d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ten percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs.

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1).

**Sec. 916.** RCW 43.350.070 and 2005 c 424 s 8 are each amended to read as follows:

The life sciences discovery fund is created in the custody of the state treasurer. Only the board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. During the 2009-2011 fiscal biennium, the legislature may transfer to other state funds or accounts such amounts as represent the excess balance of the life sciences discovery fund.

**Sec. 917.** RCW 51.44.170 and 2003 1st sp.s. c 25 s 926 are each amended to read as follows:

The industrial insurance premium refund account is created in the custody of the state treasurer. All industrial insurance refunds earned by state agencies or institutions of higher education under the state fund retrospective rating program shall be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account. Only the executive head of the agency or institution of higher education, or designee, may authorize expenditures from the account. No agency or institution of higher education may make an expenditure from the account for an amount greater than the refund earned by the agency. If the agency or institution of higher education has staff dedicated to workers' compensation claims management, expenditures from the account must be used to pay for that staff, but additional expenditure from the account may be used for any program within an agency or institution of higher education that promotes or provides incentives for employee workplace safety and health and early, appropriate return-to-work for injured employees. During the ~~((2003-2005))~~ 2009-2011 fiscal biennium, the legislature may transfer from the industrial insurance premium refund account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 918.** RCW 66.08.235 and 2005 c 151 s 4 are each amended to read as follows:

The liquor control board construction and maintenance account is created within the state treasury. The liquor control board shall deposit into this account a portion of the board's markup, as authorized by chapter 66.16 RCW, placed upon liquor as determined by the board. Moneys in the account may be spent only after appropriation. The liquor control board shall use deposits to this account to fund construction and maintenance of a centralized distribution center for liquor products intended for sale through the board's liquor store and contract liquor store system. During the ~~((2001-2003))~~ 2009-2011 fiscal biennium, the legislature may transfer from the liquor control board construction and maintenance account to the state general fund such amounts as reflect the ~~((appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~ excess fund balance in the account.

**Sec. 919.** RCW 80.36.430 and 2010 1st sp.s. c 37 s 951 are each amended to read as follows:

(1) The Washington telephone assistance program shall be funded by a telephone assistance excise tax on all switched access lines and by funds from any federal government or other programs for this purpose. Switched access lines are defined in RCW 82.14B.020. The telephone assistance excise tax shall be applied equally to all residential and business access lines not to exceed fourteen cents per month. The department shall submit an approved annual budget for the Washington telephone assistance program to the department of revenue no later than March 1st prior to the beginning of each fiscal year. The department of revenue shall then determine the amount of telephone assistance excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telephone assistance excise tax by dividing the total of the program budget funded by the telephone assistance excise tax, as submitted by the department, by the total number of switched access lines in the prior calendar year. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." All money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

(2) Local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department shall disburse the money to the local exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department shall recover its administrative costs from the fund. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department shall enter into an agreement with the department of commerce for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

(4) During the 2009-2011 biennium, the department shall enter into an agreement with the WIN 211 organization for operational support.

(5) During the 2009-2011 biennium, the telephone assistance fund shall also be used in support of the economic services administration call centers and related operations.

**Sec. 920.** RCW 82.14.380 and 1999 c 311 s 201 are each amended to read as follows:

(1) The distressed county assistance account is created in the state treasury. Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW 82.44.110. At such times as distributions are made under RCW 82.44.150, the state treasurer shall distribute the funds in the distressed county assistance account to each county imposing the sales and use tax authorized under RCW 82.14.370 as of January 1, 1999, in the same proportions as distributions of the tax imposed under RCW 82.14.370 for these counties for the previous quarter.

(2) Funds distributed from the distressed county assistance account shall be expended by the counties for criminal justice and other purposes. During the 2009-2011 fiscal biennium, the legislature may transfer from the distressed county assistance account to the state general fund such amounts as reflect the excess fund balance of the account.

**NEW SECTION. Sec. 921.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 922.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 43.03.220, 43.03.230, 43.03.240, 43.03.250, 43.03.265, 43.21A.660, 43.21A.667, 43.79.460, 43.79.465, 43.83B.430, 43.105.080, 43.330.094, 43.336.050, 46.66.080, 43.350.070, 51.44.170, 66.08.235, 80.36.430, and 82.14.380; amending 2010 2nd sp.s. c 1 ss 104, 105, 109, 114, 115, 117, 118, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 302, 303, 304, 307, 308, 309, 310, 501, 502, 503, 601, 602, 603, 604, 605, 606, 607, and 801 (uncodified); amending 2010 1st sp.s. c 37 ss 103, 106, 107, 118, 120, 121, 123, 124, 126, 127, 128, 130, 133, 134, 138, 141, 142, 146, 148, 150, 151, 153, 213, 215, 217, 218, 219, 220, 224, 225, 226, 401, 402, 505, 506, 507, 508, 511, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 705, 707, and 711 (uncodified); amending 2010 1st sp.s. c 32 s 3 (uncodified); amending 2010 1st sp.s. c 31 s 1 (uncodified); amending 2009 c 564 s 711 (uncodified); adding new sections to 2009 c 564 (uncodified); making appropriations; and declaring an emergency."

And the bill do pass as recommended by the conference committee.  
Signed by Senators Murray, Zarelli and Hobbs;  
Representatives Hunter and Sullivan.

MOTION

Senator Murray moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1086 be adopted.

Senators Murray and Zarelli spoke in favor of passage of the motion.

MOTION

On motion of Senator White, Senators Eide and McAuliffe were excused.

The President declared the question before the Senate to be the motion by Senator Murray that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1086 be adopted.

The motion by Senator Murray carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1086, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1086, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Stevens, Swecker, White and Zarelli

Voting nay: Senators Baumgartner, Ericksen, Fain, Hill, Holmquist Newbry, Litzow, Pflug, Roach, Sheldon and Tom

Excused: Senators Eide and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Rockefeller, Engrossed Substitute House Bill No. 1086 was immediately transmitted to the House of Representatives.

MOTION

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

SECOND READING

SENATE BILL NO. 5170, by Senators Holmquist Newbry, Parlette, Kohl-Welles and Kline

Increasing the number of judges to be elected in Grant county.

The measure was read the second time.

MOTION

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On motion of Senator Fraser, the rules were suspended, Senate Bill No. 5170 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5170.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5170 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Eide and McAuliffe

SENATE BILL NO. 5170, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5700, by Senate Committee on Transportation (originally sponsored by Senators Haugen and King)

Concerning certain toll facilities.

## MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5700 was substituted for Senate Bill No. 5700 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5700 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

## POINT OF INQUIRY

Senator Murray: "Would Senator Haugen yield to a question? Thank you. Senator Haugen, is there anything in the bill before us that would prohibit future use of congestion crisis?"

Senator Haugen: "No there is not."

## POINT OF ORDER

Senator Benton: "Thank you Mr. President. It's my understanding that Substitute Senate Bill 5700 grants toll setting authority to the Transportation Commission. It's also my understanding that initiative 1053 passed by the people of the state of Washington restricted the granting of authority to agencies outside of the legislature. Based on the language of Initiative 1053, can you please tell me if the number of votes

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needed to pass this measure requires a two-thirds vote of the Senate?"

Senator Haugen spoke against the point of order.

Senator Benton spoke in favor of the point of order.

## MOTION

On motion of Senator Rockefeller, further consideration of Substitute Senate Bill No. 5700 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

SENATE BILL NO. 5480, by Senators Conway and Keiser

Concerning submission of certain information by physicians and physician assistants at the time of license renewal.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 5480 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway, Prentice, Schoesler, Rockefeller, Hewitt, Holmquist Newbry, Pflug, Honeyford and Hatfield spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5480.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5480 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Fain and Morton

Excused: Senators Eide and McAuliffe

SENATE BILL NO. 5480, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PARLIAMENTARY INQUIRY

Senator Hargrove: "Yes, Mr. President, under the Senate Rules, third reading, the votes must be taken by Yeas and Nays, not Ayes. Did that count?"

## REMARKS BY THE PRESIDENT

President Owen: "Liberal interpretation."

## PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Mr. President. As I missed speaking on the bill itself, this may seem a bit redundant but perhaps that’s a term that we recognize with regard to Senator Conway. Now, especially I welcome Senator Conway to the Senate. As you all know I have been viewed as one of the most concise and brief speakers in our body and now I am able to turn that distinction over to our new Senator. In fact he is known to epitomize the term concise. Mr. President, may I read for just one moment? According to Webster’s concise means ‘expressing and covering much in few words, brief in form but comprehensive in scope, succinct, terse, concise explanation, expressed in as few words as possible and with the elimination of unnecessary details’ which I just think fits the new Senator very well. But there is another aspect of him that I think is very important to consider. Senator Conway brings some additional conservatism to our Senate Democratic Caucus. In fact, although he represents, in his district the south part of Tacoma primarily, I have heard from him over and over and over for years and years and years that before he can support some bill of mine he has to check with the prosecutors. He has to check with the sheriffs and police chiefs because his voters are so conservative and I have noticed that he is barely elected every two years thus far in office, so, with that I welcome the new Senator.”

PERSONAL PRIVILEGE

Senator Hobbs: “Yes, Mr. President. I tried to give the good Senator from the twenty-ninth some advice, since you’re new to the senate. Yesterday I tried to talk to him while he was paying for lunch except he was doing it in dimes so didn’t have the time to talk to him. But, I do want to tell you, this is a deliberative body. We work things out but when we say deliberative doesn’t mean you talk a lot on the floor. I think that’s very important to know. The other thing is that we like to have stakeholder processes here in the senate, I think many of us who do bills, we do stakeholder processes. But when we say stakeholder, we meant stakeholders that’s plural not possessive. Another point I’d like to give to you. The other thing is Senator Conway, just to let you know, Senator Kohl-Welles is not going anywhere, so get over that, Vice Chair. Thank you.”

PERSONAL PRIVILEGE

Senator Schoesler: “Thank you Mr. President. For those that are watching on TVW or are new to observing this body this is a ritual that has predated all of us for a first bill or first speech and this is one of those enjoyable moments. And in keeping with the protocol I was going to give the member a special gift welcoming him to the Senate but, in observing the protocol you asked us to keep, I will give it to Majority Leader and she may present it to him at a more appropriate moment.”

PERSONAL PRIVILEGE

Senator Keiser: “I’ve known the good gentleman from the twenty-ninth district for a very long time, couple of decades and then. I have to say it’s a joy to have another dancer join the chamber. I’ve had a wonderful time with the gentleman from the twenty-third district on the floor of this chamber when we’ve seen the music break out. Maybe again we can have some good times on the floor of this chamber with the gentleman from the twenty-ninth district. As was stated he has a Ph. D. in history and he was a Fulbright scholar to the London School of Economics and so forth and so on but it’s important to remember, most of all, he’s a good dancer.”

PERSONAL PRIVILEGE

Senator Kastama: “With your permission I’d like to read kind of an odd letter that I received this morning in my office. It’s actually a congratulatory letter to Senator Conway. May I read that? Thank you. I don’t know if it’s private or not but let me go ahead say.

‘It says, ‘Dear Senator Conway, we congratulate you on your election victory as a new Senator. Your reputation goes well beyond Washington’s borders. You are now like us, part of the deliberative body of your state’s government.’ This is the odd part I don’t get. ‘One suggestion however, is that no matter how difficult your budget is make sure that your per diem covers out-of-state travel.’ There is a small asterisk goes that goes to say. ‘Also if at all possible, modify your chamber’s ability to compel your presence.’ I’m not sure, anyway, ‘with sincere warm affection the Wisconsin State Senate Democratic Caucus.’ Sent from Rockford Illinois.”

PERSONAL PRIVILEGE

Senator Conway: “I ask for mercy, alright? No, in recognition of the time honor tradition and it’s a great honor to be here and a great honor to join all of you. Some of you, of course, I have worked with for years and it’s a great honored to be here with you. But, I am asking, with your permission, Mr. President, I would like to present some gifts to my colleagues on the floor. I know we’ve had a great debate here about missing cookies, Valentine cookies so I have brought as a Pierce County Senator here something I think many Pierce County Senators have brought before me brought a box of Almond Roca. Keep in mind, this plant is really not in my district but the employees are in my district. I also going to bring a second gift to you on something that I’ve worked a lot on down here is a, my second gift is a family membership to you, to each of you, and those on the rostrum, to the LeMay Auto Museum. You know the LeMay Auto Museum is currently under construction, next to the Tacoma Dome and you know that they feel that they will have this project done by this fall and they will have a grand opening of this LeMay Auto Museum in May, next year. They plan to have a lot of festivities around the LeMay Auto Museum for the full year from when its constructed right up to their grand opening. So, with this family membership that lasts through June of next year allows you to participate in all those festivities. You know, in my district, like all your districts, auto, old cars are part of our life and I know many many of my constituents on a Saturday or Sunday are pushing their cars down to the car shows in the summer months especially and frankly Tacoma has this great auto museum or will have this auto museum so I welcome you to the festivities and again thank you for welcoming here in the Senate. Thank you very much.”

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Consul General Haryong Lee, of the Consulate General of the Republic of Korea in Seattle who was in the chamber.

MOTION

On motion of Senator Zarelli, Senator Morton was excused.

SECOND READING

SENATE BILL NO. 5213, by Senators Litzow and Hobbs

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Addressing insurance statutes, generally.

The measure was read the second time.

#### MOTION

On motion of Senator Litzow, the rules were suspended, Senate Bill No. 5213 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Litzow and Hobbs spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Ranker: "Would Senator Litzow yield to a question?"

Senator Litzow: "No."

Senators Delvin, Holmquist Newbry and Ranker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5213.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5213 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ranker

Excused: Senators Eide, McAuliffe and Morton

SENATE BILL NO. 5213, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PARLIAMENTARY INQUIRY

Senator Swecker: "I was concerned. The Senator from the Twenty-Ninth District voted three times and I was curious how many those were counted?"

#### REPLY BY THE PRESIDENT

President Owen: "Try as he may, he gets one."

#### PERSONAL PRIVILEGE

Senator Hobbs: "I just want to say to the good Senator from the Forty-First District, you've got some nice hair. Yeah, you do. You do. I know that the good Senator comes from Mercer Island and Senator Hatfield and I tried to get to Mercer Island. Apparently the average income is a million dollars. We took our Ford Focus, 2007. We drove that down. There was an exit sign, you could take anyone below I think two-hundred-fifty thousand

dollar income you just, or above. We didn't take that one. We took the exit going there that put us back on to I-5 so we couldn't get into Mercer Island. Finally when we got in there we went to a Starbucks and, you know, we don't make a lot of money so we ordered a drip coffee and they called the police on us so we were escorted out. I just want to point out the unique features of the Forty-First District. I believe it's the only district where the senators only serve one-year terms. So, I wish you well, this year and I look forward to the upcoming years. If you're here. Anyway, thank you."

#### PERSONAL PRIVILEGE

Senator Rockefeller: "Mr. President, just to pick up on that point of that one year terms. There's something in the water I think or in the atmosphere of the Forty-First District and that is the propensity of the incumbents to use grandiose rhetoric. We had an example of that and maybe that's why it was one-year tenure for his predecessor so, friendly advice to him try to avoid Roderick that obscures and obfuscates and hopefully we won't need a dictionary to listen to you in the future. Good luck to you, we're glad you're here."

#### PERSONAL PRIVILEGE

Senator Kline: "Mr. President, there were three exits going into Mercer Island. One, is for people over two hundred fifty thousand per annum, one is for less than two-hundred-fifty thousand per annum, the other is for people from the Thirty-Seventh District because we are connected by that bridge so that district, that route, by the way goes right around makes a curve and goes into Lake Washington. So a little bit of a problem with the Transportation Department but we deal with it. Mr. President, I noticed our presents are very heavy. Caramels. I'm sure my wife is going to love them but I was kind of hoping that we would have something that was more emblematic of the district, as all of these gifts usually are. Something for example, shoreline property, perhaps, a nice little park, I was thinking maybe three bedrooms, two baths, you know, old English charm, that sort of thing ivy and all that. But Mr. President, we'll have to do with the caramels and thank you."

#### PERSONAL PRIVILEGE

Senator Litzow: "Thank you Mr. President. In is the long and growing list of mysterious traditions here in the senate it's my privilege to provide each of you with a gift of the Forty-First District. It is the home of many things. We have over a couple hundred small businesses and what we have here are caramels from Midori Caramels, a small business on Mercer Island. We're also the home of the Seattle Seahawks. Renton is their main base and we have a twelfth man pen and as many of you know the twelfth man are the people in the stands who yell incredibly loud to distract the opposition and looking at what we are going to have to do in the budget in the upcoming months here I think that is was appropriate that we pass out a twelfth man budget. It's my honor to be here and I look forward to working with all of you. Thank you."

#### POINT OF ORDER

Senator Hargrove: "I would like to invoke Rule 34 and issue a protest on the previous action of the Senate. I will issue it in writing and put it in the record."

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 REPLY BY THE PRESIDENT

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President Owen: "Message received."

[EDITORS NOTE: A statement was not submitted within the time allotted by senate rule 34.]

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Benton, the President finds and rules as follows:

Senator Benton has raised the question of whether I-1053 prohibits the legislature from delegating fee setting authority to an agency. While the President believes that this is more properly a legal question on which he does not rule, this is an issue of first impression and the President believes that some explanation is appropriate, particularly as the number of votes necessary to pass a measure is impacted by the initiative.

The language of the initiative does not address the legislature's authority to delegate fee setting authority. Instead it simply restates the previous requirement that new or increased fees be approved with a majority vote in both houses of the legislature.

This result also comports with an Attorney General opinion on the exact issue. Although the President is not necessarily bound by such opinions, he has a history of considering and giving some deference to these, and notes that the Attorney General's opinion states that the legislature retains its authority to delegate fee setting authority to appropriate state agencies, such as the Transportation Commission. The President believes that this result is consistent with the plain language of the initiative.

There does not appear to be any dispute that SB 5700 addresses a possible increase in fees. Under the terms of the initiative, the legislature's power to establish an increase in fees requires simply a majority vote; accordingly, the legislature's power to delegate such authority also may be based on a majority vote, and does not require a supermajority vote that the initiative requires for tax increases.

For these reasons, Senator Benton's point is not well taken, and this measure is properly before the body, requiring a constitutional majority for final passage."

The Senate resumed consideration of Substitute Senate Bill No. 5700 which had been deferred earlier in the day.

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5700 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King, Haugen and Murray spoke in favor of passage of the bill.

Senators Benton and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5700.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5700 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 10; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Brown, Chase, Conway, Delvin, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen,

Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Ericksen, Holmquist Newbry, Honeyford, Roach, Stevens and Zarelli

Absent: Senator Shin

Excused: Senators Eide, McAuliffe and Morton

SUBSTITUTE SENATE BILL NO. 5700, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:27 p.m., on motion of Senator Rockefeller, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 12:28 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

February 18, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086 and has passed the bill as recommended by the Conference Committee.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 18, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1086.

MOTION

At 1:43 p.m., on motion of Senator Fraser, the Senate adjourned until 12:00 noon, Monday, February 21, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY THIRD DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, February 21, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 17, 2011

SB 5019 Prime Sponsor, Senator Regala: Concerning the privacy of nonconviction records. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5019 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Stevens; Baxter and Carrell.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5020 Prime Sponsor, Senator Murray: Protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5020 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5024 Prime Sponsor, Senator Hargrove: Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5024 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5034 Prime Sponsor, Senator Kilmer: Concerning private infrastructure development. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Second Substitute Senate Bill No. 5034 be substituted therefor, and the second substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5074 Prime Sponsor, Senator Murray: Concerning body art, body piercing, and tattooing. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5074 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry and Hewitt.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5097 Prime Sponsor, Senator Delvin: Concerning juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5097 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5100 Prime Sponsor, Senator Carrell: Concerning expenditures for works of art. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5100 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter; Carrell and Harper.

MINORITY recommendation: Do not pass. Signed by Senators Regala, Vice Chair and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5102 Prime Sponsor, Senator Carrell: Requiring adult family homes and boarding homes to provide notice of registered sex offenders and kidnapping offenders. Reported by Committee on Human Services & Corrections

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MAJORITY recommendation: That Substitute Senate Bill No. 5102 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5114 Prime Sponsor, Senator Hargrove: Streamlining competency evaluation and competency restoration procedures. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5114 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5128 Prime Sponsor, Senator Haugen: Concerning statewide transportation planning. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5128 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5139 Prime Sponsor, Senator Hargrove: Creating a claim for wrongful conviction and imprisonment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5139 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Carrell.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5150 Prime Sponsor, Senator Kohl-Welles: Creating a pilot project to allow spirits sampling in state liquor stores and contract stores. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5150 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

SB 5187 Prime Sponsor, Senator Becker: Concerning the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent-initiated mental health treatment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5187 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5188 Prime Sponsor, Senator Becker: Harmonizing certain traffic control signal provisions relative to yellow change intervals and certain fine amount limitations. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5188 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Sheldon and Shin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5202 Prime Sponsor, Senator Regala: Regarding sexually violent predators. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5202 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5203 Prime Sponsor, Senator Regala: Improving the administration and efficiency of sex and kidnapping offender registration. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5203 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5204 Prime Sponsor, Senator Regala: Concerning juveniles who have been adjudicated of a sex offense. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5204 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Carrell.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5236 Prime Sponsor, Senator Kline: Providing a minimum term sentence for certain persistent offenders. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5236 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Hargrove; Kohl-Welles; Regala and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5297 Prime Sponsor, Senator Nelson: Concerning signature gathering. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5297 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Swecker; Benton and Roach.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5327 Prime Sponsor, Senator Carrell: Limiting the use of public assistance electronic benefit cards. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5327 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter and Carrell.

MINORITY recommendation: Do not pass. Signed by Senator Regala, Vice Chair.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Harper.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5351 Prime Sponsor, Senator Honeyford: Prohibiting certain registered sex offenders from entering school grounds. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5351 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Regala, Vice Chair.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5354 Prime Sponsor, Senator Hargrove: Adding heart attacks and strokes as presumptions of occupational disease for law enforcement officers and firefighters. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5354 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5393 Prime Sponsor, Senator Hargrove: Providing for unannounced visits to homes with dependent children. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5393 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell and Harper.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5410 Prime Sponsor, Senator Fraser: Requiring scrap metal businesses to pay no later than thirty days after a transaction involving metal property valued at greater than thirty dollars. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5410 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles; Regala and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5423 Prime Sponsor, Senator Regala: Encouraging the reduction of recidivism by modifying legal financial obligation provisions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5423 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

SB 5495 Prime Sponsor, Senator Kohl-Welles: Addressing shareholder quorum and voting requirements under the Washington business corporation act. Reported by Committee on Judiciary

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5495 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5428 Prime Sponsor, Senator McAuliffe: Requiring notification to schools regarding the release of certain offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5428 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5502 Prime Sponsor, Senator White: Concerning the regulation, operations, and safety of limousine carriers. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5502 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5431 Prime Sponsor, Senator Rockefeller: Defining the attributes of null generation electricity. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5431 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser; Morton and Ranker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Delvin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5504 Prime Sponsor, Senator Eide: Addressing unlicensed child care. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5504 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5452 Prime Sponsor, Senator Hargrove: Regarding communication, collaboration, and expedited medicaid attainment concerning persons with mental health or chemical dependency disorders who are confined in a state institution. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5452 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5507 Prime Sponsor, Senator Kilmer: Providing for academic employee salary increments for community and technical colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5507 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Kastama; Kilmer and White.

MINORITY recommendation: Do not pass. Signed by Senators Hill and Becker.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5478 Prime Sponsor, Senator Holmquist Newbry: Concerning minimum renewable fuel content requirements. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5478 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser; Holmquist Newbry and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5515 Prime Sponsor, Senator Pflug: Providing requirements for freestanding emergency rooms. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5515 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pflug.

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MINORITY recommendation: Do not pass. Signed by Senators Carrell and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5531 Prime Sponsor, Senator King: Reimbursing counties for providing judicial services involving mental health commitments. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5531 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Regala, Vice Chair.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5540 Prime Sponsor, Senator Hobbs: Authorizing the use of automated school bus safety cameras. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5540 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5545 Prime Sponsor, Senator Delvin: Addressing police investigations of commercial sexual exploitation of children and human trafficking. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5545 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5556 Prime Sponsor, Senator Prentice: Concerning certain social card games in an area annexed by a city or town. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5556 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

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SB 5558 Prime Sponsor, Senator Hargrove: Regulating dissemination of juvenile records by consumer reporting agencies. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5558 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Stevens; Baxter and Carrell.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5572 Prime Sponsor, Senator Kilmer: Authorizing institutions of higher education to limit enrollment in the running start program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5572 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Ericksen; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hill; Baumgartner and Becker.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5573 Prime Sponsor, Senator Pridemore: Regarding shared parenting placement agreements for children with disabilities placed in out-of-home care. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5580 Prime Sponsor, Senator Regala: Modifying provisions relating to orders of disposition for juveniles. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5580 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5597 Prime Sponsor, Senator Delvin: Providing for an automatic stay of any order terminating parental rights. Reported by Committee on Human Services & Corrections

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MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5605 Prime Sponsor, Senator Hargrove: Limiting liability for specified state workers for errors of judgment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5605 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Stevens; Baxter; Carrell and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Regala, Vice Chair and Harper.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5626 Prime Sponsor, Senator Fraser: Concerning cultural access authorities. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5626 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5627 Prime Sponsor, Senator Hobbs: Concerning service members' civil relief. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5627 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5630 Prime Sponsor, Senator Harper: Changing the election and appointment provisions for municipal court judges. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5634 Prime Sponsor, Senator Hargrove: Concerning firearm background check databases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5634 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5636 Prime Sponsor, Senator Haugen: Concerning the University Center of North Puget Sound. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5636 be substituted therefor, and the substitute bill do pass. Signed by Senators Shin, Vice Chair; Baumgartner; Becker; Kastama; Kilmer and White.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Tom, Chair and Hill.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5646 Prime Sponsor, Senator Pridemore: Allowing for informed telephonic consent for access to housing or homelessness services. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5656 Prime Sponsor, Senator Hargrove: Creating a state Indian child welfare act. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5656 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5660 Prime Sponsor, Senator Regala: Revising public assistance provisions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5660 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5664 Prime Sponsor, Senator McAuliffe: Concerning the Lake Washington Institute of Technology. Reported by Committee on Higher Education & Workforce Development

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MAJORITY recommendation: That Substitute Senate Bill No. 5664 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5673 Prime Sponsor, Senator Swecker: Requiring leases incident to service contracts to provide disclosures under chapter 63.10 RCW. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5681 Prime Sponsor, Senator Pridemore: Concerning background checks of peer counselors for the purposes of access to children or vulnerable adults. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5681 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5686 Prime Sponsor, Senator Hobbs: Concerning commercial motor vehicle out-of-service orders. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon and Shin.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5690 Prime Sponsor, Senator Hargrove: Concerning when a child may petition the juvenile court to reinstate the previously terminated rights of his or her parent. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5690 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5691 Prime Sponsor, Senator Hargrove: Streamlining the crime victims' compensation program. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5691 be substituted therefor, and the substitute bill do

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pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5703 Prime Sponsor, Senator Kohl-Welles: Concerning consumer reports of employees or volunteers who will or may have unsupervised access to children, individuals with developmental disabilities, or vulnerable adults. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5703 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5706 Prime Sponsor, Senator Harper: Encouraging juvenile restorative justice programs. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5709 Prime Sponsor, Senator Kline: Allowing a microbrewery and domestic brewery to sell beer of another domestic brewery for on and off-premises consumption from its premises. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5714 Prime Sponsor, Senator Kohl-Welles: Regarding background check clearance for licensed and regulated child care facilities. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5714 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5722 Prime Sponsor, Senator Hargrove: Concerning the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts. Reported by Committee on Human Services & Corrections

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MAJORITY recommendation: That Substitute Senate Bill No. 5722 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Carrell.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5726 Prime Sponsor, Senator Harper: Regarding innovation schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That Substitute Senate Bill No. 5726 be substituted therefor, and the substitute bill do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5740 Prime Sponsor, Senator Kastama: Preventing predatory guardianships of incapacitated adults. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5740 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5747 Prime Sponsor, Senator Hewitt: Concerning Washington horse racing funds. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5747 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5749 Prime Sponsor, Senator Brown: Regarding the Washington advanced college tuition payment (GET) program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That Substitute Senate Bill No. 5749 be substituted therefor, and the substitute bill do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5752 Prime Sponsor, Senator Kline: Creating the uniform correction or clarification of defamation act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Kohl-Welles; Regala and Roach.

MINORITY recommendation: Do not pass. Signed by Senator Hargrove.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5764 Prime Sponsor, Senator Kastama: Creating innovate Washington. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: That Substitute Senate Bill No. 5764 be substituted therefor, and the substitute bill do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5769 Prime Sponsor, Senator Rockefeller: Regarding coal-fired electric generation facilities. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5769 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Ways & Means.

February 17, 2011

SB 5790 Prime Sponsor, Senator Hargrove: Concerning crime-related boards and commissions. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5790 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

February 17, 2011

SB 5806 Prime Sponsor, Senator Conway: Authorizing a statewide raffle to benefit veterans and their families. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Ways & Means.

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SB 5813 Prime Sponsor, Senator Kohl-Welles: Increasing fee assessments for prostitution crimes. Reported by Committee on Human Services & Corrections

SB 5837 by Senators King, Haugen, Hobbs and Delvin

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens; Baxter; Carrell; Harper and McAuliffe.

AN ACT Relating to allowing certain private transportation providers to use certain public transportation facilities; amending RCW 46.61.165, 47.04.290, and 47.52.025; adding a new section to chapter 47.04 RCW; and creating a new section.

Passed to Committee on Rules for second reading.

Referred to Committee on Transportation.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

SB 5838 by Senators Hargrove and Murray

February 17, 2011  
SGA 9142 THOMAS (TOM) COWAN, appointed on February 1, 2011, for the term ending June 30, 2016, as Member of the Transportation Commission. Reported by Committee on Transportation

AN ACT Relating to making changes to laws administered by the department of revenue that do not create any new or, except for the deduction in RCW 82.04.4297, broaden any existing tax preference as defined in RCW 43.136.021 or increase any person's tax burden; amending RCW 82.04.220, 82.12.040, 82.04.4297, 82.04.431, and 43.06.400; repealing RCW 82.16.140 and 82.32.570; and providing an effective date.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Ranker; Sheldon; Shin and Swecker.

Referred to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

SB 5839 by Senators Baxter, Stevens, Becker, Swecker, Hewitt, Schoesler, Honeyford, King and Parlette

#### MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5019, Senate Bill No. 5100, Senate Bill No. 5139, Senate Bill No. 5327 and Senate Bill No. 5764 which were referred to the Committee on Ways & Means and Senate Bill No. 5558 which was referred to the Committee on Rules.

AN ACT Relating to adjusting the minimum wage rate based on changes in consumer prices; and amending RCW 49.46.020.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### MOTION

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

SB 5840 by Senators Baxter, Benton, Stevens, Swecker, Hewitt, Schoesler, Honeyford, Parlette and King

AN ACT Relating to minimum wage and overtime compensation complaints; and adding a new section to chapter 49.46 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### INTRODUCTION AND FIRST READING

SB 5835 by Senators Hatfield and Shin

AN ACT Relating to consolidating the department of archaeology and historic preservation into the office of lieutenant governor; amending RCW 43.17.010, 43.17.020, and 43.334.020; adding a new section to chapter 43.15 RCW; adding new sections to chapter 43.334 RCW; creating a new section; repealing RCW 43.334.030, 43.334.040, 43.334.050, and 43.334.900; and providing an effective date.

SB 5841 by Senators Baxter, Benton, Carrell, Stevens, Swecker, Hewitt, Schoesler and Honeyford

AN ACT Relating to veterans' relief by permitting private employers to exercise a voluntary veterans' preference in employment; and adding a new section to chapter 73.16 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5842 by Senators Baxter, Benton, Becker, Stevens, Swecker and Honeyford

SB 5836 by Senators King, Haugen, Hobbs, Delvin and Shin

AN ACT Relating to allowing certain private transportation providers to use certain public transportation facilities; amending RCW 46.61.100, 46.61.165, and 47.52.025; and creating a new section.

AN ACT Relating to recovery audits for government overpayments; adding a new chapter to Title 43 RCW; and prescribing penalties.

Referred to Committee on Ways & Means.

Referred to Committee on Transportation.

SB 5843 by Senators Becker, Zarelli and Stevens

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AN ACT Relating to the college bound scholarship program; amending RCW 28B.118.010; and declaring an emergency.

Referred to Committee on Higher Education & Workforce Development.

SB 5844 by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt

AN ACT Relating to financing local government infrastructure; amending RCW 43.155.010, 43.155.020, 43.155.050, and 43.155.060; adding a new section to chapter 43.155 RCW; and repealing RCW 43.155.055, 43.155.075, 43.155.100, 43.155.110, and 43.155.120.

Referred to Committee on Ways & Means.

SJR 8215 by Senators Kilmer, Parlette, Murray, Zarelli, Brown, Hobbs, Fraser, Tom, Sheldon, Honeyford and Hewitt

Concerning the debt reduction act of 2011.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

MOTION

Senator Roach moved adoption of the following resolution:

SENATE RESOLUTION  
8619

By Senators Roach, Delvin, Morton, King, Swecker, Carrell, Pflug, and Benton

WHEREAS, Ronald Reagan served as the beloved 40th President of the United States, from 1981 to 1989; and

WHEREAS, We are this year celebrating the 100th anniversary of his birth on February 6th; and

WHEREAS, Ronald Reagan lived and modeled the American dream, rising from high school and college football player, to sports announcer, to movie star, to California Governor, to President of the United States; and

WHEREAS, In his first inaugural address, moving from Governor to President, he noted that "all of us need to be reminded that the federal government did not create the states; the states created the federal government"; and

WHEREAS, Two months into his Presidency, he showed distinctive courage and humor after he was shot by a would-be assassin, telling his surgeons "please tell me you're all Republicans"; and

WHEREAS, His philosophy emphasized lower taxes, smaller government, strong national defense, and a profound love of God and country; and

WHEREAS, Ronald Reagan was so effective in expressing his ideas, that he became known as "the great communicator"; and

WHEREAS, He impressed us with his self-deprecating humor, as when he said "I have left orders to be awakened at any time in case of national emergency, even if I'm in a cabinet meeting"; and

WHEREAS, He counseled that "You and I as individuals can, by borrowing, live beyond our means, but for only a limited period of time"; and

WHEREAS, President Reagan encouraged the free spirit of people everywhere, when during a 1987 speech in Berlin he said "Mr. Gorbachev, tear down this wall"; and

WHEREAS, He skillfully relied on the economic power of the United States to hasten the end of the military cold war; and

WHEREAS, We observed his love for simplicity and natural beauty when he said of his Santa Barbara ranch, "no place before or since has ever given Nancy and me the joy and serenity it does"; and

WHEREAS, Ronald Reagan always believed that the best years of the United States were still ahead;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honors Ronald Reagan for his exemplary service; and

BE IT FURTHER RESOLVED, That the Washington State Senate honors the legacy of Ronald Reagan, by affirming that the best years of our free citizens of Washington State and the United States are still ahead.

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

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8619.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the King County Republican Party who were seated in the gallery.

MOTION

At 12:13 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:36 p.m. by President Owen.

MOTION

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

SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

February 21, 2011

SB 5051 Prime Sponsor, Senator Kline: Concerning public notice of proposed settlements of environmental and public health enforcement actions. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5051 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

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MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5110 Prime Sponsor, Senator Kohl-Welles: Concerning carpet stewardship. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5110 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5273 Prime Sponsor, Senator Hargrove: Authorizing a forest biomass to aviation fuel demonstration project. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5273 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Morton; Hargrove; Stevens and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Fraser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Regala, Vice Chair.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5300 Prime Sponsor, Senator Hargrove: Enhancing the use of Washington natural resources in public buildings. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5300 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5311 Prime Sponsor, Senator Kline: Clarifying agency relationships in reconveyances of deeds of trust. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5311 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5360 Prime Sponsor, Senator Swecker: Delaying or modifying certain regulatory and statutory requirements affecting

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cities and counties. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Second Substitute Senate Bill No. 5360 be substituted therefor, and the second substitute bill do pass. Signed by Senators Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5368 Prime Sponsor, Senator Kohl-Welles: Granting binding arbitration rights to certain juvenile court services and department of corrections employees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5368 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Hewitt; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and King.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5412 Prime Sponsor, Senator Keiser: Providing remedies for whistleblowers in the conveyance work industry. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5421 Prime Sponsor, Senator Chase: Limiting residential densities of certain unincorporated portions of urban growth areas. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5421 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridmore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5445 Prime Sponsor, Senator Keiser: Establishing a health benefit exchange. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5445 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Pflug and Pridmore.

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MINORITY recommendation: Do not pass. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

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Passed to Committee on Ways & Means.

SB 5505 Prime Sponsor, Senator Hill: Allowing the use of federal census data to determine the resident population of annexed territory. Reported by Committee on Government Operations, Tribal Relations & Elections

February 21, 2011  
SB 5449 Prime Sponsor, Senator Brown: Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5505 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5449 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Hewitt; Keiser and Kline.

February 21, 2011

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

SB 5514 Prime Sponsor, Senator Pflug: Concerning the health care facilities authority. Reported by Committee on Health & Long-Term Care

Passed to Committee on Rules for second reading.

MAJORITY recommendation: That Substitute Senate Bill No. 5514 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Becker; Kline; Pflug and Pridemore.

February 21, 2011

SB 5451 Prime Sponsor, Senator Ranker: Concerning shoreline structures in a master program adopted under the shoreline management act. Reported by Committee on Natural Resources & Marine Waters

MINORITY recommendation: Do not pass. Signed by Senator Conway, Vice Chair.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell and Parlette.

MAJORITY recommendation: That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 18, 2011

February 18, 2011  
SB 5464 Prime Sponsor, Senator Rockefeller: Creating the clean energy partnership. Reported by Committee on Environment, Water & Energy

SB 5536 Prime Sponsor, Senator Rockefeller: Regarding the management of water resources. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5464 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

MAJORITY recommendation: That Substitute Senate Bill No. 5536 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5498 Prime Sponsor, Senator Kline: Concerning for hire vehicles and for hire vehicle operators. Reported by Committee on Labor, Commerce & Consumer Protection

February 18, 2011

SB 5546 Prime Sponsor, Senator Kohl-Welles: Concerning the crime of human trafficking. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5498 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MAJORITY recommendation: That Substitute Senate Bill No. 5546 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry; King and Hewitt.

February 21, 2011

SB 5566 Prime Sponsor, Senator Kohl-Welles: Concerning long-term disability for injured workers and costs to

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the workers' compensation program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5582 Prime Sponsor, Senator Conway: Addressing administrative efficiencies for the workers' compensation program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5582 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5586 Prime Sponsor, Senator Carrell: Concerning the effect of zoning ordinances on motor vehicle collection and restoration. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5586 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5593 Prime Sponsor, Senator Kohl-Welles: Regulating tanning facilities. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5593 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5596 Prime Sponsor, Senator Parlette: Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5596 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Pflug and Pridemore.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5599 Prime Sponsor, Senator Kohl-Welles: Concerning the misclassification of contractors as independent contractors in the construction industry. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5606 Prime Sponsor, Senator Conway: Granting binding interest arbitration rights to certain uniformed personnel. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5606 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Hewitt; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and King.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5611 Prime Sponsor, Senator Hobbs: Regarding the use of designated agricultural lands. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5611 be substituted therefor, and the substitute bill do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5612 Prime Sponsor, Senator Hobbs: Requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5613 Prime Sponsor, Senator Hobbs: Requiring school districts or educational service districts to purchase employee health insurance coverage through the state health care authority. Reported by Committee on Health & Long-Term Care

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MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Ways & Means.

February 18, 2011

SB 5649 Prime Sponsor, Senator Harper: Concerning the humane treatment of dogs. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5649 be substituted therefor, and the substitute bill do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Baxter; Carrell; Hargrove; Kohl-Welles and Regala.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5650 Prime Sponsor, Senator Harper: Allowing craft distilleries to sell their own spirits at qualifying farmers markets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Hewitt; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5655 Prime Sponsor, Senator Roach: Providing criminal penalties for false statements in voters' pamphlets. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5662 Prime Sponsor, Senator Conway: Establishing a preference for resident contractors on public works. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5662 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5663 Prime Sponsor, Senator Harper: Regarding concurrent jurisdiction of state and federal courts over actions brought against sureties and actions to foreclose liens, including actions involving claims for delinquent contributions to benefit plans. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5669 Prime Sponsor, Senator Ranker: Regarding the consolidation of certain natural resources agencies and programs. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5669 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Morton and Hargrove.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5677 Prime Sponsor, Senator Nelson: Regarding the immunity of unincorporated area councils and their volunteers from lawsuits under the public records act. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Ways & Means

February 21, 2011

SB 5688 Prime Sponsor, Senator Ranker: Concerning shark finning activities. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5688 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Stevens.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5693 Prime Sponsor, Senator Swecker: Defining "copy" for purposes of the public records act. Reported by

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MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5695 Prime Sponsor, Senator Fraser: Concerning the authorization of bonds issued by Washington local governments. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5695 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5708 Prime Sponsor, Senator Keiser: Creating flexibility in the delivery of long-term care services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That Substitute Senate Bill No. 5708 be substituted therefor, and the substitute bill do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell and Parlette.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5711 Prime Sponsor, Senator Hobbs: Concerning the sale of beer by beer and/or wine specialty shop licensees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5723 Prime Sponsor, Senator Schoesler: Establishing a process for addressing water quality issues associated with livestock operations. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: That Substitute Senate Bill No. 5723 be substituted therefor, and the substitute bill do pass. Signed by Senators Shin, Vice Chair; Delvin; Becker; Honeyford and Schoesler.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Hatfield, Chair and Haugen.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5746 Prime Sponsor, Senator Kline: Regarding prevailing wage affidavits. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5746 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5755 Prime Sponsor, Senator Ranker: Concerning county and city additional real estate excise tax authority. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5755 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5757 Prime Sponsor, Senator Nelson: Protecting groundwater. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Ways & Means.

February 21, 2011

SB 5766 Prime Sponsor, Senator Roach: Addressing fire protection district commissioners. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That Substitute Senate Bill No. 5766 be substituted therefor, and the substitute bill do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5779 Prime Sponsor, Senator Chase: Regarding the use of certain food service products. Reported by Committee on Environment, Water & Energy

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MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5784 Prime Sponsor, Senator Litzow: Advancing the regional ocean partnership. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5784 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5788 Prime Sponsor, Senator Conway: Concerning the omnibus liquor act. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5788 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5801 Prime Sponsor, Senator Kohl-Welles: Establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5801 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5803 Prime Sponsor, Senator Morton: Regarding the allowance of point-of-entry and point-of-use treatment in public water systems in certain circumstances. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5803 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5815 Prime Sponsor, Senator Fraser: Concerning rates and charges established by local boards of health to finance on-site sewage programs. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5815 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 18, 2011

SB 5819 Prime Sponsor, Senator Litzow: Concerning guardian and limited guardian duties. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5824 Prime Sponsor, Senator Pridemore: Concerning market share in electronic waste. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: That Substitute Senate Bill No. 5824 be substituted therefor, and the substitute bill do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

February 21, 2011

SJM 8004 Prime Sponsor, Senator Parlette: Requesting the reestablishment of the road leading to the upper Stehekin Valley within the North Cascades National Park. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Joint Memorial No. 8004 be substituted therefor, and the substitute joint memorial do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

February 21, 2011

SJM 8006 Prime Sponsor, Senator Stevens: Requesting that Congress approve the United States-Korea Free Trade Agreement. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Baumgartner; Holmquist Newbry; Kilmer and Shin.

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MINORITY recommendation: Do not pass. Signed by  
Senator Chase, Vice Chair.

Passed to Committee on Rules for second reading.

February 21, 2011

SJM 8008 Prime Sponsor, Senator Brown: Requesting that the United States Department of Labor provide Washington with unemployment tax relief equal to any benefit provided to other states. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by  
Senators Kohl-Welles, Chair; Conway, Vice Chair;  
Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Eide, all measures listed on the Supplemental Standing Committee report were referred to the committees as designated with the exception of Senate Bill No. 5677 and Senate Bill No. 5445 which were referred to the Committee on Rules.

#### MOTION

At 5:38 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, February 22, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY FOURTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, February 22, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Pflug and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Jared Fritz and Mariah May, presented the Colors. Senator Hargrove offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5845 by Senators Morton, King and Roach

AN ACT Relating to off-road vehicles; amending RCW 46.09.310, 46.09.360, 46.09.420, 46.09.450, 46.09.460, 46.09.510, 46.09.530, and 46.30.020; reenacting and amending RCW 46.09.520; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5846 by Senators Brown, McAuliffe, Tom, Fraser, Hobbs, Conway, Harper, Nelson, Rockefeller, Keiser, Kilmer, Litzow, Hatfield, Prentice, Shin, Kohl-Welles and White

AN ACT Relating to offering health benefit subsidies for certain retired public employees; and adding a new section to chapter 41.05 RCW.

Referred to Committee on Ways & Means.

SB 5847 by Senators Eide, Haugen and Shin

AN ACT Relating to railroad safety; and creating new sections.

Referred to Committee on Transportation.

SB 5848 by Senator Swecker

AN ACT Relating to education vouchers; adding a new section to chapter 28A.150 RCW; and adding a new section to chapter 43.79 RCW.

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

SB 5849 by Senators Prentice and Parlette

AN ACT Relating to estates and trusts; amending RCW 11.108.090 and 11.86.031; creating new sections; and declaring an emergency.

Referred to Committee on Judiciary.

SB 5850 by Senator Shin

AN ACT Relating to clarifying regulatory authority over taxicab transportation services for fares; and amending RCW 81.72.210.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5849 which was referred to the Committee on Ways & Means.

MOTION

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

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9055, Jennifer Joly, as a member of the Public Disclosure Commission, be confirmed.

Senator Regala spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senators Benton and Pflug were excused.

MOTION

On motion of Senator White, Senators Kline, McAuliffe and Sheldon were excused.

APPOINTMENT OF JENNIFER JOLY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9055, Jennifer Joly as a member of the Public Disclosure Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9055, Jennifer Joly as a member of the Public Disclosure Commission and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray,

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Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Pflug and Sheldon

Gubernatorial Appointment No. 9055, Jennifer Joly, having received the constitutional majority was declared confirmed as a member of the Public Disclosure Commission.

#### SECOND READING

SENATE JOINT RESOLUTION NO. 8205, by Senator Carrell

Repealing a conflicting residency requirement for voting in a presidential election.

The measure was read the second time.

#### MOTION

On motion of Senator Carrell, the rules were suspended, Senate Joint Resolution No. 8205 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senators Carrell and Pridemore spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8205.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8205 and the resolution passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Pflug and Sheldon

SENATE JOINT RESOLUTION NO. 8205, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 5033, by Senators Pridemore, Swecker, Chase and Nelson

Concerning the sale of water-sewer district real property.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5033 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Swecker spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Senate Bill No. 5033.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5033 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Pflug and Sheldon

SENATE BILL NO. 5033, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5036, by Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Regala, Swecker and Fraser)

Eliminating expiration dates for the derelict vessel and invasive species removal fee. Revised for 1st Substitute: Regarding the derelict vessel and invasive species removal fee.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5036 was substituted for Senate Bill No. 5036 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5036 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5036.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5036 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, Roach, Stevens and Zarelli

Excused: Senators Benton, Pflug and Sheldon

SUBSTITUTE SENATE BILL NO. 5036, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5029, by Senators Kohl-Welles, White, King, Honeyford, Holmquist Newbry, Kline, Conway, Tom, Chase, Hewitt, Harper, Nelson and McAuliffe

Concerning beer and wine tasting at farmers markets.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5029 was substituted for Senate Bill No. 5029 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5029 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator White, Senator Prentice was excused.

Senator Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5029.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5029 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove, Haugen, Kastama and Parlette

Excused: Senators Benton, Pflug, Prentice and Sheldon

SUBSTITUTE SENATE BILL NO. 5029, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5005, by Senators Keiser, Honeyford, Pflug, Becker, Regala, Carrell, Hobbs, Nelson, Rockefeller, Shin and Chase

Concerning exemption from immunization.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Keiser be adopted:

On page 1, line 13, after "immunization", insert "to the child"

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Keiser on page 1, line 13 to Senate Bill No. 5005.

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

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Senate Bill No. 5005 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Becker, Honeyford, Carrell and Parlette spoke in favor of passage of the bill.

Senators Ranker and Roach spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5005.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5005 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Ericksen, Hewitt, Holmquist Newbry, Morton, Ranker, Roach, Stevens, Swecker and Zarelli

Excused: Senators Benton, Pflug and Sheldon

ENGROSSED SENATE BILL NO. 5005, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Brown moved adoption of the following resolution:

SENATE RESOLUTION

8625

By Senators Brown, Hewitt, Fraser, Parlette, Tom, Delvin, Hatfield, Pflug, Ranker, Honeyford, Regala, Zarelli, White, Hill, Haugen, King, Hargrove, Becker, Keiser, Stevens, Pridemore, Ericksen, Nelson, Roach, Conway, Benton, Kastama, Fain, Shin, Carrell, Chase, Holmquist Newbry, Harper, Baxter, Hobbs, Morton, Rockefeller, Litzow, Kline, Swecker, Kohl-Welles, Baumgartner, Sheldon, Murray, and Kilmer

WHEREAS, Senator Margarita Prentice is a remarkable, wonderful, vibrant 80 year old today, February 22, 2011; and

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WHEREAS, Margarita López was born in San Bernardino, California, the youngest of five children whose father was born in Mexico and her mother in El Paso, Texas; and

WHEREAS, In 1942, her family moved to the Los Angeles area to work at war time defense jobs providing Margarita the opportunity to attend the famous Hollywood High, an advanced public high school with many movie industry classmates and spent her after school hours at Schwabs Drug Store sitting at the soda counter along with Lana Turner hoping to be "discovered"; and

WHEREAS, She received her registered nurse degree in 1954 and moved to Seattle to begin more than 45 years of health care service, working in every capacity from maternity to long-term care, and serving as director of nursing at Renton Hospital, VA Hospital, Mt. St. Vincent Care Center, and most notoriously a graveyard ER nurse at Valley Medical Center, where the new state of the art trauma center bears her name and is commonly referred to by emergency workers as 'Margaritaville'; and

WHEREAS, In 1957, she met Bill Prentice, who had volunteered to transfer to Washington State from the Wichita, Kansas Boeing plant so a father of three wouldn't have to uproot his young family; and

WHEREAS, Bill and "Marge" were married in 1958, settling on her current home site in Skyway where they raised four children: Carl, Kathy, Christy, and Bill III; and

WHEREAS, The young nurse and mother started volunteering on Democratic campaigns beginning with Governors Al Rosellini and Mike Lowry; and

WHEREAS, Because of inadequate accommodations in public schools for kids with special needs, including her autistic child, she determined to be part of the solution by joining the local PTA; and

WHEREAS, In April 1988, Margarita was appointed to the 11th District House Position 2 and went on to win the next two elections becoming the first Latina elected to the Legislature in Washington state; and

WHEREAS, In 1992, Senator Prentice won her first bid for the Washington State Senate and has since served as chair of numerous major committees including Financial Institutions, Housing, Insurance, Labor, Commerce, and was the longest serving chair of the Ways and Means Committee; as well as serving as an ex-officio member of the Gambling Commission since 1994; and

WHEREAS, Senator Prentice has sponsored landmark legislation for workers' rights, child labor, minimum wage, identity theft, traffic congestion, credit unions, midwives, massage therapy, universal healthcare, veterans benefits, farm worker housing, domestic partners, tribal and mini casinos, social card rooms, charitable organizations, transportation permit streamlining, and of exceptional importance to her personally, a partnership with the University of Washington Autism Center to produce a DVD and online training and support guide for families and teachers that is inexpensive, easily distributed, and accessed even for the most rural areas; and

WHEREAS, Senator Prentice is recognized for her effective leadership, warm heart, and strong backbone, vigorous bipartisanship, exceptional work ethic, and her consistent ability to bring people together, using her unique "nurse voice" to take charge and calm difficult situations;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor Margarita Prentice for her outstanding service and numerous lasting contributions she has made to the Legislature and the people of this state; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Margarita Prentice and her family.

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Senators Brown, Fraser, Parlette, King, Swecker, Pridemore, Kline, Kohl-Welles, Hobbs, Shin, Roach and Litzow spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8625.

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

#### INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced Mr. Patrick Woods, Program Manager at the Department of Financial Institutions and former Senate staff, who performed a version of "Mother Marchee" in honor of Senator Prentice. Mr. Wood then led the senate in singing "Happy Birthday."

The President thanked Mr. Woods and welcomed Senator Margarita Prentice, President Pro Tempore, to the President's rostrum.

#### REMARKS BY SENATOR PRENTICE

Senator Prentice: "I'm sure you never thought you'd see the time when I didn't have a ready response and it's very, very difficult. I do have some introductions to make, this is my granddaughter, Lizzy Burton. Would you stand up Lizzy? Lizzy goes to University of Puget Sound and is from Arizona and am very lucky to have one of my five grandchildren up here close by and thank you so much. My daughter Kathy Prentice and Joe, the two up here and I can't even describe how lucky I am to have a daughter who lives next door to me and so we are like in the old country 'familia.' That is certainly what I've come to consider you. I'm wondering where'd you get all the dirt on me? This really surprised me. The only part that isn't true, I didn't stay at Schwab's Drug Store waiting to be discovered but I did use to go there and I do remember every once in a while I's see a movie and I think he sat next to me when I was having a coke at Schwab's and he needed a hair cut then and different movie stars. Anthony Quinn about knocked me over with his all of his body guards looking very handsome and very tough. So, it was kind of fun to go there but the movies didn't discover me. One of the luckiest things I ever did was the day I met Bill Prentice. Some of you knew him and some of you remembered him and it was a sad day when we lost him and yes, he did call me Marge and it was always 'Marge.' I do want to thank so many of you, I was thinking I'm glad somebody mentioned Alex Deccio who was such a great friend. In fact, my granddaughter was just sort of marveling that we do work in a bipartisan way. I expect we're not that unusual. I believe any state that gets anything done has to do it and I just said 'I focus on the issue and find somebody on the other side who cares about and we're Co-Chairs' and then we try and work it out and it doesn't become a partisan issue. That's not hard if you're here carrying out what, and this I know about each one of you, is that you all had good motives when you came here, and you still have them. And just think how lucky, how .lucky, you and I are that our constituents send us here to do the right thing and then we reach out to others. There are talents that I don't have that I'll reach out to you. You know, you're a numbers cruncher, I'm not. I'm great at policy so let's put our talents together. In fact, I've made that comment in some of our committees. It's amazing how we come together and borrow each other's wisdoms and it's really fun to be on a committee where you work that way. Isn't it? I mean I know that we've had that feeling of accomplishment. So, I don't want to get to grandiose here and I sure, I mean I'll follow my own instruction because I do remember saying 'shut up' and it wasn't only once, it's been more than that. But also, you know, this is what I know. Deep in your heart, I let people know Adam Kline can drive you crazy but

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he is very special. He was out there, out there registering voters in Mississippi at the risk of his life when the rest of us were here comfortably worried about what was going on. I know so many of these very personal things about you. You did this when the rest of us weren't paying attention. And it is true, I have a son who has autism but he is the light of our lives because he has come so far. And it's true we're able to help others with what they were able to help us with. So, really, life is all truly a cycle where we have abilities and life goes on and I never dreamed, 'god, am I eighty? And I think yeah and you know how lucky? I am just to be able to stand up here and be talking with you and being able to read. Just think about that. So, I want to thank everyone of you who was part of this, I don't know how you pulled it off Mary Ann with my not catching on and I'm so grateful that you got my family here. So, thank you all very, very much."

#### REMARKS BY THE PRESIDENT

President Owen: "Feliz Cumpleanos – even though you don't speak Spanish. Great day for birthdays: George Washington; Margarita Prentice; and my daughter Shanie. Happy Birthday to you all."

#### MOTION

At 11:22 a.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, February 23, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY FIFTH DAY**

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**MORNING SESSION**

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Senate Chamber, Olympia, Wednesday, February 23, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Amelia Payne and Matthew Smith, presented the Colors. Pastor Jim Ladd of Evergreen Christian Community of Olympia offered the prayer.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

February 21, 2011

SB 5251 Prime Sponsor, Senator Haugen: Imposing an additional vehicle license fee on electric vehicles. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5251 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Delvin; Hobbs; Nelson; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Fain; Ericksen and Hill.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5268 Prime Sponsor, Senator Pridemore: Enacting the college efficiency and savings act. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Schoesler.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5288 Prime Sponsor, Senator McAuliffe: Providing the department of revenue with additional flexibility to achieve

operational efficiencies through the expanded use of electronic means to remit and report taxes. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baumgartner; Baxter and Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5304 Prime Sponsor, Senator Kilmer: Requiring forecasting of caseloads of the state need grant program and the Washington college bound scholarship program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hewitt; Holmquist Newbry; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5501 Prime Sponsor, Senator Murray: Concerning the taxation of employee meals provided without specific charge. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5519 Prime Sponsor, Senator Tom: Changing public contracting authority. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner; Holmquist Newbry; Honeyford and Schoesler.

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Passed to Committee on Rules for second reading.

February 21, 2011

SB 5523 Prime Sponsor, Senator Tom: Eliminating the state printing operation. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Fraser; Keiser; Kohl-Welles; Pridemore and Regala.

Passed to Committee on Rules for second reading.

February 21, 2011

SB 5658 Prime Sponsor, Senator King: Concerning the sale or exchange of surplus real property by the department of transportation. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5658 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

February 22, 2011

MR. PRESIDENT:

The House has passed:  
 SUBSTITUTE HOUSE BILL NO. 1001,  
 SUBSTITUTE HOUSE BILL NO. 1061,  
 SUBSTITUTE HOUSE BILL NO. 1103,  
 SUBSTITUTE HOUSE BILL NO. 1136,  
 HOUSE BILL NO. 1207,  
 SUBSTITUTE HOUSE BILL NO. 1211,  
 HOUSE BILL NO. 1212,  
 HOUSE BILL NO. 1227,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed:  
 ENGROSSED HOUSE BILL NO. 1028,  
 ENGROSSED HOUSE BILL NO. 1050,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,  
 ENGROSSED HOUSE BILL NO. 1398,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 22, 2011

MR. PRESIDENT:

The House has passed:  
 SUBSTITUTE HOUSE BILL NO. 1237,  
 HOUSE BILL NO. 1303,  
 SUBSTITUTE HOUSE BILL NO. 1329,  
 HOUSE BILL NO. 1334,  
 SUBSTITUTE HOUSE BILL NO. 1422,  
 HOUSE BILL NO. 1455,  
 SUBSTITUTE HOUSE BILL NO. 1495,  
 SUBSTITUTE HOUSE BILL NO. 1570,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5851 by Senator Haugen

AN ACT Relating to repealing the model traffic ordinance; creating new sections; repealing RCW 46.90.005 and 46.90.010; and providing an effective date.

Referred to Committee on Transportation.

SB 5852 by Senators Hewitt and Brown

AN ACT Relating to the public employment of retirees from plan 1 of the teachers' retirement system and plan 1 of the public employees' retirement system; and amending RCW 41.32.570 and 41.40.037.

Referred to Committee on Ways & Means.

SB 5853 by Senator Regala

AN ACT Relating to education programs for the prevention of child abuse in public schools; adding a new section to chapter 28A.300 RCW; creating a new section; and repealing RCW 28A.230.080, 28A.300.150, and 28A.300.160.

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

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SB 5854 by Senators Chase and Kline

AN ACT Relating to salmon and steelhead spawning beds; adding a new section to chapter 77.95 RCW; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1001 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Kelley, Green, Kirby, Fitzgibbon, Stanford, Kagi, Ladenburg, Appleton, Hurst, Darneille and Moeller)

AN ACT Relating to pro se defendants in criminal cases questioning victims of sex offenses; adding a new section to chapter 9A.44 RCW; and creating a new section.

Referred to Committee on Judiciary.

EHB 1028 by Representatives Schmick, Takko, Fagan, Springer, Kretz, Shea, Blake and McCune

AN ACT Relating to using state correctional facility populations to determine population thresholds for certain local government purposes; and amending RCW 35A.12.010, 35A.13.010, and 47.26.345.

Referred to Committee on Government Operations, Tribal Relations & Elections.

EHB 1050 by Representatives McCoy and Appleton

AN ACT Relating to residential provisions for children of parents with military duties; amending RCW 26.09.260; reenacting and amending RCW 26.09.004; and adding a new section to chapter 26.09 RCW.

Referred to Committee on Human Services & Corrections.

SHB 1061 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Green and Kelley)

AN ACT Relating to on-site wastewater treatment systems designer licensing; amending RCW 18.210.020, 18.210.030, 18.210.050, 18.210.080, 18.210.100, 18.210.120, 18.210.140, 18.210.160, 18.210.170, 18.210.180, and 18.210.190; reenacting and amending RCW 18.210.010; and repealing RCW 18.210.090 and 18.210.210.

Referred to Committee on Environment, Water & Energy.

SHB 1103 by House Committee on Transportation (originally sponsored by Representatives Kristiansen, Morris and Armstrong)

AN ACT Relating to the use of television viewers in motor vehicles; and amending RCW 46.37.480.

Referred to Committee on Transportation.

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SHB 1136 by House Committee on Transportation (originally sponsored by Representatives Eddy, Armstrong, Morris, Kristiansen, Chandler, Pearson and Kenney)

AN ACT Relating to volunteer firefighter special license plates; amending RCW 46.18.200 and 46.17.220; and adding a new section to chapter 46.68 RCW.

Referred to Committee on Transportation.

ESHB 1183 by House Committee on Health Care & Wellness (originally sponsored by Representatives Johnson, Cody, Ross, Kenney, Warnick, Maxwell, Schmick, Taylor, Hope, Haler, Goodman, Hinkle, Dickerson, McCune, Rodne, Armstrong, Ryu, Seaquist, Pedersen, Lias, Eddy, Appleton, Klippert, Kretz, Hasegawa, Fagan, Asay, Chandler, Angel, Ahern and Stanford)

AN ACT Relating to increasing the number of primary health care providers in Washington; adding a new section to chapter 28B.115 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

HB 1207 by Representative Overstreet

AN ACT Relating to compliance with Article II, section 12 of the state Constitution; amending RCW 44.04.010; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1211 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Rivers, Blake, Takko, Kretz, Van De Wege, Lias, Klippert, Smith, Chandler, Nealey, Fitzgibbon, Warnick, Moeller, Harris and Condotta)

AN ACT Relating to utility donations to hunger programs; adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.92 RCW; and adding a new section to chapter 35A.80 RCW.

Referred to Committee on Environment, Water & Energy.

HB 1212 by Representatives Lytton, Smith, Blake and Warnick

AN ACT Relating to the authority of the department of agriculture to accept and expend gifts; and adding a new section to chapter 43.23 RCW.

Referred to Committee on Agriculture & Rural Economic Development.

HB 1227 by Representatives Ross, Taylor, Chandler, Hinkle, Warnick, Armstrong, Johnson, Moeller, Harris and Condotta

AN ACT Relating to the waiver of restaurant corkage fees; amending RCW 66.28.295; reenacting and amending RCW 66.28.310; and creating a new section.

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Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1237 by House Committee on Transportation (originally sponsored by Representatives Haler, Clibborn, Klippert and Moeller)

AN ACT Relating to registering with the federal selective service when applying for an instruction permit, intermediate license, driver's license, or identicaid; amending RCW 42.56.230; adding a new section to chapter 46.20 RCW; and providing an effective date.

Referred to Committee on Transportation.

HB 1303 by Representatives Jinkins, Kelley, Van De Wege, Liias and Reykdal

AN ACT Relating to the insurance commissioner's authority to review and disapprove rates for certain insurance products; and repealing RCW 48.43.0121.

Referred to Committee on Health & Long-Term Care.

SHB 1329 by House Committee on Transportation (originally sponsored by Representatives Maxwell, Liias, Haigh, Dammeier, Armstrong, McCoy, Finn, Billig, Hunt, Probst, Lytton, Kenney, Ryu, Frockt, Sells, Jacks, Orwall, Van De Wege, Roberts, Tharinger and Miloscia)

AN ACT Relating to "Music Matters" special license plates; amending RCW 46.18.200, 46.17.220, and 46.68.420; reenacting and amending RCW 46.18.060 and 46.18.110; and adding a new section to chapter 46.04 RCW.

Referred to Committee on Transportation.

ESHB 1332 by House Committee on Local Government (originally sponsored by Representatives Eddy, Anderson, Goodman, Takko, Liias, Springer, Rodne, Hurst and Tharinger)

AN ACT Relating to the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services; amending RCW 4.96.010, 86.09.720, and 86.15.035; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.16 RCW; and adding a new chapter to Title 39 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1334 by Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick and Smith

AN ACT Relating to civil judgments for assault; amending RCW 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and prescribing penalties.

Referred to Committee on Human Services & Corrections.

ESHB 1398 by Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney

AN ACT Relating to exempting low-income housing from impact fees; and amending RCW 82.02.060 and 43.21C.065.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1422 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Stanford, Orcutt, Chandler, Warnick, Van De Wege, Green, Smith, Jacks, Blake, Sullivan, McCoy, Kretz, Tharinger, Ryu, Short, Sells, Lytton, Liias, Frockt, Moscoso, Billig, Probst, Rolfes, Dunshee, Maxwell, Upthegrove and Kenney)

AN ACT Relating to authorizing the department of natural resources to conduct a forest biomass to aviation fuel demonstration project to facilitate Washington leading the nation in aviation biofuel production; and creating new sections.

Referred to Committee on Natural Resources & Marine Waters.

HB 1455 by Representative McCune

AN ACT Relating to where an individual may petition to restore firearm possession rights; and amending RCW 9.41.040 and 9.41.047.

Referred to Committee on Judiciary.

SHB 1495 by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Kirby, Armstrong, Hunter, Hinkle, Chandler, Pettigrew, Carlyle, Springer, Maxwell, Anderson, Clibborn, Kelley and Kenney)

AN ACT Relating to the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state; adding a new chapter to Title 19 RCW; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1570 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Chandler and Morris)

AN ACT Relating to siting of energy facility projects; amending RCW 80.50.071; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.63 RCW; and adding a new section to chapter 35A.63 RCW.

Referred to Committee on Environment, Water & Energy.

ESHB 1636 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Nealey, Ormsby, Green, Fitzgibbon, Liias, Orcutt, Maxwell, Sullivan, Pedersen, Anderson, Van De Wege, McCune, Orwall, Ross, Goodman, Sells, Bailey, Stanford, Pearson, Roberts, Kristiansen, Warnick, Cody, Moscoso and Billig)

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AN ACT Relating to amateur sports officials; amending RCW 50.04.245; and adding a new section to chapter 50.04 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of House Bill No. 1303 which was referred to the Committee on Health & Long-Term Care and House Bill No. 1334 which was referred to the Committee on Human Services & Corrections.

#### MOTION

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

The Senate was called to order at 11:06 a.m. by President Owen.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5018, by Senators Keiser, Conway, Shin, Schoesler, Hobbs, Kline and McAuliffe

Including wound care management in occupational therapy.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5018 was substituted for Senate Bill No. 5018 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5018 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senator Sheldon was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5018.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5018 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala,

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Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5018, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5232, by Senators Kilmer, Hobbs, Carrell, Keiser and Kohl-Welles

Authorizing prize-linked savings deposits.

#### MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 5232 was substituted for Senate Bill No. 5232 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 5232 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5232.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5232 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Pflug and Prentice

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5232, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5230, by Senators Ranker, Swecker, Litzow, Rockefeller, Regala, Kohl-Welles, Hargrove, Kline, Conway, Fraser, Nelson, Hobbs, Shin and Harper

Establishing the Puget Sound corps.

#### MOTION

On motion of Senator Ranker, Substitute Senate Bill No. 5230 was substituted for Senate Bill No. 5230 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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Senator Ranker moved that the following striking amendment by Senators Ranker and Morton be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature finds that the Washington conservation corps, the veterans conservation corps, and other state and nonprofit service corps contribute significantly to the priorities of state government to protect natural resources, including Puget Sound, while providing meaningful work experience for the state's youth, veterans, unemployed, and under-employed workforces.

(2) The legislature further finds that the long-term health of the economy of Washington depends on the sustainable management of its natural resources and that the livelihoods and revenues produced by Washington's forests, agricultural lands, estuaries, waterways, and watersheds would be enhanced by targeted, streamlined, and prioritized investments in clean water and habitat restoration.

(3) The legislature further finds that it is important to stretch limited public resources to advance the state's natural resource management priorities. Transformation of natural resource management and service delivery, including the creation of strategic partnerships among agencies and nongovernmental partners, will increase the efficiency and effectiveness of the expenditure of federal, state, and local funds for clean water and habitat rehabilitation projects.

(4) The legislature further finds that there are efficiencies to be gained by streamlining how the various conservation corps are administered, managed, funded, and deployed by the natural resources agencies. There are further efficiencies to be gained through coordinating the conservation corps with other state service corps programs, recruitment activities, and through public-private partnerships.

(5) The legislature further finds that the state should seek to expand the conservation corps in all areas of the state, deploying the corps to work on projects that advance established priorities including, but not limited to, the cleanup and rehabilitation of the Puget Sound ecosystem, oil spill response and cleanup, salmon recovery, and the reduction of wildfire and forest health hazards statewide.

(6) The legislature further finds that individuals with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society. As such, the legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program individuals with developmental disabilities, as defined in RCW 71A.10.020.

(7)(a) Therefore, it is the intent of the legislature to maintain the conservation corps statewide, to collaborate with the veterans conservation corps, to establish the Puget Sound corps, to streamline how government administers and manages the state's conservation corps to more efficiently expend the state's resources toward priority outcomes, including the recovery of the Puget Sound ecosystem to health by 2020, to increase opportunities for meaningful work experience, and to authorize public-private partnerships as a key element of corps activities.

(b) It is also the intent of the legislature to integrate into the Puget Sound corps the therapeutic and reintegration intent of the veterans conservation corps for veterans involved in the Puget Sound corps.

**Sec. 2.** RCW 43.220.020 and 1999 c 280 s 1 are each amended to read as follows:

(1) The Washington conservation corps is ((hereby)) created((, to be implemented by)). The ((following state departments: The employment security department, the)) department of ecology((, the department of fish and wildlife, the department of natural resources,

and the state parks and recreation commission)) must administer the corps as a partnership with the departments of natural resources and fish and wildlife, the state parks and recreation commission, and when appropriate, other agencies and nonprofit organizations to advance the program goals outlined in section 5 of this act.

(2) The Puget Sound corps is created as a distinct program within the Washington conservation corps focused on the implementation of the specific program goals outlined in section 5 of this act.

**NEW SECTION. Sec. 3.** It is the intent of this act to centralize the administration of the Washington conservation corps, which was previously administered by the departments of ecology, natural resources, and fish and wildlife and the state parks and recreation commission, into the department of ecology. This act is prospective only, and any grant awards or conservation corps crew or individual placements finalized by other agencies or partners prior to the effective date of this section remain unaffected by this act.

**Sec. 4.** RCW 43.220.040 and 1999 c 280 s 3 and 1999 c 151 s 1301 are each reenacted and amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government.

(2) "Corps" means the Washington conservation corps, including the Puget Sound corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Crew supervisor" means temporary, project, or permanent state employees who supervise corps members and coordinate work project design and completion.

~~(6) ("Distressed area" has the meaning as defined in RCW 43.168.020.))~~ "Department" means the department of ecology.

(7) "Agency administrative costs" means indirect expenses such as personnel, payroll, contract administration, fiscal services, and other overhead costs.

(8) "Program support costs" include, but are not limited to, program planning, development of reports, job and career training, uniforms and equipment, and standard office space and utilities. Program support costs do not include direct scheduling and supervision of corps members.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.220 RCW to read as follows:

(1) The corps shall be organized and managed to complete projects with fee-for-service work crews that meet goals associated with the protection, promotion, enhancement, or rehabilitation of the following:

- (a) Public lands;
- (b) State natural resources;
- (c) Water quality;
- (d) Watershed health;
- (e) Fish and wildlife;
- (f) Habitat;
- (g) Outdoor recreation;
- (h) Forest health;
- (i) Wildfire risk reduction; and
- (j) State historic sites.

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(2) In addition to the project goals outlined in subsection (1) of this section, the Puget Sound corps shall seek to deploy corps members with the specific goal of participating in the recovery of the Puget Sound ecosystem. The resources of the Puget Sound corps must be prioritized, when practicable, to focus on the following when located within the Puget Sound basin:

(a) Projects identified in, or consistent with, the action agenda developed by the Puget Sound partnership in chapter 90.71 RCW;

(b) Projects located on public lands;

(c) Habitat enhancement and rehabilitation projects; and

(d) Education and stewardship projects.

(3) Both the corps and the Puget Sound corps shall give preference to projects that satisfy the goals identified in this section and that:

(a) Will provide long-term benefits to the public;

(b) Will provide productive training and work experiences to the corps members involved;

(c) Expands or integrates training programs or career development opportunities for corps members;

(d) May result in payments to the state for services performed; and

(e) Can be promptly completed.

**Sec. 6.** RCW 43.220.060 and 1999 c 280 s 4 are each amended to read as follows:

(1) ~~(Each state department identified in RCW 43.220.020))~~ The department shall have the following powers and duties (to carry out its functions relative to) as necessary to administer the Washington conservation corps:

(a) Recruiting and employing staff, corps members, corps member leaders, and specialists consistent with RCW 43.220.070;

(b) Serving as the corps' central application recipient for grants from federal service projects and service organizations;

(c) Executing agreements for furnishing the services of the corps to carry out conservation corps programs to any federal, state, or local public agency, any local organization as specified in this chapter (in concert) that operates consistent with the overall objectives of the conservation corps;

~~((e))~~ (d) Applying for and accepting grants or contributions of funds from ~~(any private source))~~ the federal government, other public sources, or private funding sources for conservation corps projects and, when possible, other projects specifically targeted at Puget Sound recovery that can be accomplished with fee-for-service labor from the Puget Sound corps. Application priority must be given to funding sources only available to state agencies;

~~((d))~~ (d) Determining a preference for those projects which will provide long-term benefits to the public, will provide productive training and work experiences to the members involved, will be labor-intensive, may result in payments to the state for services performed, and can be promptly completed; and

(e) Entering into agreements with community colleges within the state's community and technical college system and other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics for those conservation corps members who may benefit by participation in such classes. Classes shall be scheduled after corps working hours. Participation by members is not mandatory but shall be strongly encouraged. The participation shall be a primary factor in determining whether the opportunity for corps membership beyond one year shall be offered. Instruction related to the specific role of the department in resource conservation shall also be offered, either in a classroom setting or as is otherwise appropriate)) (e) Establishing consistent work standards and placement and evaluation procedures of corps programs; and

(f) Selecting, reviewing, approving, and evaluating the success of corps projects.

(2) The department may partner with any other state agencies, local institutions, nonprofit organizations, or nonprofit service corps organizations in the administration of the corps. However, when partnering with the Washington department of veterans affairs, participation criteria and other administrative decisions affecting participants in the veterans conservation corps created under chapter 43.60A RCW are to be determined by the Washington department of veterans affairs. Other state agencies may maintain a coordinator for the purposes of partnering with the department and the corps.

(3) If deemed practicable, the department shall work with the state board for community and technical colleges created in RCW 28B.50.050 to align the conservation corps program with optional career pathways for participants that may provide instruction in basic skills in addition to the appropriate technical training.

(4) The assignment of corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. ~~((Supervising))~~ Agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corps member with available funds. In circumstances where substantial efficiencies or a public purpose may result, ~~((supervising))~~ participating agencies may use corps members to carry out essential agency work or contractual functions without displacing current employees.

~~((3))~~ (5) Facilities, supplies, motor vehicles, instruments, and tools of ~~((the supervising agency))~~ participating agencies shall be made available for use by the conservation corps to the extent that such use does not conflict with the normal duties of the agency. The agency may purchase, rent, or otherwise acquire other necessary tools, facilities, supplies, and instruments.

**Sec. 7.** RCW 43.220.070 and 1999 c 280 s 5 are each amended to read as follows:

(1)(a) Except as otherwise provided in this section, conservation corps members ((shall)) must be unemployed or underemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States.

~~((b))~~ (b) The age requirements may be waived for corps leaders ~~((and)), veterans, specialists with special leadership or occupational skills((; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have)), and participants with a sensory or mental handicap. ((Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.~~

~~((2))~~ (2) ~~The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.~~

~~The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.~~

~~If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of~~

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~~productivity))~~

~~(2) The recruitment of conservation corps members is the primary responsibility of the department. However, to the degree practicable, recruitment activities must be coordinated with the following entities:~~

- ~~(a) The department of natural resources;~~
- ~~(b) The department of fish and wildlife;~~
- ~~(c) The state parks and recreation commission;~~
- ~~(d) The Washington department of veterans affairs;~~
- ~~(e) The employment security department;~~
- ~~(f) Community and technical colleges; and~~
- ~~(g) Any other interested postsecondary educational institutions.~~

~~(3) Recruitment efforts must be targeted to, but not limited to, residents of the state who meet the participation eligibility requirements provided in this section and are either:~~

- ~~(a) A student enrolled at a community or technical college, private career college, or a four-year college or university;~~
- ~~(b) A minority or disadvantaged youth residing in an urban or rural area of the state; or~~
- ~~(c) Military veterans.~~

~~((3)) (4) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew supervisors, who shall be project employees, and the administrative and supervisory personnel.~~

~~((4) Enrollment shall be for a period of six months which may be extended for additional six-month periods by mutual agreement of the corps and the corps member, not to exceed two years. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher, which may be increased by up to five percent for each additional six-month period worked: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.~~

~~(5)) (5) Except as otherwise provided in this section, participation as a corps member is for an initial period of three months. The enrollment period may be extended for additional three-month periods by mutual agreement of the department and the corps member, not to exceed two years.~~

~~(6)(a) Corps members are to be available at all times for emergency response services coordinated through the department ((of community, trade, and economic development)) or other public agency. Duties may include sandbagging and flood cleanup, oil spill response, wildfire suppression, search and rescue, and other functions in response to emergencies.~~

~~(b) Corps members may be assigned to longer-term specialized crews not subject to the temporal limitations of service otherwise imposed by this section when longer-term commitments satisfy the specialized needs of the department, an agency partner, or other service contractee.~~

**Sec. 8.** RCW 43.220.170 and 1983 1st ex.s. c 40 s 17 are each amended to read as follows:

The services of corps members (~~placed with agencies listed in RCW 43.220.020~~) are exempt from unemployment compensation coverage under RCW 50.44.040(~~((5))~~) (4) and the enrollees shall be so advised by the department.

**Sec. 9.** RCW 43.220.231 and 1999 c 280 s 7 are each amended to read as follows:

(1) An amount not to exceed five percent of the funds available for the Washington conservation corps may be expended on agency administrative costs. (~~Agency administrative costs are indirect expenses such as personnel, payroll, contract administration, fiscal services, and other overhead costs.~~)

(2) An amount not to exceed twenty percent of the funds available for the Washington conservation corps may be expended for costs included in subsection (1) of this section and program support costs. (~~Program support costs include, but are not limited to, program planning, development of reports, job and career training, uniforms and equipment, and standard office space and utilities. Program support costs do not include direct scheduling and supervision of corps members.~~)

(3) A minimum of eighty percent of the funds available for the Washington conservation corps shall be expended for corps member salaries and benefits and for direct supervision of corps members.

(4) Consistent with any fund source requirements, any state agency using federal funds to sponsor fee-for-service Washington conservation corps crews must contract with the Washington department of veterans affairs for at least five percent of the federal funding to sponsor veteran conservation corps crews operating under RCW 43.60A.150. This requirement applies statewide.

**Sec. 10.** RCW 43.220.250 and 1985 c 230 s 5 are each amended to read as follows:

A nonprofit corporation which contracts with (~~an agency listed in RCW 43.220.020~~) the department to provide a specific service, appropriate for the administration of this chapter which the (~~agency~~) department cannot otherwise provide, may be reimbursed at the discretion of the (~~agency~~) department for the reasonable costs the (~~agency~~) department would absorb for providing those services.

**NEW SECTION. Sec. 11.** A new section is added to chapter 43.220 RCW to read as follows:

(1) The director of the department of ecology and the commissioner of public lands shall jointly host an annual meeting with other corps program participants to serve as a forum for the partner agencies to provide guidance and feedback concerning the management and function of the corps.

(2) At a minimum, representatives of the following must be invited to participate at the annual meeting: The department of fish and wildlife; the state parks and recreation commission; the Puget Sound partnership; the department of veterans affairs; the employment security department; the Washington commission for national and community service; conservation districts; the state conservation commission; the salmon recovery funding board; the recreation and conservation office; the department of commerce; the department of health; or any similar successor organizations and any appropriate nonprofit organizations, including those engaged in service corps projects.

(3) Annual meeting participants shall, at a minimum:

(a) Review the conservation corps projects completed in the previous year, including an analysis of successes and opportunities for improvement; and

(b) Establish a work plan for the coming year, including the setting of annual priorities or criteria consistent with this chapter to guide crew development and the development of plans to pursue funding from various sources to expand the conservation corps.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.30 RCW under the subchapter heading "Part 5 Powers and Duties--General" to read as follows:

The department shall cooperate, when appropriate, as a partner in the Washington conservation corps established in chapter 43.220 RCW.

**Sec. 13.** RCW 43.60A.152 and 2007 c 451 s 5 are each amended to read as follows:

~~((4))~~ The department shall collaborate with the (~~state agencies~~) department of ecology and the department of natural resources and any of its partnering agencies in implementing the Washington conservation corps, created in chapter 43.220 RCW, to maximize the utilization of both conservation corps programs.

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These agencies shall work together to identify stewardship and maintenance projects on ~~((agency-managed))~~ public lands that are suitable for work by veterans conservation corps enrollees. The department may expend funds appropriated to the veterans conservation corps program to defray the costs of education, training, and certification associated with the enrollees participating in such projects.

((2) By September 30, 2007, the department, in conjunction with the state agencies identified in subsection (1) of this section, shall provide to the office of financial management and to the appropriate committees of the senate and house of representatives a report that:

(a) Identifies projects on state agency-managed lands that are currently planned for veterans conservation corps enrollee participation;

(b) Identifies additional projects on state agency-managed lands that are suitable for veterans conservation corps enrollee participation and for which funding is currently in place for such participation; and

(c) Identifies additional projects on state agency-managed lands for which project implementation has been funded or is included in the agency's multiennial stewardship plans, and that are suitable for veterans conservation corps enrollee participation in the event that additional funding is provided to the department for associated training, education, and certification.))

**Sec. 14.** RCW 79A.05.545 and 1999 c 249 s 701 are each amended to read as follows:

The commission shall cooperate ~~((in implementing and operating the)),~~ when appropriate, as a partner in the Washington conservation corps ~~((as required by))~~ established in chapter 43.220 RCW.

**NEW SECTION. Sec. 15.** A new section is added to chapter 77.12 RCW to read as follows:

The department shall cooperate, when appropriate, as a partner in the Washington conservation corps established in chapter 43.220 RCW.

**Sec. 16.** RCW 77.85.130 and 2007 c 341 s 36 and 2007 c 257 s 1 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species;

(iv) Will preserve high quality salmonid habitat;

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding;

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(vi) Are, except as provided in RCW 77.85.240, sponsored by an entity that is a Puget Sound partner, as defined in RCW 90.71.010; and

(vii) Are projects referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding;

(iii) Will be implemented by a sponsor with a successful record of project implementation;

(iv) Involve members of the Washington conservation corps established in chapter 43.220 RCW or the veterans conservation corps established in RCW 43.60A.150; and

(v) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

(5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the project area approves the transfer and provides notification to the board.

(8) Any project sponsor receiving funding from the salmon recovery funding board that is not subject to disclosure under chapter 42.56 RCW must, as a mandatory contractual prerequisite to receiving the funding, agree to disclose any information in regards

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to the expenditure of that funding as if the project sponsor was subject to the requirements of chapter 42.56 RCW.

(9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 43.220.010 (Legislative declaration) and 1983 1st ex.s. c 40 s 2;

(2) RCW 43.220.030 (Program goals) and 1999 c 280 s 2, 1987 c 367 s 1, & 1983 1st ex.s. c 40 s 3;

(3) RCW 43.220.080 (Selection of corps members--Development of corps program) and 1983 1st ex.s. c 40 s 8;

(4) RCW 43.220.090 (Conservation corps established in department of ecology--Work project areas) and 1994 c 264 s 33 & 1983 1st ex.s. c 40 s 9;

(5) RCW 43.220.120 (Conservation corps established in department of fish and wildlife--Work project areas) and 1999 c 280 s 6, 1994 c 264 s 34, 1988 c 36 s 24, & 1983 1st ex.s. c 40 s 12;

(6) RCW 43.220.130 (Conservation corps established in department of natural resources--Work project areas) and 1983 1st ex.s. c 40 s 13;

(7) RCW 43.220.160 (Conservation corps established in state parks and recreation commission--Work project areas) and 1999 c 249 s 702 & 1983 1st ex.s. c 40 s 16;

(8) RCW 43.220.180 (Identification of historic properties and sites in need of rehabilitation or renovation--Use of corps members) and 1983 1st ex.s. c 40 s 18;

(9) RCW 43.220.190 (Duties of agencies) and 1999 c 151 s 1302, 1987 c 367 s 3, & 1983 1st ex.s. c 40 s 20;

(10) RCW 43.220.210 (Selection, review, approval, and evaluation of projects--Recruitment, job training and placement services) and 1999 c 151 s 1303, 1987 c 367 s 4, & 1985 c 230 s 1;

(11) RCW 79A.05.500 (Declaration of purpose) and 2000 c 11 s 42, 1969 ex.s. c 96 s 1, & 1965 c 8 s 43.51.500;

(12) RCW 79A.05.505 (Youth development and conservation division established--Supervisory personnel) and 1999 c 249 s 1201 & 1965 c 8 s 43.51.510;

(13) RCW 79A.05.510 (Composition of youth corps--Qualifications, conditions, period of enrollment, etc) and 1975 c 7 s 1, 1969 ex.s. c 96 s 3, & 1965 c 8 s 43.51.530;

(14) RCW 79A.05.515 (Compensation--Quarters--Hospital services, etc) and 1999 c 249 s 1202, 1982 c 70 s 1, 1975 c 7 s 2, & 1965 c 8 s 43.51.540;

(15) RCW 79A.05.520 (Laws relating to hours, conditions of employment, civil service, etc., not applicable) and 2000 c 11 s 43 & 1965 c 8 s 43.51.550;

(16) RCW 79A.05.525 (Expenditures, gifts, government surplus materials) and 1965 c 8 s 43.51.560;

(17) RCW 79A.05.530 (Agreements with private persons to enroll additional people--Commercial activities prohibited--Authorized closures of area) and 1975 c 7 s 3, 1973 1st ex.s. c 154 s 85, & 1965 c 8 s 43.51.570;

(18) RCW 79A.05.535 (Agreements with and acceptance of grants from federal government authorized) and 2000 c 11 s 44 & 1965 ex.s. c 48 s 1; and

(19) RCW 79A.05.540 (Agreements with and acceptance of grants from federal government authorized--Length of enrollment and compensation in accordance with federal standards authorized) and 2000 c 11 s 45 & 1965 ex.s. c 48 s 2."

Senators Ranker, Morton, Litzow and Hobbs spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Ranker and Morton to Substitute Senate Bill No. 5230.

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

MOTION

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

On page 1, line 2 of the title, after "programs;" strike the remainder of the title and insert "amending RCW 43.220.020, 43.220.060, 43.220.070, 43.220.170, 43.220.231, 43.220.250, 43.60A.152, and 79A.05.545; reenacting and amending RCW 43.220.040 and 77.85.130; adding new sections to chapter 43.220 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and repealing RCW 43.220.010, 43.220.030, 43.220.080, 43.220.090, 43.220.120, 43.220.130, 43.220.160, 43.220.180, 43.220.190, 43.220.210, 79A.05.500, 79A.05.505, 79A.05.510, 79A.05.515, 79A.05.520, 79A.05.525, 79A.05.530, 79A.05.535, and 79A.05.540."

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Substitute Senate Bill No. 5230 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5230.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5230 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Carrell, Delvin, Hatfield, Holmquist Newbry, Honeyford, Schoesler, Stevens and Zarelli

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5230, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5075, by Senators Fain, Hobbs, Benton, Litzow, Keiser and Tom

Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

The measure was read the second time.

MOTION

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On motion of Senator Fain, the rules were suspended, Senate Bill No. 5075 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fain, Hobbs and Schoesler spoke in favor of passage of the bill.

POINT OF ORDER

Senator Litzow: "Are pages allowed to give speeches on the Senate floor?"

POINT OF ORDER

Senator Honeyford: "Well thank you Mr. President. I noticed that the Senator from the Forty-Seventh District did not seek permission from the President to read. Therefore, I was wondering if you would strike all of his comments and put this bill down for future consideration?"

The President declared the question before the Senate to be the final passage of Senate Bill No. 5075.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5075 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

Excused: Senator Sheldon

SENATE BILL NO. 5075, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator King: "Well, I was wondering whether or not, and I always thought, the Senate had an age limit on who could serve in this committee or this body? I have to tell you the Senator's whose bill we just passed, had an occasion to have an early morning meeting with him and I also have the privilege of living with my daughter and son-in-law who just had a new baby boy and he's about fourteen or fifteen months old. They have just started to feed him. I think it's called rice cereal. If you've ever watched a baby first time they try to do that, you know it's all over their face and you have this spoon you know and I would have to tell you. I had this early morning meeting with the good Senator from the Forty-Seventh and he had this spot on his chin and it kind of looked like oatmeal and I tried the hardest that I could to find this spoon that had that special coating on it, you know, but anyway we got it taken care of. I'm very privileged to serve with the good Senator from the Forty-Seventh and it's good to have you here. Thank you Mr. President."

PERSONAL PRIVILEGE

Senator Ranker: "Article II, Section 7 of the State Constitution states that 'no person shall', I'm going to be referring to some notes here Mr. President if that's ok. Thank you. It states that 'no person shall be eligible to the legislature

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who is not a citizen of the United States or qualified to vote in the district for which he is chosen.' Article VI, Section 1, of our State Constitution very important document, states that 'all persons must be of eighteen years of age or to be entitled to vote.' Those two sections very clearly state that you must be eighteen years of age to serve in this Washington State Senate. Therefore I move for expulsion of Senator Fain from the Senate unless he can prove that he is at least eighteen years of age."

PERSONAL PRIVILEGE

Senator Fain: "I don't have my wallet in these pants! I will make sure to get you a copy of my birth certificate. It's in Hawaii. Mr. President, I rise in great appreciation for the good-humored roasting by my fellow colleagues with the exception from the good Senator from the Forty-Fourth. The good Republican, I mean Democrat, I mean Road Kill Senator from the Forty-Fourth District. This has been a tremendous seven weeks, I guess it's been, experiencing the Senate and each of new colleagues for the first time. It's been very rewarding and as is customary I believe we have the opportunity to share some gifts from the Forty-Seventh District with each of my colleagues so I believe that the Pages are passing that out and I will recite what is inside these wonderful things. I believe there are folks that are from Eastern Washington particularly that will appreciate the salted cured meats from the Forty-Seventh Districts, O Boy Oberto headquarters. As well as some chocolates from Gosanko Chocolates in Auburn. Also, one of the truly remarkable destinations in the Forty-Seventh District, Emerald Down Racetrack. You'll have a gate pass that you can use when we get into the racing season and this is an incredible place. I live just a few blocks away. Employees directly and indirectly over twenty-five hundred folks in the South County area and is really an economic engine. The whole horseracing industry is a real economic engine for the State of Washington. Finally, to the good Senator from the Thirty-Third's point about my piece of legislation not having anything to do with truly one of the most important issues facing South King County at this time which is this flood protection in the Green River Valley, I would like to have a special gift for each of the members who serve on the Senate Ways & Means Committee. Pages will be distributing a miniature bag of sand, this miniature bag of sand is a subtle but gentle reminder that, Senator from the Thirty-Third District, in my flood protection bill is currently before your committee in dire need of execution and bringing it to the floor. Thank you so much Mr. President."

SECOND READING

SENATE BILL NO. 5174, by Senators Chase, McAuliffe, Prentice, Nelson, Kohl-Welles, Shin and Kline

Encouraging instruction in the history of civil rights.

The measure was read the second time.

MOTION

On motion of Senator Chase, the rules were suspended, Senate Bill No. 5174 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Chase, McAuliffe and Conway spoke in favor of passage of the bill.

Senator Schoesler spoke on final passage of the bill.

FORTY FIFTH DAY, FEBRUARY 23, 2011

2011 REGULAR SESSION

MOTION

PERSONAL PRIVILEGE

On motion of Senator Benton, Senator Roach was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5174.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5174 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Roach and Sheldon

SENATE BILL NO. 5174, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator King: "Well, I just want it on the record that I had the pleasure of working with the good Senator whose bill we just passed when she was in the House. I have seen the tenacity and the drive when she goes after a bill that she either wants to kill or that she likes. I want to tell you, I was scared to vote no. Thank you Mr. President."

## PERSONAL PRIVILEGE

Senator Kastama: "It's been a very distinct pleasure to have Senator Chase to be the Vice Chair of my committee. She has made a tremendous impact. We consider her the more scholarly one of all the members of our committee. She reads almost all the materials and she can cite chapter and verse of anything and go ahead and use that as evidence. We also know on the committee she's not afraid to let you know what she thinks. She's very up front; she'll tell you exactly what she thinks in no uncertain terms. The big debate on the committee right now is. Are we influencing her behavior more or is she influencing our behavior? I actually think we're influencing her behavior a tremendous amount but you know having said that on that last bill if you wouldn't have voted for that you would have been 'an idiot' and a 'pin head.' Also, I got to tell you, Senator Baumgartner, I know you're on that committee and got a degree from Harvard. I got a degree from Berkley. You know we get one of your degrees every time we eat caramel corn. You get what I mean? Senator Holmquist Newbry, Article V, Section III, subsection VIII of the Bretton Woods Conference, 1935, states that each member shall vote two-hundred fifty times. How fair can that be? Anyway, and Senator Shin don't get me going on Chapter 11 with the Free Trade agreement, anyway. Mr. President, these are kind of inside jokes but I would like to say it's been a tremendous pleasure to have her on this...Senator Fain, are you looking at me? You're looking at me? Ok, I'll tell you, you look at me again I'm going to Article I, Section 33 right here. Anyway, Mr. President, it has been a tremendous honor to have her on the committee and I think we're having a positive influence. Thank you."

Senator Chase: "Thank you very much Mr. President. I want to tell my new colleagues how much I love being in the Senate. You cannot imagine what a joy it is to be over here. I have such great respect for this body that it is truly an honor to serve with you. I want you to know too that it is an honor to have passed this bill today in the presence of my grandson. Chase would you stand up please? That's my grandson. You know my life has been involved in civil rights. Since I was very, very young and I was young in 1961 when I watched the Freedom Riders which Senator Kline was a part of. I marched in many of the marches. I did miss one that I wish I had been. Martin Luther King came to Seattle in November of 1961. He was not welcomed with open arms and so it is indeed a pleasure to know that now we have King County named after him and that this body has passed a resolution encouraging civil rights legislation. I think that speaks well for our state. I'm also pleased to tell you some other good news about my district. We hear a lot about economic development and I do love the Economic Development Committee and serving under Senator Kastama. He's just a great chair. We talk a lot about innovation and talk about how do we train our youngsters or the next generation for the jobs of the future? Well, Shoreline Community College is a prime example of really good news for you. We have an automotive program out there, I'm not into cars, I'll tell you that, but if you're into cars it's eye candy because just as we have all the new cars in our society somebody has to be trained to fix them, you know, and to service them. We at Shoreline Community College put between six and ten thousand students through our automotive training program every year and those kids come out starting sixty thousand dollars a year. Within three years they can be making one-hundred twenty thousand. These are certificate programs and community college programs. We also have a clean technology program. We have a partnership between Washington State University, the Shoreline Chamber of Commerce, the City of Shoreline and Shoreline Community College to try to help small businesses learn about the clean economy. You will be getting a booklet on Sunrise in the State of Washington. We also have the longest running solar festival in the Puget Sound corridor so I know you all like toys so I'm giving you a little tiny electric car. Which actually works. It really does work and a key chain from the automotive program and finally, we talk a lot about small business, and one of the nice things about having small business is many of them are home based and we have one business that help put together your good news packet and I might add this good news packet has cellophane bags, not plastic bags. That's very important to be consistent on these things, and it was made by a little home based business called Flights of Fancy. So, I hope you will enjoy it. The final thing there's a little box of candy in there. We have a candy cluster developing in North King County, South Snohomish County called Nanna's Candy. They source all their candy from local vendors. So, with that I thank you all very much for making me feel so welcome and so happy in this body. Thank you very much."

## PERSONAL PRIVILEGE

Senator Delvin: "Thank you Mr. President. I know we received two gifts today and I really do appreciate the two new members and I know the times are tough, you know, but I was looking through that package of recycled beef and I noticed they all have exceeded their expiration dates. So, I guess you got a good deal in this tough economy. I appreciate that and a newspaper. That is a great gift Mr. President. A newspaper is a great gift. Most of us can't read but it's a great gift. Thank you."

## MOTION

At 12:07 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, February 24, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY SIXTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, February 24, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senator Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Alyssa Armbruster and Max Kroeger, presented the Colors. Senator Haugen offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

February 22, 2011

SB 5000 Prime Sponsor, Senator Haugen: Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence. Reported by Committee on Transportation

MAJORITY recommendation: That Second Substitute Senate Bill No. 5000 be substituted therefor, and the second substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Erickson; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 22, 2011

SB 5344 Prime Sponsor, Senator Kastama: Concerning an assessment of the department of transportation's management, accountability, and performance system. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 22, 2011

SJM 8003 Prime Sponsor, Senator Prentice: Requesting that Interstate 5 be named the "Purple Heart Trail." Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 27, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

ELSIE HULSIZER, reappointed January 27, 2011, for the term ending December 26, 2014, as Member of the Board of Pilotage Commissioners.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

February 23, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

VAL OGDEN, appointed January 20, 2011, for the term ending July 1, 2015, as Member of the State School for the Deaf Board of Trustees.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

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

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

February 23, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1014,

HOUSE BILL NO. 1031,

SUBSTITUTE HOUSE BILL NO. 1104,

SUBSTITUTE HOUSE BILL NO. 1127,

HOUSE BILL NO. 1286,

FORTY SIXTH DAY, FEBRUARY 24, 2011

HOUSE BILL NO. 1521.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 23, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5855 by Senator Roach

AN ACT Relating to notifying the secretary of state when a person summoned for jury service does not meet the qualifications of a juror; and amending RCW 2.36.072.

Referred to Committee on Judiciary.

SB 5856 by Senators Hatfield, Delvin, Hobbs, Zarelli, Harper, Chase, Prentice and Shin

AN ACT Relating to authorizing the creation of a public speedway authority; amending RCW 36.38.010, 35.21.280, 36.70A.110, 70.107.080, 39.04.010, 76.09.460, 36.94.020, 36.94.030, 84.34.037, and 36.96.010; reenacting and amending RCW 84.33.140, 82.29A.130, and 35.91.020; adding new sections to chapter 82.14 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new chapter to Title 36 RCW; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

SB 5857 by Senators Kohl-Welles, Murray, Keiser, Kline, Prentice, Rockefeller, Chase, Ranker, White, Nelson, Conway, Harper and Shin

AN ACT Relating to tax expenditure reform to provide transparency and accountability in fiscal matters; amending RCW 82.04.062, 82.08.010, 82.12.0251, 82.34.015, 82.66.020, 82.04.257, 82.04.110, 82.04.120, 82.04.260, 82.04.280, 82.04.280, 82.04.290, 82.04.360, 82.62.020, 82.73.020, 82.04.310, 82.04.310, 43.06.400, 43.88.030, 43.136.045, 43.136.055, and 43.136.065; reenacting and amending RCW 82.04.050, 82.12.010, and 82.04.250; repealing RCW 82.08.02081, 82.08.02087, 82.08.0253, 82.08.02565, 82.08.02566, 82.08.02568, 82.08.0257, 82.08.0259, 82.08.0267, 82.08.0272, 82.08.0274, 82.08.02745, 82.08.0277, 82.08.0288, 82.08.0294, 82.08.0296, 82.08.0298, 82.08.0311, 82.08.0315, 82.08.036, 82.08.806, 82.08.807, 82.08.810, 82.08.811, 82.08.820, 82.08.855, 82.08.865, 82.08.880, 82.08.890, 82.08.900,

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82.08.910, 82.08.920, 82.08.990, 82.12.02081, 82.12.02087, 82.12.02565, 82.12.02566, 82.12.02568, 82.12.0258, 82.12.0261, 82.12.0254, 82.12.0262, 82.12.0267, 82.12.0268, 82.12.02685, 82.12.0273, 82.12.0283, 82.12.0294, 82.12.0296, 82.12.0298, 82.12.0311, 82.12.0315, 82.12.038, 82.12.037, 82.12.806, 82.12.807, 82.12.810, 82.12.811, 82.12.820, 82.12.855, 82.12.865, 82.12.880, 82.12.890, 82.12.900, 82.12.910, 82.12.920, 82.12.024, 82.12.0263, 82.12.0272, 82.12.800, 82.12.801, 82.12.802, 82.12.860, 82.66.040, 82.08.0289, 82.08.850, 82.12.850, 82.12.02085, 82.04.627, 82.08.0282, 47.01.412, 82.08.0203, 82.08.02525, 82.08.02535, 82.08.0256, 82.08.02569, 82.08.02573, 82.08.0261, 82.08.0262, 82.08.0263, 82.08.0264, 82.08.0265, 82.08.0266, 82.08.02665, 82.08.0268, 82.08.0269, 82.08.0271, 82.08.0273, 82.08.0275, 82.08.0278, 82.08.0279, 82.08.0285, 82.08.0287, 82.08.02875, 82.08.0291, 82.08.031, 82.08.700, 82.08.830, 82.08.834, 82.08.870, 82.12.02525, 82.12.0257, 82.12.02569, 82.12.930, 82.12.0269, 82.12.0274, 82.12.0279, 82.12.0282, 82.12.02917, 82.12.031, 82.12.700, 82.12.834, 82.12.845, 82.12.0254, 82.12.02595, 82.12.0264, 82.12.0265, 82.12.0266, 82.12.0284, 82.08.995, 82.12.995, 82.08.0253, 82.08.02537, 82.08.0289, 82.08.0293, 82.08.0316, 82.08.832, 82.12.0345, 82.12.0347, 82.12.0256, 82.12.0293, 82.12.0316, 82.12.832, 82.14.030, 82.12.035, 82.08.0205, 82.08.02082, 82.08.0255, 82.08.0206, 82.08.0258, 82.08.02795, 82.08.02805, 82.08.02806, 82.08.02807, 82.08.0281, 82.08.0283, 82.08.02915, 82.08.0299, 82.08.803, 82.08.804, 82.08.808, 82.08.925, 82.08.935, 82.08.940, 82.08.945, 82.08.985, 82.08.995, 82.08.997, 82.08.998, 82.12.0259, 82.12.02745, 82.12.02747, 82.12.02748, 82.12.02749, 82.12.0275, 82.12.0277, 82.12.02915, 82.12.803, 82.12.804, 82.12.808, 82.12.925, 82.12.935, 82.12.940, 82.12.945, 82.12.985, 82.12.995, 82.12.998, 82.04.2907, 82.04.298, 82.04.315, 82.04.317, 82.04.330, 82.04.331, 82.04.332, 82.04.333, 82.04.334, 82.04.337, 82.04.392, 82.04.405, 82.04.416, 82.04.421, 82.04.422, 82.04.425, 82.04.426, 82.04.4261, 82.04.4262, 82.04.4267, 82.04.4281, 82.04.4287, 82.04.4292, 82.04.4294, 82.04.4295, 82.04.4296, 82.04.433, 82.04.4333, 82.04.4339, 82.04.4451, 82.04.44525, 82.04.447, 82.04.4482, 82.04.4486, 82.04.601, 82.62.030, 82.04.2403, 82.04.255, 82.04.340, 82.04.424, 82.04.4272, 82.04.4285, 82.04.43391, 82.04.540, 82.04.645, 82.04.650, 82.04.410, 82.04.263, 82.04.339, 82.04.3395, 82.04.363, 82.04.3651, 82.04.367, 82.04.368, 82.04.370, 82.04.380, 82.04.385, 82.04.395, 82.04.397, 82.04.399, 82.04.408, 82.04.415, 82.04.418, 82.04.419, 82.04.4201, 82.04.4251, 82.04.4282, 82.04.4291, 82.04.4293, 82.04.432, 82.04.4322, 82.04.4324, 82.04.4326, 82.04.4327, 82.04.4332, 82.04.434, 82.04.600, 82.04.610, 82.04.615, 82.04.335, 82.04.338, 82.04.394, 82.04.4271, 82.04.640, 82.04.2905, 82.04.4298, 82.04.272, 82.04.2906, 82.04.2908, 82.04.324, 82.04.326, 82.04.327, 82.04.355, 82.04.4263, 82.04.4264, 82.04.4265, 82.04.4289, 82.04.4297, 82.04.4311, 82.04.4337, 82.04.620, and 82.04.635; providing effective dates; providing a contingent effective date; providing an expiration date; and providing a contingent expiration date.

Referred to Committee on Ways & Means.

SJR 8216 by Senators Benton, Roach, Stevens, Morton, Zarelli, Swecker, Holmquist Newbry, Becker, Baumgartner,

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Hewitt, Hill, Ericksen, Carrell, Schoesler, Baxter, King and Parlette

Amending the state Constitution to include an expenditure limit.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1014 by Representatives Goodman, Springer, Sullivan, Eddy and Maxwell

AN ACT Relating to the authority of a watershed management partnership; and amending RCW 39.34.215.

Referred to Committee on Environment, Water & Energy.

ESHB 1026 by House Committee on Judiciary (originally sponsored by Representatives Rolfes, Orcutt, Carlyle, Blake, Angel and McCune)

AN ACT Relating to adverse possession; adding new sections to chapter 7.28 RCW; and creating a new section.

Referred to Committee on Judiciary.

HB 1031 by Representatives Armstrong, Orwall, Johnson, Crouse, Appleton, Condotta, Eddy, Clibborn, Haler, Ormsby, Nealey, Klippert, Miloscia, Fagan, Alexander, Taylor, Bailey, Angel, Finn, Warnick, Rodne, Orcutt, Walsh, Pearson, Green, McCoy, McCune, Schmick, Smith, Goodman, Asay, Ross, Blake, Short, Kagi, Hope, Takko, Kristiansen, Reykdal, Frockt, Ladenburg, Rolfes, Shea, Hunt, Hurst and Moeller

AN ACT Relating to ballot envelopes; and amending RCW 29A.40.091.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1104 by House Committee on Judiciary (originally sponsored by Representatives Moeller, Walsh, Billig, Kenney, Maxwell and Dammeier)

AN ACT Relating to protection of vulnerable adults; amending RCW 74.34.020 and 74.34.067; adding a new section to chapter 74.34 RCW; and repealing RCW 74.34.021.

Referred to Committee on Health & Long-Term Care.

SHB 1127 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Moeller and Sells)

AN ACT Relating to certified exclusive bargaining representatives; and amending RCW 41.56.060 and 41.56.140.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1286 by Representatives Orcutt, Hasegawa, Kelley, Santos and Reykdal

AN ACT Relating to the tax preference review process; and amending RCW 43.136.045 and 43.136.055.

Referred to Committee on Ways & Means.

HB 1521 by Representatives Maxwell, Haigh, Sullivan, Pettigrew, Santos, Kenney, Lias, Frockt, Jacks, Clibborn, Probst, Sells, Lytton, Goodman, Orwall, Van De Wege, Green, Hunt, McCoy, Ladenburg, Billig, Seaquist, Fitzgibbon, Carlyle and Jinkins

AN ACT Relating to recognizing Washington innovation schools; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

MOTION

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

MOTION

At 10:13 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

The Senate was called to order at 11:15 a.m. by President Pro Tempore.

MOTION

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

SECOND READING

SENATE BILL NO. 5801, by Senators Kohl-Welles, Holmquist Newbry, Conway and Kline

Establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system.

MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5801 was substituted for Senate Bill No. 5801 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5801 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Holmquist Newbry, Conway and Honeyford spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Sheldon was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5801.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5801 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5801, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5030, by Senators Hewitt, Sheldon, Schoesler and Rockefeller

Authorizing civil judgments for assault.

The measure was read the second time.

## MOTION

On motion of Senator Hewitt, the rules were suspended, Senate Bill No. 5030 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hewitt, Hargrove and Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5030.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5030 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Keiser

Excused: Senator Sheldon

SENATE BILL NO. 5030, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5168, by Senators Prentice, Kline, Regala, Chase and Kohl-Welles

Reducing maximum sentences for gross misdemeanors by one day.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5168 was substituted for Senate Bill No. 5168 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5168 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5168.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5168 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Ericksen and Holmquist Newbry

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5168, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5326, by Senators Kline, Zarelli, Kohl-Welles, Nelson, Rockefeller and White

Concerning negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way.

## MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5326 was substituted for Senate Bill No. 5326 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5326 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Pflug and Brown spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5326.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5326 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

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Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

you and I'm glad you're bringing sexy back to the Senate and I hope you can give me some of your tips. Thanks."

PERSONAL PRIVILEGE

Voting nay: Senators Baxter, Benton, Hargrove, Honeyford and Stevens

Senator Kastama: "Thank you. You know Senator Baumgartner is the ranking member on my committee and when I learned that he, in fact, would have that status I asked my staff for all the information on him and I read his biography. All I kept thinking was, after reading the biography, who is this guy? I mean he's done about everything. So, today I want definitively say who he really is and I've been able to contain it in this paper bag here, ok. Here are the contents of really who this guy is but some background first. A little bit about him. He is a extremely mild mannered individual. He grew up in Eastern Washington, farm country. He went to Washington State University and he majored in Economics and minored in Mathematics and French. He went to Harvard where he received a degree in Public Policy. He served his country. He worked for the State Department in Afghanistan and Iraq, regarding economic development by the way, and he traveled around the world to approximately seventy different countries. It was in Afghanistan that he actually met his wife and it was wonderful. I met her the other day. I think you all know that she is expecting their first child. She happened to be a reporter for a British publication. It's all very important information. He went on to become a consultant for Saudi Arabia. In fact he missed a day in our committee because he was giving some counter-insurgency lecture down in Texas and I even saw a picture of him with General Petraeus. So, you have to ask yourself. How does this guy do all of this? Well. I think I've solved it, I think I really know who this guy is. Consider the evidence. First of all, he grew up in Eastern Washington around farms, ok? Alright? Second of all, he fell in love with someone in the press. Is this helping out at all. Third he's smart. Fourth, he defends his country and he flies around the world. Ok? and he's a mild mannered person. Now, finally he meets with world leaders. So, you guys know who he is? If not I went online and I found a metrological study of when he was born and at the time he was born there was excessive metrological activity in Pullman, Eastern Washington, where he was born. So, I think it's pretty obvious. The guy's Superman. I mean if you look right here at the face of Superman, I mean it's almost a spitting image. There's also a degree of symbolism. Think about that. Superman. Senate. I think it was meant to be. Anyway, I want to thank you for being here, I feel tremendously humbled in my committee to have your presence there. Thanks for joining the Senate."

Excused: Senator Sheldon

SUBSTITUTE SENATE BILL NO. 5326, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5500, by Senators Baumgartner, Chase, Kastama, Zarelli, Schoesler, Shin, Holmquist Newbry, Delvin, Parlette, Kilmer and Roach

Concerning the rule-making process for state economic policy.

The measure was read the second time.

MOTION

On motion of Senator Baumgartner, the rules were suspended, Senate Bill No. 5500 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Baumgartner, Holmquist Newbry, Delvin, Chase and Hewitt spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5500.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5500 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

PERSONAL PRIVILEGE

Senator Keiser: "Just a question of whether or not these marble halls are also containing Kryptonite."

Absent: Senator Benton

Excused: Senator Sheldon

SENATE BILL NO. 5500, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "I believe we'll know soon enough."

PERSONAL PRIVILEGE

Senator Hobbs: "I'm sorry Madam President, I'm just stunned by Senator Baumgartner's beauty, I must admit, while you were standing there giving your speech, I couldn't help thinking, you must spend hours on that Stair Master. It's ok. I'm a Democrat. It's ok. The only thing that would make you perfect is that if you had Litzow's hair. Anyway, I'm proud to serve with

PERSONAL PRIVILEGE

Senator Delvin: "Well, thank you Madam President. I have a different take on his career. I've had many friends who work for the State Department in foreign countries so really there's another federal agency, you know I think that's who he's been working for. So, whatever gift he gives you have it checked for surveillance, bugs, cameras, whatever. You're going to be in your

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offices, listening devices. I think that's his true, I came up with a name for him now, I call him 'Spook' because I think that's his real, he won't tell you that but you listen to him, I mean he wanted to give a briefing last night, Madam President, on Middle East policy. No one apparently was going to attend so he canceled it but really, so, welcome to the Washington State Senate. Glad to have you here. Nice young fresh voice and I'll have, every time you stand up in caucus, I'll have Alvin and the Chipmunks singing, 'Too Sexy for your Love.' Thank you.

#### PERSONAL PRIVILEGE

Senator Baumgartner: "Well, I just want to express my heartfelt gratitude and appreciation for being in this august body with the other members. I just think it's a true privilege and I really have a sense of appreciation for the hard work that you do for our state. I've had the opportunity to be face, be in situations that faced tough challenges in several different occurrences around the world and I have no doubt the challenge we are going to face here, the breadth of that challenge, the depth of that challenge is going to be equal of anything I've seen before. I also know that when I've seen America at its best it's when America works together. I truly believe that so in that spirit of working together I have a couple of tokens of my appreciation for you. The first is a bottle of wine from Spokane zone, Latah Creek Winery and you'll note that this will be delivered to your office. You'll note that the bottle of wine is called Spokane Blush and you will witness me doing the Spokane blush on many occasions not just today. On the bottle of wine there's a quote by the great G. K. Chesterton which says 'we're all in the same boat in the stormy sea and we owe each a terrible loyalty' and it follows with 'with the appreciation with your service to our state, sincerely, Senator Michael Baumgartner, 6<sup>th</sup> District Spokane. So that's the sense of carrot of appreciation, but like federal stimulus money, the token of appreciation comes with strings attached, so, I'm also giving you to be delivered a lump of coal. The reason for that many of you may know my beautiful wife Eleanor is pregnant and we are experiencing our first baby in June and I'd ask that you'd not drink the wine until the end of session and if we don't get out of here in time for me to see my baby being born I'm taking the wine back and you can keep the coal. So, with that said, thank you very much it really is an honor to be here."

#### REMARKS BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "The President was not aware that there was a shortage of sexy men."

#### SECOND READING

SENATE BILL NO. 5115, by Senators Harper, Pflug, Kline, Roach, Carrell and Kilmer

Concerning private transfer fee obligations.

#### MOTIONS

On motion of Senator Harper, Substitute Senate Bill No. 5115 was substituted for Senate Bill No. 5115 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Harper, the rules were suspended, Substitute Senate Bill No. 5115 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Harper, Schoesler, Sheldon and Pflug spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Delvin, Senator Benton was excused.

#### MOTION

On motion of Senator White, Senator Hargrove was excused.

#### PERSONAL PRIVILEGE

Senator Tom: "Senator Kline keeps asking me if the good gentleman from the Thirty-Eighth District is going to be handing out these little baggies!"

#### PERSONAL PRIVILEGE

Senator Kline: "Madam President, 'Why is everybody always looking at me!'"

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5115.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5115 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Benton

SUBSTITUTE SENATE BILL NO. 5115, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced Lacey Harper, wife of Senator Harper who was seated in the gallery.

#### PERSONAL PRIVILEGE

Senator Harper: "I just wanted to thank everyone as my previous colleagues have. It is a truly honor and privilege to be here. I was here for the first time on my eighth birthday and I'm thrilled so many of you stuck around to serve with me. Like several of my colleagues, I'm going to highlight a couple of small businesses in the Thirty-Eighth District as part of that token that I will be offering all of you. It will be delivered to your offices. We have two great breweries in the Thirty-Eighth District. Lazy Boy and the Scuttlebutt Brewing. Lazy Boy is a fairly new business run by a husband and wife, the Loring. No employees at this time but they've really grown their distribution throughout the state. Scuttlebutt, on the other hand, employs twenty-one in my district and it's amazing to see it continue that that business supports, they keep about one-hundred forty acres of farm land in production through all the grains and products that they acquire. With their spent grains they feed over one-hundred twenty cattle in the state and so each of you will receive beers from these two

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great businesses to your offices and I just thank you again for having me today and thanks to my wife for being here to watch this.”

PERSONAL PRIVILEGE

Senator Roach: “To the previous speaker over there since this is my twenty-first year, I might be the one that held back for you. But I will say I’m also the one on this side of the aisle that voted to seat you earlier this year so try not to point out the flaws over here, ok?”

MOTION

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

MOTION

Senator Kline moved adoption of the following resolution:

SENATE RESOLUTION  
8627

By Senator Kline

WHEREAS, Immigrants from China first came to America in the 1860s with a true American spirit of hope for a better life and access to opportunities for their children; and

WHEREAS, Chinese-Americans played a vital role in the history and development of Washington state and our country; and

WHEREAS, Chinese-Americans helped build Washington railroads, mining, and fishing industries, transportation networks, retail commerce, technology centers, educational and artistic institutions, and the government itself; and

WHEREAS, The number of people of Chinese descent in Washington grew from 234 in 1870 to more than 3,000 a decade later, and today there are more than 60,000 Chinese-Americans statewide; and

WHEREAS, The state and territorial legislatures across the country, including Washington, enacted discriminatory laws targeting Chinese immigrants in order to discourage further immigration from China and sought to severely limit the success of the Chinese laborers already here; and

WHEREAS, In 1853, the Washington Territorial Legislature passed a law that denied anyone of Chinese descent the right to vote and, in 1864, the Territorial Legislature passed a "police tax" on all Chinese immigrants over the age of eighteen; and

WHEREAS, In 1882, the United States Congress passed the Chinese Exclusion Act, which banned Chinese emigrants from entering America and called for the deportation of any who arrived after 1880; and

WHEREAS, Chinese immigrants were denied the opportunity to own land in Washington when the Washington Territorial Legislature passed the Alien Land Law in 1886, barring ownership of land by anyone "incapable of becoming citizens"; and

WHEREAS, Despite widespread discrimination, then Sheriff William Billings and a large force of citizens stood with courage to uphold order and protect Chinese citizens from a mob of nearly 100 men in Olympia in 1886; and

WHEREAS, In 1943, President Franklin D. Roosevelt signed the Magnuson Act, sponsored by Washington Senator Warren Magnuson, to repeal the Chinese exclusion laws; and

WHEREAS, In the 1950s and 1960s, more Chinese entered fields traditionally closed to them, such as medicine, engineering, corporate business, and even politics; and

WHEREAS, Chinese-American Wing Luke (1925-1965) was elected to the Seattle City Council in 1962, becoming the first Chinese-American on the U.S. mainland to hold such a post; and

WHEREAS, In 1974, Chinese American Ruby Chow (1920-2008) became the first Asian-American elected to the King County Council, which was an extension of her role as an influential female leader in Seattle's Chinese community; and

WHEREAS, Today, Washingtonians of Chinese descent continue to occupy leading roles in politics, business, and academia, including Gary Locke, the first Chinese-American governor in the United States and currently the U.S. Secretary of Commerce;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor Chinese-Americans for their vast and irreplaceable contributions to Washington state, despite enduring decades of systematic, pervasive, and sustained discrimination.

Senator Kline spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8627.

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

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed Ron Chew, Chinese Expulsion Remembrance Project Lead Advisor, who was seated in the gallery.

MOTION

At 12:22 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, February 25, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FORTY SEVENTH DAY**

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**MORNING SESSION**

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Senate Chamber, Olympia, Friday, February 25, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Nadia Neslon and Donald Tyson, presented the Colors. Rabbi Cheski Edelman of the Chabad Jewish Discovery Center of Olympia offered the prayer.

**MOTION**

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

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SB 5858 by Senators Schoesler, Kilmer, Honeyford, Tom, Holmquist Newbry and Shin

AN ACT Relating to department of fish and wildlife-owned land used for agricultural purposes; amending RCW 77.12.210; and adding a new section to chapter 77.12 RCW.

Referred to Committee on Natural Resources & Marine Waters.

**MOTION**

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

**MOTION**

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

**MOTION**

Senator Shin moved adoption of the following resolution:

**SENATE RESOLUTION  
8626**

By Senators Shin, Becker, Morton, McAuliffe, Rockefeller, Regala, Baumgartner, Roach, Haugen, Benton, Eide, Delvin, Nelson, Tom, Ranker, Chase, Hobbs, Sheldon, Kastama, Schoesler, Stevens, Fraser, Harper, Swecker, Prentice, Litzow, Hatfield, King, Fain, and Kilmer

WHEREAS, Haryong Lee served ably for the last three years as Consul-General of the Republic of Korea in Washington State; and

WHEREAS, Consul-General Lee's career, spanning over 35 years, at renowned academic institutions, in economics, business,

and in international diplomacy has increased his ability to better serve the State of Washington; and

WHEREAS, Consul-General Lee has demonstrated outstanding success and service in both the public and private sectors in both the Republic of Korea and the United States; and

WHEREAS, In Seattle as well as his other postings across the globe, Consul-General Lee was embraced by all people of Korean descent, and showed tremendous dedication to the same; and

WHEREAS, Consul-General Lee's immense knowledge of his nation and the United States led to increased trade and cultural relations between Washington and the Republic of Korea; and

WHEREAS, Consul-General Lee and the Korean-American community maintain close ties with Korea and, at the same time, continue to establish and strengthen their relationship to the State of Washington; and

Whereas, Korean-Americans own and operate over 3,500 businesses in Washington that have gross sales and receipts of approximately 1.5 billion dollars annually, pay 180 million dollars in taxes per year, and employ approximately 10,000 Washingtonians; and

WHEREAS, The State of Washington owes a tremendous debt to Consul-General Lee for the tremendous work he accomplished during his tenure in Seattle; and

WHEREAS, Consul-General Lee went above and beyond the duties of his position and indefatigably worked to maintain and expand the crucial economic and cultural relations between the Republic of Korea and Washington;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the State of Washington honor Consul-General Haryong Lee for his service to the Republic of Korea and Washington, his diplomatic nature, extreme kindness, and understanding of the crucial relationship between our peoples; and

BE IT FURTHER RESOLVED, That the Senate also recognizes the outstanding achievements and contributions Korean-Americans have made to our state, which have enriched communities throughout Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Consul-General Lee and the Korean Consulate in Seattle, and his government.

Senators Shin, Holmquist Newbry, Kastama, Eide, McAuliffe, Fraser, Chase and Roach spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8626.

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

**INTRODUCTION OF SPECIAL GUESTS**

The President Pro Tempore welcomed and introduced members of the Korean American community who were seated in the gallery.

**MOTION**

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

**SECOND READING**

SENATE BILL NO. 5157, by Senators Murray, Prentice, White, Swecker, Delvin, Kohl-Welles and Shin

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Concerning the operation of foreign trade zones on property adjacent to but outside a port district.

## MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5157 was substituted for Senate Bill No. 5157 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5157 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Baumgartner spoke in favor of passage of the bill.

## MOTION

On motion of Senator Ericksen, Senator Benton was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5157.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5157 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5157, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5403, by Senators Chase, Kastama, Shin, Prentice, McAuliffe and Pridemore

Authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development.

The measure was read the second time.

## MOTION

On motion of Senator Chase, the rules were suspended, Senate Bill No. 5403 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Chase, Kastama and Baumgartner spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5403.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5403 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Shin

SENATE BILL NO. 5403, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5671, by Senators Ericksen, Becker, Delvin and Honeyford

Modifying hospital and emergency service personnel reporting requirements to local enforcement.

## MOTIONS

On motion of Senator Ericksen, Substitute Senate Bill No. 5671 was substituted for Senate Bill No. 5671 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ericksen, the rules were suspended, Substitute Senate Bill No. 5671 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ericksen, Keiser, Schoesler, Sheldon and Conway spoke in favor of passage of the bill.

Senator Parlette spoke on final passage of the bill.

## MOTION

On motion of Senator White, Senator Shin was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5671.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5671 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5671, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Ericksen: “Well, thank you Madam President. Well, I’ll try to slow the speech down a little on the Senate floor this year but I have been informed that many of the members like to get out early in the afternoon to be able to exercise their senior discount at the buffet so, I thought I’d like to rush the process along a little bit to allow you to get there a little bit there earlier in the afternoon. I just want to say what an honor it is to represent the people in the Forty-Second Legislative District in Whatcom County here in this chamber. It’s a great thrill to be here and to look at the walls and know the history and to see the people sitting on this floor and the dedication they have to the people they represent and just to be part of it is very exciting. Madam Speaker, Madam President, man if I do that...Wow, we never even had a Madam Speaker either which is the funny part about it. Madam President, one of the great things about Whatcom County, it’s a phenomenal place, and the gifts I’ll talk about those in a second. But Whatcom County is defended from the south with the Chukanut Mountains and on the northern border we defend the rest of Washington State from Canada. As the Canadians come through we try to disarm them of their money at our malls before they get to the Burlington Outlet Mall, before they get to Tulalip Village and before they get to Bellevue Square. But Whatcom County it is the land of oil and aluminum. It’s the land of berries and dairies. It’s the land of timber and fish. We’re the only district in the entire nation that has an overseas property at Point Roberts, where we’re able to go through two international borders crossings to come down to Point Roberts. We’re unique in so many ways. We’re the land of the Nooksack Valley Pioneers, and we’re the land of the Lummy Nation Blackhawks. We’re a truly diverse region, made up of wonderful people. The gifts that I am passing out today, the first one that celebrates the Ski to Sea of Whatcom County. People talk about how beautiful their districts are but truly Whatcom County cannot be compared to any of the ones because its such a phenomenal place. The Mt. Baker ski area holds the world record for the most snow in a single ski season. Over ninety-five feet, one-thousand one-hundred forty inches of snow fell at Mt. Baker in 1999 leading clearly to a catastrophic global cooling. Mt. Baker has the highest average snow fall in any resort in the world at six hundred forty-seven inches per year. It’s an amazing place and being passed out to you today is a lift ticket for anybody who’d like to utilize it to come and see the Mt. Baker ski area first hand. The pictures included on that card goes with the lift ticket are taken by Grant Gunderson, world reknown ski photographer. The best in the world. Also resides in Whatcom County and the Mt. Baker ski area is actually run right now by high school classmates of mine, the Howett family. The other gift that we’re passing out today celebrates the sea portion of the Sea to Ski in Whatcom County. That’s a can of albacore tuna, caught off the Washington Coast but packed in Bellingham by Bornstein Sea Food. Bornstein Sea Food began in 1930 during the Depression, was taken over by Jay Bornstein. Now it’s been passed on to Collin Bornstein also a high school class mate of mine who served as CEO of this corporation. One of the largest packers of tuna on the West Coast but also the only company that packs only tuna caught off the Washington Coast. They do not import the tuna from any other place. Its dolphin safe and very high in Omega 3. It’s a great company but it really demonstrates the great diversity of Whatcom County and the Sea to Ski from Mt. Baker, to Bornstein Sea Food and all the places in between. So, from Whatcom County to the rest of Washington State and to the Senators here today thanks again for the opportunity to be here to pass this first piece of legislation and let you know how excited I am to serve with you here in the Washington State Senate.”

SENATE BILL NO. 5192, by Senators Nelson, Swecker and Chase

Concerning provisions for notifications and appeals timelines under the shoreline management act.

#### MOTIONS

On motion of Senator Nelson, Substitute Senate Bill No. 5192 was substituted for Senate Bill No. 5192 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Nelson, the rules were suspended, Substitute Senate Bill No. 5192 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Nelson spoke in favor of passage of the bill.

Senators Schoesler and Conway spoke on final passage of the bill.

#### MOTION

On motion of Senator White, Senator Regala was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5192.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5192 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Honeyford

Excused: Senator Regala

SUBSTITUTE SENATE BILL NO. 5192, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Nelson: “First of all it is an honor to be here on the Senate floor and like all of our districts we have wonderful small businesses in the Thirty-Fourth. One of those sits in the heart of Vashon Island where I live. It was Stewart Brothers Coffee and when we first moved there in 1994 as you drove down Vashon Highway you could smell the roastery and roasting certainly seems to be a part of the Senate. So, now, I have a present to you from Minglement, that took over that roasterie and hopefully you will be enjoying the Orca blend, the Wolf Town blend or the Vashon blend this weekend. They have wonderful coffee and I do want to mention to all of you that I was very nervous standing today. I’ve watched the proceedings this week and even though I have silver hair, Senators Ranker, Hobbs and Hatfield have always focused on the good representative from the Forty-First and I ask them why and they said, ‘my hair moves’. I also have to say to the good representative from the Forty-Seventh who was

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born in Hawaii. I grew up there. But there's no attention to that because I have a birth certificate from Minnesota. Finally, I've listened to the music of the Chipmunks yesterday from the good Senator from the Sixth and I don't know hear my music on this floor today, it's called the Dixie Chicks 'Not Ready to Back Down.' Thank you so much, I really enjoy being here."

SECOND READING

SENATE BILL NO. 5505, by Senators Hill, Chase, Fain, Pridemore, Stevens, Nelson, Litzow, Swecker, Honeyford and Schoesler

Allowing the use of federal census data to determine the resident population of annexed territory.

The measure was read the second time.

MOTION

On motion of Senator Hill, Substitute Senate Bill No. 5505 was not substituted for Senate Bill No. 5505 and the substitute bill was not adopted.

MOTION

Senator Hill moved that the following striking amendment by Senators Hill and Chase be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.13.260 and 1979 c 151 s 25 are each amended to read as follows:

(1) Whenever any territory is annexed to a city or town, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management, hereinafter in this section referred to as "the office", within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the city or town. Such certificates shall be in such form and contain such information as shall be prescribed by the office. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office shall furnish certification forms to any city or town.

(2)(a) The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the city or town. ~~((Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of, the office.))~~

(b) If the annexing city or town has a population of ten thousand or less, the annexed territory consists entirely of one or more partial federal census blocks, or 2010 federal decennial census data has not been released within twelve months immediately prior to the date of annexation, the population determination shall consist of an actual enumeration of the population.

(c) In any circumstance, the city or town may choose to have the population determination of the entire annexed territory consist of an actual enumeration. However, if the city or town does not use actual enumeration for determining population, the annexed territory includes or consists of one or more complete federal census blocks, and 2010 federal decennial census data has been released within twelve months immediately prior to the date of annexation,

the population determination shall consist of:

(i) Relevant 2010 federal decennial census data pertaining to the complete block or blocks, as such data has been updated by the most recent official population estimate released by the office pursuant to RCW 43.62.030;

(ii) An actual enumeration of any population located within the annexed territory but outside the complete federal census block or blocks; and

(iii) If the office, at least two weeks prior to the date of annexation, confirms the existence of a known census error within a complete federal census block and identifies a structure or complex listed in (c)(iii)(A) through (E) of this subsection (2) as a likely source of the error, an actual enumeration of one or more of the block's identified:

(A) Group quarters;

(B) Mobile home parks;

(C) Apartment buildings that are composed of at least fifty units and are certified for occupancy between January 1, 2010, and April 1, 2011;

(D) Missing subdivisions; and

(E) Closures of any of the categories in (c)(iii)(A) through (D) of this subsection.

(d) Whenever an actual enumeration is used, it shall be made in accordance with the practices and policies of, and subject to the approval of, the office.

(e) The city or town shall be responsible for the full cost of the population determination.

(3) The population shall be determined as of the effective date of annexation as specified in the relevant ordinance.

Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office in determining the population of such city or town.

Upon approval of the annexation certificate, the office shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Sec. 2. RCW 35A.14.700 and 1979 ex.s. c 18 s 28 are each amended to read as follows:

(1) Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of financial management within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office of financial management shall retain the original copy in its files, and transmit the second copy to the department of transportation and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office of financial management. A copy of the complete ordinance containing a legal description and a map showing specifically the boundaries of the annexed territory shall be attached to each of the three copies of the certificate. The certificate shall be signed by the mayor and attested by the city clerk. Upon request, the office of financial management shall furnish certification forms to any code city.

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(2)(a) The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city.

(b) If the annexing code city has a population of ten thousand or less, the annexed territory consists entirely of one or more partial federal census blocks, or 2010 federal decennial census data has not been released within twelve months immediately prior to the date of annexation, the population determination shall consist of an actual enumeration of the population.

(c) In any circumstance, the code city may choose to have the population determination of the entire annexed territory consist of an actual enumeration. However, if the code city does not use actual enumeration for determining population, the annexed territory includes or consists of one or more complete federal census blocks, and 2010 federal decennial census data has been released within twelve months immediately prior to the date of annexation, the population determination shall consist of:

(i) Relevant 2010 federal decennial census data pertaining to the complete block or blocks, as such data has been updated by the most recent official population estimate released by the office of financial management pursuant to RCW 43.62.030;

(ii) An actual enumeration of any population located within the annexed territory but outside the complete federal census block or blocks; and

(iii) If the office of financial management, at least two weeks prior to the date of annexation, confirms the existence of a known census error within a complete federal census block and identifies a structure or complex listed in (c)(iii)(A) through (E) of this subsection (2) as a likely source of the error, an actual enumeration of one or more of the block's identified:

(A) Group quarters;

(B) Mobile home parks;

(C) Apartment buildings that are composed of at least fifty units and are certified for occupancy between January 1, 2010, and April 1, 2011;

(D) Missing subdivisions; and

(E) Closures of any of the categories in (c)(iii)(A) through (D) of this subsection.

(d) Whenever an actual enumeration is used, it shall be made in accordance with the practices and policies of, and subject to the approval of, the office of financial management.

(e) The code city shall be responsible for the full cost of the population determination.

(3) Upon approval of the annexation certificate, the office of financial management shall forward to each state official or department responsible for making allocations or payments to cities or towns, a revised certificate reflecting the increase in population due to such annexation. Upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for the allocation and payment of state funds to such city or town.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate is forwarded by the office of financial management thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

((The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. Such population determination shall consist of an actual enumeration of the population which shall be made in accordance with practices and policies, and subject to the approval of the office of financial management. The population shall be determined as of

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the effective date of annexation as specified in the relevant ordinance.))

(4) Until an annexation certificate is filed and approved as provided herein, such annexed territory shall not be considered by the office of financial management in determining the population of such code city."

Senator Hill spoke in favor of adoption of the striking amendment.

#### POINT OF INQUIRY

Senator Sheldon: "Would Senator Hill yield to a question? I was wondering on this amendment, in Section Two and that's Subsection Three of number C it reads. If I might Madam President? It reads if the Office of Financial Management 'at least two weeks prior to the day of annexation confirms the existence of known census air within a complete federal census block that identifies a structure or complex listed in sub c iii A through E of this subsection 2 as a likely source of the error and actually a numeration of one or more of blocks identified'. Could you give us a little more explanation of that sentence?"

Senator Hill: "I would refer that to the Ranking Member to answer that."

Senators Swecker, Eide and McAuliffe spoke on adoption of the striking amendment.

#### POINT OF INQUIRY

Senator Schoesler: "Would Senator Chase yield to a question? Senator, do you believe that by co-sponsoring this amendment with the new gentleman from the Forty-Fifth District that you may have ruined him for life in Kirby Wilber's eyes?"

Senator Chase: "I signed onto this striking amendment to let you know that it was a struggle because it was a thoroughly a worked bill and all of the stakeholders were at the table but I want to say that my new colleague wanted to count the ever increasing numbers of mobile homes parks in the assumption area, there's only one. You know, we're not issuing any additional permits but he also wanted to count all the wildlife in St. Edwards Park which is adjacent to the assumption area but not in it. So, it took a lot of work and I put my name on it this striking amendment to let you know that he brought him to heel and he's going to be a good member of this body."

#### POINT OF INQUIRY

Senator Hatfield: "Would Senator Hobbs yield to a question? So Senator I'm trying to figure out which one of the fab four brought this bill forward? Is it the guy with the hair?"

Senator Hobbs: "No, man. That's Litzow from the Forty-First District and check his fancy clothes. They call him Posh Spice."

Senator Hatfield: "Ok, that is nice hair. He must use some of those Jimmy Johnson endorsed products or something. So, is Hill the young one?"

Senator Hobbs: "No, Hill's way older than us. No, Fain's the young one from the Forty-Seventh District. They call him Baby Spice."

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Senator Hatfield: "So, Hill must be the cute one?"

Senator Hobbs: "No. Nope that is Baumgartner from the Sixth District. He was voted the sexiest man in Spokane, Iraq and Mozambique I believe. They call him Sexy Spice."

Senator Hatfield: "Ok, he is sexy?"

Senator Hobbs: "Yeah, he is. Not my type. Stair Master."

POINT OF ORDER

Senator Fain: "I just wanted to remind the good Senator from the Forty-Fourth about my guests in the gallery."

Senator Hatfield spoke in favor of the adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Hill and Chase to Senate Bill No. 5505.

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

MOTION

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

On page 1, line 2 of the title, after "territory;" strike the remainder of the title and insert "and amending RCW 35.13.260 and 35A.14.700."

MOTION

On motion of Senator Hill, the rules were suspended, Engrossed Senate Bill No. 5505 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hill and Pridemore spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5505.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5505 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Regala

ENGROSSED SENATE BILL NO. 5505, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

POINT OF ORDER

Senator Eide: "I just wanted to make sure that the individuals in the gallery understand that we do roast our new Senators upon their first bill on the Senate floor. That is what you've experienced today."

POINT OF INQUIRY

Senator Schoesler: "Would Senator Fain yield to a question? On this occasion, what tributes do you bring to the members of this body as the newest Spice Boy?"

PERSONAL PRIVILEGE

Senator Fain: "Well I would of brought Old Spice had I known what my fellow Senators were cooking up. And speaking to my daughter this morning and she said to me, Hey dad, I get the hazing but don't you have more important things to do?" So, I tried to explain to her about the traditions and the deference that we must pay to our other Senators. I really am truly honored to serve in this body and alongside such learned and impressive people. I must say though as I look at my fellow freshman I'm suffering of feelings of inadequacy. You know I no longer possess the youthful exuberance of my friend from the Forty-Seventh and I'll never have the hair of our Senator from the Forty-First and it's clear that my appeal the opposite sex pales in comparison to our fabled and famous heart throb from the Sixth. Yes, true. So, as I deal with these feelings of inadequacy I only hope that I can bring eagerness to learn from you and work together with all of you to bring some change to this great state of ours. I look forward working with in the days and years to come.

As a token of my honor and appreciation I'd like to bestow on you something from my district from Woodinville. Woodinville is fairly famous for wine but I prefer the grain over the grape and I especially think on a Friday afternoon. Woodinville is home to the Red Hook Brewery and some may call it cliché but others call it Red Hook time. So, this will delivered to your offices later. There will be a gift card to let you take a free tour of the brewery coming and so please enjoy. Thank you so much for welcoming with such open arms to this great body."

SECOND READING

SENATE BILL NO. 5058, by Senators Pflug, Kline and Harper

Addressing receiverships.

The measure was read the second time.

MOTION

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

On page 5, after line 16, strike everything through "units;" on line 22 and insert the following:

~~"((ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;~~

~~—((ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units:))~~

((ee) Under RCW 64.32.200(2), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW. For

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purposes of this subsection (1)(ee), a judicial action is commenced as provided in superior court civil rule 3(a) and a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);

(ff) Under RCW 64.34.364(10), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units. For purposes of this subsection 1(ff), a judicial action is commenced as provided in superior court civil rule (3)(a) and a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);"

On page 11, line 1, after "RCW 7.60.025(1)(b)" insert ", (ee), or (ff)"

Senator Pflug spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Kline on page 5, after line 16 to Senate Bill No. 5058.

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

#### MOTION

On motion of Senator Pflug, the rules were suspended, Engrossed Senate Bill No. 5058 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pflug spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5058.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5058 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Regala

ENGROSSED SENATE BILL NO. 5058, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Hill: "Thank you Madam President. I just wanted to say that I've ask that Senator Hatfield or the great Senator from Nineteenth, I've asked that his beer be diverted to the Senator of the Forty-Second and I will be sending a tee shirt over to your office."

#### PERSONAL PRIVILEGE

Senator Parlette: "Thank you, I know it is your duty to introduce folks in the gallery but they just got here and everybody

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is hungry for lunch and I would like to welcome the University of Washington, WSU students to my office which is right off the floor of the Senate if they'd like to visit. We are honored today to have the pharmacy students from the University of Washington and Washington State University in our gallery."

#### PERSONAL PRIVILEGE

Senator Kohl-Welles: "A little addendum to Senator Eide's announcement of her thirty-fifth wedding anniversary next Monday. I will always remember that because it coincides with our Nisqually Earthquake. It is the tenth anniversary of that horrible earthquake on Monday during which I was the only person in the Senate chamber and later rescued Senator Eide's roses from her husband."

#### MOTION

At 11:39 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 4:48 p.m. by Senator Conway.

#### MOTION

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

#### REPORTS OF STANDING COMMITTEES

February 24, 2011

**SB 5017** Prime Sponsor, Senator Regala: Providing a property tax exemption for property held under lease, sublease, or lease-purchase by a nonprofit organization that provides job training, placement, or preemployment services. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5017 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Parlette; Fraser; Holmquist Newbry; Pflug and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Baumgartner; Baxter and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

**SB 5021** Prime Sponsor, Senator Pridemore: Enhancing election campaign disclosure requirements to promote greater transparency for the public. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5021 as recommended by Committee on Government

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Operations, Tribal Relations & Elections be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5044 Prime Sponsor, Senator Rockefeller: Concerning the tax preference review process. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry and Schoesler.

Passed to Committee on Rules for second reading.

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SB 5073 Prime Sponsor, Senator Kohl-Welles: Concerning the medical use of cannabis. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5073 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Baumgartner; Brown; Fraser; Hatfield; Hewitt; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baxter; Conway and Kastama.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5080 Prime Sponsor, Senator Sheldon: Reducing water pollution by replacing or repairing failing on-site sewage systems or connecting failing on-site sewage systems to a sewerage system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

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SB 5083 Prime Sponsor, Senator Ranker: Clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5126 Prime Sponsor, Senator Kilmer: Concerning compensation adjustments for government officials. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5126 be substituted therefor, and the substitute bill do pass. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5136 Prime Sponsor, Senator Kastama: Establishing the first nonprofit online university. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5136 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5160 Prime Sponsor, Senator Conway: Increasing the duty-related death benefit for public employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baumgartner; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Baxter; Hewitt; Honeyford and Pflug.

Passed to Committee on Rules for second reading.

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SB 5161 Prime Sponsor, Senator Fain: Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

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SB 5163 Prime Sponsor, Senator Hobbs: Providing a partial lump sum benefit payment option for certain survivors of active members of the teachers' retirement system plan 1. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

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SB 5167 Prime Sponsor, Senator Schoesler: Concerning tax statute clarifications and technical corrections. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5167 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

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SB 5169 Prime Sponsor, Senator Rockefeller: Encouraging economic development by exempting certain counties from the forest land compensating tax. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

SB 5222 Prime Sponsor, Senator Kastama: Increasing the flexibility for industrial development district levies for public port districts. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5222 as recommended by Committee on Economic Development, Trade & Innovation be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5246 Prime Sponsor, Senator Chase: Concerning employer review of abstracts of driving records. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5246 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Erickson; Hill; Hobbs; Litzow; Nelson; Prentice; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5259 Prime Sponsor, Senator Kline: Concerning the tax payment and reporting requirements of small wineries. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5275 Prime Sponsor, Senator Kline: Addressing homeowner foreclosures. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5275 as recommended by Committee on Financial Institutions, Housing & Insurance be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hewitt; Holmquist Newbry; Honeyford and Schoesler.

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Passed to Committee on Rules for second reading.

February 25, 2011

SB 5297 Prime Sponsor, Senator Nelson: Concerning signature gathering. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5297 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hatfield; Hewitt; Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5318 Prime Sponsor, Senator Eide: Addressing the office of regulatory assistance. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5318 as recommended by Committee on Economic Development, Trade & Innovation be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5324 Prime Sponsor, Senator Shin: Extending the Washington customized employment training program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5327 Prime Sponsor, Senator Carrell: Limiting the use of public assistance electronic benefit cards. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5327 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5359 Prime Sponsor, Senator Morton: Concerning contiguous land under current use open space property tax programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5359 as recommended by Committee on Agriculture & Rural Economic Development be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5363 Prime Sponsor, Senator Hobbs: Concerning a business and occupation tax deduction for certified community development financial institutions. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5363 as recommended by Committee on Financial Institutions, Housing & Insurance be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5364 Prime Sponsor, Senator Swecker: Concerning public water system operating permits. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5364 as recommended by Committee on Environment, Water & Energy be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Holmquist Newbry and Schoesler.

February 24, 2011

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5365 Prime Sponsor, Senator Nelson: Authorizing the purchase of retirement pension coverage by certain volunteer firefighters and reserve officers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5394 Prime Sponsor, Senator Keiser: Concerning primary care health homes and chronic care management. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5394 as recommended by Committee on Health & Long-Term Care be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5405 Prime Sponsor, Senator Haugen: Promoting efficiency in the Washington state ferry system through personnel and administration reforms. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5405 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5406 Prime Sponsor, Senator Haugen: Concerning the performance of state ferry system management. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5406 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon and Swecker.

Passed to Committee on Rules for second reading.

SB 5411 Prime Sponsor, Senator Kilmer: Concerning fiscal note instructions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5427 Prime Sponsor, Senator McAuliffe: Regarding an assessment of students in state-funded full-day kindergarten classrooms. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5427 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baumgartner; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baxter; Hewitt; Honeyford; Pridemore; Regala and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5457 Prime Sponsor, Senator White: Providing a congestion reduction charge to fund the operational and capital needs of transit agencies. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5457 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; Eide; Hobbs; Nelson; Prentice; Ranker; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators King; Fain; Ericksen; Hill; Litzow and Sheldon.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Delvin.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5458 Prime Sponsor, Senator Keiser: Concerning medicaid fraud. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5458 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry and Honeyford.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5488 Prime Sponsor, Senator Hatfield: Facilitating integration of behavioral health care and primary care. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5494 Prime Sponsor, Senator Brown: Addressing the default investment option available to new members of the plan 3 retirement systems. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5517 Prime Sponsor, Senator Tom: Exempting institutions of higher education that do not use archives and records management services from payment for those services. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5517 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Hatfield; Hewitt; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Fraser; Holmquist Newbry; Honeyford and Kastama.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baumgartner and Baxter.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5525 Prime Sponsor, Senator Kilmer: Addressing hospital benefit zones that have already formed. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5525 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice

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Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5526 Prime Sponsor, Senator Regala: Concerning incentives for sterling converters. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5531 Prime Sponsor, Senator King: Reimbursing counties for providing judicial services involving mental health commitments. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5531 as recommended by Committee on Human Services & Corrections be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Conway; Kastama and Regala.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5541 Prime Sponsor, Senator Murray: Concerning regional mobility grants and tax incentives for improving transportation connectivity and efficiency. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5541 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5569 Prime Sponsor, Senator Honeyford: Addressing postretirement employment at institutions of higher education. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget

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Chair; Zarelli; Baxter; Brown; Conway; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5572 Prime Sponsor, Senator Kilmer: Authorizing institutions of higher education to limit enrollment in the running start program. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5576 Prime Sponsor, Senator Kilmer: Regarding capital construction and building purposes at the University of Washington and Washington State University. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5576 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5595 Prime Sponsor, Senator Parlette: Concerning distribution of the public utility district privilege tax. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5595 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5596 Prime Sponsor, Senator Parlette: Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5596 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5616 Prime Sponsor, Senator Tom: Creating the launch year program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5616 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and Pridemore.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5628 Prime Sponsor, Senator Fain: Concerning a limited property tax exemption from the emergency medical services levy. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5636 Prime Sponsor, Senator Haugen: Concerning the University Center of North Puget Sound. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5636 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Brown; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Pflug; Pridemore and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Fraser; Honeyford and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Baxter.

Passed to Committee on Rules for second reading.

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SB 5638 Prime Sponsor, Senator Keiser: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies. (REVISED FOR ENGROSSED: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies while protecting other levies from prorating. ) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Keiser; Kohl-Welles; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5662 Prime Sponsor, Senator Conway: Establishing a preference for resident contractors on public works. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5662 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5682 Prime Sponsor, Senator Honeyford: Concerning reimbursement of prenatal and well-child visits for rural health clinics. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Rockefeller.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5689 Prime Sponsor, Senator Ranker: Concerning boarding benefits on a certain ferry route. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5713 Prime Sponsor, Senator Haugen: Implementing recommendations of the Ruckelshaus Center process. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5713 as recommended by Committee on Agriculture & Rural Economic Development be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5741 Prime Sponsor, Senator Kastama: Concerning the economic development commission. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5742 Prime Sponsor, Senator Haugen: Concerning the administration and distribution of Washington state ferry system revenue. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5742 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5749 Prime Sponsor, Senator Brown: Regarding the Washington advanced college tuition payment (GET) program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5749 as recommended by Committee on Higher Education & Workforce Development be substituted therefor, and the substitute bill do pass. Signed by Senators

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Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5758 Prime Sponsor, Senator Kilmer: Regarding management of dedicated accounts for comprehensive institutions of higher education. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5758 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5763 Prime Sponsor, Senator Ranker: Amending the existing nonresident retail sales tax exemption. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5764 Prime Sponsor, Senator Kastama: Creating innovate Washington. (REVISED FOR ENGROSSED: Creating innovate Washington, which includes the Washington clean energy partnership as a programmatic activity. ) Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5764 as recommended by Committee on Economic Development, Trade & Innovation be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

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SB 5769 Prime Sponsor, Senator Rockefeller: Regarding coal-fired electric generation facilities. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5769 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Baxter; Hewitt; Holmquist Newbry; Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baumgartner and Pflug.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5771 Prime Sponsor, Senator White: Implementing public-private partnership best practices for nontoll transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5773 Prime Sponsor, Senator Zarelli: Making a health savings account option and high deductible health plan available to public employees. (REVISED FOR ENGROSSED: Making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees. ) Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Kohl-Welles; Pflug; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Conway and Keiser.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5785 Prime Sponsor, Senator Murray: Reconvening an Alaskan Way viaduct and Seattle Seawall replacement project expert review panel. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5785 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

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Passed to Committee on Rules for second reading.

February 24, 2011

SB 5791 Prime Sponsor, Senator Hobbs: Allowing certain commercial activity at certain park and ride lots. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5791 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5795 Prime Sponsor, Senator Brown: Regarding funding higher education child care grants. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5795 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5796 Prime Sponsor, Senator Haugen: Concerning public transportation systems. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5796 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5797 Prime Sponsor, Senator Fain: Eliminating the urban arterial trust account. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5797 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5800 Prime Sponsor, Senator King: Authorizing the use of modified off-road motorcycles on public roads. Reported by Committee on Transportation

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MAJORITY recommendation: That Substitute Senate Bill No. 5800 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5817 Prime Sponsor, Senator Prentice: Extending the expiration of the agency council on coordinated transportation. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Litzow; Prentice; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5834 Prime Sponsor, Senator Murray: Permitting counties to direct an existing portion of local lodging taxes to programs for arts and heritage. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5834 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Honeyford; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5836 Prime Sponsor, Senator King: Allowing certain private transportation providers to use certain public transportation facilities. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5836 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SB 5837 Prime Sponsor, Senator King: Allowing certain private transportation providers to use certain public transportation facilities. Reported by Committee on Transportation

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MAJORITY recommendation: That Substitute Senate Bill No. 5837 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5838 Prime Sponsor, Senator Hargrove: Making changes to laws administered by the department of revenue that do not create any new or, except for the deduction in RCW 82.04.4297, broaden any existing tax preference as defined in RCW 43.136.021 or increase any person's tax burden. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5838 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5849 Prime Sponsor, Senator Prentice: Concerning estates and trusts. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 25, 2011

SB 5852 Prime Sponsor, Senator Hewitt: Addressing the public employment of retirees from plan 1 of the teachers' retirement system and plan 1 of the public employees' retirement system. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

February 25, 2011

SJR 8202 Prime Sponsor, Senator Zarelli: Authorizing the reduction of public officials' salaries. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Joint Resolution No. 8202 be substituted therefor, and the substitute joint resolution do pass. Signed by Senators

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Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

February 24, 2011

SJR 8206 Prime Sponsor, Senator Zarelli: Requiring extraordinary revenue growth to be transferred to the budget stabilization account. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 24, 2011

SGA 9057 EDMUND I KILEY, appointed on January 14, 2010, for the term ending December 26, 2013, as Member of the Board of Pilotage Commissioners. Reported by Committee on Transportation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

February 24, 2011

SGA 9073 RICHARD F MCCURDY, appointed on March 1, 2010, for the term ending December 26, 2011, as Member of the Board of Pilotage Commissioners. Reported by Committee on Transportation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Fraser, all measures listed on the Standing Committee report were referred to the committees as designated.

#### MOTION

At 4:50 p.m., on motion of Senator Fraser, the Senate adjourned until 10:00 a.m. Monday, February 28, 2011.

BRAD OWEN, President of the Senate



**FIFTIETH DAY**

**MORNING SESSION**

BARBARA BAKER, Chief Clerk

Senate Chamber, Olympia, Monday, February 28, 2011

MESSAGE FROM THE HOUSE

February 26, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Benton, Delvin, Kline and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Ali Johnson and J. Henry Jennings, presented the Colors.

Mr. Kai Johnson, grandson of Senator Becker, led the Senate in the Pledge of Allegiance.

Reverend Jim Erlandson of the Community of Christ Church of Olympia offered the prayer.

**MOTION**

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

**MOTION**

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

MESSAGE FROM THE HOUSE

February 25, 2011

MR. PRESIDENT:

The House has passed:

- HOUSE BILL NO. 1069,
- SUBSTITUTE HOUSE BILL NO. 1105,
- HOUSE BILL NO. 1181,
- HOUSE BILL NO. 1236,
- HOUSE BILL NO. 1239,
- SUBSTITUTE HOUSE BILL NO. 1266,
- HOUSE BILL NO. 1298,
- HOUSE BILL NO. 1353,
- HOUSE BILL NO. 1425,
- HOUSE BILL NO. 1432,
- SUBSTITUTE HOUSE BILL NO. 1453,
- SUBSTITUTE HOUSE BILL NO. 1470,
- HOUSE BILL NO. 1520,
- SUBSTITUTE HOUSE BILL NO. 1524,
- SUBSTITUTE HOUSE BILL NO. 1567,
- HOUSE BILL NO. 1640.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 25, 2011

MR. PRESIDENT:

The House has passed:

- ENGROSSED HOUSE BILL NO. 1234,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572.

and the same are herewith transmitted.

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1003,
- SUBSTITUTE HOUSE BILL NO. 1188,
- SUBSTITUTE HOUSE BILL NO. 1243,
- HOUSE BILL NO. 1263,
- HOUSE BILL NO. 1281,
- SUBSTITUTE HOUSE BILL NO. 1438,
- SUBSTITUTE HOUSE BILL NO. 1467,
- SUBSTITUTE HOUSE BILL NO. 1585,
- SUBSTITUTE HOUSE BILL NO. 1652,
- SUBSTITUTE HOUSE BILL NO. 1811.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 26, 2011

MR. PRESIDENT:

The House has passed:

- HOUSE BILL NO. 1191,
- SUBSTITUTE HOUSE BILL NO. 1205,
- HOUSE BILL NO. 1231,
- HOUSE BILL NO. 1244,
- SUBSTITUTE HOUSE BILL NO. 1315,
- HOUSE BILL NO. 1327,
- SUBSTITUTE HOUSE BILL NO. 1328,
- SUBSTITUTE HOUSE BILL NO. 1336,
- HOUSE BILL NO. 1343,
- HOUSE BILL NO. 1407,
- HOUSE BILL NO. 1465,
- HOUSE BILL NO. 1479,
- SUBSTITUTE HOUSE BILL NO. 1485,
- SUBSTITUTE HOUSE BILL NO. 1538,
- SUBSTITUTE HOUSE BILL NO. 1600,
- SUBSTITUTE HOUSE BILL NO. 1615,
- HOUSE BILL NO. 1667,
- HOUSE BILL NO. 1669,
- SUBSTITUTE HOUSE BILL NO. 1691,
- HOUSE BILL NO. 1709,
- SUBSTITUTE HOUSE BILL NO. 1710,
- SUBSTITUTE HOUSE BILL NO. 1712,
- HOUSE BILL NO. 1812,
- HOUSE BILL NO. 1900.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 26, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1194,
- HOUSE BILL NO. 1440,

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SUBSTITUTE HOUSE BILL NO. 1568,  
 SUBSTITUTE HOUSE BILL NO. 1596,  
 SUBSTITUTE HOUSE BILL NO. 1608,  
 SUBSTITUTE HOUSE BILL NO. 1728,  
 SUBSTITUTE HOUSE BILL NO. 1745,  
 SUBSTITUTE HOUSE BILL NO. 1822.

8623

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 26, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1214,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1869.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 26, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295,  
 ENGROSSED HOUSE BILL NO. 1775.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5859 by Senators Keiser and Pflug

AN ACT Relating to accountability for tax exempt hospitals; amending RCW 84.36.840 and 84.36.040; and creating a new section.

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

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

MOTION

Senator Brown moved adoption of the following resolution:

SENATE RESOLUTION

By Senators Brown, Ranker, Swecker, Fain, Litzow, Shin, Prentice, White, Hill, Murray, Becker, Hobbs, Fraser, Regala, McAuliffe, Kline, Chase, Kilmer, Sheldon, Rockefeller, and Eide

WHEREAS, This year marks the 160th anniversary of the founding of the first YMCA in the United States, a history marked with highlights such as inventing basketball, volleyball, racquetball, pioneering camping, and swimming lessons. YMCAs helped found the USO and Boy Scouts of America and volunteers provided support and services to millions of soldiers during the Civil War, World War I, and World War II; and

WHEREAS, Since 1884 in our great state of Washington when the YMCA of the Inland Northwest in Spokane was founded, YMCAs are at the heart of community life in neighborhoods and towns across the nation, where they provide quality programming with a focus on youth development, healthy living, and social responsibility; and

WHEREAS, The YMCAs of Washington are for people of all faiths, races, abilities, ages, and incomes and they serve more than 320,000 adults and 290,000 children in our communities through health programs, such as chronic disease prevention, swimming, sports, and fitness programs; through high quality early learning child care and after school care services, which assist in school success; and through camps for young people, which provide an opportunity to explore the outdoors, build self-esteem, and make lasting friendships and memories; and

WHEREAS, Since 1947 the YMCA Youth and Government program has worked with 35,000 high school students to learn about civic responsibility through its annual student legislature and mock courtroom trial programs; and

WHEREAS, The YMCAs of Washington provide more than 40 million dollars annually in funding to support our communities through scholarships, subsidies, partnerships, and sponsorships; and

WHEREAS, The YMCAs of Washington have more than 20,000 individuals who volunteer at their local Y's each year, who generously give 6.9 million dollars in time, expertise, and resources to assist in the efforts to strengthen our communities;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and celebrate the 160th Anniversary of the founding of YMCA in the United States, and honor Washington State YMCA members, volunteers, and staff that serve our communities; and

BE IT FURTHER RESOLVED, That the Senate recognize the YMCAs of Washington State and honor their commitment to social responsibility and their commitment to the development and healthy living of our residents.

Senators Brown, King, Hobbs and Shin spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8623.

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

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced members of the YMCA who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Fraser: "Thank you Madam President. I would like to take a couple moments to note historic significance of today. About ten years ago today, the Legislature and the Department of General Administration, Governor's Office, were in a big

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discussion about the scheduling for remodeling the Legislative Building. Major plans had been made to upgrade it in terms of heating and cooling, the air system, making the building better to accommodate computers, better handicap accessibility and so forth. There have been a couple of commissions that have worked on this. There was major planning involved in it and the big dispute was, how do we schedule this. Do we schedule a floor at a time? Do we schedule a wing at a time? How do we get people out of the building so this major construction can take place? Should we empty the building? Oh no, we can't do that. That would be too hard. How can you completely empty the legislative building? Well, at about half of a n hour from now, at about two minutes before eleven, the decision was made for us. The Nisqually Earthquake occurred. I believe it was 6.8 on the Richter scale. It was a day very similar to this., We were running bills. We were going into caucus to get briefed on bills. Kind of routine day in the Legislature. At that time, the time of the earthquake, the Democrats had the caucus room in the corner over there and the Republicans had the caucus room here and we were in caucus. So we were sitting around our respective tables just going through bills and all of a sudden we felt the earth move. At first, just speaking for the people in our room, we didn't think too much about it because this is earthquake country and little ones aren't that unusual but this one kept going. It kept going and it picked up in intensity and pretty soon it felt a lot riding a school bus down a railroad ties on a railroad track, bounce, bounce, bounce. It was very noisy. It was like grind, grind and I thought, 'Wow, the rocks under the earth are grinding together with this strong earthquake.' Pretty soon little pieces of ceiling started to fall down and then people dove under the tables and into the doorways and so forth. I ended up standing up against the wall so I kind of watched the whole thing wishing, hoping it would stop but it kept going and you wondered what was going to happen next. Anyway, it got very intense and bumpy and very noisy and then it suddenly stopped and we all filed out of the building and we stood around outside in the cold without car keys, without jackets, without the ability to come back in the building. Thank you to Security who was really looking out for us and we looked up toward the Dome and here was a huge probably a multi ton decorative block of granite that was poised to fall over the edge of the Legislative Building and, if it had, it would of come down straight through the Senate Chamber, down through the Governor's office, who knows what the loss of life would have been and I think if, so, anyway. Later we found out that all this grinding noise. It wasn't the rocks under the ground. It was the dome. The dome lifted up to zero gravity, and we learned after the fact that all the Dome was being held together with was gravity and so, as the top of the Dome lifted up to zero gravity the pillars kind of the drum area of the Dome started to tip. They weren't held there by anything other than the gravity of the Dome. So that's what all the noise was. I think if the earthquake had gone for say ten more seconds at its full intensity it would have been total tragedy. So, anyway, we were closed for what about a week and then Senate and House staff magically arranged for temporary quarters for the Legislature to meet. We met in temporary quarters for two years and what we thought was impossible when we were looking at remodeling became what we did thanks to the earthquake. So, it occurred that about I think about two minutes before eleven so I don't know if we'll be on the floor or in caucus then but it's certainly a day to remember."

## PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Madam President. Well, this certainly brings back memories. I recall being in the caucus room

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over here, my first year here. Very close to early session, I thought, 'Gosh I really worked very hard to get elected and I'm going to die in this building.' There were lots of noises and some of the chandeliers were coming down but I can recall when we finally got straightened out a little bit and we headed out of the building and I'm thinking, 'Ok, I'm out of here' in a hurry and I'm headed down the stairs and I'm going lickity split and here's Senator Rasmussen holding on to the rail going one step at a time. I'm thinking, 'Oh no, darn it; and I had to grab a hold of her arm. 'Come on Senator; we're going to go a little faster than this.' But it was the first time that I ever encountered an earthquake especially that magnitude and being inside this building all I could think about was the hundreds of tons of marble and concrete around us and above us. I thought, 'My God it will be forever before they find us out of this building' but it was an exciting time. It wasn't much fun coming back and living in the Library for a year or so but it was exciting to be here. I think it's an experience that, if you were here you'll never forget. Thank you Madam President."

## PERSONAL PRIVILEGE

Senator Parlette: "Speaking of that day of the earthquake I had a young page who came to our caucus and the Senate Republican Caucus allows guests to stay so I told her, 'Ashley, now you can stay as long as you want and if you get bored it's ok to leave.' So, anyway as soon as that earthquake happened she was the first person who talked to me. She said 'Senator Parlette, I'm going to leave now.' I think she was the first one out the door and what I learned is how well the pages were trained. They knew exactly what to do if there was an emergency, where to go and it made me think for us. We all went outside but we didn't go to one spot and it made me realize, wow, we as Senators should have some sort of a plan so we all go to one location so we can be counted. We have that now but we didn't have that then. Again, we will all remember that day ten years ago."

## PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Madam President. Well, I have two remembrances of that day. One was when the earthquake hit, rather than jump under a table, I jumped into a window in the caucus room over and all of a sudden the window started banging against my back side and I thought that was kind of stupid so I got into the doorway. I didn't realize four Senators my size and larger can fit into a doorway but we did. The other remembrance I had was that after we were out of the building some of us were down at the bus stop shelter there and Jim West was there, Sid Snyder was there and Brad Owen was there and all of a sudden I don't know if it was Sid or Brad well, we have to adjourn to someplace, time certain and maybe someplace. So, they talked for a minute and Brad banged his fist in his hand and said we were adjourned until whatever time and date it was but I thought it was very interesting that they thought of that at that time. Thank you Madam President."

## PERSONAL PRIVILEGE

Senator Swecker: "Thank you Madam President. I just had a couple of remembrances from that one is that was my birthday so I will never forget when the earthquake happened. The other one was I was really convinced that would be the big news for the year for the State of Washington. You have to remember that that was the year of 9/11, which was an incredible development that

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none of us at that point and time even anticipated. So, makes you think. Makes you sober. Thank you.”

went to the state library in the Pritchard to finish the session we convened in Senate Hearing Room Four and I thought it was a wonderful experience. We cannot help but have collegial relationships with everybody there because we were so close together. We did that through the end of the session and then moved to the Pritchard building but I will never forget saving Senator Eide’s flowers.”

REMARKS BY THE PRESIDENT PRO TEMPORE

Senator Prentice: “Did the President hear correctly that today is the anniversary of your birthday?”

PERSONAL PRIVILEGE

Senator Swecker: “Madam President, yes, that is correct.”

REMARKS BY THE PRESIDENT PRO TEMPORE

Senator Prentice: “Happy Birthday. The President states that you were just a child.”

PERSONAL PRIVILEGE

Senator Eide: “Well, I have to comment not only is it Senator Swecker’s birthday it’s also Lucas Brown’s birthday. He is nineteen and I can still remember being in the House of Representatives and Lucas was just a baby and had a few episodes where that we were here until four o’clock in the morning and Senator Brown had to go get Lucas before the day care closed. It’s amazing how fast time has gone, and most of you know today is also my thirty-fifth wedding anniversary. Our twenty-fifth I will never forget. I always told my husband he rocks my world and I told him to stop it now because of the earthquake on the twenty-fifth anniversary scared the beejeevies out of me but I can also remember Senator Hewitt saying that he was going to die, but quite frankly all of us were in the caucus room over here and I remember Julia Patterson, bless her heart yelled, ‘Under the desk! under the desk.’ so all the Senators got under the desk and I’m sitting under there and I’m thinking,, ‘You know I feel like I got a toothpick on top of my head’ because if that dome went down there was going to be no way that we were going to survive and I think only person that was not in this building at that time was Senator Regala. She was home ill, so she would have been the one running the Senate, running the probably the State of Washington because I think everyone of us were in the dome. I just wanted to say it also snowed on my wedding day so today it is snowing, so, it has happened before at the end of February but I wanted to tell my husband I love him very much. Unfortunately I think I have spent every single anniversary down here for the past over decade so, maybe that’s why it’s working. But anyway I just want to say I love him and he does still rock my world.”

PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Madam President. Well, a couple of things too I understand that it is Senator Pflug’s birthday today as well. She’s not here right now. I congratulate her. But also, I do have to make a correction and I did mention this on the floor on Friday, not everybody was in the caucus room. I was the only Senator and person in the senate chamber. I came out to make a phone call. As I had lived through earthquakes in California earlier in my life, even I wasn’t sure what was happening. It appeared to me like a plane, a small plane, had struck the dome but with all rolling that ensued I knew right away it was an earthquake and I ran out when it subsided a little bit and found and at that time King County Executive, Ron Sims over there. He just came out of a meeting. So when we could we ran down the stairs clutching each other. It was one of the scariest parts. One thing that has not been mentioned is that before we

PERSONAL PRIVILEGE

Senator Carrell: “Thank you Madam President. Well, I believe there was actually one at least one other person that was not in this chamber during the big earthquake other than Senator Regala. I was over on the third floor in the corner office in the other body in that office building. I remember I was giving an interview to the Columbia newspaper at the time and the building started rocking and rolling. I jumped up just in time, because all those big heavy law books we may all have in our office. They all fell down right where I’d been sitting and then a big huge plant and all of the soil landed on top of that. I said, ‘This meeting is over’.”

MOTION

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

MOTION

On motion of Senator White, Senator Kline was excused.

SECOND READING

SENATE BILL NO. 5375, by Senators Hobbs and Benton

Allowing trust companies to be organized as, or convert to, limited liability companies under certain conditions.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5375 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5375.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5375 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 3; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Benton, Delvin and Pflug

Excused: Senator Kline

SENATE BILL NO. 5375, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Ericksen, Senators Benton, Delvin and Pflug were excused.

#### SECOND READING

SENATE BILL NO. 5307, by Senators Kilmer, Hewitt, Regala, Conway, Kastama, Hobbs, King, Rockefeller, Swecker and Roach

Concerning evaluating military training and experience toward meeting licensing requirements in medical professions.

#### MOTION

On motion of Senator Kilmer, Substitute Senate Bill No. 5307 was substituted for Senate Bill No. 5307 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 1, after line 12, insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.30 RCW to read as follows:

An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the secretary determines that the military training or experience is not substantially equivalent to the standards of the state." Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 3, beginning on line 4, strike all of section 8

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Kilmer spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Kilmer and others on page 1, after line 12 to Substitute Senate Bill No. 5307.

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

#### MOTION

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

On page 1, line 2 of the title, after "professions;" insert "adding a new section to chapter 18.30 RCW;" and on line 7 of the title, after "18.74 RCW;" strike "adding a new section to chapter 18.79 RCW;"

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 5307 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5307.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5307 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and Pflug  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5307, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5244, by Senators Fraser, Nelson and Delvin

Addressing law enforcement crime prevention efforts regarding security alarm systems and crime watch programs for residential and commercial locations.

#### MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 5244 was substituted for Senate Bill No. 5244 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 5244 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5244.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5244 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and Pflug  
SUBSTITUTE SENATE BILL NO. 5244, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Swecker: “After having recently mentioned the earthquake was on my birthday, I thought of about something that happened right after the earthquake. That is, it was such a traumatic experience for me on my birthday that I asked staff to draft a resolution that it would take a two-thirds majority to have another earthquake and after due study, they reported back to me that this was outside our jurisdiction so I had to drop the issue. Thank you Madam President.”

SECOND READING

SENATE BILL NO. 5271, by Senators Rockefeller, Swecker, Ranker, Morton, Sheldon, Delvin, Schoesler, Regala, Nelson, Fraser, Kilmer, Shin and Kline

Regarding abandoned or derelict vessels.

MOTIONS

On motion of Senator Rockefeller, Substitute Senate Bill No. 5271 was substituted for Senate Bill No. 5271 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Rockefeller, the rules were suspended, Substitute Senate Bill No. 5271 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Morton and Benton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5271.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5271 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Pflug

SUBSTITUTE SENATE BILL NO. 5271, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5538, by Senator White

Concerning members of certain nonprofit conservation corps programs.

MOTIONS

On motion of Senator White, Substitute Senate Bill No. 5538 was substituted for Senate Bill No. 5538 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator White, the rules were suspended, Substitute Senate Bill No. 5538 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White and Nelson spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Schoesler: “Would Senator Conway yield to a question? Senator, do you believe that there’s any violations of worker comp and unemployment insurance rules within the conservation corps legislation before us?”

Senator Conway: “I would suggest we read this bill very carefully. You know this bill did come out of committee but it seems like there was a lot of changes made in committee before the bill ran out so frankly I don’t know what’s in it. Thank you.”

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5538.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5538 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5538, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Hobbs: “Well, I just want to take this time to thank the good Senator, Senator White, for the hard work that you did. I know the last bill had the word conservation in it and I believe the Senator from the Nineteenth District voted for it so that really surprised me. I also, I’m a little biased, I like you. My brother-in-law works for you so I think you’re my Senator-in-law. But on top of that I’m just amazed that how much you’ve done so far. The previous Senator that was here, it took him, I don’t know, over fifteen years to even get a ‘Schrammy’ and the good Senator, it took him thirty days and he got two. So, good job, I hope you get many and it’s a pleasure serving with you.”

PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Madam President. Well, actually I knew, or I do know, the predecessor of Senator White from the Forty-Sixth District very well. Senator Jacobsen as we had experienced, had an abundance of knowledge about historical

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events and was continually giving us really meaningful significant araldite quotes and I've been a little disappointed that I haven't heard any similarity coming from our new Senator but we'll give him a little bit of slack. I have to say, my biggest disappointment is that he has only introduced thirty-one bills so far. Now, with the former Senator from the Forty-Sixth District we would had at least double that. Eighty-two by this point so I'm watching you. I expect great things of you and especially that you will, at some point, to live up to the amazing imagination and abilities for coming up with terrific bill ideas especially one such as we had, all love the 'dogs in bars' bill."

## PERSONAL PRIVILEGE

Senator Hargrove: "Well, thank you Madam President. I just noticed that Senator White along with the other new Senators in our body this year. They have increased the average height of the Senators, particularly the men, I think they have more hair than most of the rest of us but I would have to note that the IQ average has gone down."

## PERSONAL PRIVILEGE

Senator Haugen: "Well thank you very much. Well, you know actually my history with the good Senator goes back a long ways. His mother actually went to school with one of my older brothers and actually he was an intern in my office when I was in the House. That was a very long time ago and so, it was kind of surprising he ended up as my Vice Chair because I thought, 'My gosh, this guy went to King County,' and you know what happens in King County and we find that he likes process still. He really likes process. I will tell you that I have been disappointed that he can't make those wonderful bird sounds that his former colleague could make. We really do need a birder in this body. Somebody that can tell us what kind of bird is outside the window. But seriously, Senator White is a very bright young man and he has a great future. It's just too bad that his family ever left the Camano Stanwood community area and moved on to the big city of Seattle. It's nice to have someone to represent the metropolitan area on our committee but I will tell you as big and bright as he is those guys from the real county really have a concern about that stuff that comes out of his district. We're going to work with him and hopefully, hopefully he is as good as he predecessor. We don't want him move as many bills but I will tell you I'm disappointed that his first bill you didn't have come out of Transportation. Did I not teach you anything?"

## PERSONAL PRIVILEGE

Senator McAuliffe: "I'd like to take this opportunity to note that your first speech on the floor of the Senate is on the tenth anniversary of the Nisqually Quake. We look forward to your rocking and rolling on the floor and serving with in the State Senate. Congratulations."

## PERSONAL PRIVILEGE

Senator White: "Thank you Madam President. It truly is an honor to serve with you all and to the Gentle lady from the Thirty-Sixth I hope to live up to her expectations. I look forward to working with all of you towards 'one Washington.' To my colleagues from the suburban swing districts representing our strip malls and cul-de-sacs as the Majority Whip and speaking on behalf of my good colleague from the other side of the aisle from the Forty-Second, we understand that you are an indecisive bunch and we understand that you represent the voters that are

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undecided as well but please know that we have a job to do and we have to count votes and when we come up to you with our vote card please don't get mad at us for taking up your time. It's just a formality. We already have you marked on our vote card as undecided so please bear with us on that. I do want to be clear, 'we know who you are.' To my friends in the rural district representing some of the most fertile farm lands and scenic country in the nation, I want you to know that my grandfather was a poor apple farmer in Eastern Washington in the Okanogan. He benefited from President Roosevelt New Deal that brought electricity and irrigation to the farm lands in his community. So, I understand how important it is for us to work together so that our tax revenues may continue to subsidize your lavish life styles of rural socialism. I want you to know, as a legislator from an urban area, we're going to do our best to continue to export those urban tax dollars to you. To my latte-sipping liberal pinko commie friends representing urban districts around the state, I'm confident that if we put all of our PhD, JD, MPA, IOUS together that our over-educated minds can come up with a few more business tax loopholes that we can add to the list because, with our insecurities that we have representing the urban areas, we do need to prove that we do in fact care about the economy.

So, on a serious note I really do want to say it is a tremendous honor to serve here with you today, it is a true honor to represent the citizens of the Forty-Sixth District and to serve the citizens of the State of Washington. I realize that I have big shoes to fill. Senator Jacobsen had a tremendous mind, was a great historian, knew more about this state and different corners of the state than many people that I have met. Today as a token of my friendship I have brought fresh blueberry scones that were baked this morning from a coffee shop that is located in my district. It's actually a classic story of a small business. Two young men, Scott and Ryan, opened up this business ten years ago. They do all the work in the shop. They do the baking in the back room. Five years ago they expanded to a second shop and I think it's symbolic for two reasons not just from the small business perspective but also in North Seattle we love coffee but coffee shops are a community place. They are a gathering place and you will find professionals, you will find family, kids coloring their books in these coffee shops. They will be talking about politics, schools and the status of their communities. So, please enjoy these fresh scones again baked just hours ago. I picked them up on my way down this morning and I look forward to working with you all."

## SECOND READING

SENATE BILL NO. 5065, by Senators Carrell, Kline, Kohl-Welles, Nelson, Delvin, Tom, Shin, McAuliffe and Kilmer

Preventing animal cruelty.

## MOTIONS

On motion of Senator Carrell, Substitute Senate Bill No. 5065 was substituted for Senate Bill No. 5065 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Carrell, the rules were suspended, Substitute Senate Bill No. 5065 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5065.

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 ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5065 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Pridemore

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5065, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:29 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:28 p.m. by the President Pro Tempore.

SECOND READING

SENATE BILL NO. 5625, by Senators Harper, King, McAuliffe, Litzow and Nelson

Authorizing implementation of a nonexpiring license for early learning providers.

The measure was read the second time.

MOTION

On motion of Senator Harper, the rules were suspended, Senate Bill No. 5625 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5625.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5625 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator McAuliffe

SENATE BILL NO. 5625, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5172, by Senators Brown, Harper, Baumgartner, Kohl-Welles, Keiser, McAuliffe and Kline

Authorizing the use of short-term, on-site child care for the children of facility employees.

The measure was read the second time.

MOTION

On motion of Senator Brown, the rules were suspended, Senate Bill No. 5172 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator McAuliffe was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5172.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5172 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator McAuliffe

SENATE BILL NO. 5172, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5674, by Senators Eide, Hobbs, Fain, Tom, Delvin, Kilmer, Shin, McAuliffe and White

Creating the aerospace training student loan program.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 5674 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5674.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5674 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator McAuliffe

SENATE BILL NO. 5674, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5114, by Senator Hargrove

Streamlining competency evaluation and competency restoration procedures.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5114 was substituted for Senate Bill No. 5114 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5114 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.  
Senator Carrell spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5114.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5114 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Delvin, Ericksen, Honeyford, Morton, Roach, Schoesler and Sheldon

Excused: Senator McAuliffe

SUBSTITUTE SENATE BILL NO. 5114, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5142, by Senators Stevens, Hargrove, Nelson, Shin, Pflug, Sheldon, King and Roach

Regarding alternative learning programs.

## MOTIONS

On motion of Senator Stevens, Substitute Senate Bill No. 5142 was substituted for Senate Bill No. 5142 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Stevens, the rules were suspended, Substitute Senate Bill No. 5142 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Stevens spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5142.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5142 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator McAuliffe

SUBSTITUTE SENATE BILL NO. 5142, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Kline: "Thank you Madam President. It's that time again in our clarifications when we sometimes resort to our favorite stimulant. I just want to make sure that all members know, both sides of the aisle are very welcome over here in the Democratic Caucus room. The Goodwill Memorial espresso machine. In view of our fiscal dire straits, I went to Goodwill and got this one for ten bucks so worry about it if you drop it. If it burns out a little bit, no big deal. But we need this stuff. Let's face it. Don't we? We're all addicts ok? Come. My name is legislator and I am an addict. Ok? So, just want you to know it's over here. No milk guys, it's all straight stuff. Thank you."

## SECOND READING

SENATE BILL NO. 5484, by Senator Shin

Concerning the higher education coordinating board's responsibilities with regard to health sciences and services authorities.

The measure was read the second time.

## MOTION

On motion of Senator Shin, the rules were suspended, Senate Bill No. 5484 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

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The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5484.

SENATE BILL NO. 5205, by Senators Kilmer, Sheldon, Rockefeller and White

ROLL CALL

Concerning high capacity transportation system plan components and review.

The Secretary called the roll on the final passage of Senate Bill No. 5484 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

The measure was read the second time.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

On motion of Senator Eide, further consideration of Senate Bill No. 5205 was deferred and the bill held its place on the second reading calendar.

Excused: Senator McAuliffe

SECOND READING

SENATE BILL NO. 5484, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 5362, by Senators Chase, Prentice, White, Nelson, Kastama, Fraser, Shin, Harper, Hatfield, Conway, McAuliffe and Kohl-Welles

SECOND READING

Authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills.

SENATE BILL NO. 5722, by Senators Hargrove, Morton, Stevens, Regala, Shin and McAuliffe

The measure was read the second time.

MOTION

Concerning the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts.

On motion of Senator Chase, the rules were suspended, Senate Bill No. 5362 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTIONS

Senator Chase spoke in favor of passage of the bill.

On motion of Senator Hargrove, Substitute Senate Bill No. 5722 was substituted for Senate Bill No. 5722 and the substitute bill was placed on the second reading and read the second time.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5362.

ROLL CALL

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5722 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Secretary called the roll on the final passage of Senate Bill No. 5362 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Senator Hargrove spoke in favor of passage of the bill.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5722.

Excused: Senator McAuliffe

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5722 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

SENATE BILL NO. 5362, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Voting yea: Senators Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SECOND READING

Voting nay: Senators Baumgartner, Becker, Benton, Ericksen, Holmquist Newbry, Honeyford, Roach and Schoesler

SENATE BILL NO. 5149, by Senators Keiser, Becker, Kohl-Welles, Parlette, Conway and Kline

Excused: Senator McAuliffe

Requiring the department of health to collect current and past employment information in the cancer registry program.

SUBSTITUTE SENATE BILL NO. 5722, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The measure was read the second time.

SECOND READING

MOTION

FIFTIETH DAY, FEBRUARY 28, 2011

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 5149 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Rockefeller was excused.

## POINT OF INQUIRY

Senator Roach: "Would Senator Keiser yield to a question? That is; don't we now put occupations on our death certificates?"

Senator Keiser: "Not if the person is retired or whether it hasn't been listed. It can be, especially is someone is an active employee, but it is not required if you are retired and that's what happens unfortunately with a lot of patients is they do end up leaving the workforce for their final year or their final months. So, there is a gap in knowledge and we do not have that information on the registry, the cancer registry."

Senator Roach spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5149.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5149 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator McAuliffe

SENATE BILL NO. 5149, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 3:31 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:55 p.m. by President Pro Tempore.

## SECOND READING

SENATE BILL NO. 5585, by Senator Carrell

Concerning street rod and custom vehicles.

## MOTION

2011 REGULAR SESSION

On motion of Senator Carrell, Substitute Senate Bill No. 5585 was substituted for Senate Bill No. 5585 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Carrell moved that the following amendment by Senators Carrell and Haugen be adopted:

On page 1, beginning on line 12, strike all of subsection (2) and insert the following:

"(2) Has alterations to one or more of the major component parts listed in RCW 46.80.010 that change the appearance or performance of the vehicle from the original manufacturer's design or has a body constructed from nonoriginal materials."

On page 1, beginning on line 16, after "(1)" strike "With an application for an original certificate of title for a street rod vehicle" and insert "When applying for a certificate of title for a street rod vehicle for the first time"

On page 2, after line 9, strike all of subsection (3) and insert the following:

limited to, brakes, engines, or seat belts, or the presence of optional equipment referenced in RCW 46.37.518, on a street rod vehicle does not invalidate the year of manufacture on the certificate of title."

On page 2, line 19, after "least" strike "twenty-five" and insert "thirty"

On page 2, line 20, after "least" strike "twenty-five" and insert "thirty"

On page 2, beginning on line 22, strike all of subsection (2) and insert the following:

"(2) Has alterations to one or more of the major component parts listed in RCW 46.80.010 that change the appearance or performance of the vehicle from the original manufacturer's design or has a body constructed from nonoriginal materials."

On page 2, beginning on line 26, after "(1)" strike "With an application for an original certificate of title for a custom vehicle" and insert "When applying for a certificate of title for a custom vehicle for the first time"

On page 3, beginning on line 1, strike all of subsection (3) and insert the following:

"(3) The presence of modern equipment including, but not limited to, brakes, engines, or seat belts, or the presence of optional equipment referenced in RCW 46.37.518, on a custom vehicle does not invalidate the year of manufacture on the certificate of title."

On page 3, after line 6, insert the following:

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.16A RCW to read as follows:

A vehicle registration issued to a street rod or custom vehicle under this chapter need not be an initial vehicle registration for that vehicle.

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 7, after line 32, insert the following:

"**Sec. 8.** RCW 46.37.518 and 1996 c 225 s 12 are each amended to read as follows:

Notwithstanding the requirements of this chapter, hoods and bumpers are optional equipment on street rod((s)) vehicles, custom vehicles, and kit vehicles. Street rod((s)) vehicles, custom vehicles, and kit vehicles must comply with fender requirements under RCW 46.37.500(2) and the windshield requirement of RCW 46.37.410(1)."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Carrell spoke in favor of adoption of the amendment.

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The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Carrell and Haugen on page 1, line 12 to Substitute Senate Bill No. 5585.

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

## MOTION

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

On page 1, line 2 of the title, after "46.16A.060" strike "and 46.12.560" and insert ", 46.12.560, and 46.37.518"

On page 1, line 3 of the title, after "46.12 RCW;" insert "adding a new section to chapter 46.16A RCW;"

## MOTION

On motion of Senator Carrell, the rules were suspended, Engrossed Substitute Senate Bill No. 5585 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5585.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5585 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator McAuliffe

ENGROSSED SUBSTITUTE SENATE BILL NO. 5585, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5504, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Eide, Kohl-Welles and Keiser)

Addressing unlicensed child care.

## MOTIONS

On motion of Senator Eide, Substitute Senate Bill No. 5504 was substituted for Substitute Senate Bill No. 5504 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Eide, the rules were suspended, Substitute Senate Bill No. 5504 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5504.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5504 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Pflug

Excused: Senator McAuliffe

SUBSTITUTE SENATE BILL NO. 5504, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5071, by Senators Murray, Pflug, Keiser, Conway, Kline, Parlette and Roach

Providing licensed midwives online access to the University of Washington health services library. Revised for 1st Substitute: Providing licensed midwives and marriage and family therapists online access to the University of Washington health sciences library.

## MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5071 was substituted for Senate Bill No. 5071 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5071 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Pflug spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5071.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5071 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

Excused: Senator McAuliffe

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SUBSTITUTE SENATE BILL NO. 5071, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5747, by Senators Hewitt, Kohl-Welles and Conway

Concerning Washington horse racing funds.

MOTION

On motion of Senator Hewitt, Substitute Senate Bill No. 5747 was substituted for Senate Bill No. 5747 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hewitt moved that the following amendment by Senators Hewitt and Kohl-Welles be adopted:

On page 4, after line 13, insert:

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Hewitt spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Hewitt and Kohl-Welles on page 4, after line 13 to Substitute Senate Bill No. 5747.

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

MOTION

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

On page 1, line 1 of the title, after "funds;" strike the remainder of the title and insert "amending RCW 67.16.105 and 67.16.280; and declaring an emergency."

MOTION

On motion of Senator Hewitt, the rules were suspended, Engrossed Substitute Senate Bill No. 5747 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5747.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5747 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove and Honeyford

Excused: Senator McAuliffe

ENGROSSED SUBSTITUTE SENATE BILL NO. 5747, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

SECOND READING

SENATE BILL NO. 5034, by Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway and Hewitt

Concerning private infrastructure development.

MOTIONS

On motion of Senator Kilmer, Second Substitute Senate Bill No. 5034 was substituted for Senate Bill No. 5034 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Second Substitute Senate Bill No. 5034 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5034.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5034 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senators McAuliffe and Stevens

SECOND SUBSTITUTE SENATE BILL NO. 5034, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5205, by Senators Kilmer, Sheldon, Rockefeller and White

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2011 REGULAR SESSION

Concerning high capacity transportation system plan components and review.

SENATE BILL NO. 5451, by Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin

The measure was read the second time.

Concerning shoreline structures in a master program adopted under the shoreline management act.

MOTION

MOTIONS

Senator Kilmer moved that the rules be suspended, Senate Bill No. 5205 be advanced to third reading, the second reading considered the third and the bill be placed on final passage.

On motion of Senator Ranker, Substitute Senate Bill No. 5451 was substituted for Senate Bill No. 5451 and the substitute bill was placed on the second reading and read the second time.

MOTION

On motion of Senator Kilmer his motion to suspend the rules and place Senate Bill No. 5205 on final passage was withdrawn.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 5451 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

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

Senators Ranker and Morton spoke in favor of passage of the bill.

On page 1, line 9, after "component", insert "or if their system plan proposes to convert or appropriate existing highway capacity"

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5451.

On page 4, line 20, after "component", insert "or proposes to convert or appropriate existing highway capacity"

ROLL CALL

Senator Benton spoke in favor of adoption of the amendment.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5451 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 1, line 9 to Senate Bill No. 5205.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

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

Excused: Senators McAuliffe and Stevens

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Senate Bill No. 5205 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SUBSTITUTE SENATE BILL NO. 5451, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Kilmer spoke in favor of passage of the bill.

SECOND READING

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5205.

SENATE BILL NO. 5265, by Senators Swecker, Pridemore and Prentice

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5205 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Authorizing multijurisdiction flood control zones.

The measure was read the second time.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

MOTION

Excused: Senators McAuliffe and Stevens

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 5265 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

ENGROSSED SENATE BILL NO. 5205, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5265.

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Senate Bill No. 5265 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senators McAuliffe and Stevens

SENATE BILL NO. 5265, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:51 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, March 1, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY FIRST DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 1, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senator Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Caitlin Rouse and Langston Ward, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

February 28, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

JAMES MCDEVITT, appointed February 18, 2011, for the term ending September 25, 2014, as Member of the Clemency and Pardons Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

February 28, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 28, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1106,  
SUBSTITUTE HOUSE BILL NO. 1254,  
SUBSTITUTE HOUSE BILL NO. 1294,  
HOUSE BILL NO. 1340,  
HOUSE BILL NO. 1395,  
HOUSE BILL NO. 1413,  
HOUSE BILL NO. 1582,  
HOUSE BILL NO. 1698.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

February 28, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1168,  
SUBSTITUTE HOUSE BILL NO. 1218,  
SUBSTITUTE HOUSE BILL NO. 1402,  
HOUSE BILL NO. 1419,  
HOUSE BILL NO. 1477,  
SUBSTITUTE HOUSE BILL NO. 1506,  
SUBSTITUTE HOUSE BILL NO. 1543,  
SUBSTITUTE HOUSE BILL NO. 1549,  
SUBSTITUTE HOUSE BILL NO. 1564,  
HOUSE BILL NO. 1594,  
SUBSTITUTE HOUSE BILL 1595,  
HOUSE BILL NO. 1613,  
SUBSTITUTE HOUSE BILL NO. 1614,  
HOUSE BILL NO. 1618,  
SUBSTITUTE HOUSE BILL NO. 1621,  
HOUSE BILL NO. 1677,  
HOUSE BILL NO. 1833,  
HOUSE BILL NO. 1926.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5860 by Senator Murray

AN ACT Relating to state government employee compensation; amending RCW 43.03.030, 41.60.150, 41.06.560, 41.26.030, 43.43.120, and 41.45.070; reenacting and amending RCW 41.06.070, 41.06.133, 41.06.500, 43.03.040, 41.32.010, 41.37.010, and 41.40.010; adding a

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new section to chapter 41.06 RCW; adding a new section to chapter 43.03 RCW; adding a new section to chapter 41.50 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5861 by Senators Carrell, Hobbs, Schoesler, Swecker, Conway, Baxter, Roach, Litzow, Stevens, Benton and Shin

AN ACT Relating to veteran scoring criteria status; and amending RCW 41.04.010.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1003 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Stanford, Frockt, Moeller and Upthegrove)

AN ACT Relating to efficiency standards for consumer products; amending RCW 19.260.030, 19.260.040, and 19.260.050; and reenacting and amending RCW 19.260.020.

Referred to Committee on Environment, Water & Energy.

HB 1069 by Representatives Alexander and Moeller

AN ACT Relating to the disposition of unclaimed remains; and amending RCW 36.24.155.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1105 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Kenney, Maxwell and Roberts)

AN ACT Relating to child fatality review in child welfare cases; amending RCW 74.13.640; and reenacting and amending RCW 68.50.105.

Referred to Committee on Human Services & Corrections.

HB 1181 by Representatives Green, Hinkle, Santos and Dickerson

AN ACT Relating to creating the Washington state board of naturopathy; amending RCW 18.36A.020, 18.36A.030, 18.36A.060, 18.36A.080, 18.36A.090, 18.36A.100, 18.36A.110, and 18.36A.120; reenacting and amending RCW 18.130.040; adding new sections to chapter 18.36A RCW; and repealing RCW 18.36A.070.

Referred to Committee on Health & Long-Term Care.

SHB 1188 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Kelley, Hurst, Kenney, Moscoso, Warnick, Roberts, Maxwell, Liias, Frockt, Rolfes, Sullivan, Carlyle, Finn, Hudgins, Kagi, Miloscia, Appleton, Ladenburg and Fitzgibbon)

AN ACT Relating to suffocation and other domestic violence offenses; amending RCW 9A.36.021, 9A.04.110, and 9.94A.525; and prescribing penalties.

Referred to Committee on Judiciary.

HB 1191 by Representatives Ryu, Kirby, Buys, Fitzgibbon and Bailey

AN ACT Relating to the expiration dates of the mortgage lending fraud prosecution account and its revenue source; amending RCW 43.320.140 and 36.22.181; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1194 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Ladenburg)

AN ACT Relating to bail for felony offenses; amending 2010 c 254 s 2 (uncodified); and adding a new section to chapter 10.19 RCW.

Referred to Committee on Judiciary.

SHB 1205 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Kirby and Bailey)

AN ACT Relating to licensing of court reporters; amending RCW 18.145.005, 18.145.010, 18.145.050, 18.145.090, 18.145.100, 18.145.110, 18.145.120, 18.145.125, 18.145.127, and 18.145.130; reenacting and amending RCW 18.145.030 and 18.145.080; and adding new sections to chapter 18.145 RCW.

Referred to Committee on Judiciary.

ESHB 1214 by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

AN ACT Relating to private transfer fee obligations; and adding a new chapter to Title 64 RCW.

Referred to Committee on Judiciary.

HB 1231 by Representatives Takko, Armstrong, Condotta, Warnick, Van De Wege, Crouse, Blake and Rodne

AN ACT Relating to the liability of owners of recreational land and water areas; and amending RCW 4.24.210.

Referred to Committee on Natural Resources & Marine Waters.

EHB 1234 by Representatives Moscoso, Hope, Klippert, Lytton, Johnson, Rivers, Jinkins, Ladenburg, Ryu, Reykdal, Fitzgibbon and Maxwell

AN ACT Relating to law enforcement crime prevention efforts regarding security alarm systems and crime watch

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programs for residential and commercial locations; and reenacting and amending RCW 42.56.240.

59.18.390, and 59.18.410; reenacting and amending RCW 59.18.030; adding a new section to chapter 59.18 RCW; and prescribing penalties.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 1236 by Representatives Warnick, Hinkle, Condotta, Armstrong, Klippert and Moeller

HB 1281 by Representatives McCune, Finn, Liias, Reykdal, Wilcox and Hunt

AN ACT Relating to increasing the number of judges to be elected in Grant county; and reenacting and amending RCW 3.34.010.

AN ACT Relating to providing limited access to motor vehicle records for driver and pedestrian safety in private communities; and reenacting and amending RCW 46.12.635.

Referred to Committee on Judiciary.

Referred to Committee on Transportation.

HB 1239 by Representatives Orcutt, Hunter, Johnson and Rivers

ESHB 1295 by House Committee on Local Government (originally sponsored by Representatives Van De Wege, Hurst, Tharinger, Fitzgibbon and Liias)

AN ACT Relating to allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant; amending RCW 82.32.210; adding a new section to chapter 82.32 RCW; and providing an effective date.

AN ACT Relating to installation of residential fire sprinkler systems; amending RCW 18.160.050, 82.02.100, and 70.119A.180; adding a new section to chapter 70.119A RCW; and creating a new section.

Referred to Committee on Ways & Means.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1243 by House Committee on Judiciary (originally sponsored by Representatives Kretz, Blake, Haigh, Smith, Johnson, Kelley, Finn, Warnick, Moeller, Harris, Roberts, McCune, Stanford, Haler, Taylor and Condotta)

HB 1298 by Representative Kelley

AN ACT Relating to crimes against animals belonging to another person; amending RCW 4.24.320 and 16.52.011; adding a new section to chapter 16.52 RCW; and prescribing penalties.

AN ACT Relating to child support order summary report forms; amending RCW 26.18.210 and 26.19.025; and repealing RCW 26.09.173 and 26.10.195.

Referred to Committee on Judiciary.

Referred to Committee on Human Services & Corrections.

HB 1244 by Representatives Condotta, Hunt, Taylor and Miloscia

SHB 1315 by House Committee on Health Care & Wellness (originally sponsored by Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris)

AN ACT Relating to liquor permits and licenses; and amending RCW 66.20.010 and 66.24.400.

AN ACT Relating to employment of physicians by nursing homes; reenacting and amending RCW 74.42.010; and adding a new section to chapter 18.51 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

Referred to Committee on Health & Long-Term Care.

HB 1263 by Representatives Crouse, Bailey and Seaquist

HB 1327 by Representatives Kirby, Warnick, Miloscia, Fitzgibbon and Roberts

AN ACT Relating to public corrections entities formed by counties or cities under RCW 39.34.030; reenacting and amending RCW 41.37.010; and creating a new section.

AN ACT Relating to increasing the permissible deposit of public funds with credit unions and authorizing the deposit of public funds at federally chartered credit unions; and amending RCW 39.58.240.

Referred to Committee on Ways & Means.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1266 by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Warnick, Kenney and Kelley)

SHB 1328 by House Committee on Transportation (originally sponsored by Representatives Van De Wege, DeBolt, Blake, Klippert, Hinkle, Ross, Hasegawa, Kirby, Billig, Liias, Takko, Stanford, Finn, Alexander, Short, Angel, Dammeier, Zeiger, Upthegrove, Tharinger, Green, Kelley, Hurst, McCune, Kenney and Maxwell)

AN ACT Relating to modifying the landlord-tenant act and other related provisions; amending RCW 59.18.060, 3.66.100, 59.18.063, 59.18.100, 59.18.110, 59.18.130, 59.18.150, 59.18.180, 59.18.230, 59.18.253, 59.18.260, 59.18.270, 59.18.285, 59.18.310, 59.18.312, 59.18.380,

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AN ACT Relating to the operation of motorcycles in connection with a parade or public demonstration; and amending RCW 46.61.613.

Referred to Committee on Transportation.

SHB 1336 by House Committee on Local Government (originally sponsored by Representatives Springer, Goodman, Kagi, Hunter, Rodne, Eddy, Asay, Ryu, Fitzgibbon, Stanford and Kenney)

AN ACT Relating to allowing the use of federal census data to determine the resident population of annexed territory; and amending RCW 35.13.260 and 35A.14.700.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1343 by Representatives Kirby and Bailey

AN ACT Relating to insurance; amending RCW 4.28.080, 48.02.150, 48.02.190, 48.03.060, 48.05.200, 48.05.215, 48.10.170, 48.14.0201, 48.15.150, 48.17.380, 48.36A.350, 48.85.030, 48.94.010, 48.102.011, 48.102.021, 48.110.030, 48.110.055, and 48.155.020; and repealing RCW 48.05.210.

Referred to Committee on Financial Institutions, Housing & Insurance.

HB 1353 by Representatives Rivers, Cody, Schmick, Moeller, Orcutt, Ladenburg, Dahlquist, Harris, Moscoso, Green and Kenney

AN ACT Relating to requiring continuing education for pharmacy technicians; and amending RCW 18.64A.020.

Referred to Committee on Health & Long-Term Care.

ESHB 1365 by House Committee on Environment (originally sponsored by Representatives Eddy, Warnick, Morris and Hinkle)

AN ACT Relating to distributed generation; amending RCW 19.285.030; and adding a new section to chapter 19.285 RCW.

Referred to Committee on Environment, Water & Energy.

ESHB 1406 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hunt, Ross, Appleton, Armstrong, Hurst and Stanford)

AN ACT Relating to intrastate building safety mutual aid in the event of emergencies and other situations that temporarily render a jurisdiction incapable of providing required building safety services; and adding a new chapter to Title 24 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1407 by Representatives Ryu, Hope, Dunshee, Angel and Kagi

AN ACT Relating to the negotiated sale and conveyance of all or part of water systems owned by a municipal corporation; and amending RCW 54.16.180 and 35.92.070.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1425 by Representative Haler

AN ACT Relating to health sciences and services authorities; and amending RCW 35.104.040.

Referred to Committee on Higher Education & Workforce Development.

HB 1432 by Representatives Rodne, Kelley, Shea, Green, Van De Wege, Ahern and Orwall

AN ACT Relating to veterans' relief by permitting private employers to exercise a voluntary veterans' preference in employment; and adding a new section to chapter 73.16 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1438 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Dammeier)

AN ACT Relating to the interstate compact for adult offender supervision; and creating new sections.

Referred to Committee on Human Services & Corrections.

HB 1440 by Representatives Kenney, Ryu, Liias and Hasegawa

AN ACT Relating to the building communities fund program competitive process; and amending RCW 43.63A.125.

Referred to Committee on Ways & Means.

SHB 1453 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Chandler, Blake, Van De Wege, Uptegrove, Stanford, Jinkins and Kretz)

AN ACT Relating to commercial shellfish enforcement; amending RCW 69.30.010, 69.30.020, 69.30.030, 69.30.050, 69.30.060, 69.30.080, 69.30.085, 69.30.110, and 69.30.140; and prescribing penalties.

Referred to Committee on Natural Resources & Marine Waters.

HB 1465 by Representatives Hunt, Taylor, McCoy, Appleton, Condotta, Miloscia and Dunshee

AN ACT Relating to conditions and restrictions for liquor licenses; amending RCW 66.24.010 and 66.24.410; and reenacting and amending RCW 66.04.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

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SHB 1467 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Pearson, Fagan, Overstreet, Harris, Wilcox, Johnson, Haler, Warnick, McCune and Kelley)

AN ACT Relating to the definition of a well; and amending RCW 18.104.020.

Referred to Committee on Environment, Water & Energy.

SHB 1470 by House Committee on Education (originally sponsored by Representative Bailey)

AN ACT Relating to access to K-12 campuses for occupational or educational information; and amending RCW 28A.230.180.

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

HB 1479 by Representatives Goodman and Rodne

AN ACT Relating to the publications of the statute law committee; amending RCW 1.08.070, 34.05.210, 40.04.031, and 44.20.050; adding a new section to chapter 1.08 RCW; and creating a new section.

Referred to Committee on Judiciary.

SHB 1485 by House Committee on Judiciary (originally sponsored by Representatives Rodne, Kirby, Pedersen, Johnson and Kelley)

AN ACT Relating to charitable solicitations; amending RCW 19.09.010, 19.09.020, 19.09.062, 19.09.065, 19.09.075, 19.09.079, 19.09.085, 19.09.097, 19.09.200, 19.09.210, 19.09.230, 19.09.271, 19.09.275, 19.09.276, 19.09.277, 19.09.279, 19.09.305, 19.09.315, 19.09.340, 19.09.355, 19.09.400, and 19.09.430; reenacting and amending RCW 19.09.100; adding new sections to chapter 19.09 RCW; repealing RCW 19.09.076, 19.09.190, 19.09.240, 19.09.500, and 19.09.540; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1520 by Representatives Moscoso, Stanford and Clibborn

AN ACT Relating to state route number 527; and amending RCW 47.17.745.

Referred to Committee on Transportation.

SHB 1524 by House Committee on Education (originally sponsored by Representative Orwall)

AN ACT Relating to recognizing the international baccalaureate diploma; amending RCW 28A.230.170; reenacting and amending RCW 28A.230.090; and adding a new section to chapter 28A.230 RCW.

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

SHB 1538 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Taylor, Orcutt, Hinkle, Haler, Johnson and Warnick)

AN ACT Relating to animal health inspections; amending RCW 16.36.040, 16.36.050, 16.36.060, 16.36.113, 16.36.140, 16.57.160, and 16.57.360; adding a new section to chapter 16.57 RCW; and prescribing penalties.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 1567 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ross, Hurst, Uptegrove, Kelley and Moscoso)

AN ACT Relating to background investigations for peace officers and reserve officers; and amending RCW 43.101.080, 43.101.095, and 43.101.105.

Referred to Committee on Human Services & Corrections.

SHB 1568 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Sells, Anderson, Probst, Liias, Uptegrove, Hinkle, Carlyle, Zeiger, Ormsby, Haler, Buys, Hasegawa, Stanford, Maxwell, Springer, Miloscia, Sullivan, Haigh, Hunt, Rolfes, Jacks, Dahlquist, Crouse, Kenney and Moscoso)

AN ACT Relating to appointing student members to the boards of trustees for community colleges and the state board for community and technical colleges; amending RCW 28B.50.100 and 28B.50.050; adding a new section to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

ESHB 1572 by House Committee on Local Government (originally sponsored by Representatives Pettigrew, Kagi, Reykdal, Haigh, Takko, Kenney, Moscoso, Hasegawa, Moeller and Frockt)

AN ACT Relating to authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills; and amending RCW 54.52.010.

Referred to Committee on Environment, Water & Energy.

SHB 1585 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Eddy, Springer and Ryu)

AN ACT Relating to intrastate mutual aid in the event of emergencies; amending RCW 38.52.040; and adding a new chapter to Title 38 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1596 by House Committee on Local Government (originally sponsored by Representatives Tharinger, Nealey, Haler, Takko, Walsh and Fitzgibbon)

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AN ACT Relating to requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility; and amending RCW 35.21.766.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1600 by House Committee on Education (originally sponsored by Representatives Probst, Anderson, Maxwell and Roberts)

AN ACT Relating to elementary math specialists; adding a new section to chapter 28A.410 RCW; and creating a new section.

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

SHB 1608 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Billig, Probst, Haigh, Santos, Seaquist, Anderson, Haler, Maxwell, Dammeier, Sells, Carlyle, Sullivan, Ladenburg, Dahlquist, Frockt, Fitzgibbon, Ryu, Orwall, Moscoso, Stanford, Jinkins, Ormsby, Jacks, McCoy, Appleton, Kelley, Van De Wege, Clibborn, Kenney, Roberts, Uptegrove, Goodman, Hasegawa and Tharinger)

AN ACT Relating to modifying the opportunity internship program; amending RCW 28C.18.162, 28C.18.164, 28C.18.166, and 28B.92.084; amending 2009 c 238 s 11 (uncodified); and reenacting and amending RCW 28B.92.030.

Referred to Committee on Higher Education & Workforce Development.

SHB 1615 by House Committee on Judiciary (originally sponsored by Representatives Ladenburg, Kelley, Rodne, Moscoso, Kirby, Appleton and Stanford)

AN ACT Relating to service members' civil relief; and amending RCW 38.42.010 and 38.42.050.

Referred to Committee on Judiciary.

HB 1640 by Representatives Green, Hinkle, Cody and Moeller

AN ACT Relating to respiratory care practitioners; and amending RCW 18.89.020 and 18.89.040.

Referred to Committee on Health & Long-Term Care.

SHB 1652 by House Committee on Judiciary (originally sponsored by Representatives Frockt, Kenney, Reykdal, Rolfes, Probst, Goodman, Maxwell, McCoy, Jacks, Jinkins, Ryu, Kagi, Ladenburg, Stanford, Hasegawa, Fitzgibbon, Blake, Billig, Roberts, Clibborn, Ormsby, Moscoso, Hudgins and Liias)

AN ACT Relating to electronic impersonation; adding a new section to chapter 4.24 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

HB 1667 by Representatives Kagi, Armstrong, Ryu, Liias, Clibborn, Angel, Goodman, Stanford and Moscoso

AN ACT Relating to state route number 522; and creating new sections.

Referred to Committee on Transportation.

HB 1669 by Representatives Santos, Parker, Dammeier, McCoy, Kenney, Hasegawa, Moscoso and Maxwell

AN ACT Relating to the educational opportunity gap, including implementing recommendations made by the achievement gap oversight and accountability committee; amending RCW 28A.150.198, 28A.175.025, 28A.300.136, 28A.300.1361, 28A.300.137, 28A.345.070, 28A.405.100, 28A.410.260, 28A.415.370, 28A.642.005, 28A.655.115, 28A.657.070, 28A.657.110, and 43.215.005; and reenacting and amending RCW 28A.290.010.

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

SHB 1691 by House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Anderson, Springer, Eddy, Ryu, Morris and Stanford)

AN ACT Relating to embalmers; and amending RCW 68.50.070.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1709 by Representatives Kirby and Bailey

AN ACT Relating to group disability insurance; and amending RCW 48.21.010.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1710 by House Committee on Education (originally sponsored by Representatives Moscoso, Liias, Probst, Ladenburg, Hasegawa, McCoy, Haler, Dahlquist, Green, Wilcox, McCune, Zeiger, Roberts, Stanford, Billig, Maxwell, Hunt and Kenney)

AN ACT Relating to creating a strategic plan for career and technical education; and creating new sections.

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

SHB 1712 by House Committee on Environment (originally sponsored by Representatives Harris, Crouse, Short, Jacks and McCune)

AN ACT Relating to null power; and amending RCW 19.29A.010 and 19.29A.060.

Referred to Committee on Environment, Water & Energy.

SHB 1728 by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney)

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AN ACT Relating to requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises; amending RCW 49.60.215; and adding a new section to chapter 49.60 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1745 by House Committee on Business & Financial Services (originally sponsored by Representative Goodman)

AN ACT Relating to collection agencies; amending RCW 19.16.500; and reenacting and amending RCW 19.16.250.

Referred to Committee on Judiciary.

EHB 1775 by Representatives Goodman and Kagi

AN ACT Relating to juvenile restorative justice programs; and amending RCW 13.40.020 and 13.40.080.

Referred to Committee on Human Services & Corrections.

SHB 1811 by House Committee on Community Development & Housing (originally sponsored by Representatives Springer, Roberts and Stanford)

AN ACT Relating to allowing for informed telephonic consent for access to housing or homelessness services; and amending RCW 43.185C.180.

Referred to Committee on Human Services & Corrections.

HB 1812 by Representatives Kirby, Kagi and Moeller

AN ACT Relating to community municipal corporations; and amending RCW 35.14.010 and 35.14.060.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1822 by House Committee on Higher Education (originally sponsored by Representatives Kenney, Parker, Seaquist, Pettigrew, Dickerson and Zeiger)

AN ACT Relating to establishing the first Washington nonprofit online university; adding a new section to chapter 28B.76 RCW; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

ESHB 1869 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Santos and Ormsby)

AN ACT Relating to occupational health best practices in industrial insurance through creation of a state-approved medical provider network and expansion of centers for occupational health and education; and amending RCW 51.36.010.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1900 by Representatives Stanford, Ladenburg, Ryu and Green

AN ACT Relating to establishing continuing education requirements for engineers; amending RCW 18.43.080; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

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

MOTION

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

MOTION

Senator Pflug moved adoption of the following resolution:

SENATE RESOLUTION  
8628

By Senators Pflug, Parlette, Rockefeller, and Eide

WHEREAS, The students of Tahoma Senior High School in Maple Valley, Washington, enrolled in the program known as "We The People, The Citizen and Constitution," have exhibited that they have an exceptional grasp of the Constitution of the United States and the lessons our forefathers taught; and

WHEREAS, The students of Tahoma Senior High School won first place in state competition – the 14th win in 16 years – and will be representing Washington State in national championship competitions in April; and

WHEREAS, These students continued the standard of excellence that has become expected of Tahoma High School – even going above and beyond what was expected, including three work sessions during school breaks and after school every week; and

WHEREAS, This exceptional constitutional knowledge has impacted these students' lives forever and, as one student described it, "This class has not only made me a stronger student, it has made me a better citizen"; and

WHEREAS, This unparalleled constitutional knowledge and razor-sharp debate instills awe in anyone who sees these students perform; and

WHEREAS, It inspires the students as well as their audience to actively participate in the democracy men and women have fought and died to preserve; and

WHEREAS, These energetic, knowledgeable young people will one day lead this state and country, and there may very well be in their midst a legislator, governor, senator, member of Congress, or perhaps a future President; and

WHEREAS, Their dedicated and talented teacher, Gretchen Wulfing of Tahoma Senior High School, can stand tall in the knowledge that her students can outperform university students on this topic; and

WHEREAS, These students and their teacher were aided by countless hours of help from We the People alumni, former students

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who helped prepare this year's debaters by volunteering as guest judges; and

WHEREAS, Studies have shown that eighty percent of seniors in high school participating in this program have registered to vote compared to an average of thirty-seven percent among other high school seniors, thereby proving that this program has increased the interest in politics and in participation in government; and

WHEREAS, In 2000, Tahoma Senior High School was fourth in the nation, in 2002 and 2008 they won the Western Regional Award, and in 2003 the We The People Team won the top Unit Two in the Nation Award;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor all the participants in this program from Tahoma High School. Tahoma High School's first place team: Kathryn Adamson, Austin Bland, Connor Caler, Emily Duerson, Kendal Ferguson, Heath Guyer, Amanda Harding, Katie Hickman, Mary Illback, John Larsen, Kara Magee, Amy McCormick, Luke Milburn, Morgan Murrey, Chelsea Olson, Melissa Perincheril, Mollie Picha, Emily Pierre, Angela Ralston, Thomas Rothschilds, Joshua Tavenner, Conner Thomas, Jeremy Voss, Jennifer Watt, Jessica Warr, Peter Weiler, and Rina Wulfin; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the members of Tahoma High School's We The People Team, the school's teacher Gretchen Wulfin, and the principal of Tahoma Senior High School, Terry Duty, to further show the respect of this body for a job well done and wish them success in their endeavors.

Senators Pflug, Rockefeller and Fain spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8628.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed and introduced members of the "We The People" organization who were seated in the gallery.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5433, by Senators Fraser, Conway, Kastama, Keiser, Chase, Rockefeller, McAuliffe and Nelson

Modifying certain provisions of the manufactured/mobile home landlord-tenant act. Revised for 1st Substitute: Modifying landlord responsibilities in manufactured/mobile home communities.

#### MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 5433 was substituted for Senate Bill No. 5433 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 5433 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SENATE BILL NO. 5295, by Senators Delvin, Swecker, Schoesler, Holmquist Newbry, Honeyford and Hewitt

Regarding leases of irrigation district property.

The measure was read the second time.

#### MOTION

On motion of Senator Delvin, the rules were suspended, Senate Bill No. 5295 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5295.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5295 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Sheldon

SENATE BILL NO. 5295, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed consideration of Substitute Senate Bill No. 5433 which had been deferred earlier in the day.

#### MOTION

Senator Benton moved that the following amendment by Senators Benton and Fraser be adopted:

On page 2, line 1 after "in good condition," insert "or remove" Senator Benton spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Benton and Fraser on page 2, line 1 to Substitute Senate Bill No. 5433.

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

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute Senate Bill No. 5433 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

#### MOTION

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On motion of Senator Pridemore, Senator Sheldon was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5433.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5433 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry, King and Swecker  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5433, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5072, by Senators Hatfield, Shin and Haugen

Authorizing the department of agriculture to accept and expend gifts.

MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 5072 was substituted for Senate Bill No. 5072 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 5072 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Brown was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5072.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5072 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown  
 SUBSTITUTE SENATE BILL NO. 5072, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5664, by Senators McAuliffe, Shin, Hobbs, Nelson, Rockefeller, Litzow, Chase, Tom, Zarelli, Brown, Kilmer, Delvin and Murray

Concerning the Lake Washington Institute of Technology.

MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 5664 was substituted for Senate Bill No. 5664 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 5664 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5664.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5664 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5664, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5184, by Senators Schoesler, King, Carrell, Delvin and Holmquist Newbry

Regarding compliance reports for second-class school districts.

MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 5184 was substituted for Senate Bill No. 5184 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 5184 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

SECOND READING

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5184.

SENATE BILL NO. 5204, by Senators Regala, Hargrove and Stevens

Concerning juveniles who have been adjudicated of a sex offense.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5184 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5184, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5204 was substituted for Senate Bill No. 5204 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5204 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

Senator Benton spoke on final passage of the bill.

## POINT OF ORDER

Senator Regala: "I appreciate the comments from the good gentleman, although I believe he is confusing this bill with a different bill. This is one that deals with juvenile sex offenders and I believe you're referring to a bill that dealt with non conviction records."

## SECOND READING

SENATE BILL NO. 5203, by Senators Regala, Hargrove, Stevens and Shin

Improving the administration and efficiency of sex and kidnapping offender registration.

## REMARKS BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "Please confine your comments to the bill that is before us Senator Benton."

## MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5203 was substituted for Senate Bill No. 5203 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5203 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5203.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5204.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5204 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 1; Excused, 0.

Voting yea: Senators Brown, Chase, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Roach, Schoesler and Zarelli

Absent: Senator Conway

SUBSTITUTE SENATE BILL NO. 5204, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5203 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5203, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5023, by Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase and Rockefeller

Addressing nonlegal immigration-related services.

## MOTION

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On motion of Senator Kline, Substitute Senate Bill No. 5023 was substituted for Senate Bill No. 5023 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 6, beginning on line 7, after "effect" strike all material through "enacted" on line 9 and insert "December 31, 2011"

Senator Carrell spoke in favor of adoption of the amendment.

Senators Pflug and Kline spoke against adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 6, line 7 to Substitute Senate Bill No. 5023.

The motion by Senator Carrell failed and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5023 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5023.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5023 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Carrell, Holmquist Newbry, Honeyford and Roach

SUBSTITUTE SENATE BILL NO. 5023, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5069, by Senators Prentice, Kohl-Welles, Conway, Kline and Chase

Creating the farm labor account. Revised for 1st Substitute: Creating the farm labor contractor account.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5069 was substituted for Senate Bill No. 5069 and the substitute bill was placed on the second reading and read the second time.

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On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5069.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5069 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5069, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5202, by Senators Regala and Hargrove

Regarding sexually violent predators.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5202 was substituted for Senate Bill No. 5202 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5202 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5202.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5202 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5202, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Ericksen, Senator Honeyford was excused.

#### SECOND READING

SENATE BILL NO. 5388, by Senators Parlette, Regala, Holmquist Newbry, Hatfield and Honeyford

Limiting liability for making certain land and water areas available for recreational use under a hydroelectric license.

The measure was read the second time.

#### MOTION

On motion of Senator Parlette, the rules were suspended, Senate Bill No. 5388 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Parlette and Ranker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5388.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5388 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Honeyford

SENATE BILL NO. 5388, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5574, by Senators Harper and Kline

Concerning collection agencies.

#### MOTIONS

On motion of Senator Harper, Substitute Senate Bill No. 5574 was substituted for Senate Bill No. 5574 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Harper, the rules were suspended, Substitute Senate Bill No. 5574 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Pflug: "Would Senator Harper yield to a question? Senator Harper, is it your understanding that when a creditor leaves a voice message and a telephone contact that that is considered a contact for the purposes of this bill?"

Senator Harper: "Thank you Senator Pflug, it is my understanding Madam President that when a collector leaves a voice message for a debtor that that voice message would be considered a contact under this act."

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5574.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5574 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Honeyford

SUBSTITUTE SENATE BILL NO. 5574, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5579, by Senators Kline and Pflug

Modifying harassment provisions.

#### MOTIONS

On motion of Senator Kline, Substitute Senate Bill No. 5579 was substituted for Senate Bill No. 5579 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kline, the rules were suspended, Substitute Senate Bill No. 5579 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5579.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5579 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

The Senate was called to order at 3:47 p.m. by the President Pro Tempore.

Excused: Senator Honeyford

SUBSTITUTE SENATE BILL NO. 5579, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND READING

SENATE BILL NO. 5350, by Senators Honeyford, Morton, Swecker, Delvin and Schoesler

SENATE BILL NO. 5117, by Senators Haugen, Ranker, Stevens and Shin

Concerning the population restrictions for a geographic area to qualify as a rural public hospital district.

Concerning the unlawful dumping or depositing of solid waste. Revised for 1st Substitute: Concerning the unlawful dumping of solid waste.

The measure was read the second time.

MOTIONS

MOTION

On motion of Senator Honeyford, Substitute Senate Bill No. 5350 was substituted for Senate Bill No. 5350 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5117 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5350 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

Senators Honeyford and Rockefeller spoke in favor of passage of the bill.

On motion of Senator White, Senators Brown and Murray were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5117.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5350.

ROLL CALL

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5117 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5350 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator McAuliffe

Excused: Senators Brown and Murray

SENATE BILL NO. 5117, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE SENATE BILL NO. 5350, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

MOTION

SENATE BILL NO. 5763, by Senators Ranker, Ericksen, Morton, Fraser and Shin

At 12:03 p.m., on motion of Senator Eide, the Senate is recessed until 1:30 p.m.

Amending the existing nonresident retail sales tax exemption.

AFTERNOON SESSION

The measure was read the second time.

The Senate was called to order at 1:30 p.m. by the President Pro Tempore.

MOTION

MOTION

At 1:33 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

On motion of Senator Ranker, the rules were suspended, Senate Bill No. 5763 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Ericksen spoke in favor of passage of the bill.

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The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5763.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5763 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senators Brown and Murray

SENATE BILL NO. 5763, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5628, by Senators Fain, Eide, Roach and Litzow

Concerning a limited property tax exemption from the emergency medical services levy.

The measure was read the second time.

#### MOTION

On motion of Senator Fain, the rules were suspended, Senate Bill No. 5628 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5628.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5628 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown and Murray

SENATE BILL NO. 5628, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5253, by Senators White, Swecker, Nelson, Litzow and Harper

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Concerning landscape conservation and local infrastructure. Revised for 1st Substitute: Concerning tax increment financing for landscape conservation and local infrastructure.

#### MOTION

On motion of Senator White, Substitute Senate Bill No. 5253 was substituted for Senate Bill No. 5253 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator White moved that the following striking amendment by Senator White be adopted:

Strike everything after the enacting clause and insert the following:

#### "PART I FINDINGS

NEW SECTION. **Sec. 101. FINDINGS.** (1) Recognizing that uncoordinated and poorly planned growth poses a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state, the legislature passed the growth management act, chapter 36.70A RCW. The planning goals adopted through the growth management act encourage development in urban areas where public facilities and services exist or can be provided efficiently, conservation of productive forest and agricultural lands, and a reduction of sprawl.

(2) Under RCW 36.70A.090 and 43.362.005 the legislature has encouraged:

(a) The use of innovative land use management techniques, including the transfer of development rights, to meet growth management goals; and

(b) The creation of a regional transfer of development rights marketplace in the central Puget Sound to assist in conserving agricultural and forest land, as well as other lands of state or regional priority.

(3) The legislature finds that:

(a) Local governments are in need of additional resources to provide public infrastructure to meet the needs of a growing population, and that public infrastructure is fundamental to community health, safety, and economic vitality. Investment in public infrastructure in growing urban areas supports growth management goals, encourages the redevelopment of underutilized or blighted urban areas, stimulates business activity and helps create jobs, lowers the cost of housing, promotes efficient land use, and improves residents' quality of life;

(b) Transferring development rights from agricultural and forest lands to urban areas where public facilities and services exist or can be provided efficiently and cost-effectively will ensure vibrant, economically viable communities. Directing growth to communities where people can live close to where they work or have access to transportation choices will also advance state goals regarding climate change by reducing vehicle miles traveled and by reducing fuel consumption and emissions that contribute to climate change. Directing growth to these communities will further help avoid the impacts of storm water runoff to Puget Sound by avoiding impervious surfaces associated with development in watershed uplands;

(c) A transfer of development rights marketplace is particularly appropriate for conserving agricultural and forest land of long-term commercial significance. Transferring the development rights from these lands of statewide importance to cities will help achieve

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a specific goal of the growth management act by keeping them in farming and forestry, thereby helping ensure these remain viable industries in counties experiencing population growth. Transferring growth from agricultural and forest land of long-term commercial significance will also reduce costs to the counties that otherwise would be responsible for the provision of infrastructure and services for development on these lands, which are generally further from existing infrastructure and services; and

(d) The state and its residents benefit from investment in public infrastructure that is associated with urban growth facilitated by the transfer of development from agricultural and forest lands of long-term commercial significance. These activities advance multiple state growth management goals and benefit the state and local economies. It is in the public interest to enable local governments to finance such infrastructure investments and to incentivize development right transfers in the central Puget Sound through this chapter.

## PART II DEFINITIONS

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(2) "Eligible county" means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights.

(3) "Employment" means total employment in a county or city, as applicable, estimated by the office of financial management.

(4) "Exchange rate" means an increment of development beyond what base zoning allows that is assigned to a development right by a sponsoring city for use in a receiving area.

(5) "Local infrastructure project area" means the geographic area identified by a sponsoring city under section 601 of this act.

(6) "Local infrastructure project financing" means the use of local property tax allocation revenue distributed to the sponsoring city to pay or finance public improvement costs within the local infrastructure project area in accordance with section 701 of this act.

(7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure project financing.

(8) "Participating taxing district" means a taxing district that:

(a) Has a local infrastructure project area wholly or partially within the taxing district's geographic boundaries; and

(b) Levies, or has levied on behalf of the taxing district, regular property taxes as defined in this section.

(9) "Population" means the population of a city or county, as applicable, estimated by the office of financial management.

(10) "Property tax allocation revenue base value" means the assessed value of real property located within a local infrastructure project area, less the property tax allocation revenue value.

(11)(a)(i) "Property tax allocation revenue value" means an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of real property in a local infrastructure project area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in

RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the local infrastructure project area is created by the sponsoring city.

(ii) Increases in the assessed value of real property resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a local infrastructure project area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(12)(a) "Public improvements" means:

(i) Infrastructure improvements within the local infrastructure project area that include:

(A) Street, road, bridge, and rail construction and maintenance;

(B) Water and sewer system construction and improvements;

(C) Sidewalks, streetlights, landscaping, and streetscaping;

(D) Parking, terminal, and dock facilities;

(E) Park and ride facilities of a transit authority and other facilities that support transit-oriented development;

(F) Park facilities, recreational areas, bicycle paths, and environmental remediation;

(G) Storm water and drainage management systems;

(H) Electric, gas, fiber, and other utility infrastructures; and

(ii) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.185A.010;

(iii) Providing maintenance and security for common or public areas in the local infrastructure project area; or

(iv) Historic preservation activities authorized under RCW 35.21.395.

(b) Public improvements do not include the acquisition by a sponsoring city of transferable development rights.

(13) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(14)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (i) Regular property taxes levied by public utility districts specifically for the purpose of

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making required payments of principal and interest on general indebtedness; (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(15) "Receiving areas," for purposes of this chapter, are those designated lands within local infrastructure project areas in which transferable development rights from sending areas may be used.

(16) "Receiving city" means any incorporated city with population plus employment equal to twenty-two thousand five hundred or greater within an eligible county.

(17) "Receiving city allocated share" means the total number of transferable development rights from agricultural and forest land of long-term commercial significance and rural zoned lands designated under section 303 of this act within the eligible counties allocated to a receiving city under section 305 (1) and (2) of this act.

(18) "Sending areas" means those lands within an eligible county that meet conservation criteria as described in sections 301 and 303 of this act.

(19) "Sponsoring city" means a receiving city that accepts all or a portion of its receiving city allocated share, adopts a plan for development of infrastructure within one or more proposed local infrastructure project areas in accordance with section 401 of this act, and creates one or more local infrastructure project areas, as specified in section 305(4) of this act.

(20) "Sponsoring city allocated share" means the total number of transferable development rights a sponsoring city agrees to accept, under section 305(4) of this act, from agricultural and forest land of long-term commercial significance and rural zoned lands designated under section 303 of this act within the eligible counties, plus the total number of transferable development rights transferred to the sponsoring city from another receiving city under section 305(5) of this act.

(21) "Sponsoring city ratio" means the ratio of the sponsoring city specified portion to the sponsoring city allocated share.

(22) "Sponsoring city specified portion" means the portion of a sponsoring city allocated share which may be used within one or more local infrastructure project areas, as set forth in the sponsoring city's plan for development of infrastructure under section 401 of this act.

(23) "Taxing district" means a city or county that levies, or has levied on behalf of the city or county, regular property taxes upon real property located within a local infrastructure project area.

(24) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to one or more receiving areas for the purpose of increasing development density or intensity.

(25) "Transferable development rights" means a right to develop one or more residential units in a sending area that can be sold and transferred.

### PART III SENDING AREAS

NEW SECTION. **Sec. 301.** DESIGNATION OF SENDING AREAS--INCLUSION OF AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE. An eligible county must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas for conservation under the eligible county's program for transfer of development rights. The development rights from all such agricultural and forest land of

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long-term commercial significance within the eligible counties must be available for transfer to receiving cities under this chapter.

NEW SECTION. **Sec. 302.** DEVELOPMENT RIGHTS FROM AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE. (1) An eligible county must calculate the number of development rights from agricultural and forest land of long-term commercial significance that are eligible for transfer to receiving areas. An eligible county must determine transferable development rights for allocation purposes in this program by:

(a) Base zoning in effect as of January 1, 2011; or

(b) An allocation other than base zoning as reflected by an eligible county's transfer of development rights program or an interlocal agreement with a receiving city in effect as of January 1, 2011.

(2) The number of transferable development rights includes the development rights from agricultural and forest lands of long-term commercial significance that have been previously issued under the eligible county's program for transfer of development rights, but that have not as yet been utilized to increase density or intensity in a development as of January 1, 2011.

(3) The number of transferable development rights does not include development rights from agricultural and forest lands of long-term commercial significance that have previously been removed or extinguished, such as through an existing conservation easement, except when consistent with subsection (2) of this section.

NEW SECTION. **Sec. 303.** DESIGNATION OF SENDING AREAS--INCLUSION OF RURAL ZONED LANDS UNDER CERTAIN CIRCUMSTANCES. (1) Subject to the requirements of this section, an eligible county may designate a portion of its rural zoned lands as sending areas for conservation under the eligible county's program for transfer of development rights available for transfer to receiving cities under this chapter.

(2) An eligible county may designate rural zoned lands as available for transfer to receiving cities under this chapter only if, and at such time as, fifty percent or more of the total acreage of land classified as agricultural and forest land of long-term commercial significance in the county, as of January 1, 2011, has been protected through either a permanent conservation easement, ownership in fee by the county for land protection or conservation purposes, or ownership in fee by a nongovernmental land conservation organization.

(3) To be designated as available for transfer to receiving cities under this chapter, rural zoned lands must either:

(a) Be identified by the county as top conservation priorities because they:

(i) Provide ecological effectiveness in achieving water resource inventory area goals;

(ii) Provide contiguous habitat protection, are adjacent to already protected habitat areas, or improve ecological function;

(iii) Are of sufficient size and location in the landscape to yield strategic growth management benefits;

(iv) Provide improved access for regional recreational opportunity;

(v) Prevent forest fragmentation or are appropriate for forest management;

(vi) Provide flood protection or reduce flood risk; or

(vii) Have other attributes that meet natural resource preservation program priorities; or

(b) Be identified by the state or in regional conservation plans as highly important to the water quality of Puget Sound.

(4) The portion of rural zoned lands in an eligible county designated as sending areas for conservation under the eligible county's program for transfer of development rights available for

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transfer to receiving cities under this chapter must not exceed one thousand five hundred development rights.

**NEW SECTION. Sec. 304.** DETERMINATION OF TOTAL NUMBER OF TRANSFERABLE DEVELOPMENT RIGHTS FOR AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE AND DESIGNATED RURAL ZONED LANDS. On or before September 1, 2011, each eligible county must report to the Puget Sound regional council the total number of transferable development rights from agricultural and forest land of long-term commercial significance and designated rural zoned lands within the eligible county that may be available for allocation to receiving cities under this chapter, as determined under sections 302 and 303 of this act.

**NEW SECTION. Sec. 305.** ALLOCATION AMONG LOCAL GOVERNMENTS OF TRANSFERABLE DEVELOPMENT RIGHTS FROM AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE AND DESIGNATED RURAL ZONED LANDS. (1) The Puget Sound regional council must allocate among receiving cities the total number of development rights reported by eligible counties under section 304 of this act. Each receiving city allocated share must be determined by the Puget Sound regional council, in consultation with eligible counties and receiving cities, based on growth targets, determined by established growth management processes, and other relevant factors as determined by the Puget Sound regional council in conjunction with the counties and receiving cities.

(2) The Puget Sound regional council must report to each receiving city its receiving city allocated share on or before March 1, 2012.

(3) The Puget Sound regional council must report each receiving city allocated share to the department of commerce on or before March 1, 2012.

(4) A receiving city may become a sponsoring city by accepting all or a portion of its receiving city allocated share, adopting a plan in accordance with section 401 of this act, and creating one or more local infrastructure project areas to pay or finance costs of public improvements.

(5) A receiving city may, by interlocal agreement, transfer all or a portion of its receiving city allocated share to another sponsoring city. The transferred portion of the receiving city allocated share must be included in the other sponsoring city allocated share.

**PART IV  
RECEIVING AREAS**

**NEW SECTION. Sec. 401.** DEVELOPMENT PLAN FOR INFRASTRUCTURE. (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must adopt a plan for development of public infrastructure within one or more proposed local infrastructure project areas sufficient to utilize, on an aggregate basis, a sponsoring city specified portion that is equal to or greater than twenty percent of the sponsoring city allocated share.

(2) The plan must be developed in consultation with the county where the local infrastructure project area to be created is located, be consistent with any transfer of development rights policies or development regulations adopted by the sponsoring city under section 402 of this act, specify the public improvements to be financed using local infrastructure project financing under section 601 of this act, estimate the number of any transferable development rights that will be used within the local infrastructure project area or areas and estimate the cost of the public improvements.

(3) A plan adopted under this section may be revised from time to time by the sponsoring city, in consultation with the county where the local infrastructure project area or areas are located, to increase the sponsoring city specified portion.

**NEW SECTION. Sec. 402.** PROGRAM FOR TRANSFER OF DEVELOPMENT RIGHTS INTO RECEIVING AREAS--REQUIREMENTS. (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Adopt transfer of development rights policies or implement development regulations as required by subsection (2) of this section; or

(b) Make a finding that the sponsoring city will:

(i) Receive its sponsoring city specified portion within one or more local infrastructure project areas; or

(ii) Purchase its sponsoring city specified portion should the sponsoring city not be able to receive its sponsoring city specified portion within one or more local infrastructure project areas such that purchased development rights can be held in reserve by the sponsoring city and used in future development.

(2) Any adoption of transfer of development rights policies or implementation of development regulations must:

(a) Comply with chapter 36.70A RCW;

(b) Designate a receiving area or areas;

(c) Adopt incentives consistent with subsection (4) of this section for developers purchasing transferable development rights;

(d) Establish an exchange rate consistent with subsection (5) of this section; and

(e) Require that the sale of a transferable development right from agricultural or forest land of long-term commercial significance or designated rural zoned lands under section 303 of this act be evidenced by its permanent removal from the sending site, such as through a conservation easement on the sending site.

(3) Any adoption of transfer of development rights policies or implementation of development regulations must not be based upon a downzone within one or more receiving areas solely to create a market for the transferable development rights.

(4) Developer incentives should be designed to:

(a) Achieve the densities or intensities reasonably likely to result from absorption of the sponsoring city specified portion identified in the plan under section 401 of this act;

(b) Include streamlined permitting strategies such as by-right permitting; and

(c) Include streamlined environmental review strategies such as development and substantial environmental review of a subarea plan for a receiving area that benefits projects that use transferable development rights, with adoption as appropriate under RCW 43.21C.420 of optional elements of their comprehensive plan and optional development regulations that apply within the receiving area, adoption as appropriate of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, and adoption as appropriate of a planned action under RCW 43.21C.031 for the receiving area.

(5) Each sponsoring city may determine, at its option, what developer incentives to adopt within its jurisdiction.

(6) Exchange rates should be designed to:

(a) Create a marketplace in which transferable development rights are priced at a level at which sending site landowners are willing to sell and developers are willing to buy transferable development rights;

(b) Achieve the densities or intensities anticipated by the plan adopted under section 401 of this act;

(c) Provide for translation to commodities in addition to residential density, such as building height, commercial floor area,

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parking ratio, impervious surface, parkland and open space, setbacks, and floor area ratio; and

(d) Allow for appropriate exemptions from other land use or building requirements.

(7) A sponsoring city must designate all agricultural and forest land of long-term commercial significance and designated rural zoned lands under section 303 of this act within the eligible counties as available sending areas.

(8) A sponsoring city, in accordance with its existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with RCW 36.70A.080, may elect to adopt an optional comprehensive plan element and optional development regulations that apply within one or more local infrastructure project areas under this chapter.

**NEW SECTION. Sec. 403. DEVELOPMENT RIGHTS AVAILABLE FOR TRANSFER TO RECEIVING CITIES.** Only development rights from agricultural and forest land of long-term commercial significance within the eligible counties as determined under section 302 of this act, and rural-zoned lands with the eligible counties designated under section 303 of this act, may be available for transfer to receiving cities in accordance with this chapter.

#### **PART V QUANTITATIVE AND QUALITATIVE PERFORMANCE MEASURES**

**NEW SECTION. Sec. 501. QUANTITATIVE AND QUALITATIVE PERFORMANCE MEASURES--REPORTING.** The eligible counties, in collaboration with sponsoring cities, must provide a report to the department of commerce by March 1st of every other year. The report must contain the following information:

(1) The number of sponsoring cities that have adopted transfer of development rights policies and regulations incorporating transfer of development rights under this chapter, and have an interlocal agreement or have adopted the department of commerce transfer of development rights interlocal terms and conditions rule;

(2) The number of transfer of development rights transactions under this chapter using different types of transfer of development rights mechanisms;

(3) The number of acres under conservation easement under this chapter, broken out by agricultural land, forest land, and rural lands;

(4) The number of transferable development rights transferred from sending areas under this chapter;

(5) The number of transferable development rights transferred from a county into a sponsoring city under this chapter;

(6) Sponsoring city development under this chapter using transferable development rights, including:

(a) The number of total new residential units;

(b) The number of residential units created in receiving areas using transferable development rights transferred from sending areas;

(c) The amount of additional commercial floor area;

(d) The amount of additional building height;

(e) The number of required structured parking spaces reduced, if transferable development rights are specifically converted into reduced structured parking space requirements;

(f) The number of additional parking spaces allowed, if transferable development rights are specifically converted into additional receiving area parking spaces; and

(g) The amount of additional impervious surface allowed, if transferable development rights are specifically converted into receiving area impervious surfaces;

(7) The amount of the local property tax allocation revenues, if any, received in the preceding calendar year by the sponsoring city;

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(8) A list of public improvements paid or financed with local infrastructure project financing;

(9) The names of any businesses locating within local infrastructure project areas as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing;

(10) The total number of permanent jobs created in the local infrastructure project area as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing;

(11) The average wages and benefits received by all employees of businesses locating within the local infrastructure project area as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing; and

(12) The date when any indebtedness issued for local infrastructure project financing is expected to be retired.

#### **PART VI ESTABLISHMENT OF LOCAL INFRASTRUCTURE PROJECT AREAS**

**NEW SECTION. Sec. 601. CREATING A LOCAL INFRASTRUCTURE PROJECT AREA.** (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Provide notice to the county assessor, county treasurer, and county executive within the proposed local infrastructure project area of the sponsoring city's intent to create one or more local infrastructure project areas. This notice must be provided at least one hundred eighty days in advance of the public hearing as required by (b) of this subsection;

(b) Hold a public hearing on the proposed formation of the local infrastructure project area.

(2) A sponsoring city may create one or more local infrastructure project areas by ordinance or resolution that:

(a) Describes the proposed public improvements, identified in the plan under section 401 of this act, to be financed in each local infrastructure project area;

(b) Describes the boundaries of each local infrastructure project area, subject to the limitations in section 602 of this act; and

(c) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts.

(3) The sponsoring city must deliver a certified copy of the adopted ordinance or resolution to the county assessor, county treasurer, and each other participating taxing district within which the local infrastructure project area is located.

**NEW SECTION. Sec. 602. LIMITATIONS ON LOCAL INFRASTRUCTURE PROJECT AREAS.** The designation of any local infrastructure project area is subject to the following limitations:

(1) A local infrastructure project area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of territory not included in the local infrastructure project area;

(2) The public improvements to be financed with local infrastructure project financing must be located in the local infrastructure project area and must, in the determination of the sponsoring city, further the intent of this chapter;

(3) Local infrastructure project areas created by a sponsoring city may not comprise an area containing more than twenty-five percent of the total assessed value of taxable property within the sponsoring city at the time the local infrastructure project areas are created;

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(4) The boundaries of each local infrastructure project area may not overlap and may not be changed during the time period that local infrastructure project financing is used within the local infrastructure project area, as provided under this chapter; and

(5) All local infrastructure project areas created by the sponsoring city must comprise, in the aggregate, an area that the sponsoring city determines (a) is sufficient to use the sponsoring city specified portion, unless the sponsoring city satisfies its sponsoring city allocated share under section 402(1)(b)(ii) of this act, and (b) is no larger than reasonably necessary to use the sponsoring city specified portion in projected future developments.

**PART VII  
LOCAL INFRASTRUCTURE PROJECT FINANCING  
USE OF PROPERTY TAX REVENUES TO PAY OR  
FINANCE  
COSTS OF PUBLIC IMPROVEMENTS**

NEW SECTION. **Sec. 701.** ALLOCATION OF PROPERTY TAX REVENUES. (1) Commencing in the second calendar year following the creation of a local infrastructure project area by a sponsoring city, the county treasurer must distribute receipts from regular taxes imposed on real property located in the local infrastructure project area as follows:

(a) Each participating taxing district and the sponsoring city must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local infrastructure project area in the taxing district; and

(b) The sponsoring city must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the local infrastructure project area. However, if there is no property tax allocation revenue value, the sponsoring city may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring city may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts must be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the local infrastructure project area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring city may request that the treasurer transfer this additional portion of the property taxes to its designated agent.

(2)(a) The portion of the tax receipts distributed to the sponsoring city or its agent under subsection (1)(b) of this section may only be expended to pay or finance public improvement costs within the local infrastructure project area, except as provided in (b) of this subsection (2).

(b) A city may also expend such receipts to pay or finance costs of affordable housing as defined in RCW 43.185A.010, or facilities and improvements that support affordable housing, and at least five percent of the tax receipts distributed to the sponsoring city or its agent under subsection (1)(b) of this section must be set aside and reserved or expended within the local infrastructure project area for such affordable housing purposes.

(3) The county assessor must determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(4)(a) The distribution of local property tax allocation revenue to the sponsoring city must cease on the date that is the earlier of:

(i) The date when local property tax allocation revenues are no longer used or obligated to pay the costs of the public improvements; or

(ii) The final termination date as determined under (b) of this subsection (4).

(b) The final termination date is determined as follows:

(i) Except as provided otherwise in (b) of this subsection (4), if the sponsoring city certifies to the county treasurer that the local property tax threshold level 1 is met, the final termination date is ten years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(ii) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 2 is met at least six months prior to the final termination date under (b)(i) of this subsection (4), the final termination date is fifteen years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(iii) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 3 is met at least six months prior to the final termination date under (b)(ii) of this subsection (4), the final termination date is twenty years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(iv) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 4 is met at least six months prior to the final termination date under (b)(iii) of this subsection (4), the final termination date is twenty-five years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section.

(5) For purposes of this section:

(a) The "local property tax threshold level 1" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least twenty-five percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least twenty-five percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(b) The "local property tax threshold level 2" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least fifty percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least fifty percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(c) The "local property tax threshold level 3" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least seventy-five percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least seventy-five percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(d) The "local property tax threshold level 4" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least one hundred percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least one hundred percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

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(6) Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the local infrastructure project area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(7) The allocation and expenditure of local property tax allocation revenues as provided in this chapter of that portion of the sponsoring city's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that local infrastructure project area is declared to be a public purpose of and benefit to the sponsoring city and each participating taxing district.

(8) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring city and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

**PART VIII  
GROWTH MANAGEMENT ACT  
COMPREHENSIVE PLAN OPTIONAL ELEMENTS**

**Sec. 801.** RCW 36.70A.080 and 1990 1st ex.s. c 17 s 8 are each amended to read as follows:

(1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

- (a) Conservation;
- (b) Solar energy; and
- (c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3)(a) Cities that qualify as a receiving city may adopt a comprehensive plan element and associated development regulations that apply within receiving areas under chapter 39.--- RCW (the new chapter created in section 903 of this act).

(b) For purposes of this subsection, the terms "receiving city" and "receiving area" have the same meanings as provided in section 201 of this act.

**PART IX  
MISCELLANEOUS**

NEW SECTION. **Sec. 901.** ADMINISTRATION BY THE DEPARTMENT OF COMMERCE. The department of commerce may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of this chapter.

NEW SECTION. **Sec. 902.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 903.** Sections 101 through 701 of this act constitute a new chapter in Title 39 RCW."

Senators White and Swecker spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senator White to Substitute Senate Bill No. 5253.

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

**MOTION**

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

On page 1, line 2 of the title, after "infrastructure;" strike the remainder of the title and insert "amending RCW 36.70A.080; adding a new chapter to Title 39 RCW; and creating a new section."

**MOTION**

On motion of Senator White, the rules were suspended, Engrossed Substitute Senate Bill No. 5253 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White, Swecker and Pridemore spoke in favor of passage of the bill.

Senators Roach and Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5253.

**ROLL CALL**

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5253 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Delvin, Erickson, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Roach, Schoesler, Stevens and Zarelli

Excused: Senator Brown

ENGROSSED SUBSTITUTE SENATE BILL NO. 5253, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**SECOND READING**

SENATE BILL NO. 5105, by Senators Carrell, Conway, Stevens, Schoesler, Becker and Shin

Addressing the conditional release of persons committed as criminally insane to their county of origin.

**MOTION**

On motion of Senator Carrell, Substitute Senate Bill No. 5105 was substituted for Senate Bill No. 5105 and the substitute bill was placed on the second reading and read the second time.

**MOTION**

Senator Carrell moved that the following amendment by Senators Carrell, Conway, Hargrove and Regala be adopted:

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On page 1, line 17, after "person." insert "When the department assists in developing a placement under this section which is outside of the county of origin, and there are two or more options for placement, it shall endeavor to develop the placement in a manner that does not have a disproportionate effect on a single county."

Senator Carrell spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Carrell, Conway, Hargrove and Regala on page 1, line 17 to Substitute Senate Bill No. 5105.

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

#### MOTION

On motion of Senator Carrell, the rules were suspended, Engrossed Substitute Senate Bill No. 5105 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carrell and Conway spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5105.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5105 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5105, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5502, by Senators White, Nelson, Keiser, Ranker, Kohl-Welles, Rockefeller, Murray, Litzow, Harper, Fain, Swecker, Delvin and Shin

Concerning the regulation, operations, and safety of limousine carriers.

#### MOTIONS

On motion of Senator White, Substitute Senate Bill No. 5502 was substituted for Senate Bill No. 5502 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator White, the rules were suspended, Substitute Senate Bill No. 5502 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5502.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5502 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Holmquist Newbry, Honeyford, Parlette, Roach, Schoesler, Stevens, Tom and Zarelli

SUBSTITUTE SENATE BILL NO. 5502, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5224, by Senators Hobbs and Fraser

Increasing the charge limit for the preparation of condominium resale certificates.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Senate Bill No. 5224 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5224.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5224 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hewitt, Holmquist Newbry and Honeyford

SENATE BILL NO. 5224, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SENATE BILL NO. 5439, by Senators Ranker, Rockefeller, Nelson, Regala, Hargrove, Hobbs, Fraser, White, Conway and Kline

Concerning oil spills. Revised for 1st Substitute: Regarding oil spills.

## MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 5439 was substituted for Senate Bill No. 5439 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 5439 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker, Morton and Ericksen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5439.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5439 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Delvin, Holmquist Newbry and Stevens  
SUBSTITUTE SENATE BILL NO. 5439, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5784, by Senators Litzow, Ranker, Swecker, Hobbs, Fain, Hill, Pridemore, Nelson, Rockefeller, Regala, Shin and Kline

Advancing the regional ocean partnership.

## MOTIONS

On motion of Senator Litzow, Substitute Senate Bill No. 5784 was substituted for Senate Bill No. 5784 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Litzow, the rules were suspended, Substitute Senate Bill No. 5784 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Litzow and Ranker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5784.

## ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5784 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5784, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5436, by Senators Ranker, Shin, Litzow, Swecker, Tom, Harper, Nelson, Hobbs, Fraser, Rockefeller, White, Kilmer, Conway and Kline

Reducing copper in antifouling paints used on recreational water vessels. Revised for 1st Substitute: Regarding the use of antifouling paints on recreational water vessels.

## MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 5436 was substituted for Senate Bill No. 5436 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 5436 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5436.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5436 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Delvin, Holmquist Newbry and Honeyford

SUBSTITUTE SENATE BILL NO. 5436, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Honeyford: "Well, tonight there is a Historic Furnishing Preservation Committee fundraiser that restores the

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building historic furnishings in the capitol building and in the Department of Justice and that's in the Governor's Mansion. There are many, many good items in which to bid on. Unfortunately some of us are going to be stuck here. Bidding ends exactly 6:35 p.m. Those that want to go, I would urge you to get there and make your bid and support the preservation and restoration of the furnishings of this lovely capitol. Thank you Madam President."

#### SECOND READING

SENATE BILL NO. 5635, by Senators Honeyford and Rockefeller

Concerning changes in the point of a diversion under a surface water right permit.

#### MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5635 was substituted for Senate Bill No. 5635 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5635 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Honeyford and Rockefeller spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5635.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5635 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5635, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5389, by Senators McAuliffe and Shin

Regarding membership of the early learning advisory council.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Senate Bill No. 5389 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5389.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5389 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5389, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5394, by Senators Keiser, Becker, Pflug, Conway, Kline and Parlette

Concerning primary care health homes and chronic care management.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5394 was substituted for Senate Bill No. 5394 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5394 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5394.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5394 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5394, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SENATE BILL NO. 5152, by Senators Pflug, Keiser and Kohl-Welles

Regarding naturopathic physicians.

#### MOTIONS

On motion of Senator Pflug, Substitute Senate Bill No. 5152 was substituted for Senate Bill No. 5152 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pflug, the rules were suspended, Substitute Senate Bill No. 5152 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pflug and Keiser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5152.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5152 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford and Kastama

SUBSTITUTE SENATE BILL NO. 5152, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5521, by Senators Tom, Kastama, Kilmer and Shin

Regarding commercialization of state university technology.

The measure was read the second time.

#### MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 5521 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Hill spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5521.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5521 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson,

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Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

SENATE BILL NO. 5521, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5042, by Senators Keiser, Pflug, Chase, Kohl-Welles, Conway, Roach, Shin and McAuliffe

Concerning the protection of vulnerable adults.

#### MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5042 was substituted for Senate Bill No. 5042 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5042 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5042.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5042 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5042, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5594, by Senators Kohl-Welles, Keiser, Prentice, Conway, Kline and Murray

Regulating the handling of hazardous drugs.

#### MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5594 was substituted for Senate Bill No. 5594 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Holmquist Newbry be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature declares that health care personnel who work with or near hazardous drugs in health care settings may be exposed to these agents in the air, on work surfaces, clothing, and medical equipment or through patient contact. According to the national institute for occupational safety and health (NIOSH), early concerns about occupational exposure to antineoplastic drugs first appeared in the 1970s. Antineoplastic and other hazardous drugs may cause skin rashes, infertility, miscarriage, birth defects, and have been linked to a wide variety of cancers. The national institute for occupational safety and health published an alert on preventing occupational exposures to antineoplastic and other hazardous drugs in health care settings in 2004 with an update in 2010. In this alert, the institute "presents a standard precautions or universal precautions approach to handling hazardous drugs safely: that is, NIOSH recommends that all hazardous drugs be handled as outlined in this Alert." It is the intent of the legislature to require health care facilities to follow rules requiring compliance with all aspects of the institute's alert regardless of the setting in order to protect health care personnel from hazardous exposure to such drugs.

**"NEW SECTION. Sec. 2.** A new section is added to chapter 49.17 RCW to read as follows:

The definitions in this section apply throughout sections 1 through 3 of this act unless the context clearly requires otherwise.

(1) "Antineoplastic drug" means a chemotherapeutic agent that controls or kills cancer cells.

(2) "Hazardous drugs" means any drug identified by the national institute for occupational safety and health at the centers for disease control or any drug that meets at least one of the following six criteria: Carcinogenicity, teratogenicity or developmental toxicity, reproductive toxicity in humans, organ toxicity at low doses in humans or animals, genotoxicity, or new drugs that mimic existing hazardous drugs in structure or toxicity.

**"NEW SECTION. Sec. 3.** A new section is added to chapter 49.17 RCW to read as follows:

The director of labor and industries shall adopt by rule requirements for the handling of antineoplastic and other hazardous drugs in health care facilities regardless of the setting. Rule making under this section shall consider input from hospitals, organizations representing health care personnel, other stakeholders and shall consider reasonable time for facilities to implement new requirements. The rules will be consistent with and not exceed provisions adopted by the national institute for occupational safety and health's 2004 alert on preventing occupational exposures to antineoplastic and other hazardous drugs in health care settings as updated in 2010. The department's adoption of the rules may incorporate updates and changes to the institute's guidelines as made by the centers for disease control and prevention. Enforcement of these requirements will be according to all provisions in this chapter."

Senators Kohl-Welles and Holmquist Newbry spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Holmquist Newbry to Substitute Senate Bill No. 5594.

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

MOTION

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

On page 1, line 1 of the title, after "drugs;" strike the remainder of the title and insert "adding new sections to chapter 49.17 RCW; and creating a new section."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute Senate Bill No. 5594 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5594.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5594 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5594, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5392, by Senators McAuliffe, Litzow, Fain, Nelson, Hill, Harper, Eide, Shin, Kohl-Welles, Tom and Roach

Including technology as a stated educational core concept and principle.

MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 5392 was substituted for Senate Bill No. 5392 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 5392 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5392.

ROLL CALL

FIFTY FIRST DAY, MARCH 1, 2011

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5392 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5392, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5798, by Senators Fraser and Benton

Concerning homeowners' associations.

## MOTION

On motion of Senator Fraser, Substitute Senate Bill No. 5798 was substituted for Senate Bill No. 5798 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Benton moved that the following amendment by Senators Benton and Fraser be adopted:

On page 10, line 8, after "~~(thirty-four)~~" strike "twenty-five" and insert "thirty-four"  
Senator Benton spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Benton and Fraser on page 10, line 8 to Substitute Senate Bill No. 5798.

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

## MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute Senate Bill No. 5798 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

## MOTION

On motion of Senator White, Senator Haugen was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5798.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5798 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

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Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, King, Litzow and Swecker

Excused: Senator Haugen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5798, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5493, by Senators Delvin and Hewitt

Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility.

## MOTIONS

On motion of Senator Delvin, Substitute Senate Bill No. 5493 was substituted for Senate Bill No. 5493 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Delvin, the rules were suspended, Substitute Senate Bill No. 5493 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Delvin and Pridemore spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senators Eide, Fraser and McAuliffe were excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5493.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5493 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Eide, Haugen and McAuliffe

SUBSTITUTE SENATE BILL NO. 5493, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5045, by Senators Kohl-Welles, Conway, Holmquist Newbry, Keiser, Kline, King and Chase

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Making technical corrections to gender-based terms.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5045 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator White, Senator Fraser was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5045.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5045 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Eide, Fraser, Haugen and McAuliffe

SENATE BILL NO. 5045, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5046, by Senators Kohl-Welles, Delvin and Roach

Adding court-related employees to the assault in the third degree statute.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5046 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senator Benton spoke against passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5046.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5046 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Holmquist Newbry, Honeyford and Morton

Excused: Senators Eide, Fraser, Haugen and McAuliffe

SENATE BILL NO. 5046, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5057, by Senators Pflug, Kline and Harper

Concerning the income tax required to be paid by a trustee.

The measure was read the second time.

MOTION

On motion of Senator Pflug, the rules were suspended, Senate Bill No. 5057 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 5057.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5057 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Holmquist Newbry

Excused: Senators Eide, Fraser, Haugen and McAuliffe

SENATE BILL NO. 5057, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5067, by Senators Keiser, Kohl-Welles, Conway and Chase

Changing the department of labor and industries certified and registered mail requirements. Revised for 1st Substitute: Changing the certified and registered mail requirements of the department of labor and industries and employment security department.

MOTIONS

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On motion of Senator Keiser, Substitute Senate Bill No. 5067 was substituted for Senate Bill No. 5067 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5067 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5067.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5067 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Eide, Fraser, Haugen and McAuliffe

SUBSTITUTE SENATE BILL NO. 5067, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5070, by Senators Conway, Kohl-Welles, Kline and Chase

Regarding records requests relating to prevailing wage investigations.

#### MOTIONS

On motion of Senator Conway, Substitute Senate Bill No. 5070 was substituted for Senate Bill No. 5070 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Conway, the rules were suspended, Substitute Senate Bill No. 5070 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5070.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5070 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

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Voting nay: Senators Baumgartner, Ericksen and Honeyford

Excused: Senators Eide, Fraser, Haugen and McAuliffe

SUBSTITUTE SENATE BILL NO. 5070, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 6:45 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Wednesday, March 2, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY SECOND DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Wednesday, March 2, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Hewitt.

The Sergeant at Arms Color Guard consisting of Pages Kelly Smith and Alex Naylor, presented the Colors. Senator Shin offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE HOUSE**

March 1, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492,

ENGROSSED HOUSE BILL NO. 1730,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 1, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1008,

SUBSTITUTE HOUSE BILL NO. 1051,

HOUSE BILL NO. 1052,

SUBSTITUTE HOUSE BILL NO. 1145,

SUBSTITUTE HOUSE BILL NO. 1148,

SUBSTITUTE HOUSE BILL NO. 1170,

SUBSTITUTE HOUSE BILL NO. 1247,

SUBSTITUTE HOUSE BILL NO. 1249,

SUBSTITUTE HOUSE BILL NO. 1542,

HOUSE BILL NO. 1544,

HOUSE BILL NO. 1657,

SUBSTITUTE HOUSE BILL NO. 1719,

HOUSE BILL NO. 1916.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 1, 2011

MR. PRESIDENT:

The House has passed:

SECOND SUBSTITUTE HOUSE BILL NO. 1153,  
 SUBSTITUTE HOUSE BILL NO. 1169,  
 HOUSE BILL NO. 1195,  
 HOUSE BILL NO. 1215,  
 HOUSE BILL NO. 1222,  
 HOUSE BILL NO. 1466,  
 SUBSTITUTE HOUSE BILL NO. 1493,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1507,  
 ENGROSSED HOUSE BILL NO. 1559,  
 SUBSTITUTE HOUSE BILL NO. 1565,  
 SUBSTITUTE HOUSE BILL NO. 1626,  
 SUBSTITUTE HOUSE BILL NO. 1697,  
 HOUSE BILL NO. 1867,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1885,  
 SUBSTITUTE HOUSE BILL NO. 1899.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

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

**INTRODUCTION AND FIRST READING**

SB 5862 by Senators Hargrove, Pridemore and Swecker

AN ACT Relating to the administration of natural resources programs; amending RCW 77.55.021, 77.55.031, 77.55.141, 77.15.300, 77.55.231, 76.09.040, 76.09.050, 76.09.150, 76.09.065, and 76.09.030; reenacting and amending RCW 77.55.011 and 76.09.060; adding new sections to chapter 77.55 RCW; creating new sections; repealing RCW 77.55.291; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

ESHB 1071 by House Committee on Transportation (originally sponsored by Representatives Moeller, Fitzgibbon and Frockt)

AN ACT Relating to creating a complete streets grant program; adding new sections to chapter 47.04 RCW; and creating a new section.

Referred to Committee on Transportation.

HB 1106 by Representatives Takko, Orcutt and Blake

AN ACT Relating to sale, lease, and disposal of lands within the Seashore Conservation Area; and amending RCW 79A.05.630.

Referred to Committee on Natural Resources & Marine Waters.

HB 1168 by Representatives Liias, Probst, Kenney, Maxwell, Hunt, McCoy, Finn, Billig and Ormsby

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AN ACT Relating to career and technical education; and amending RCW 28A.300.380 and 28B.50.531.

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

E2SHB 1186 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Rolfes, Hudgins, Upthegrove, Appleton, Roberts, Pedersen, Carlyle, Goodman, Liias, Van De Wege, Dickerson, Cody, Fitzgibbon, Dunshee, McCoy, Finn, Jacks, Reykdal, Tharinger, Frockt, Billig, Hunt, Kenney, Stanford, Ryu and Seaquist)

AN ACT Relating to requirements under the state's oil spill program; amending RCW 88.46.060, 88.46.100, 88.46.090, 90.48.366, and 90.56.370; reenacting and amending RCW 88.46.010; adding new sections to chapter 88.46 RCW; creating new sections; prescribing penalties; and providing expiration dates.

Referred to Committee on Natural Resources & Marine Waters.

SHB 1218 by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

AN ACT Relating to making technical corrections to the Revised Code of Washington; amending RCW 13.32A.082, 18.51.070, and 35.21.217; reenacting and amending RCW 28B.67.020 and 46.61.350; reenacting RCW 39.94.040; providing an effective date; and providing an expiration date.

Referred to Committee on Judiciary.

SHB 1254 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Lytton, Blake, Takko, Van De Wege, Ladenburg and Rolfes)

AN ACT Relating to the institute of forest resources; amending RCW 76.44.020, 76.44.030, and 76.44.050; adding new sections to chapter 76.44 RCW; and creating a new section.

Referred to Committee on Natural Resources & Marine Waters.

E2SHB 1267 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Liias, Kenney, Clibborn, Seaquist, Blake, Hudgins, Fitzgibbon, Darneille, Dunshee, Morris, Takko, Pettigrew, Finn, Billig, Hunter, Cody, Dickerson, Stanford, Springer, Reykdal, Haigh, Rolfes, Sells, Appleton, Hunt, Maxwell, Ryu, Ormsby, Ladenburg, McCoy, Santos, Lytton, Moscoso, Upthegrove, Green, Hasegawa and Tharinger)

AN ACT Relating to clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage; amending RCW 26.26.011, 26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400,

26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.700, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.740, 26.26.903, 26.26.911, 9A.64.030, and 26.26.220; adding new sections to chapter 26.26 RCW; creating new sections; and repealing RCW 26.26.210, 26.26.230, 26.26.240, 26.26.250, and 26.26.260.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1294 by House Committee on Environment (originally sponsored by Representatives Tharinger, Warnick, Seaquist, Finn, Smith, Upthegrove, Springer, Dunshee, Orcutt, Hudgins, Reykdal, Rolfes, Hunt, Moscoso, Green, McCoy, Morris, Frockt, Ryu, Jinkins, Fitzgibbon, Sells, Blake, Appleton, Liias, Maxwell, Kenney, Carlyle, Hope and Billig)

AN ACT Relating to establishing the Puget Sound corps while reforming the state's conservation corps programs; amending RCW 43.220.020, 43.220.060, 43.220.070, 43.220.170, 43.220.231, 43.220.250, 43.60A.152, and 79A.05.545; reenacting and amending RCW 43.220.040 and 77.85.130; adding new sections to chapter 43.220 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 77.12 RCW; creating new sections; and repealing RCW 43.220.010, 43.220.030, 43.220.080, 43.220.090, 43.220.120, 43.220.130, 43.220.160, 43.220.180, 43.220.190, 43.220.210, 79A.05.500, 79A.05.505, 79A.05.510, 79A.05.515, 79A.05.520, 79A.05.525, 79A.05.530, 79A.05.535, and 79A.05.540.

Referred to Committee on Natural Resources & Marine Waters.

HB 1340 by Representatives Kretz, McCune, Johnson and Warnick

AN ACT Relating to unlawful hunting of big game; and amending RCW 77.15.410.

Referred to Committee on Natural Resources & Marine Waters.

HB 1395 by Representatives Dunshee, Chandler, Blake, Van De Wege, Tharinger, Rolfes, Hinkle, Fitzgibbon, Dickerson, Stanford and Reykdal

AN ACT Relating to eliminating expiration dates for the derelict vessel and invasive species removal fee; and amending RCW 88.02.640 and 43.21A.667, 43.43.400, and 77.12.879.

Referred to Committee on Natural Resources & Marine Waters.

SHB 1402 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Upthegrove and Orwall)

AN ACT Relating to social card games in an area annexed by a city or town that allowed a house-banked social card game

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business to continue operating under RCW 9.46.295; and amending RCW 9.46.295.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1413 by Representatives Blake, Chandler, Tharinger and Hinkle

AN ACT Relating to the expiration date of the invasive species council and account; amending RCW 79A.25.310 and 79A.25.370; creating a new section; repealing 2007 c 241 s 75 (uncodified); repealing 2006 c 152 s 10 (uncodified); and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

HB 1419 by Representatives Kagi, Roberts and Dickerson

AN ACT Relating to allowing the department of early learning and the department of social and health services to share background check information; and amending RCW 43.20A.710, 43.43.837, 43.215.200, and 43.215.215.

Referred to Committee on Human Services & Corrections.

HB 1477 by Representatives Schmick, Sells, Springer, Haler, Roberts and Kenney

AN ACT Relating to the authority to offer educational specialist degrees; and adding a new section to chapter 28B.35 RCW.

Referred to Committee on Higher Education & Workforce Development.

ESHB 1489 by House Committee on Environment (originally sponsored by Representatives Billig, Morris, Frockt, Carlyle, Crouse, Ryu, Finn, Jinkins, Fitzgibbon, Tharinger, Rolfes, Liias, Moscoso, Stanford, Dunshee, Pettigrew, Ladenburg, Ormsby, Van De Wege, Moeller, Hunt, Pedersen, Maxwell, Roberts, Reykdal, Kagi, Darneille, Clibborn, Jacks and Kenney)

AN ACT Relating to protecting water quality through restrictions on fertilizer containing phosphorus; amending RCW 15.54.270, 15.54.470, and 15.54.474; adding a new section to chapter 15.54 RCW; creating a new section; and providing an effective date.

Referred to Committee on Environment, Water & Energy.

SHB 1506 by House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson)

AN ACT Relating to fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction; reenacting and amending RCW 64.06.015 and 64.06.020; adding a new section to chapter 52.12 RCW; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1543 by House Committee on Transportation (originally sponsored by Representatives Rolfes, Frockt, Anderson and Kirby)

AN ACT Relating to limiting the issuance of motorcycle instruction permits; and amending RCW 46.20.510.

Referred to Committee on Transportation.

SHB 1549 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Dahlquist, Armstrong, Hurst, Pearson, Hope, Moscoso, Dammeier, Anderson, Wilcox, McCune, Kelley and Smith)

AN ACT Relating to notification to schools regarding the release of certain offenders; and adding a new section to chapter 72.09 RCW.

Referred to Committee on Human Services & Corrections.

SHB 1564 by House Committee on Judiciary (originally sponsored by Representatives Kenney, Cody, Kagi and Moscoso)

AN ACT Relating to the right to control the disposition of human remains; and amending RCW 68.50.160.

Referred to Committee on Judiciary.

HB 1582 by Representatives Lytton, Morris, Chandler, Blake, Wilcox, Orcutt, Tharinger, Hinkle, McCune, Pearson and Van De Wege

AN ACT Relating to forest practices applications leading to conversion of land for development purposes; and amending RCW 76.09.050, 76.09.240, and 43.21C.037.

Referred to Committee on Natural Resources & Marine Waters.

HB 1594 by Representatives Santos and Anderson

AN ACT Relating to the membership and work of the financial education public-private partnership; and amending RCW 28A.300.450 and 28A.300.462.

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

SHB 1595 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Appleton and Green)

AN ACT Relating to graduates of foreign medical schools; and amending RCW 18.71.051.

Referred to Committee on Health & Long-Term Care.

HB 1613 by Representatives Warnick and Reykdal

AN ACT Relating to providing eyeglasses for medicaid enrollees; and amending RCW 72.09.100.

Referred to Committee on Human Services & Corrections.

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SHB 1614 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Dickerson, Rodne, Hope, Goodman, Walsh, Roberts, Green, McCoy, Blake, Kagi, Dunshee, Springer, Appleton, Seaquist, Johnson, Jinkins, Liias, Kelley, Rolfes, Maxwell, Van De Wege and Kenney)

AN ACT Relating to the traumatic brain injury strategic partnership; and amending RCW 74.31.005, 74.31.020, 74.31.030, 74.31.040, 74.31.050, and 74.31.060.

Referred to Committee on Health & Long-Term Care.

HB 1618 by Representatives Sells, Crouse, Dunshee, McCoy, Liias, Kristiansen and Pearson

AN ACT Relating to public utility districts and deferred compensation and supplemental savings plans; amending RCW 54.04.050; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1621 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Orwall, Kagi and Maxwell)

AN ACT Relating to technical corrections to department of early learning statutes; and amending RCW 43.215.532 and 43.215.555.

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

HB 1677 by Representatives Reykdal, Sells, Hunt, Green, Ormsby, Kenney and Roberts

AN ACT Relating to changing the certified and registered mail requirements of the department of labor and industries and employment security department; and amending RCW 18.27.060, 18.27.230, 18.27.370, 18.106.100, 18.106.180, 19.28.131, 19.28.271, 19.28.341, 19.28.490, 43.22.435, 43.22A.080, 43.22A.130, 49.17.140, 49.26.110, 49.40.060, 49.48.083, 50.20.190, 50.24.070, 50.24.110, 50.24.115, 70.79.320, 70.87.125, 70.87.185, and 70.87.205.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1698 by Representatives Lytton, Morris, Van De Wege, Blake and Liias

AN ACT Relating to recreational fishing opportunities; amending RCW 77.105.005, 77.105.020, 77.105.030, 77.105.050, and 77.105.160; adding a new section to chapter 77.105 RCW; and repealing RCW 77.105.040, 77.105.060, 77.105.070, 77.105.080, 77.105.090, 77.105.100, 77.105.110, 77.105.120, and 77.105.130.

Referred to Committee on Natural Resources & Marine Waters.

ESHB 1721 by House Committee on Environment (originally sponsored by Representatives Frockt, Kenney, Roberts, Fitzgibbon and Stanford)

AN ACT Relating to preventing storm water pollution from coal tar sealants; and adding a new chapter to Title 70 RCW.

Referred to Committee on Environment, Water & Energy.

HB 1833 by Representatives Finn and Rolfes

AN ACT Relating to motorcycle safety; and amending RCW 46.20.520.

Referred to Committee on Transportation.

ESHB 1886 by House Committee on Local Government (originally sponsored by Representatives Takko, Angel, Bailey and Tharinger)

AN ACT Relating to implementing recommendations developed in accordance with Substitute Senate Bill No. 5248, chapter 353, Laws of 2007; amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130; adding new sections to chapter 36.70A RCW; and creating a new section.

Referred to Committee on Agriculture & Rural Economic Development.

HB 1926 by Representatives Kenney, Ormsby, Finn, Hasegawa, Ryu, Pettigrew and Liias

AN ACT Relating to using a web-based business services system; and amending RCW 43.330.060, 43.330.080, and 43.330.082.

Referred to Committee on Economic Development, Trade & Innovation.

#### MOTION

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

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9002, Max Anderson, as a member of the Board of Trustees, Lower Columbia Community College District No. 13, be confirmed.

Senator Hatfield spoke in favor of the motion.

#### APPOINTMENT OF MAX ANDERSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9002, Max Anderson as a member of the Board of Trustees, Lower Columbia Community College District No. 13.

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The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9002, Max Anderson as a member of the Board of Trustees, Lower Columbia Community College District No. 13 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hewitt

Gubernatorial Appointment No. 9002, Max Anderson, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Lower Columbia Community College District No. 13.

MOTION

On motion of Senator Eide, Senator Hewitt was excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9028, Elizabeth Dunbar, as a member of the Board of Trustees, Tacoma Community college District No. 22, be confirmed.

Senator Regala spoke in favor of the motion.

APPOINTMENT OF ELIZABETH DUNBAR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9028, Elizabeth Dunbar as a member of the Board of Trustees, Tacoma Community college District No. 22.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9028, Elizabeth Dunbar as a member of the Board of Trustees, Tacoma Community college District No. 22 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9028, Elizabeth Dunbar, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community college District No. 22.

SECOND READING

SENATE BILL NO. 5278, by Senators Holmquist Newbry and King

Addressing information contained in rate notices under the industrial insurance laws.

The measure was read the second time.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Senate Bill No. 5278 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5278.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5278 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5278, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Schoesler: "Mr. President, I heard voices from the past from the desk of the gentleman from the Fourth District. Somehow it's as if Bob McCaslin never left. I can tell that the gentleman sitting in that desk, like Bob, is short, like Bob is follically challenged, like Bob, has never voted for a tax and probably never will and he seems to be reluctant to vote for fees. So, it is as if Bob has never left. The reference to Old Spice dates the desk as still being Bob and Bob's district is still at the desk. The only hope I have today Mr. President is that the gentleman seated in Bob's desk isn't looking for dates like Senator McCaslin was."

PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. Well, Senator I couldn't disagree with you more. I really don't believe that our new senator is going to be able to fill the shoes of the honorable-serving Senator Bob McCaslin. And one, as you mentioned, one very important reason, number one, you haven't asked me to marry you yet. Second I want to make some observations, our districts are neighboring districts and your district is a very attractive place. I have to say I ride my bike on the Centennial Trail, through your district there's the lovely Liberty Lake and the beautiful Newman Lake where I had a cabin at one point. In fact, I like your district so much that I recently spoken to the new member for, appointed by me, to the Redistricting Commission and we've decided to redistrict you into Idaho. Thank you."

PERSONAL PRIVILEGE

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Senator Carrell: "Well, the new Senator from the Fourth District sits right next to me on several committees and he's asked me for advice on what should I do and this and that and I thought I had him going on the right track when I saw this bill today. Now this is the guy that said, 'I can't be voting for taxes' and, 'I don't want to do regulations.' And here's a bill all about regulation and taxes. I'm beginning to wonder if he is so quickly gone to the dark side? So, I guess I need to counsel him a little bit more before he rashly approves a bill like this. Welcome to the senate."

## PERSONAL PRIVILEGE

Senator Baxter: "I would like to express my gratitude and appreciation for the members of this body and welcoming me to the legislature. It's truly an honor and privilege to occupy the seat of the Washington State Senate."

## REMARKS BY THE PRESIDENT

President Owen: "Senator Baxter, the President must inform you, it is not allowed to read on the floor of the Senate."

## PERSONAL PRIVILEGE

Senator Baxter: "Mr. President, may I have permission to read on the floor of the senate?"

## REPLY BY THE PRESIDENT

President Owen: "If there are no objections."

## PERSONAL PRIVILEGE

Senator Baxter: "As a tradition in the Senate I am happy to present you with some gifts from the district that you will all enjoy. Among the gifts in your bag which we delivered to your desks you'll find several gifts from Comcast. As you may know they are a major employer in Spokane but the Company and its Foundation are also vital members of Eastern Washington's Fourth District. The Comcast Foundation has been instrumental in helping groups like the Boys and Girls Clubs bridge the gap of technology facing some of our disadvantaged kids today. Also included in your gift bag is a pound of Zags blend coffee. Just like our Gonzaga Bulldogs this is sure to please the most loyal Starbucks addict. In 2006 the students of Gonzaga chose Cravens Coffee as their brand of choice, so please enjoy. Last but not least you'll receive your own Bumble bar. It's a great tasting all natural gluten free energy bar and I'm sure you'll enjoy the taste. Some of you know I own three businesses myself and would like to tell you the story of this great product. It's one of the truly great American success stories. Started by a mom in her own kitchen, the company now ships around the world from the Fourth District. Owners Liz and Glenn Ward provide excellent jobs at a living wage and buy most of their ingredients from local producers. They're committed to strengthening our local community. In the last year alone they have donated thousands of bars to numerous local and national charity events. I hope you enjoy these gifts from some of our local clients in my district. I hope that we will be able to work together to improve the chance for businesses like these will be able to stay in our state and provide the jobs our economy depends on and no, there's no Old Spice."

## INTRODUCTION OF SPECIAL GUEST

The President welcomed and introduced the wife of Senator Baxter, Diane, who was seated in the gallery.

## SECOND READING

SENATE BILL NO. 5025, by Senators Hargrove, Becker, Sheldon, Litzow, Haugen, Carrell, White, King, Honeyford, Shin, Kilmer, Regala, Parlette, Conway, Tom, Rockefeller, Roach and Holmquist Newbry

Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5025 was substituted for Senate Bill No. 5025 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5025 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5025.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5025 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Fain, Hill and Litzow

SUBSTITUTE SENATE BILL NO. 5025, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5417, by Senators Becker, Swecker, Benton, Stevens, Delvin, Honeyford, Sheldon, Hatfield, Hobbs, Shin, Roach and Kline

Allowing for the distribution of legislators' contact cards, newsletters, government guides, or similar printed materials produced with legislative resources in certain circumstances.

## MOTIONS

On motion of Senator Pridemore, Substitute Senate Bill No. 5417 was substituted for Senate Bill No. 5417 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 5417 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators Becker and Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5371.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5417.

#### ROLL CALL

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5417 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5417, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5371, by Senators Keiser and Conway

Addressing the needs for health insurance coverage for persons under age nineteen.

#### MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5371 was substituted for Senate Bill No. 5371 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker be adopted:

On page 8, line 25, after "nineteen" insert "applying for coverage as allowed by section 4(1) of this act or"

On page 8, beginning on line 27, after "(P.L. 111-148)" strike everything through "period." on line 31 and insert "that is not a grandfathered health plan in the individual market, a carrier must not impose a preexisting condition exclusion or waiting period or other limitations on benefits or enrollment due to a preexisting condition."

Senators Keiser and Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 8, line 25 to Substitute Senate Bill No. 5371.

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

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5371 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5371 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senator Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5371, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5035, by Senators Shin, Honeyford and Kohl-Welles

Requiring landlords to provide tenants with written receipts upon request under the manufactured/mobile home landlord-tenant act.

The measure was read the second time.

#### MOTION

On motion of Senator Shin, the rules were suspended, Senate Bill No. 5035 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5035.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5035 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

SENATE BILL NO. 5035, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SENATE BILL NO. 5495, by Senators Kohl-Welles and Pflug

Addressing shareholder quorum and voting requirements under the Washington business corporation act. Revised for 1st Substitute: Concerning shareholder quorum and voting requirements under the Washington business corporation act.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5495 was substituted for Senate Bill No. 5495 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5495 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5495.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5495 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5495, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 11:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

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

## MOTION

On motion of Senator Honeyford, Senator Zarelli was excused.

## MOTION

On motion of Senator Ericksen, Senator Hewitt was excused.

## SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9004, Sherry Armijo, as a member of the Board of Trustees, Columbia Basin Community College District No. 19, be confirmed.

Senator Prentice spoke in favor of the motion.

## APPOINTMENT OF SHERRY ARMIJO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9004, Sherry Armijo as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9004, Sherry Armijo as a member of the Board of Trustees, Columbia Basin Community College District No. 19 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Hewitt and Zarelli

Gubernatorial Appointment No. 9004, Sherry Armijo, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

## SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Ranker moved that Gubernatorial Appointment No. 9031, Ramiro Espinoza, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator Ranker spoke in favor of the motion.

## APPOINTMENT OF RAMIRO ESPINOZA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9031, Ramiro Espinoza as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9031, Ramiro Espinoza as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Hewitt and Zarelli

Gubernatorial Appointment No. 9031, Ramiro Espinoza, having received the constitutional majority was declared

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confirmed as a member of the Board of Trustees, Western Washington University.

SECOND READING

SENATE BILL NO. 5154, by Senators Harper, Kline, Pflug, Hobbs, Ericksen, Rockefeller, Nelson and Roach

Modifying vehicle prowling provisions.

MOTIONS

On motion of Senator Harper, Substitute Senate Bill No. 5154 was substituted for Senate Bill No. 5154 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Harper, the rules were suspended, Substitute Senate Bill No. 5154 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5154.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5154 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5154, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5011, by Senators White, Kohl-Welles, Murray, Chase, Nelson and McAuliffe

Concerning the victimization of homeless persons.

The measure was read the second time.

MOTION

On motion of Senator White, the rules were suspended, Senate Bill No. 5011 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5011.

ROLL CALL

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The Secretary called the roll on the final passage of Senate Bill No. 5011 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5011, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5116, by Senators Swecker, Hatfield and Parlette

Concerning public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property.

The measure was read the second time.

MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 5116 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker, Pridemore and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5116.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5116 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5116, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE JOINT MEMORIAL NO. 8004, by Senators Parlette, Nelson, Tom, Zarelli, Fraser, Hewitt, Kline, Hatfield, Murray and Shin

Requesting the reestablishment of the road leading to the upper Stehekin Valley within the North Cascades National Park.

MOTIONS

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On motion of Senator Parlette, Substitute Senate Joint Memorial No. 8004 was substituted for Senate Joint Memorial No. 8004 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Parlette, the rules were suspended, Substitute Senate Joint Memorial No. 8004 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Parlette spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Substitute Senate Joint Memorial No. 8004.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Joint Memorial No. 8004 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 5526, by Senators Regala, Delvin, Eide, Zarelli, Murray, Pridemore, Holmquist Newbry, Morton, Hewitt, Chase, Honeyford, Fraser and McAuliffe

Concerning incentives for sterling converters.

The measure was read the second time.

#### MOTION

On motion of Senator Regala, the rules were suspended, Senate Bill No. 5526 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senator Litzow was excused.

#### MOTION

On motion of Senator Eide, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5526.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5526 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Litzow and McAuliffe

SENATE BILL NO. 5526, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 2:22 p.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

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

#### SECOND READING

SENATE BILL NO. 5083, by Senators Ranker, Kilmer, Swecker, Hobbs, Holmquist Newbry, Zarelli, Hargrove, Eide, Harper, Tom, Honeyford, White, Parlette, Ericksen, Shin, Hewitt, Sheldon, Roach and Benton

Clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction.

The measure was read the second time.

#### MOTION

On motion of Senator Ranker, the rules were suspended, Senate Bill No. 5083 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5083.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5083 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Brown

SENATE BILL NO. 5083, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Senator Brown was excused.

SENATE BILL NO. 5531, by Senators King, Prentice, Keiser and Shin

Reimbursing counties for providing judicial services involving mental health commitments.

MOTIONS

On motion of Senator King, Substitute Senate Bill No. 5531 was substituted for Senate Bill No. 5531 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5531 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

MOTION

On motion of Senator Eide, Senator Rockefeller was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5531.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5531 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Conway, Holmquist Newbry, Kastama, Kilmer and Regala

Excused: Senator Brown

SUBSTITUTE SENATE BILL NO. 5531, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5097, by Senators Delvin, Kohl-Welles, McAuliffe and Chase

Concerning juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails.

MOTIONS

On motion of Senator Delvin, Substitute Senate Bill No. 5097 was substituted for Senate Bill No. 5097 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Delvin, the rules were suspended, Substitute Senate Bill No. 5097 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5097.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5097 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5097, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5364, by Senators Swecker, Pridemore, Fraser, Nelson, Honeyford, Shin and Morton

Concerning public water system operating permits.

MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 5364 was substituted for Senate Bill No. 5364 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5364 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Benton: "Would Senator Swecker yield to a question? Can you tell me Senator I read in this bill, there is no specific fee in the bill so the way I read it is we're giving the agency the ability and the authority to set the fee based on what it cost to administer the program?"

Senator Swecker: "Yes, that's correct and it allows us to come back as a legislative body and approve that fee. Doesn't preclude us from doing that."

Senator Benton: "Does it require legislative approval?"

Senator Swecker: "I don't believe it does."

Senators Benton, Honeyford, Sheldon, Roach and Pflug spoke against passage of the bill.

Senators Rockefeller and Nelson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5364.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5364 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

SUBSTITUTE SENATE BILL NO. 5364, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 4:54 p.m., on motion of Senator Eide, the Senate was recessed until 7:00 pm.

#### EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9019, Denise Colley, as a member of the Board of Trustees, State School for the Blind, be confirmed.

Senator Pridemore spoke in favor of the motion.

#### MOTION

On motion of Senator Fain, Senators Baumgartner, Delvin, Ericksen, Hewitt, Schoesler and Zarelli were excused.

#### APPOINTMENT OF DENISE COLLEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9019, Denise Colley as a member of the Board of Trustees, State School for the Blind.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9019, Denise Colley as a member of the Board of Trustees, State School for the Blind and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Absent: Senator Kline

Excused: Senators Baumgartner, Hewitt and Zarelli

Gubernatorial Appointment No. 9019, Denise Colley, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Blind.

#### SECOND READING

SENATE BILL NO. 5428, by Senators McAuliffe, Harper, Hargrove, Stevens, Zarelli, Pridemore, Shin and Roach

Requiring notification to schools regarding the release of certain offenders.

#### MOTIONS

On motion of Senator McAuliffe, Substitute Senate Bill No. 5428 was substituted for Senate Bill No. 5428 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Substitute Senate Bill No. 5428 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5428.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5428 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5428, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5584, by Senators Harper, Kohl-Welles and Kline

Concerning the conforming of apprenticeship program standards to federal labor standards.

The measure was read the second time.

#### MOTION

On motion of Senator Harper, the rules were suspended, Senate Bill No. 5584 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5584.

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## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5584 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5584, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5080, by Senators Sheldon, Rockefeller, Shin and Chase

Reducing water pollution by replacing or repairing failing on-site sewage systems or connecting failing on-site sewage systems to a sewerage system.

The measure was read the second time.

## MOTION

On motion of Senator Sheldon, the rules were suspended, Senate Bill No. 5080 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5080.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5080 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5080, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5708, by Senator Keiser

Creating flexibility in the delivery of long-term care services.

## MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5708 was substituted for Senate Bill No. 5708 and the substitute bill was placed on the second reading and read the second time.

## MOTION

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

Beginning on page 6, line 33, strike all of sections 6 and 7 and insert the following:

"Sec. 6. RCW 70.127.040 and 2003 c 275 s 3 and 2003 c 140 s 8 are each reenacted and amended to read as follows:

The following are not subject to regulation for the purposes of this chapter:

(1) A family member providing home health, hospice, or home care services;

(2) A person who provides only meal services in an individual's permanent or temporary residence;

(3) An individual providing home care through a direct agreement with a recipient of care in an individual's permanent or temporary residence;

(4) A person furnishing or delivering home medical supplies or equipment that does not involve the provision of services beyond those necessary to deliver, set up, and monitor the proper functioning of the equipment and educate the user on its proper use;

(5) A person who provides services through a contract with a licensed agency;

(6) An employee or volunteer of a licensed agency who provides services only as an employee or volunteer;

(7) Facilities and institutions, including but not limited to nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41 RCW, adult family homes under chapter 70.128 RCW, boarding homes under chapter 18.20 RCW, developmental disability residential programs under chapter 71A.12 RCW, other entities licensed under chapter 71.12 RCW, or other licensed facilities and institutions, only when providing services to persons residing within the facility or institution;

(8) Local and combined city-county health departments providing services under chapters 70.05 and 70.08 RCW;

(9) An individual providing care to ill ~~individuals, ((disabled))~~ individuals with disabilities, or vulnerable individuals through a contract with the department of social and health services;

(10) Nursing homes, hospitals, or other institutions, agencies, organizations, or persons that contract with licensed home health, hospice, or home care agencies for the delivery of services;

(11) In-home assessments of an ill ~~individual, ((disabled))~~ an individual with a disability, or a vulnerable individual that does not result in regular ongoing care at home;

(12) Services conducted by and for the adherents of a church or religious denomination that rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents;

(13) A medicare-approved dialysis center operating a medicare-approved home dialysis program;

(14) A person providing case management services. For the purposes of this subsection, "case management" means the assessment, coordination, authorization, planning, training, and monitoring of home health, hospice, and home care, and does not include the direct provision of care to an individual;

(15) Pharmacies licensed under RCW 18.64.043 that deliver prescription drugs and durable medical equipment that does not involve the use of professional services beyond those authorized to be performed by licensed pharmacists pursuant to chapter 18.64 RCW and those necessary to set up and monitor the proper

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functioning of the equipment and educate the person on its proper use;

(16) A volunteer hospice complying with the requirements of RCW 70.127.050; ~~(and)~~

(17) A person who provides home care services without compensation; and

(18) Nursing homes that provide telephone or web-based transitional care management services.

**NEW SECTION. Sec. 7.** A new section is added to chapter 74.42 RCW to read as follows:

(1) Nursing facilities may provide telephone or web-based transitional care management services to persons discharged from the facility to home for up to thirty days postdischarge.

(2) When a nursing facility provides transitional care management services, the facility must coordinate postdischarge care and service needs with in-home agencies licensed under chapter 70.127 RCW, and other authorized care providers, to promote evidence-based transition care planning. In-home service agencies and other authorized care providers, including the department, shall, when appropriate, determine resident eligibility for postdischarge care and services and coordinate with nursing facilities to plan a safe transition of the client to the home setting. When a resident is discharged to home and is without in-home care or services due to the resident's refusal of care or their ineligibility for care, the nursing facility may provide telephone or web-based transitional care management services. These services may include care coordination services, review of the discharge plan, instructions to promote compliance with the discharge plan, reminders or assistance with scheduling follow-up appointments with other health care professionals consistent with the discharge plan, and promotion of self-management of the client's health condition. Web-based transition care services may include patient education and the provision of services described in this section. They are not intended to include telehealth monitoring.

(3) If the nursing facility identifies concerns in client care that result from telephone or web-based transitional care management services, the nursing facility will notify the client's primary care physician. The nursing facility will also discuss with the client options for care or other services which may include in-home services provided by agencies licensed under chapter 70.127 RCW."

Senators Keiser and Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others on page 6, line 33 to Substitute Senate Bill No. 5708.

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

#### MOTION

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

On page 1, line 2 of the title, after "18.20.030," strike "18.52.030, and 70.126.020;" and insert "and 18.52.030; reenacting and amending RCW 70.127.040;"

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5708 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5708.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5708 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5708, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5201, by Senators Hargrove, Swecker, Regala, Fraser and Parlette

Regarding issues that impact the department of fish and wildlife.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5201 was substituted for Senate Bill No. 5201 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5201 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5201.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5201 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5201, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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On motion of Senator Ranker, Senator Hargrove was excused.

On motion of Senator White, Senator Hargrove was excused.

SECOND READING

SENATE BILL NO. 5445, by Senators Keiser, Pflug, White, Conway and Kline

Establishing a health benefit exchange.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5445 was substituted for Senate Bill No. 5445 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5445 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

Senator Becker spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5445.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5445 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

SUBSTITUTE SENATE BILL NO. 5445, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5187, by Senators Becker, Keiser, Hargrove, Stevens and Carrell

Concerning the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent-initiated mental health treatment.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5187 was substituted for Senate Bill No. 5187 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5187 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Becker spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5187.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5187 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hargrove

SUBSTITUTE SENATE BILL NO. 5187, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5636, by Senators Haugen, Harper, Shin and Delvin

Concerning the University Center of North Puget Sound.

MOTIONS

On motion of Senator Haugen, Second Substitute Senate Bill No. 5636 was substituted for Senate Bill No. 5636 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Second Substitute Senate Bill No. 5636 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5636.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5636 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, White and Zarelli

Voting nay: Senators Ericksen, Hill, Honeyford, Litzow, McAuliffe, Pridemore, Ranker, Rockefeller and Tom

Excused: Senator Hargrove

SECOND SUBSTITUTE SENATE BILL NO. 5636, having received the constitutional majority, was declared passed. There

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being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5764, by Senators Kastama, Chase, Shin, Kilmer, Brown, Conway and McAuliffe

Creating innovate Washington.

The measure was read the second time.

MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 5764 was not substituted for Senate Bill No. 5764 and the substitute bill was not adopted.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama, Baumgartner and Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) Innovate Washington is hereby created as a state agency exercising public and essential governmental functions. Innovate Washington is created as the successor to the Washington technology center and the Spokane intercollegiate research and technology institute. Innovate Washington is created to be a collaborative effort between the state's public and private institutions of higher education, private industry, and government and is to be the primary agency responding to the technology transfer needs of existing businesses in the state.

(2) The mission of innovate Washington is to make Washington the best place to develop, build, and deploy innovative products, services, and solutions to serve the world. To carry out this mission, innovate Washington is to: Develop and strengthen academic-industry relationships through research and assistance that is primarily of interest to existing small and medium-sized Washington-based companies; facilitate company growth through early stage financing; and leverage state investments in sector-focused, innovation-based economic development initiatives consistent with the state's economic development strategic plan. Innovate Washington shall:

(a) Provide leading edge collaborative research and technology transfer opportunities to existing state businesses directly and by working with industry associations and innovation partnership zones;

(b) Coordinate its activities with the commercialization and technology transfer activities of the state's research institutions to facilitate research that supports and develops state industries;

(c) Provide methods, systems, and venues for effective interaction and collaboration between the state's technology-based industries and its institutions of higher education;

(d) Provide assistance and support to businesses in:

(i) Securing federal and private funds to support research;

(ii) Developing and integrating technology in new or enhanced products and services; and

(iii) Launching those products and services in sustainable businesses in the state;

(e) Establish programmatic activities that, through partnerships with the private sector, increase the competitiveness of state industries. This may include support provided to firms in innovation partnership zones established under RCW 43.330.270;

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(f) Provide opportunities for training undergraduate and graduate students in technology transfer and commercialization processes through direct involvement in research and industry interactions;

(g) Administer technology and innovation grant and loan programs including bridge funding programs for the state's technology sector; and

(h) Emphasize and develop nonstate support of program activities.

(3)(a) Administrative responsibilities for the Washington technology center facilities located on the University of Washington Seattle campus and the Spokane intercollegiate research and technology institute facilities located on the Riverpoint campus operated by Washington State University Spokane are hereby transferred to innovate Washington. The facilities shall be used for purposes consistent with the obligations of innovate Washington under this chapter. As initially established, the University of Washington and Washington State University shall continue to provide the facility support and maintenance for these facilities as required by innovate Washington; however, other institutions of higher education may provide facility support and maintenance subsequently.

(b) The University of Washington, Washington State University, and other institutions of higher education participating in innovate Washington programs shall provide the affiliated staff and faculty participating in these programs at their own expense.

(4) The facilities of innovate Washington shall be made available to any institution of higher education within the state when this would benefit specific program needs consistent with this chapter.

(5) Innovate Washington shall, by December 1, 2012, develop a five-year business plan that must be updated by December 1st of every even-numbered year. The plan must include:

(a) A plan for operating additional facilities at Washington State University Vancouver, Washington State University Tri-Cities, Western Washington University, and such other locations as the innovate Washington board identifies as appropriate;

(b) Identification and specification of activities to be undertaken by those operating each of innovate Washington's facilities in collaboration with innovative programs at the state's community and technical colleges, which must include methods of working with the centers of excellence established under RCW 28B.50.902 to identify businesses that could benefit from innovate Washington services;

(c) The process to be followed, developed in collaboration with impact Washington or any successor manufacturing extension partnership program operating in the state, to ensure that impact Washington clients have ready access to innovate Washington's services when appropriate and that companies being assisted by innovate Washington have ready access to impact Washington's services; and

(d) Mechanisms for outreach to firms operating in the state's innovation partnership zones established under RCW 43.330.270 to ensure such firms benefit from innovate Washington services.

**NEW SECTION. Sec. 2.** (1) The powers of innovate Washington are vested in and shall be exercised by a board of directors consisting of:

(a) The governor of the state of Washington or the governor's designee;

(b) The chairs of the committees in the senate and the house of representatives responsible for economic development issues or their designees;

(c) The president of the University of Washington or the president's designee;

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(d) The president of Washington State University or the president's designee;

(e) The director of the department of commerce or the director's designee; and

(f) Seven members appointed by the governor from among individuals who own or are executives at technology-based and innovative firms that manufacture in the state. The term of office for each board member appointed by the governor shall be three years except, of the initial appointees, two shall be appointed for one year and two shall be appointed for two years. Members of the board may be appointed for additional terms.

(2) The board shall meet at least biannually. The initial meeting of the board must occur before December 31, 2011.

(3) A board member may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor must fill any vacancy on the board by appointment for the remainder of the unexpired term.

(4)(a) The appointed members of the board shall be compensated in accordance with RCW 43.03.240 and may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

(b) The ex officio members of the board under subsection (1)(a) and (c) through (f) of this section may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

(c) Legislative members of the board may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 44.04.120.

(5) A majority of currently serving board members constitutes a quorum.

(6) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the board members so requests. Meetings of the board may be held at any location within or out of the state, and board members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(7) The innovate Washington board must:

(a) Develop operating policies for innovate Washington programs;

(b) Appoint, and perform an annual performance review of, an executive director;

(c) Approve an annual operating budget and ensure adequate funding for operations;

(d) Approve a five-year business plan and its updates;

(e) Perform the duties required under chapter 70.210 RCW relating to the investing in innovation program;

(f) Convene representatives of the commercialization and technology transfer offices of private and public research institutions in the state to determine the best methods for:

(i) Integrating existing databases into a single database of in-state technologies and inventions;

(ii) Making the technologies in the integrated database accessible; and

(iii) Promoting the integrated database to entrepreneurs and investors for commercialization and licensing purposes;

(g) Set performance goals for each program or service established; and

(h) Provide a report to the governor and the legislature detailing the fund-raising activities and outcomes, operations, economic impact, and performance of innovate Washington. The report is due by December 1st of every year and the first report is due by December 1, 2012. The report must include measures related to customer satisfaction as well as measures of results derived from assistance provided to businesses, including but not limited to job

creation inside and outside of Washington, new product development, new markets opened and other export measures, the adoption of new production processes, revenue and sales growth, measures that would be included in a balanced scorecard, and such other outcome-based measures as the board determines is appropriate.

(8) The board may:

(a) Make and execute agreements, contracts, and other instruments with any private, public, or nonprofit entity for the performance, operation, administration, implementation, or advancement of any program in accordance with this chapter;

(b) Employ, contract with, or engage staff, counsel, advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter. Staff support for innovate Washington programs may be provided through cooperative agreements with any public or private institution of higher education;

(c) Solicit and receive gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source, and expend the same for any purpose consistent with this chapter;

(d) Establish such affiliated organizations, special funds consistent with the provisions of chapter 43.88 RCW, and controls as it finds convenient for the implementation of this chapter;

(e) Create one or more advisory committees;

(f) Adopt rules consistent with this chapter;

(g) Delegate any of its powers and duties if consistent with the purposes of this chapter; and

(h) Exercise any other power reasonably required to implement the purposes of this chapter.

**NEW SECTION. Sec. 3.** (1) To increase participation by Washington state small business innovators in federal small business research programs, innovate Washington shall provide or contract for the provision of a small business innovation assistance program. The program must include a proposal review process and must train and assist Washington small business innovators to win awards from federal small business research programs. The program must collaborate with small business development centers, entrepreneur-in-residence programs, and other appropriate sources of technical assistance to ensure that small business innovators also receive the planning, counseling, and support services necessary to expand their businesses and protect their intellectual property.

(2) In operating the program, innovate Washington must give priority to first-time applicants to the federal small business research programs, new businesses, and firms with fewer than ten employees, and may charge a fee for its services.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Federal small business research programs" means the programs, operating pursuant to the small business innovation development act of 1982, P.L. 97-219, and the small business technology transfer act of 1992, P.L. 102-564, title II, that provide funds to small businesses to conduct research having commercial application.

(b) "Small business" means a corporation, partnership, sole proprietorship, or individual, operating a business for profit, with two hundred fifty employees or fewer, including employees employed in a subsidiary or affiliated corporation, that otherwise meets the requirements of federal small business research programs.

**NEW SECTION. Sec. 4.** The investing in innovation account is created in the custody of the state treasurer. All receipts from fund-raising activities pursuant to section 2 of this act must be deposited into the account. Expenditures from the account may be used only for the purposes of the investing in innovation programs established in chapter 70.210 RCW and any other purpose

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consistent with this chapter. Only the executive director of innovate Washington or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 5.** The Washington clean energy partnership is created as a programmatic activity of innovate Washington. The partnership shall develop, implement, and manage programs and funding initiatives related to expanding the clean energy sector in Washington. The partnership shall coordinate clean energy initiatives and implement the clean energy leadership council's recommendations provided in the Washington state clean energy leadership plan report.

**NEW SECTION. Sec. 6.** (1) The Washington clean energy partnership shall, as funds are available:

(a) Implement the strategy and recommendations of the clean energy leadership council including implementing the first three market-driving initiatives identified by the council in its 2010 report:

(i) Combined energy efficiency, green buildings, and smart grid;

(ii) Renewable energy resource optimization and smart grid deployment; and

(iii) Bioenergy deployment acceleration;

(b) Assess periodically other potential opportunities, such as the production of thermal energy as a clean energy technology, and add market-driving initiatives if justified by comprehensive analysis;

(c) Serve as the primary point of contact and lead entity in the state for developing and coordinating clean energy-related initiatives and funding programs targeted at expanding the clean energy sector;

(d) Secure a minimum of fifty percent nonstate funds for projects undertaken by the partnership, however nonstate funds or moneys that the partnership is directed to manage that have different matching contribution requirements are not subject to this subsection (1)(d);

(e) Use state funding to demonstrate state commitment, serve as a catalyst for attracting matching funding from multiple sources, and stimulate collaborative projects among other purposes;

(f) Work with the public and private utilities, district energy providers, and the utilities and transportation commission to develop recommendations to improve alignment of state investments, policies, and the work of the partnership, with the operations of utilities, including investor-owned utilities regulated by the utilities and transportation commission, however, this subsection does not create a right in any person to challenge a regulatory decision of the utilities and transportation commission;

(g) Work with the legislature to establish a long-term, stable funding strategy appropriate for supporting the partnership;

(h) Track, identify, and create opportunities to attract federal and other nonstate funding, and make recommendations for increasing Washington's success rate in receiving federal and other nonstate funds;

(i) Work with regional public and private utilities to identify a process for understanding and prioritizing their goals and make recommendations for aligning, coordinating, and leveraging the partnership's investments with the needs of regional utilities in ways that help accelerate the growth of clean energy jobs and technology in the region;

(j) Participate fully in federal and other governmental programs and take such actions as are necessary and consistent with this chapter to secure for the partnership and the people of the state the benefits of those programs and to meet their requirements; and

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(k) Conduct analyses as necessary to identify and communicate to policymakers the best opportunities for Washington to maintain and expand the clean energy sector in Washington state.

(2) Existing energy policy and regulatory functions of the department of commerce shall remain with the state energy office.

(3) By November 1, 2012, and November 1st biennially thereafter, innovate Washington must submit a report to the legislature and the governor with recommendations on ways to improve policy alignment, streamline regulatory requirements, and remove administrative barriers that limit the growth of the clean energy sector in Washington as well as a discussion of best practices encountered in implementing the market-driving initiatives.

**NEW SECTION. Sec. 7.** The Washington clean energy partnership fund is created in the custody of the state treasurer to receive state and federal funds, grants, private gifts, or contributions to further the purpose of the Washington clean energy partnership. Only the executive director of innovate Washington or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 8.** RCW 43.325.040 and 2009 c 564 s 942 and 2009 c 451 s 5 are each reenacted and amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under the energy freedom account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for financial assistance for further funding for projects consistent with this chapter or otherwise authorized by the legislature.

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in RCW 43.325.110; and

(c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3)(a) The energy recovery act account is created in the state treasury. State and federal funds may be deposited into the account and any loan payments of principal and interest derived from loans made from the energy recovery act account must be deposited into the account. Moneys in the account may be spent only after appropriation.

(b) Expenditures from the account may be used only for loans, loan guarantees, and grants that encourage the establishment of innovative and sustainable industries for renewable energy and energy efficiency technology, including but not limited to:

(i) Renewable energy projects or programs that require interim financing to complete project development and implementation;

(ii) Companies with innovative, near-commercial or commercial, clean energy technology; ~~((and))~~

(iii) Energy efficiency technologies that have a viable repayment stream from reduced utility costs; and

(iv) Initiatives approved by the Washington clean energy partnership.

~~((e)) (4)(a)~~ The director shall establish policies and procedures for processing, reviewing, and approving applications for funding under this section. ~~((When developing these))~~ The policies and procedures ~~((, the department must consider the clean energy leadership strategy developed under section 2, chapter 318, Laws of~~

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~~2009~~) developed under this section must be approved by the Washington clean energy partnership.

~~((4))~~ (b) The director shall enter into agreements with approved applicants to fix the term and rates of funding provided from this account.

~~((c))~~ (c) The policies and procedures of this subsection ~~((3))~~ (4) do not apply to assistance awarded for projects under RCW 43.325.020(3).

~~((4))~~ (5) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

~~((5))~~ (6) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

~~((6))~~ Subsections (2), (4) and (5) of this section do not apply to assistance awarded for projects under RCW 43.325.020(3).

(7) During the 2009-2011 fiscal biennium, the legislature may transfer from the energy freedom account to the state general fund such amounts as reflect the excess fund balance of the account.)

**NEW SECTION. Sec. 9.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions in RCW 41.06.070, this chapter does not apply to any position in or employee of innovate Washington under chapter 43.--- RCW (the new chapter created in section 23 of this act).

**Sec. 10.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to read as follows:

(1) The college board, in consultation with business, industry, labor, the workforce training and education coordinating board, the department of ~~((community, trade, and economic development))~~ commerce, the employment security department, and community and technical colleges, shall designate centers of excellence and allocate funds to existing and new centers of excellence based on a competitive basis.

(2) Eligible applicants for the program established under this section include community and technical colleges. Priority shall be given to applicants that have an established education and training program serving the targeted industry and that have in their home district or region an industry cluster with the same targeted industry at its core.

(3) It is the role of centers of excellence to employ strategies to:

- (a) Create educational efficiencies;
- (b) Build a diverse, competitive workforce for strategic industries;
- (c) Maintain an institutional reputation for innovation and responsiveness;
- (d) Develop innovative curriculum and means of delivering education and training;
- (e) Act as brokers of information and resources related to community and technical college education and training ~~((for))~~ and assistance available for firms in a targeted industry, including working with innovate Washington to develop methods to identify businesses within a targeted industry that could benefit from the services offered by innovate Washington under chapter 43.--- RCW (the new chapter created in section 23 of this act); and
- (f) Serve as partners with workforce development councils, associate development organizations, and other workforce and economic development organizations.

(4) Examples of strategies under subsection (3) of this section include but are not limited to: Sharing curriculum and other instructional resources, to ensure cost savings to the system; delivering collaborative certificate and degree programs; and holding statewide summits, seminars, conferences, and workshops on industry trends and best practices in community and technical college education and training.

**Sec. 11.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to read as follows:

It is the intent of the legislature to promote growth in the technology sectors of our state's economy and to particularly focus support on the ~~((creation and))~~ commercialization of intellectual property ~~((in the technology, energy, and telecommunications industries))~~ and the manufacture of innovative products in the state.

**Sec. 12.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to read as follows:

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

(1) ("Center" means the Washington technology center established under RCW 28B.20.283 through 28B.20.295.

(2)) "Board" means the innovate Washington board of directors ~~((for the center)).~~

(3) "Innovate Washington" means the agency created in section 1 of this act.

**Sec. 13.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to read as follows:

(1) The investing in innovation ~~((grants))~~ program is established.

(2) ~~((The center))~~ Innovate Washington shall periodically make strategic assessments of the types of ~~((state))~~ investments in research ~~((and)), technology, and industrial development~~ in this state that would likely create new products, jobs, and business opportunities and produce the most beneficial long-term improvements to the lives and health of the citizens of the state. The assessments shall be available to the public and shall be used to guide decisions on awarding ~~((grants))~~ funds under this chapter.

**Sec. 14.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to read as follows:

The board shall:

(1) Develop criteria for the awarding of loans or grants to qualifying universities, institutions, businesses, or individuals;

(2) Make decisions regarding distribution of ~~((grant))~~ funds ~~((and make grant awards)); ((and))~~

(3) In making ~~((grant awards, seek to provide a balance between research grant awards and commercialization grant awards))~~ funding decisions, primarily benefit enterprises that:

(a) Were created through, and have existing intellectual property agreements in place with, public and private research institutions in the state; and

(b) Intend to manufacture in the state; and

(4) Specify in contracts awarding funds that recipients must conduct their research, development, and any subsequent production activities within Washington, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

**Sec. 15.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to read as follows:

(1) The board may accept grant and loan proposals and establish a competitive process for the awarding of grants and loans.

(2) The board shall establish a peer review committee to include board members, scientists, engineers, and individuals with specific recognized expertise. The peer review committee shall provide to the board an independent peer review of all proposals determined to be competitive for a loan or grant award that are submitted to the board.

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(3) In the awarding of grants and loans, priority shall be given to proposals that leverage additional private and public funding resources.

(4) (Up to fifty percent of available funds from the investing in innovation account may be used to support commercialization opportunities for research in Washington state through an organization with commercialization expertise such as the Spokane intercollegiate research and technology institute.

(5) The center) Innovate Washington may not be a direct recipient of ((grant awards)) funding under this chapter ((403, Laws of 2003))

**Sec. 16.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to read as follows:

The board shall establish performance benchmarks against which the program will be evaluated. The ((grants)) program shall be reviewed periodically by the board. The board shall report annually to the appropriate standing committees of the legislature on loans made and grants awarded and as appropriate on program reviews conducted by the board.

**Sec. 17.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to read as follows:

(1) ((The center)) Innovate Washington shall administer the investing in innovation ((grants)) program.

(2) Not more than one percent of the available funds from the investing in innovation account may be used for administrative costs of the program.

**Sec. 18.** RCW 42.30.110 and 2010 1st sp.s. c 33 s 5 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with

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legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

**Sec. 19.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as

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required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of ~~((community, trade, and economic development))~~ commerce:

(i) Financial and proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of ~~((community, trade, and economic development))~~ commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of ~~((community, trade, and economic development))~~ commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business; ~~((and))~~

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.--- RCW (the new chapter created in section 23 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

(1) RCW 28B.20.283 (Washington technology center--Findings) and 1995 c 399 s 25 & 1992 c 142 s 1;

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(2) RCW 28B.20.285 (Washington technology center--Created--Purpose) and 2004 c 151 s 3, 2003 c 403 s 10, 1992 c 142 s 3, & 1983 1st ex.s. c 72 s 11;

(3) RCW 28B.20.287 (Washington technology center--Definitions) and 2004 c 151 s 4 & 1992 c 142 s 2;

(4) RCW 28B.20.289 (Washington technology center--Administration--Board of directors) and 2003 c 403 s 11, 1995 c 399 s 26, & 1992 c 142 s 4;

(5) RCW 28B.20.291 (Washington technology center--Support from participating institutions) and 1992 c 142 s 5;

(6) RCW 28B.20.293 (Washington technology center--Role of department of community, trade, and economic development) and 1995 c 399 s 27 & 1992 c 142 s 6;

(7) RCW 28B.20.295 (Washington technology center--Availability of facilities to other institutions) and 1992 c 142 s 7;

(8) RCW 28B.20.296 (Washington technology center--Renewable energy and energy efficiency business development--Strategic plan) and 2004 c 151 s 2;

(9) RCW 28B.20.297 (Washington technology center--Small business innovation research assistance program) and 2005 c 357 s 1;

(10) RCW 28B.38.010 (Spokane intercollegiate research and technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;

(11) RCW 28B.38.020 (Administration--Board of directors--Powers and duties) and 1998 c 344 s 10;

(12) RCW 28B.38.030 (Support from participating institutions) and 1998 c 344 s 11;

(13) RCW 28B.38.040 (Operating staff--Cooperative agreements for programs and research) and 1998 c 344 s 12;

(14) RCW 28B.38.050 (Role of department of community, trade, and economic development) and 1998 c 344 s 13;

(15) RCW 28B.38.060 (Availability of facilities to other institutions) and 1998 c 344 s 14;

(16) RCW 28B.38.070 (Authority to receive and expend funds) and 1998 c 344 s 15; and

(17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

**NEW SECTION. Sec. 21.** (1) The Spokane intercollegiate research and technology institute and the Washington technology center are hereby abolished and the powers, duties, and functions are hereby transferred to innovate Washington. Once the board created in section 2 of this act has convened, all references to the Spokane intercollegiate research and technology institute or the Washington technology center in the Revised Code of Washington shall be construed to mean innovate Washington.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Spokane intercollegiate research and technology institute or the Washington technology center shall be delivered to the custody of innovate Washington. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Spokane intercollegiate research and technology institute or the Washington technology center shall be made available to innovate Washington. All funds, credits, or other assets held by the Spokane intercollegiate research and technology institute or the Washington technology center shall be assigned to innovate Washington.

(b) Any appropriations made to the Spokane intercollegiate research and technology institute or the Washington technology center shall, on the effective date of this section, be transferred and credited to innovate Washington.

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

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

(3) All employees of the Spokane intercollegiate research and technology institute or the Washington technology center are transferred to the jurisdiction of innovate Washington. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to innovate Washington to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the Spokane intercollegiate research and technology institute or the Washington technology center shall be continued and acted upon by innovate Washington. All existing contracts and obligations shall remain in full force and shall be performed by innovate Washington.

(5) The transfer of the powers, duties, functions, and personnel of the Spokane intercollegiate research and technology institute and the Washington technology center shall not affect the validity of any act performed before the effective date of this section.

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

(7) All classified employees of the Spokane intercollegiate research and technology institute or the Washington technology center assigned to innovate Washington under this section whose positions are within an existing bargaining unit description at innovate Washington shall become a part of the existing bargaining unit at innovate Washington and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 22.** RCW 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, and 70.210.070 are each recodified as sections in chapter 43--- RCW (the new chapter created in section 23 of this act).

**NEW SECTION. Sec. 23.** Sections 1 through 7 and 21 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 24.** Section 8 of this act expires June 30, 2016.

**NEW SECTION. Sec. 25.** This act takes effect August 1, 2011."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama Baumgartner and Rockefeller to Senate Bill No. 5764.

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

#### MOTION

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

On page 1, line 1 of the title, after "Washington;" strike the remainder of the title and insert "amending RCW 28B.50.902, 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, 70.210.070, 42.30.110, and 42.56.270; reenacting and amending RCW 43.325.040; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; recodifying RCW 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, and 70.210.070; repealing RCW 28B.20.283, 28B.20.285, 28B.20.287, 28B.20.289, 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297, 28B.38.010, 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060, 28B.38.070,

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and 28B.38.900; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Senate Bill No. 5764 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama, Rockefeller, Baumgartner, Chase, Brown and Shin spoke in favor of passage of the bill.

Senator Honeyford spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5764.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5764 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Pridemore

Excused: Senator Hargrove

ENGROSSED SENATE BILL NO. 5764, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 8:20 p.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

The Senate was called to order at 9:32 p.m. by President Owen.

SECOND READING

SENATE BILL NO. 5073, by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe and Chase

Concerning the medical use of cannabis.

MOTION

On motion of Senator Kohl-Welles, Second Substitute Senate Bill No. 5073 was substituted for Senate Bill No. 5073 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Sheldon moved that the following amendment by Senators Sheldon, Schoesler and Hargrove be adopted:

On page 5, line 3, after "means a" strike "person" and insert "nonprofit medical organization"

On page 25, after line 19, insert the following:

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"NEW SECTION." **Sec. 704.** Licensed dispensers must be licensed and approved by the counties and cities in which they are located."

Senator Sheldon spoke in favor of adoption of the amendment.

Senator Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Sheldon, Schoesler and Hargrove on page 5, line 3 to Second Substitute Senate Bill No. 5073.

The motion by Senator Sheldon carried and the amendment was adopted by a rising vote.

MOTION

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

On page 8, line 10, strike "~~((A))~~ (i) A" and insert "~~((A))~~ (i) An original"

On page 8, line 13, after "cannabis" insert ". Valid documentation must include the proper form of consumption and dosage amounts for the cannabis authorized for the most effective treatment of the terminal or debilitating medical condition"

On page 8, line 26, after "cannabis" insert ". Valid documentation must include the proper form of consumption and dosage amounts for the cannabis authorized for the most effective treatment of the terminal or debilitating medical condition"

Senator Carrell spoke in favor of adoption of the amendment.

Senator Pflug spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 8, line 10 to Second Substitute Senate Bill No. 5073.

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

MOTION

Senator Carrell moved that the following amendment by Senators Carrell and Delvin be adopted:

On page 10, line 13, after "cannabis:" insert the following:

"(v) Have a business or practice which consists primarily of examining patients for the purpose of authorizing the medical use of cannabis;

(vi) Include any statement or reference, visual or otherwise, on the medical use of cannabis in any advertisement for his or her business or practice;"

Reletter the remaining subsection consecutively and correct any internal references accordingly.

On page 10, after line 16, insert the following:

"(3) A violation of any provision of subsection (2) of this section constitutes unprofessional conduct under chapter 18.130 RCW."

Senators Carrell and Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Carrell and Delvin on page 10, line 13 to Second Substitute Senate Bill No. 5073.

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

MOTION

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

On page 24, line 32, after "(j)" insert "Establishing maximum amounts of cannabis and cannabis products that may be kept at one time at a dispensary. In determining maximum amounts, the secretary must consider the security of the dispensary and the surrounding community;

(k)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Honeyford and Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 24, line 32 to Second Substitute Senate Bill No. 5073.

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

#### MOTION

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

On page 24, line 32, after "(j)" insert "Establishing the number of dispensaries permitted in any given region of the state;

(k)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 24, line 32 to Second Substitute Senate Bill No. 5073.

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

#### MOTION

Senator Sheldon moved that the following amendment by Senators Sheldon, Schoesler and Hargrove be adopted:

On page 25, after line 19, insert the following:

"**NEW SECTION. Sec. 704.** A licensed dispenser may not sell cannabis in any city, county, or town without first being authorized to do so by the city, county, or town legislative authority."

Senators Sheldon, Hargrove, Roach, Parlette, Hewitt, Honeyford and Carrell spoke in favor of adoption of the amendment.

Senators Kohl-Welles, Brown, Delvin and Kline spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Sheldon, Schoesler and Hargrove on page 25, after line 19 to Second Substitute Senate Bill No. 5073.

The motion by Senator Sheldon carried and the amendment was adopted by a rising vote.

#### MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

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

#### MOTION

Senator Kohl-Welles moved that the following amendment by Senators Kohl-Welles and Baumgartner be adopted:

On page 25, beginning on line 27, after "No" strike all material through "billboard" on line 29 and insert "person, partnership, corporation, association, or agency may advertise cannabis for sale to the general public"

On page 26, line 10, after "radio broadcast licensee," insert "newspaper, magazine,"

Senators Kohl-Welles and Baumgartner spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kohl-Welles and Baumgartner on page 25, line 27 to Second Substitute Senate Bill No. 5073.

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

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Parlette, the amendment by Senators Parlette and Kohl-Welles on page 28, line 7 to Second Substitute Senate Bill No. 5073 was withdrawn.

#### MOTION

Senator Parlette moved that the following amendment by Senators Parlette and Kohl-Welles be adopted:

Beginning on page 28, line 7, strike all of sections 901, 902, and 903 and insert the following:

"**NEW SECTION. Sec. 901.** (1) By July 1, 2012, the department of health shall, in consultation with the department of agriculture, adopt rules for the creation, implementation, maintenance, and timely upgrading of a secure and confidential registration system that allows:

(a) A peace officer to verify at any time whether a health care professional has registered a person who has been contacted by that peace officer and has provided that peace officer information necessary to verify his or her registration as either a qualifying patient or a designated provider;

(b) A peace officer to verify at any time during ordinary business hours of the department of health whether a health care professional has registered a person as either a qualifying patient or a designated provider, or an address as the primary residence of a qualifying patient or designated provider; and

(c) A peace officer to verify at any time during ordinary business hours of the department of health whether a person, location, or business is licensed by the department of agriculture or the department of health as a licensed producer, licensed processor of cannabis products, or licensed dispenser.

(2) The department of agriculture must, in consultation with the department of health, create and maintain a secure and confidential list of persons to whom it has issued a license to produce cannabis for medical use or a license to process cannabis products, and the physical addresses of the licensees' production and processing facilities. The list must meet the requirements of subsection (9) of this section and be transmitted to the department of health to be included in the registry established by this section.

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(3) The department of health must, in consultation with the department of agriculture, create and maintain a secure and confidential list of the persons to whom it has issued a license to dispense cannabis for medical use that meets the requirements of subsection (9) of this section and must be included in the registry established by this section.

(4) Law enforcement shall comply with Article I, section 7 of the state Constitution when accessing the registration system for criminal investigations, which, at a minimum, requires an articulated individualized suspicion of: (a) Criminal activity; or (b) the possession, use, manufacture, production, processing, delivery, transport, or distribution of cannabis, whether criminal or noncriminal.

(5) Registration in the system shall be optional for qualifying patients and designated providers, not mandatory, and registrations are valid for one year, except that qualifying patients must be able to remove themselves from the registry at any time. For licensees, registrations are valid for the term of the license and the registration must be removed if the licensee's license is expired or revoked. The department of health must adopt rules providing for registration renewals and for removing expired registrations and expired or revoked licenses from the registry.

(6) Fees, including renewal fees, for qualifying patients and designated providers participating in the registration system shall be limited to the cost to the state of implementing, maintaining, and enforcing the provisions of this section and the rules adopted to carry out its purposes.

(7) The department of health, in conjunction with the department of agriculture, must establish and collect reasonable fees for the dissemination of information to employees of state and local law enforcement agencies relating to whether a person is a licensed producer, processor of cannabis products, or dispenser, or that a location is the recorded address of a license producer, processor of cannabis products, or dispenser, and for the dissemination of log records relating to such requests for information to the subjects of those requests.

(8) During the rule-making process, the department of health shall consult with stakeholders and persons with relevant expertise, to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab.

(9) The registration system shall meet the following requirements:

(a) Any personally identifiable information included in the registration system must be "nonreversible," pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the registration system must not be susceptible to linkage by use of data external to the registration system;

(c) The registration system must incorporate current best differential privacy practices, allowing for maximum accuracy of registration system queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The registration system must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(10) The registration system shall maintain a log of each verification query submitted by a peace officer, including the peace officer's name, agency, and identification number, for a period of no less than three years from the date of the query. Personally identifiable information of qualifying patients and designated providers included in the log shall be confidential and exempt from

public disclosure, inspection, or copying under chapter 42.56 RCW: PROVIDED, That:

(a) Names and other personally identifiable information from the list may be released only to:

(i) Authorized employees of the department of agriculture and the department of health as necessary to perform official duties of either department; or

(ii) Authorized employees of state or local law enforcement agencies, only as necessary to verify that the person or location is a qualified patient, designated provider, licensed producer, licensed processor of cannabis products, or licensed dispenser, and only after the inquiring employee has provided adequate identification. Authorized employees who obtain personally identifiable information under this subsection may not release or use the information for any purpose other than verification that a person or location is a qualified patient, designated provider, licensed producer, licensed processor of cannabis products, or licensed dispenser;

(b) Information contained in the registration system may be released in aggregate form, with all personally identifying information redacted, for the purpose of statistical analysis and oversight of agency performance and actions;

(c) The subject of a registration query may appear during ordinary department of health business hours and inspect or copy log records relating to him or her upon adequate proof of identity; and

(d) The subject of a registration query may submit a written request to the department of health, along with adequate proof of identity, for copies of log records relating to him or her.

(11) This section does not prohibit a department of agriculture employee or a department of health employee from contacting state or local law enforcement for assistance during an emergency or while performing his or her duties under this chapter.

(12) Fees collected under this section must be deposited into the health professions account under RCW 43.70.320." Renumbr the remaining sections consecutively and correct any internal references accordingly.

On page 34, beginning on line 27, after "under" strike "sections 901, 902, and 903" and insert "section 901"

Senators Parlette and Kohl-Welles spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Parlette and Kohl-Welles on page 28, line 7 to Second Substitute Senate Bill No. 5073.

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

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5073 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Regala, Delvin and Pflug spoke in favor of passage of the bill.

Senator Hargrove spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5073.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5073 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Keiser, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Carrell, Conway, Ericksen, Hargrove, Haugen, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Morton, Parlette, Roach, Schoesler, Sheldon, Shin, Stevens and Swecker

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5073, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

### SECOND READING

SENATE BILL NO. 5575, by Senators Hatfield, Delvin, Eide, Schoesler, Haugen, Shin, Kilmer, Hobbs, Becker, Honeyford, Conway and Sheldon

Recognizing certain biomass energy facilities as an eligible renewable resource.

The measure was read the second time.

### MOTION

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

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

"(3) By promoting the recognition of certain pre-1999 biomass facilities as new renewable energy under the energy independence act, it is also appropriate to reflect this inclusion by increasing the renewable energy targets under the act."

On page 5, after line 8, insert the following:

"Sec. 3. RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The

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reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(d) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(e) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three ~~and three-tenths~~ percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine ~~and nine-tenths~~ percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least ~~(fifteen)~~ sixteen and five-tenths percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

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(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006."

ReNUMBER the remaining section consecutively and correct any internal references accordingly.

On page 1, line 5 of the title, after "19.285.030" insert "and 19.285.040"

Senators Rockefeller and Nelson spoke in favor of adoption of the amendment.

Senators Delvin and Hatfield spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 2, after line 2 to Senate Bill No. 5575.

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

MOTION

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

On page 2, line 28, after "facilities" strike "has" and insert "; (a) Has" and after "megawatts" insert "; or (b) generates not more than twenty average megawatts in a calendar year"

Senator Nelson spoke in favor of adoption of the amendment. Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson on page 2, line 28 to Senate Bill No. 5575.

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

MOTION

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

On page 2, line 35, after "services;" strike "or" and insert "((☉))"

On page 2, line 36, after "(b)" insert "Electricity from hydroelectric generation used to firm, shape, and integrate wind power into the northwestern electric grid for delivery to Washington residents; or

(c)"

Reletter the remaining subsection consecutively and correct any internal references accordingly.

POINT OF ORDER

Senator Hatfield: "Thank you Mr. President. I believe amendment 64 is beyond the scope and object of the underlying bill. The amendment recognizes certain forms of small hydro power as an eligible renewable resource. I believe the amendment is outside the scope and object of the bill because the bill is about biomass and recognizes certain biomass energy facilities located in economically distressed communities. I would like to submit further written arguments if I may Mr. President?"

REPLY BY THE PRESIDENT

President Owen: "The President will take the scope and object ruling under consideration. If there are no objections, we'll move to the next amendment."

MOTION

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

On page 2, line 36, after "(b)" insert "(i) Electricity from a hydroelectric generating facility with an installed generating capacity of five megawatts or less that discharges the water it uses for power generation into either:

(A) A conduit, with the water flowing directly to a point of agricultural, municipal, or industrial consumption; or

(B) A natural water body if a quantity of water equal to or greater than the quantity discharged from the hydroelectric facility is withdrawn from the natural water body on which the hydroelectric generating facility is located, unless that consumption would occur for agricultural, municipal, or industrial consumption purposes even if hydroelectric generating facilities were not installed;

(ii) Electricity from a hydroelectric generating facility must not come from a dam or weir that creates more than intraday storage of water

(iii) Electricity from a hydroelectric generating facility must be certified by a nationally recognized organization that certifies hydroelectric facilities as low-impact hydroelectric; or

(c)"

Reletter the remaining subsection consecutively and correct any internal references accordingly.

On page 5, after line 8, insert the following:

"(24) "Intraday storage of water" means the amount of water that is retained by a dam or weir over a twenty-four hour period that is in excess of normal stream flow."

POINT OF ORDER

Senator Hatfield: "Thank you Mr. President. I would challenge the scope and object of this amendment also being beyond that of the underlying bill. For the reasons outlined in the previous amendment I believe this one is beyond the scope and object of the bill."

REPLY BY THE PRESIDENT

President Owen: "Thank you Senator. The President will take the scope and object under consideration. If there are no objections, we'll move to the next amendment."

MOTION

Senator Nelson moved that the following amendment by Senators Nelson, Ranker and Rockefeller be adopted:

On page 3, beginning on line 5, after "impoundments" strike all material through "energy" on line 6

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Beginning on page 4, after line 27, strike all material through "19.285.030." on page 5, line 13

On page 1, beginning on line 1 of the title, after "Relating to" strike all material through "sections." on line 6 and insert "promoting and sustaining investment and employment in communities dependent on agricultural or natural resource industries by recognizing certain biomass energy as an eligible renewable resource; amending RCW 19.285.030; and creating a new section."

Senator Nelson spoke in favor of adoption of the amendment.

Senators Delvin and Chase spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Nelson, Ranker and Rockefeller on page 3, line 8 to Senate Bill No. 5575.

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

#### MOTION

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

On page 3, line 19, after "gases." insert "For an anaerobic digester, its nonpower attributes may be separated into avoided emissions of carbon dioxide and other greenhouse gases, and into renewable energy credits."

Senators Nelson and Hatfield spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson on page 3, line 19 to Senate Bill No. 5575.

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

#### MOTION

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

On page 4, after line 20, strike all material through "waste." on line 23 and insert "food waste; (vi) liquors derived from algae and other sources; (vii) dedicated energy crops; (viii) biosolids; and (ix) yard waste."

Senator Chase spoke in favor of adoption of the amendment.

Senator Hatfield spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 4, after line 20 to Senate Bill No. 5575.

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

#### MOTION

Senator Rockefeller moved that the following amendment by Senators Rockefeller, Nelson and Ranker be adopted:

On page 4, line 29, after "facility" insert "not owned by a qualifying utility"

Senator Rockefeller spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senators Rockefeller, Nelson and Ranker on page 4, line 29 to Senate Bill No. 5575.

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

#### MOTION

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

On page 4, line 30, after "(a)" strike "(i)"

On page 4, line 31, before "Is" strike "(ii)" and insert "(b)"

Beginning on page 4, after line 32, strike all material through "utility." on page 5, line 3

Senators Chase, Pridemore, Benton and Hatfield spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 4, line 30 to Senate Bill No. 5575.

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

#### MOTION

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

On page 5, after line 8, insert the following:

"**Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(d) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

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(e) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) A qualifying utility may only count generation from a qualified biomass facility at fifty percent of the facility's electrical output

(d) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

~~((e))~~ (e) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

~~((e))~~ (f) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

~~((f))~~ (g) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

~~((g))~~ (h) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

~~((h))~~ (i)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

~~((i))~~ (j) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably

anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 1, line 5 of the title, after "19.285.030" insert "and 19.285.040"

Senator Chase spoke in favor of adoption of the amendment.

Senators Hatfield and Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 5, after line 8 to Senate Bill No. 5575.

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

#### MOTION

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

On page 5, after line 8, insert the following:

"**Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c) A qualifying utility that acquires solar energy may count that acquisition at six times its base value when the energy is produced using solar inverters and modules manufactured in Washington state.

(d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii)

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counted towards meeting the biennial conservation target in the same manner as other conservation savings.

~~((d))~~ (e) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

~~((e))~~ (f) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

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(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 1, line 5 of the title, after "19.285.030" insert "and 19.285.040"

#### POINT OF ORDER

Senator Hatfield: "Thank you Mr. President. Well this amendment does apply to solar and I request a ruling on the scope and object of it because I believe for the same arguments submitted on hydro power to this bill that the amendment on solar is also beyond the scope and object of the bill."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Hatfield has raised the point of order that the amendment changes the scope and object of the underlying bill. If there are no objections, the President will take this under consideration and move to the next amendment."

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Rockefeller be adopted:

On page 5, after line 8, insert the following:

"Sec. 3. RCW 19.285.080 and 2007 c 1 s 8 are each amended to read as follows:

(1) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(2) The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to qualifying utilities that are not investor-owned utilities. Those rules include, but are not limited to, rules associated with a qualifying utility's development of conservation targets under RCW 19.285.040(1); a qualifying utility's decision to pursue alternative compliance in RCW 19.285.040(2) (d) or (i) or 19.285.050(1); and the format and content of reports required in RCW 19.285.070. Nothing in this subsection may be construed to restrict the rate-making authority of the commission or a qualifying utility as otherwise provided by law.

(3) The commission and department may coordinate in developing rules related to process, timelines, and documentation that are necessary for implementation of this chapter.

(4)(a) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by December 31, ~~((2007))~~ 2011. These rules may be revised as needed to carry out the intent and purposes of this chapter.

(b) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the department shall initiate rule making to consider adopting any changes in methodologies used by the Pacific

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Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(c) Within six months of the adoption by the Pacific Northwest electric power and conservation planning council of each of its regional power plans, the commission shall initiate rule making to consider adopting any changes in methodologies used by the Pacific Northwest electric power and conservation planning council that would impact a qualifying utility's conservation potential assessment in accordance with RCW 19.285.040(1).

(d) Rules adopted under (b) and (c) of this subsection must be applied to the next biennial target that begins at least six months after the adoption date of the rules."

Renumber the remaining section consecutively.

On page 1, line 5 of the title, after "19.285.030" insert "and 19.285.080"

Senator Keiser spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Rockefeller on page 5, after line 8 to Senate Bill No. 5575.

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

#### MOTION

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

On page 5, after line 13, insert the following:

**"NEW SECTION. Sec. 4.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 1, beginning on line 5 of the title, after "19.285.030;" strike the remainder of the title and insert "creating new sections; and providing for submission of this act to a vote of the people."

Senator Nelson spoke in favor of adoption of the amendment.

Senator Hatfield spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson on page 5, after line 13 to Senate Bill No. 5575.

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

#### MOTION

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

On page 5, after line 13, insert the following:

**"NEW SECTION. Sec. 4.** Section 2 of this act takes effect January 1, 2012."

On page 1, beginning on line 5 of the title, after "19.285.030;" strike the remainder of the title and insert "creating new sections; and providing an effective date."

Senator Nelson spoke in favor of adoption of the amendment.

Senator Hatfield spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson on page 5, after line 13 to Senate Bill No. 5575.

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

#### MOTION

Senator Kohl-Welles moved that the following amendment by Senator Kohl-Welles be adopted:

On page 5, after line 13, insert the following:

**"NEW SECTION. Sec. 4.** Not later than December 1, 2011, the energy policy division within the department of commerce shall provide a report to the energy committees within the senate and house of representatives on the facilities generating "qualified biomass energy" under this act, and the utilization of such energy to satisfy the qualifying utility's compliance with the targets established in RCW 19.285.040."

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

Senator Schoesler spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kohl-Welles on page 5, after line 13 to Senate Bill No. 5575.

The motion by Senator Kohl-Welles failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5575 was deferred and the bill held its place on the second reading calendar.

#### MOTION

At 11:27 a.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, March 3, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## FIFTY THIRD DAY

## MORNING SESSION

Senate Chamber, Olympia, Thursday, March 3, 2011

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

The Sergeant at Arms Color Guard consisting of Pages Mitchell Jamison and Ashley Johnson, presented the Colors. Pastor Sandra Kreis of St. Christopher Community Church of Olympia offered the prayer.

## MOTION

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

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5863 by Senators Chase and Kline

AN ACT Relating to creating a tax on plastic shopping bags; adding a new chapter to Title 82 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Ways & Means.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1008 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Appleton and Hunt)

AN ACT Relating to membership on the Washington citizens' commission on salaries for elected officials; and amending RCW 43.03.305.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1051 by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Eddy, Goodman, Kelley and Moeller)

AN ACT Relating to trusts and estates; amending RCW 11.02.005, 11.28.237, 11.68.090, 11.94.050, 11.96A.030, 11.96A.050, 11.96A.070, 11.96A.110, 11.96A.120, 11.97.010, 11.98.009, 11.98.039, 11.98.045, 11.98.051, 11.98.055, 11.98.070, and 11.100.090; adding new sections to chapter 11.96A RCW; adding a new section to chapter 11.97 RCW; adding new sections to chapter 11.98 RCW; adding a new chapter to Title 11 RCW; creating a new section; and providing an effective date.

Referred to Committee on Judiciary.

HB 1052 by Representatives Pedersen, Rodne, Eddy and Moeller

AN ACT Relating to the authority of shareholders and boards of directors to take certain actions under the corporation act; amending RCW 23B.02.060, 23B.08.010, 23B.10.200, 23B.10.030, 23B.11.030, 23B.12.020, and 23B.14.020; and adding new sections to chapter 23B.08 RCW.

Referred to Committee on Judiciary.

SHB 1145 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune and Condotta)

AN ACT Relating to mail theft; amending RCW 9A.56.010; adding new sections to chapter 9A.56 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Judiciary.

SHB 1148 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz)

AN ACT Relating to the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state; amending RCW 77.65.210, 77.65.220, and 77.70.005; adding new sections to chapter 77.65 RCW; adding a new section to chapter 77.70 RCW; prescribing penalties; and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

2SHB 1153 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins)

AN ACT Relating to costs for the collection of DNA samples; and amending RCW 43.43.7541.

Referred to Committee on Judiciary.

SHB 1169 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Haigh, Chandler, Blake, Kristiansen, Taylor, Rivers, Finn and Shea)

AN ACT Relating to noxious weed lists; and amending RCW 17.10.080 and 17.10.090.

Referred to Committee on Agriculture & Rural Economic Development.

SHB 1170 by House Committee on Judiciary (originally sponsored by Representatives Roberts, Hope, Dickerson, Dammeier, Green, Rolfes, Haigh, Appleton, Walsh, Ormsby, Darneille and Kenney)

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AN ACT Relating to triage facilities; amending RCW 71.05.153 and 10.31.110; reenacting and amending RCW 71.05.020; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Human Services & Corrections.

ESHB 1492 by House Committee on Judiciary (originally sponsored by Representatives Pedersen and Rodne)

HB 1195 by Representatives Kelley and Santos

AN ACT Relating to clarifying that a license and endorsement are needed to make small loans; and amending RCW 31.45.073.

Referred to Committee on Financial Institutions, Housing & Insurance.

AN ACT Relating to the Uniform Commercial Code Article 9A on secured transactions; amending RCW 62A.9A-102, 62A.9A-105, 62A.9A-307, 62A.9A-311, 62A.9A-316, 62A.9A-317, 62A.9A-326, 62A.9A-406, 62A.9A-408, 62A.9A-503, 62A.9A-507, 62A.9A-515, 62A.9A-516, 62A.9A-518, 62A.9A-521, 62A.9A-607, 62A.2A-103, 43.340.050, 60.56.015, 60.11.040, 62A.2A-310, 62A.8-103, 62A.9A-209, 62A.9A-309, 62A.9A-310, 62A.9A-313, 62A.9A-320, 62A.9A-328, 62A.9A-335, 62A.9A-337, 62A.9A-338, 62A.9A-405, 62A.9A-505, 62A.9A-506, 62A.9A-508, 62A.9A-510, 62A.9A-520, 62A.9A-601, 62A.9A-602, 62A.9A-611, 62A.9A-621, 62A.9A-625, 62A.9A-628, and 1.08.015; adding new sections to chapter 62A.9A RCW; creating new sections; and providing an effective date.

Referred to Committee on Judiciary.

HB 1215 by Representatives Lias, Rodne, Goodman and Kenney

AN ACT Relating to clarifying the application of the fifteen-day storage limit on liens for impounded vehicles; and amending RCW 46.55.130.

Referred to Committee on Transportation.

SHB 1493 by House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney)

AN ACT Relating to providing greater transparency to the health professions disciplinary process; and adding a new section to chapter 18.130 RCW.

Referred to Committee on Health & Long-Term Care.

HB 1222 by Representatives Morris and Lytton

AN ACT Relating to limited expansions of urban growth areas into one hundred year floodplains in areas adjacent to a freeway interchange or interstate in counties wholly or partially bordering salt waters with more than one hundred thousand but fewer than one hundred fifty thousand residents; and amending RCW 36.70A.110.

Referred to Committee on Government Operations, Tribal Relations & Elections.

2SHB 1507 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Klippert, Hurst, Ross, Hope, Armstrong, Kirby, Warnick, Johnson and Kelley)

AN ACT Relating to crimes against pharmacies; and amending RCW 9A.56.200.

Referred to Committee on Judiciary.

SHB 1247 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Hunter, Darneille and Kenney)

AN ACT Relating to the staffing of secure community transition facilities; amending RCW 71.09.300; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1542 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Buys, Haler, Johnson and Condotta)

AN ACT Relating to possession of motorcycle theft tools; adding a new section to chapter 9A.56 RCW; and prescribing penalties.

Referred to Committee on Judiciary.

SHB 1249 by House Committee on Ways & Means (originally sponsored by Representatives Cody, Pettigrew, Hunter and Darneille)

AN ACT Relating to ensuring efficient and economic medicaid nursing facility payments; amending RCW 74.46.431, 74.46.435, 74.46.437, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.515, and 74.46.521; repealing RCW 74.46.433; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 1544 by Representatives Hunter and Anderson

AN ACT Relating to restricting the eligibility for the basic health plan to the basic health transition eligibles population under the medicaid waiver; reenacting and amending RCW 70.47.020; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 1466 by Representatives Kirby and Bailey

AN ACT Relating to the department of financial institutions' regulation of trust companies; and amending RCW 30.08.025.

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EHB 1559 by Representatives Haigh, Dammeier and Goodman

AN ACT Relating to indemnification agreements involving design professionals; and amending RCW 4.24.115.

Referred to Committee on Judiciary.

SHB 1565 by House Committee on Judiciary (originally sponsored by Representatives Frockt, Rodne, Pedersen, Eddy, Goodman, Roberts, Walsh, Green, Jacks, Fitzgibbon, Reykdal, Kenney, Stanford, Billig and Kelley)

AN ACT Relating to the termination or modification of domestic violence protection orders; amending RCW 26.50.130; and creating a new section.

Referred to Committee on Human Services & Corrections.

SHB 1626 by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

AN ACT Relating to harassment; amending RCW 10.14.150, 10.14.020, and 10.14.080; and adding a new section to chapter 10.14 RCW.

Referred to Committee on Judiciary.

HB 1657 by Representatives Ahern, McCune, Miloscia, Hurst, Hope, Rivers and Kelley

AN ACT Relating to the statute of limitations on certain sex offenses; and reenacting and amending RCW 9A.04.080.

Referred to Committee on Human Services & Corrections.

SHB 1697 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Seaquist, Goodman, Orwall, Dickerson and Kenney)

AN ACT Relating to unannounced monthly visits to persons providing care to children in the dependency system; and reenacting and amending RCW 74.13.031.

Referred to Committee on Human Services & Corrections.

SHB 1719 by House Committee on Judiciary (originally sponsored by Representatives Rodne, Schmick, Haler, Smith, Wilcox, Johnson, Klippert, Kristiansen, McCune, Short, Ross and Warnick)

AN ACT Relating to limiting liability for unauthorized passengers in a vehicle; adding a new section to chapter 4.92 RCW; adding a new section to chapter 4.24 RCW; and creating new sections.

Referred to Committee on Judiciary.

EHB 1730 by Representatives Jinkins, Rodne, Haler and Dunshee

AN ACT Relating to the authorization of bonds issued by Washington local governments; amending RCW 39.46.040, 35.33.131, 35.34.220, 35A.33.130, and 35A.34.220; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1867 by Representatives Kelley, Rivers, Kirby and Stanford

AN ACT Relating to clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates; and amending RCW 19.240.010.

Referred to Committee on Financial Institutions, Housing & Insurance.

ESHB 1885 by House Committee on Environment (originally sponsored by Representatives Moscoso, Rolfes and Fitzgibbon)

AN ACT Relating to providing streamlining improvements in the administration of programs affecting the natural environment; amending RCW 79A.05.020, 79A.05.045, 70.93.200, 70.93.220, 70.93.250, 70.951.080, 70.951.025, 70.105.210, 70.105.220, 90.80.150, 90.54.160, 90.44.052, 90.90.030, 90.90.040, 90.82.043, 70.107.030, 70.107.060, 70.95.290, 70.95C.220, 42.56.270, 89.08.040, 89.08.050, 43.23.130, 15.85.050, 77.04.150, 77.12.068, 77.12.702, 77.12.755, 77.12.820, 77.60.130, 77.95.020, 77.95.190, 77.95.200, 77.95.230, 43.30.340, 76.06.150, 79.02.260, 79.17.010, 79.17.020, 79.19.100, 79.125.710, 79.140.020, 79.105.410, 43.30.360, 90.71.010, 90.71.230, 90.71.250, 90.71.260, 90.71.270, 90.71.280, 90.71.290, 90.71.300, 90.71.310, 90.71.370, 90.71.340, 90.71.360, 43.155.070, 70.105D.070, 70.146.070, 79.105.150, 79A.15.040, and 89.08.520; reenacting and amending RCW 79A.05.030 and 77.85.130; and repealing RCW 79A.05.190, 79A.05.195, 79A.05.351, 70.95C.250, 70.95H.005, 70.95H.007, 70.95H.010, 70.95H.030, 70.95H.040, 70.95H.050, 70.95H.900, 70.95H.901, 70.107.080, 70.93.090, 79.125.730, 77.95.140, 77.95.150, 77.95.160, 43.30.345, 43.30.370, 79.125.610, 43.155.110, 70.105D.120, 70.146.110, 77.85.240, 79.105.610, 79A.15.140, 89.08.580, and 90.50A.080.

Referred to Committee on Natural Resources & Marine Waters.

SHB 1899 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Miloscia, Overstreet, Hurst, Taylor, Hunt, Armstrong, McCoy and Condotta)

AN ACT Relating to penalties for public records violations; reenacting and amending RCW 42.56.550; and prescribing penalties.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1916 by Representatives Ryu, Kagi, Maxwell, Kenney and Santos

AN ACT Relating to business services delivered by associate development organizations; amending RCW 43.330.080, 43.330.082, and 43.330.010; and adding a new section to chapter 43.330 RCW.

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Referred to Committee on Economic Development, Trade & Innovation.

Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Carrell, Hewitt and Kastama

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 1008 which was referred to the Committee on Government Operations, Tribal Relations & Elections and Substitute House Bill No. 1247 which was referred to the Committee on Ways & Means.

Gubernatorial Appointment No. 9082, Sid Morrison, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

SECOND READING

SENATE BILL NO. 5021, by Senators Pridemore, Kline, Kohl-Welles, Keiser, Prentice, Tom, Chase, White, Nelson, Haugen and McAuliffe

MOTION

On motion of Senator Ericksen, Senators Carrell, Hewitt and Pflug were excused.

Enhancing election campaign disclosure requirements to promote greater transparency for the public.

MOTION

At 9:41 a.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5021 was substituted for Senate Bill No. 5021 and the substitute bill was placed on the second reading and read the second time.

The Senate was called to order at 11:37 a.m. by President Owen.

MOTION

MOTION

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

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

On page 29, after line 16, strike all material through line 26, and insert the following:

(2) A violation of the provisions of this chapter may be punished under chapter 9.94A RCW as follows:

(a) A person who intentionally violates a provision of this chapter is guilty of a misdemeanor;

(b) A person who, within a five-year period, intentionally violates three or more provisions of this chapter is guilty of a gross misdemeanor; and

(c) A person who intentionally procures or offers any false or forged document to be filed, registered, or recorded with the commission under this chapter is guilty of a class C felony.

Senators Benton and Pridemore spoke in favor of adoption of the amendment.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator King moved that Gubernatorial Appointment No. 9082, Sid Morrison, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senators King and Fraser spoke in favor of passage of the motion.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 29, after line 16 to Substitute Senate Bill No. 5021.

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

MOTION

On motion of Senator Eide, Senator Kastama was excused.

MOTION

APPOINTMENT OF SID MORRISON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9082, Sid Morrison as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9082, Sid Morrison as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5021 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Swecker, Roach and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5021.

ROLL CALL

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller,

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5021 and the bill passed the

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Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Carrell, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5021, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

## MOTION

Senator Fain moved adoption of the following resolution:

SENATE RESOLUTION  
8631

By Senators Fain, Zarelli, King, Pflug, White, Baumgartner, Ericksen, Hill, and Shin

WHEREAS, Jay Maebori has been named the 2011 Washington State Teacher of the Year; and

WHEREAS, Jay Maebori began teaching language arts at Kentwood High School in Covington, Washington, in 2001; and

WHEREAS, Jay Maebori received his Bachelor's degree in Communications from the University of Washington in 1994, and his Master's degree in Teaching from Seattle Pacific University in 2003; and

WHEREAS, Jay Maebori is a National Board Certified Teacher; and

WHEREAS, Jay Maebori also teaches courses at Kentwood High School that are designed to assist students who have failed to meet state education standards, and 80 percent of Jay's students later succeed; and

WHEREAS, Jay Maebori is known to utilize current events, pop culture, and music to help his students relate to the subject matter; and

WHEREAS, Jay Maebori has initiated an e-newsletter that he sends to the parents of his students to keep them informed and educated about their children's progress, and encourages his colleagues to develop their own parent communication plans; and

WHEREAS, Jay Maebori believes that teachers observing other teachers and pooling the knowledge, skills, and expertise of all is the best way to improve schools in Washington State; and

WHEREAS, Jay Maebori believes that listening to his students and their concerns is the key to successfully reaching and inspiring them; and

WHEREAS, Jay Maebori is an ambassador for education both statewide and across the country, sets a shining example for his peers and colleagues, and is a credit to the teaching profession as a whole;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Jay Maebori, sophomore language

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arts teacher at Kentwood High School in Covington and 2011 Washington State Teacher of the Year; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Jay Maebori and his family, the Kent School District, and Kentwood High School.

Senator Fain spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8631.

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

## MOTION

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

## MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1081,  
SUBSTITUTE HOUSE BILL NO. 1133,  
SECOND SUBSTITUTE HOUSE BILL NO. 1362,  
HOUSE BILL NO. 1391,

SUBSTITUTE HOUSE BILL NO. 1401,  
SECOND SUBSTITUTE HOUSE BILL NO. 1405,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1443,

SUBSTITUTE HOUSE BILL NO. 1502,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1593,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599,

SUBSTITUTE HOUSE BILL NO. 1699,  
SUBSTITUTE HOUSE BILL NO. 1761,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1776,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808,

SUBSTITUTE HOUSE BILL NO. 1832,  
SUBSTITUTE HOUSE BILL 1923,  
HOUSE BILL NO. 2003.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1089,  
SECOND SUBSTITUTE HOUSE BILL NO. 1128,  
SECOND SUBSTITUTE HOUSE BILL NO. 1163,  
ENGROSSED HOUSE BILL NO. 1364,  
HOUSE BILL NO. 1491,

SECOND SUBSTITUTE HOUSE BILL NO. 1510,  
SECOND SUBSTITUTE HOUSE BILL 1519,  
SUBSTITUTE HOUSE BILL NO. 1522,

HOUSE BILL NO. 1586,  
HOUSE BILL NO. 1631,  
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ENGROSSED HOUSE BILL NO. 1703,  
 SUBSTITUTE HOUSE BILL NO. 1756,  
 SUBSTITUTE HOUSE BILL NO. 1829,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1903,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1909.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 2, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1490,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 12:00 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

MOTION

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

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9005, Logan Bahr, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senator Shin spoke in favor of the motion.

APPOINTMENT OF LOGAN BAHR

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9005, Logan Bahr as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9005, Logan Bahr as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice,

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

Absent: Senator Brown

Excused: Senators Carrell, Hewitt and Kastama

Gubernatorial Appointment No. 9005, Logan Bahr, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9067, James Lowery, as a member of the Board of Trustees, Centralia Community College District No. 12, be confirmed.

Senator Hatfield spoke in favor of the motion.

APPOINTMENT OF JAMES LOWERY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9067, James Lowery as a member of the Board of Trustees, Centralia Community College District No. 12.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9067, James Lowery as a member of the Board of Trustees, Centralia Community College District No. 12 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senators Carrell, Hewitt and Kastama

Gubernatorial Appointment No. 9067, James Lowery, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Centralia Community College District No. 12.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

MOTION

On motion of Senator White, Senator Kline was excused.

SECOND READING

SENATE BILL NO. 5449, by Senators Brown, Pflug, Carrell, Harper, Murray, Hobbs, Fain, Delvin, Roach, Ericksen, Shin, Tom, Kohl-Welles and Kilmer

Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state.

MOTION

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On motion of Senator Brown, Substitute Senate Bill No. 5449 was substituted for Senate Bill No. 5449 and the substitute bill was placed on the second reading and read the second time.

### MOTION

Senator Brown moved that the following striking amendment by Senators Brown and Hill be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Article or product" means any tangible article or product, but excludes: (a) Any services sold, offered for sale, or made available in this state, including free services and online services; (b) any product subject to regulation by the United States food and drug administration and that is primarily used for medical or medicinal purposes; (c) food and beverages; and (d) restaurant services.

(2) "Copyrightable end product" means a work within the subject matter of copyright as specified by section 102 of the United States copyright act.

(3) "Essential component" means a component of an article or product provided or to be provided to a third party pursuant to a contract, including a purchase order, without which the article or product will not perform as intended and for which there is no substitute component available that offers a comparable range and quality of functionalities and is available in comparable quantities and at a comparable price.

(4) "Manufacture" means to directly manufacture, produce, or assemble an article or product subject to section 2 of this act, in whole or substantial part, but does not include contracting with or otherwise engaging another person, or that person engaging another person, to develop, manufacture, produce, or assemble an article or product subject to section 2 of this act.

(5) "Material competitive injury" means at least a three percent retail price difference between the article or product made in violation of section 2 of this act designed to harm competition and a directly competing article or product that was manufactured without the use of stolen or misappropriated information technology, with such a price difference occurring over a four-month period of time.

(6) "Retail price" means the retail price of stolen or misappropriated information technology charged at the time of, and in the jurisdiction where, the alleged theft or misappropriation occurred, multiplied by the number of stolen or misappropriated items used in the business operations of the person alleged to have violated section 2 of this act.

(7)(a) "Stolen or misappropriated information technology" means hardware or software that the person referred to in section 2 of this act acquired, appropriated, or used without the authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law, but does not include situations in which the hardware or software alleged to have been stolen or misappropriated was not available for retail purchase on a stand-alone basis at or before the time it was acquired, appropriated, or used by such a person.

(b) Information technology is considered to be used in a person's business operations if the person uses the technology in the manufacture, distribution, marketing, or sales of the articles or products subject to section 2 of this act.

NEW SECTION. **Sec. 2.** Any person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5 of this act and, with respect to remedies sought under section 6(6) or 7 of this act, causes a material

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competitive injury as a result of such use of stolen or misappropriated information technology, is deemed to engage in an unfair act where such an article or product is sold or offered for sale in this state, either separately or as a component of another article or product, and in competition with an article or product sold or offered for sale in this state that was manufactured without violating this section. A person who engages in such an unfair act, and any articles or products manufactured by the person in violation of this section, is subject to the liabilities and remedial provisions of this chapter in an action by the attorney general or any person described in section 6(5) of this act, except as provided in sections 3 through 9 of this act.

NEW SECTION. **Sec. 3.** No action may be brought under this chapter, and no liability results, where:

(1) The end article or end product sold or offered for sale in this state and alleged to violate section 2 of this act is:

(a) A copyrightable end product;

(b) Merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright owner and which displays or embodies a name, character, artwork, or other indicia of or from a work that falls within (a) of this subsection, or merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright or trademark owner and that displays or embodies a name, character, artwork, or other indicia of or from a theme park, theme park attraction, or other facility associated with a theme park; or

(c) Packaging, carrier media, or promotional or advertising materials for any end article, end product, or merchandise that falls within (a) or (b) of this subsection;

(2) The allegation that the information technology is stolen or misappropriated is based on a claim that the information technology or its use infringes a patent or misappropriates a trade secret under applicable law or that could be brought under any provision of Title 35 of the United States Code;

(3) The allegation that the information technology is stolen or misappropriated is based on a claim that the defendant's use of the information technology violates the terms of a license that allows users to modify and redistribute any source code associated with the technology free of charge; or

(4) The allegation is based on a claim that the person violated section 2 of this act by aiding, abetting, facilitating, or assisting someone else to acquire, appropriate, use, sell, or offer to sell, or by providing someone else with access to, information technology without authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law.

NEW SECTION. **Sec. 4.** No injunction may issue against a person other than the person adjudicated to have violated section 2 of this act, and no attachment order may issue against articles or products other than articles or products in which the person alleged to violate section 2 of this act holds title. A person other than the person alleged to violate section 2 of this act includes any person other than the actual manufacturer who contracts with or otherwise engages another person to develop, manufacture, produce, market, distribute, advertise, or assemble an article or product alleged to violate section 2 of this act.

NEW SECTION. **Sec. 5.** (1) No action may be brought under section 2 of this act unless the person subject to section 2 of this act received written notice of the alleged use of the stolen or misappropriated information technology from the owner or exclusive licensee of the information technology or the owner's agent and the person: (a) Failed to establish that its use of the information technology in question did not violate section 2 of this act; or (b) failed, within ninety days after receiving such a notice, to cease use of the owner's stolen or misappropriated information technology. However, if the person commences and thereafter proceeds diligently to replace the information technology with

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information technology whose use would not violate section 2 of this act, such a period must be extended for an additional period of ninety days, not to exceed one hundred eighty days total. The information technology owner or the owner's agent may extend any period described in this section.

(2) To satisfy the requirements of this section, written notice must, under penalty of perjury: (a) Identify the stolen or misappropriated information technology; (b) identify the lawful owner or exclusive licensee of the information technology; (c) identify the applicable law the person is alleged to be violating and state that the notifier has a reasonable belief that the person has acquired, appropriated, or used the information technology in question without authorization of the owner of the information technology or the owner's authorized licensee in violation of such applicable law; (d) to the extent known by the notifier, state the manner in which the information technology is being used by the defendant; (e) state the articles or products to which the information technology relates; and (f) specify the basis and the particular evidence upon which the notifier bases such an allegation.

(3) The written notification must state, under penalty of perjury, that, after a reasonable and good-faith investigation, the information in the notice is accurate based on the notifier's reasonable knowledge, information, and belief.

**NEW SECTION. Sec. 6.** (1) No earlier than ninety days after the provision of notice in accordance with section 5 of this act, the attorney general, or any person described in subsection (5) of this section, may bring an action against any person that is subject to section 2 of this act:

(a) To enjoin violation of section 2 of this act, including by enjoining the person from selling or offering to sell in this state articles or products that are subject to section 2 of this act, except as provided in subsection (6) of this section. However, such an injunction does not encompass articles or products to be provided to a third party that establishes that such a third party has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act;

(b) Only after a determination by the court that the person has violated section 2 of this act, to recover the greater of:

(i) Actual damages, which may be imposed only against the person who violated section 2 of this act; or

(ii) Statutory damages of no more than the retail price of the stolen or misappropriated information technology, which may be imposed only against the person who violated section 2 of this act; or

(c) In the event the person alleged to have violated section 2 of this act has been subject to a final judgment or has entered into a final settlement, or any products manufactured by such a person and alleged to violate section 2 of this act have been the subject of an injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall dismiss the action. If such a person is a defendant in an ongoing action, or any products manufactured by such a person and alleged to violate section 2 of this act are the subject of an ongoing injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall stay the action against such a person pending resolution of the other action. In the event the other action results in a final judgment or final settlement, the court shall dismiss the action against the person.

(2) After determination by the court that a person has violated section 2 of this act and entry of a judgment against the person for violating section 2 of this act, the attorney general, or a person described in subsection (5) of this section, may add to the action a

claim for actual damages against a third party who sells or offers to sell in this state products made by that person in violation of section 2 of this act, subject to the provisions of section 8 of this act. However, damages may be imposed against a third party only if:

(a) The third party was provided a copy of a written notice sent to the person alleged to have violated section 2 of this act that satisfies the requirements of section 5 of this act at least ninety days prior to the entry of the judgment;

(b) The person who violated section 2 of this act did not make an appearance or does not have sufficient attachable assets to satisfy a judgment against the person;

(c) Such a person either manufactured the final product or produced a component equal to thirty percent or more of the value of the final product;

(d) Such a person has a direct contractual relationship with the third party respecting the manufacture of the final product or component; and

(e) The third party has not been subject to a final judgment in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology. However, in the event the third party is a party to an ongoing suit for damages, or has entered an appearance as an interested third party in proceedings in rem, in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology, the court shall stay the action against the third party pending resolution of the other action. In the event the other action results in a final judgment, the court shall dismiss the action against the third party and any in rem action as to any articles or products manufactured for such a third party or that have been or are to be supplied to such a third party.

(3) An award of damages against such a third party pursuant to subsection (2) of this section must be the lesser of the retail price of the stolen or misappropriated information technology at issue or two hundred fifty thousand dollars, less any amounts recovered from the person adjudicated to have violated section 2 of this act, and subsection (4)(a) of this section does not apply to such an award or recovery against the third party.

(4) In an action under this chapter, a court may:

(a) Against the person adjudicated to have violated section 2 of this act, increase the damages up to three times the damages authorized by subsection (1)(b) of this section where the court finds that the person's use of the stolen or misappropriated information technology was willful;

(b) With respect to an award under subsection (1) of this section only, award costs and reasonable attorneys' fees to: (i) A prevailing plaintiff in actions brought by an injured person under section 2 of this act; or (ii) a prevailing defendant in actions brought by an allegedly injured person; and

(c) With respect to an action under subsection (2) of this section brought by a private plaintiff only, award costs and reasonable attorneys' fees to a third party who qualifies for an affirmative defense under section 8 of this act. However, in a case in which the third party received a copy of the notification described in subsection (2)(a) of this section at least ninety days before the filing of the action under subsection (2) of this section, with respect to a third party's reliance on the affirmative defenses set forth in section 8(1) (c) and (d) of this act, the court may award costs and reasonable attorneys' fees only if all of the conduct on which the affirmative defense is based was undertaken by the third party, and the third party notified the plaintiff of the conduct, prior to the end of the ninety-day period.

(5) A person is deemed to have been injured by the sale or offer for sale of a directly competing article or product subject to section 2 of this act if the person establishes by a preponderance of the evidence that:

(a) The person manufactures articles or products that are sold or offered for sale in this state in direct competition with articles or products that are subject to section 2 of this act;

(b) The person's articles or products were not manufactured using stolen or misappropriated information technology of the owner of the information technology;

(c) The person suffered economic harm, which may be shown by evidence that the retail price of the stolen or misappropriated information technology was twenty thousand dollars or more; and

(d) If the person is proceeding in rem or seeks injunctive relief, that the person suffered material competitive injury as a result of the violation of section 2 of this act.

(6)(a) If the court determines that a person found to have violated section 2 of this act lacks sufficient attachable assets in this state to satisfy a judgment rendered against it, the court may enjoin the sale or offering for sale in this state of any articles or products subject to section 2 of this act, except as provided in section 4 of this act.

(b) To the extent that an article or product subject to section 2 of this act is an essential component of a third party's article or product, the court shall deny injunctive relief as to such an essential component, provided that the third party has undertaken good faith efforts within the third party's rights under its applicable contract with the manufacturer to direct the manufacturer of the essential component to cease the theft or misappropriation of information technology in violation of section 2 of this act, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease the theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue.

(7) The court shall determine whether a cure period longer than the period reflected in section 5 of this act would be reasonable given the nature of the use of the information technology that is the subject of the action and the time reasonably necessary either to bring such use into compliance with applicable law or to replace the information technology with information technology that would not violate section 2 of this act. If the court deems that a longer cure period would be reasonable, then the action shall be stayed until the end of that longer cure period. If by the end of that longer cure period, the defendant has established that its use of the information technology in question did not violate section 2 of this act, or the defendant ceased use of the stolen or misappropriated information technology, then the action must be dismissed.

**NEW SECTION. Sec. 7.** (1) In a case in which the court is unable to obtain personal jurisdiction over a person subject to section 2 of this act, the court may proceed in rem against any articles or products subject to section 2 of this act sold or offered for sale in this state in which the person alleged to have violated section 2 of this act holds title. Except as provided in section 4 of this act and subsection (2) through (4) of this section, all such articles or products are subject to attachment at or after the time of filing a complaint, regardless of the availability or amount of any monetary judgment.

(2) At least ninety days prior to the enforcement of an attachment order against articles or products pursuant to subsection (1) of this section, the court shall notify any person in possession of the articles or products of the pending attachment order. Prior to the expiration of the ninety day period, any person for whom the articles or products were manufactured, or to whom the articles or products have been or are to be supplied, pursuant to an existing contract or purchase order, may:

(a) Establish that the person has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect

to the manufacturer alleged to have violated section 2 of this act, in which case the attachment order must be dissolved only with respect to those articles or products that were manufactured for such a person, or have been or are to be supplied to such a person, pursuant to an existing contract or purchase order; or

(b) Post a bond with the court equal to the retail price of the allegedly stolen or misappropriated information technology or twenty-five thousand dollars, whichever is less, in which case the court shall stay enforcement of the attachment order against the articles or products and shall proceed on the basis of its jurisdiction over the bond. The person posting the bond shall recover the full amount of such bond, plus interest, after the issuance of a final judgment.

(3) In the event the person posting the bond pursuant to subsection (2)(b) of this section is entitled to claim an affirmative defense in section 8 of this act, and that person establishes with the court that the person is entitled to any affirmative defense, the court shall award costs and reasonable attorneys' fees to the person posting the bond and against the plaintiff in the event the plaintiff proceeds with an action pursuant to section 6(2) of this act against the person posting the bond.

(4) In the event that the court does not provide notification as described in subsection (2) of this section, the court, upon motion of any third party, shall stay the enforcement of the attachment order for ninety days as to articles or products manufactured for the third party, or that have been or are to be supplied to the third party, pursuant to an existing contract or purchase order, during which ninety day period the third party may avail itself of the options set forth in subsection (2)(a) and (b) of this section.

**NEW SECTION. Sec. 8.** (1) A court may not award damages against any third party pursuant to section 6(2) of this act where that party, after having been afforded reasonable notice of at least ninety days and opportunity to plead any of the affirmative defenses set forth in this subsection, establishes by a preponderance of the evidence any of the following:

(a) Such a person is the end consumer or end user of an article or product subject to section 2 of this act, or acquired the article or product after its sale to an end consumer or end user;

(b) Such a person is a business with annual revenues not in excess of fifty million dollars;

(c) The person acquired the articles or products:

(i) In good faith reliance on either: (A) A code of conduct or other written document that governs the person's commercial relationships with the manufacturer adjudicated to have violated section 2 of this act and which includes commitments, such as general commitments to comply with applicable laws, that prohibit use of the stolen or misappropriated information technology by such manufacturer; or (B) written assurances from the manufacturer of the articles or products that the articles or products, to the manufacturer's reasonable knowledge, were manufactured without the use of stolen or misappropriated information technology in the manufacturer's business operations. However, with respect to both (c)(i)(A) and (B) of this subsection, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(I) Exchange written correspondence confirming that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

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(II) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; or

(III) In a case in which the manufacturer has failed to cease such a theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(i)(A) or (B) of this subsection, prevent the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of an agreement between the person and the manufacturer for the manufacture of the articles or products in question that was entered into on or before one hundred eighty days after the effective date of this section; or

(ii) Pursuant to an agreement between the person and a manufacturer for the manufacture of the articles or products in question that was entered into before one hundred eighty days after the effective date of this section. However, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Obtain from the manufacturer written assurances that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; or

(C) In a case in which the manufacturer has failed to cease the theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(ii)(A) or (B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of such agreement;

(d) The person has made commercially reasonable efforts to implement practices and procedures to require its direct manufacturers, in manufacturing articles or products for such person, not to use stolen or misappropriated information technology in violation of section 2 of this act. A person may satisfy this subsection (1)(d) by:

(i) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit the use of stolen or misappropriated information technology by such a manufacturer, subject to a right of audit, and the person either: (A) Has a practice of auditing its direct manufacturers on a periodic basis in accordance with generally accepted industry standards; or (B) requires in its agreements with its direct manufacturers that they submit to audits by a third party, which may include a third-party association of businesses representing the

owner of the stolen or misappropriated intellectual property, and further provides that a failure to remedy any deficiencies found in such an audit that constitute a violation of the applicable law of the jurisdiction where the deficiency occurred constitutes a breach of the contract, subject to cure within a reasonable period of time; or

(ii) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit use of stolen or misappropriated information technology by such a manufacturer, and the person undertakes practices and procedures to address compliance with the prohibition against the use of the stolen or misappropriated information technology in accordance with the applicable code of conduct or written requirements; or

(e) The person does not have a contractual relationship with the person alleged to have violated section 2 of this act respecting the manufacture of the articles or products alleged to have been manufactured in violation of section 2 of this act.

(2) A third party must have the opportunity to be heard regarding whether an article or product is an essential component provided or to be provided to a third party, and must have the right to file a motion to dismiss any action brought against it under section 6(2) of this act.

(3) The court may not enforce any award for damages against such a third party until after the court has ruled on that party's claim of eligibility for any of the affirmative defenses set out in this section, and prior to such a ruling may allow discovery, in an action under section 6(2) of this act, only on the particular defenses raised by the third party.

(4) The court shall allow discovery against a third party on an issue only after all discovery on that issue between the parties has been completed and only if the evidence produced as a result of the discovery does not resolve an issue of material dispute between the parties.

(5) Any confidential or otherwise sensitive information submitted by a party pursuant to this section is subject to a protective order.

**NEW SECTION. Sec. 9.** A court may not enforce an award of damages against a third party pursuant to section 6(2) of this act for a period of eighteen months from the effective date of this section.

**NEW SECTION. Sec. 10.** A violation of this chapter may not be considered a violation of the state consumer protection act, and chapter 19.86 RCW does not apply to this chapter. The remedies provided under this chapter are the exclusive remedies for the parties.

**NEW SECTION. Sec. 11.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 12.** Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

Senator Brown spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and Hill to Substitute Senate Bill No. 5449.

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

#### MOTION

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

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On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "adding a new chapter to Title 19 RCW; and prescribing penalties."

#### MOTION

On motion of Senator Brown, the rules were suspended, Engrossed Substitute Senate Bill No. 5449 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brown and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5449.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5449 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 7; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Benton, Ericksen, Holmquist Newbry, Honeyford, Roach and Stevens

Excused: Senators Carrell, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5449, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### REMARKS BY THE PRESIDENT

President Owen: "Senator Hargrove? Senator Hargrove? That beautiful child that you had in your arms a moment ago? I assume that is your grandchild? He has your cheeks I noticed. I think we should show him off. There he is. do you agree? He has his cheeks. Senator Haugen, for what purpose do you rise?"

#### PERSONAL PRIVILEGE

Senator Haugen: "Well, he reminds me of a young man I saw running down the aisle of the House of Representatives with Ross Young chasing behind him. He looks just like that child, I think it's a flash back."

#### REMARKS BY THE PRESIDENT

President Owen: "Where's a photographer when you need one? I ain't stupid. We'll find him. Hang around. What's his name? Logan. This is Logan. Lagan Macrae Hargrove and he's got red hair going on there. Very good."

#### SECOND READING

SENATE BILL NO. 5337, by Senators Stevens, Pflug, Honeyford, Swecker and Roach

Authorizing the provision of financial assistance to privately owned airports available for general use of the public.

#### MOTIONS

On motion of Senator Stevens, Substitute Senate Bill No. 5337 was substituted for Senate Bill No. 5337 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Stevens, the rules were suspended, Substitute Senate Bill No. 5337 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5337.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5337 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Carrell, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5337, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5156, by Senators Kohl-Welles, King, Keiser, Delvin and Conway

Concerning airport lounges under the alcohol beverage control act.

#### MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5156 was substituted for Senate Bill No. 5156 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5156 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

#### MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5156.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5156 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hill, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove, Haugen, Holmquist Newbry and Prentice

Excused: Senators Carrell, Delvin, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5156, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5044, by Senators Rockefeller, Zarelli and Regala

Concerning the tax preference review process.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Bill No. 5044 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5044.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5044 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Carrell, Delvin, Hewitt and Kastama

SENATE BILL NO. 5044, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the Points of Order raised by Senator Hatfield as to whether Amendments 64, 23, and 69 to Senate Bill 5575 fit within the scope and object of the underlying bill, the President finds and rules as follows:

This legislation makes changes to the Energy Independence Act, approved by the voters in 2006 as Initiative Number 937. Very generally, I-937 set certain targets for energy conservation and use of renewable resources. The underlying bill relates

specifically to biomass energy. It provides definitions and sets standards as to qualifying facilities and communities.

The President believes it is appropriate to harmonize and explain some of his past precedent on scope and object in approaching this particular ruling. In the past, the President has ruled that, in dealing with a particular subject or class, a bill often necessarily and inadvertently opens up that entire subject or class to modification, which can result in amendments being proposed which are drastically different from those envisioned by the proponents of a bill but still within the subject or class opened up by the plain language of the bill. The determining factor is always the way in which the underlying law is modified. This can often be a matter of careful drafting, and it is certainly the case that some sections of the law lend themselves more easily to discreet and precise changes than do others.

Merely mentioning a topic or class—for example, setting forth a statute in full because this is required by law—does not, however, mean that every single line set forth may be changed and fit within the scope and object of the bill. In those cases where only a discreet section is changed, the scope and object is similarly discreetly limited. One example might be changes in the criminal code which affect the sentencing grid: a bill on kidnapping, for instance, might require setting forth the full sentencing grid, but this would not mean that every crime within it was being re-visited and that any crime amendment would be within scope. Put another way, the limits of scope and object flow from the *changes or additions to existing law* within a bill, not every conceivable subject touched upon by the bill.

In the matter before us, had the underlying bill been adding biomass as a new form of renewable resource, then it might be that other renewable resources could also be added, such as hydroelectric or solar power. In fact, however, this is not how the bill is drafted. Instead of adding biomass to the class of eligible resources, the bill simply changes—albeit significantly and substantively—the definition of biomass already present in the underlying law. Consequently, amendments to this bill must also fit within the definitions of biomass energy and qualified biomass energy supplied by the bill. The proposed amendments introduce new subjects that are arguably within the scope of I-937 itself, but outside the scope and object of the discreet changes to the definitions of biomass within the bill before the body.

For these reasons, the President finds that the amendments are beyond the scope and object of the bill, and Senator Hatfield's points are well-taken."

The Senate resumed consideration of Senate Bill No. 5575 which had been deferred the previous day.

MOTION

Senator Nelson moved that the following striking amendment by Senator Nelson be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.285.030 and 2009 c 565 s 20 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

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(3) "Commission" means the Washington state utilities and transportation commission.

(4) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(7) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(8) "Department" means the department of commerce or its successor.

(9) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(10) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(11) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(15) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(16) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

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(18) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and (i) biomass energy ~~((based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by product from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste)).~~

(19) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

(21)(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste.

(b) "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as: (i) Creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste."

On page 1, beginning on line 5 of the title, after "resource;" strike the remainder of the title and insert "and amending RCW 19.285.030."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Nelson, the striking amendment by Senator Nelson to Senate Bill No. 5575 was withdrawn.

#### MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed Senate Bill No. 5575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield, Conway, Delvin and Honeyford spoke in favor of passage of the bill.

Senators Rockefeller and Nelson spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5575.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5575 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Fraser, Harper, Hill, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Rockefeller, Tom and White

Excused: Senators Hewitt and Kastama

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ENGROSSED SENATE BILL NO. 5575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5000.

#### REMARKS BY THE PRESIDENT

President Owen: "The President would like to mention a couple of things to the members since I have most of you here at this time that might help in the debate in the future that has been brought up to me recently. One is; addressing a member by name, in the House of Representatives that's not allowed but the tradition had been in the Senate for years that it was allowed so a couple years ago you changed the rule, Rule 29, to allow members to refer to each other by name. That is totally acceptable in the State Senate. The second issue that comes up is alluding to the House of Representatives. It's not whether you say, 'House of Representatives'; it's whether you're alluding to actions of past, present or future of the House of Representatives to influence the passage of legislation on this floor that is not allowed. You can reference the House of Representatives but not in reference to whether or not it will effect or have anything to do with the legislation that you are dealing with on the floor of the Senate. That is Reed's Rule 224. Thank you for your consideration of these issues and for asking for clarification."

#### SECOND READING

SENATE BILL NO. 5000, by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon and Kilmer

Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence.

#### MOTION

On motion of Senator Haugen, Second Substitute Senate Bill No. 5000 was substituted for Senate Bill No. 5000 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Honeyford be adopted:

On page 3, line 3, after "vehicle" insert "or farm transport vehicle"

Senator Haugen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Honeyford on page 3, line 3 to Second Substitute Senate Bill No. 5000.

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

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5000 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5000 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt and Kastama

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Prentice was excused.

#### SECOND READING

SENATE BILL NO. 5366, by Senators Delvin, Hewitt and Stevens

Authorizing the use of four-wheel, all-terrain vehicles on public roadways under certain conditions. Revised for 1st Substitute: Authorizing the use of two or four-wheel, all-terrain vehicles on public roadways under certain conditions.

#### MOTION

On motion of Senator Delvin, Substitute Senate Bill No. 5366 was substituted for Senate Bill No. 5366 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Delvin moved that the following amendment by Senators Delvin, Hatfield and Schoesler be adopted:

On page 2, line 22, after "(2)" insert "A person who operates a two or four-wheel, all-terrain vehicle under this section must pay a maximum of thirty dollars for the annual vehicle license fee for the all-terrain vehicle.

(3)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, after line 2, insert the following:

"Sec. 2. RCW 46.09.360 and 2006 c 212 s 4 are each amended to read as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter.

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However, the legislative body of a city with a population of ~~((less)) fewer~~ than three thousand persons, or the legislative body of a county with a population of no more than five thousand persons, may, by ordinance, designate a street, road, or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county with a population of more than five thousand persons may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of ~~((less)) fewer~~ than three thousand persons and an off-road vehicle recreation facility.

NEW SECTION. **Sec. 3.** This act takes effect March 1, 2012."

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Delvin to the amendment be adopted:

On page 1, line 3 of the amendment, after "of" strike "thirty" and insert "thirty-five"

Senator Haugen spoke in favor of adoption of the amendment to the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Delvin on page 1, line 3 to the amendment to Substitute Senate Bill No. 5366.

The motion by Senator Haugen carried and the amendment to the amendment was adopted by voice vote.

Senator Delvin spoke in favor of adoption of the amendment as amended.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin and others on page 2, line 22 as amended to Substitute Senate Bill No. 5366.

The motion by Senator Delvin carried and the amendment as amended was adopted by voice vote.

## MOTION

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

On page 3, after line 2, insert the following:

"**Sec. 2.** RCW 46.09.360 and 2006 c 212 s 4 are each amended to read as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter. However, the legislative body of a city with a population of ~~((less)) fewer~~ than three thousand persons, or the legislative body of a county with a population of no more than five thousand persons, may, by ordinance, designate a street, road, or highway within its boundaries to be suitable for use by off-road vehicles. The legislative body of a county with a population of more than five thousand persons may, by ordinance, designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or highway is a direct connection between a city with a population of ~~((less)) fewer~~ than three thousand persons and an off-road vehicle recreation facility."

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On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas; amending RCW 46.09.360; adding a new section to chapter 46.09 RCW; and prescribing penalties."

## WITHDRAWAL OF AMENDMENT

On motion of Senator Schoesler, the amendment by Senator Schoesler and others on page 3, line 2 to Substitute Senate Bill No. 5366 was withdrawn.

## MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas; amending RCW 46.09.360; adding a new section to chapter 46.09 RCW; prescribing penalties; and providing an effective date."

## MOTION

On motion of Senator Delvin, the rules were suspended, Engrossed Substitute Senate Bill No. 5366 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Delvin, Haugen and Kline spoke in favor of passage of the bill.

## MOTION

On motion of Senator Ranker, Senator Brown was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5366.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5366 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Erickson, Holmquist Newbry, Stevens and Zarelli

Excused: Senators Brown, Hewitt and Kastama

ENGROSSED SUBSTITUTE SENATE BILL NO. 5366, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5250, by Senators Haugen, King, White and Swecker

Concerning the design-build procedure for certain projects.

## MOTIONS

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On motion of Senator Haugen, Substitute Senate Bill No. 5250 was substituted for Senate Bill No. 5250 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5250.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5250 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5589, by Senator Morton

Addressing heavy haul industrial corridors.

The measure was read the second time.

MOTION

On motion of Senator Haugen, the rules were suspended, Senate Bill No. 5589 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5589.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5589 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller,

Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Hewitt and Kastama

SENATE BILL NO. 5589, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5791, by Senators Hobbs, Fain, King, Haugen and White

Allowing certain commercial activity at certain park and ride lots.

MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 5791 was substituted for Senate Bill No. 5791 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5791 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5791.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5791 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5791, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5796, by Senators Haugen, King and Shin

Concerning public transportation systems. Revised for 1st Substitute: Modifying provisions related to public transportation system planning.

MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5796 was substituted for Senate Bill No. 5796 and the substitute bill was placed on the second reading and read the second time.

Senator Haugen spoke in favor of the substitute bill.

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On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5796 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5796.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5796 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5796, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5797, by Senators Fain and Haugen

Eliminating the urban arterial trust account.

## MOTIONS

On motion of Senator Fain, Substitute Senate Bill No. 5797 was substituted for Senate Bill No. 5797 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fain, the rules were suspended, Substitute Senate Bill No. 5797 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5797.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5797 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5797, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5836, by Senators King, Haugen, Hobbs, Delvin and Shin

Allowing certain private transportation providers to use certain public transportation facilities.

## MOTIONS

On motion of Senator King, Substitute Senate Bill No. 5836 was substituted for Senate Bill No. 5836 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5836 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King, Haugen, White and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5836.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5836 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt and Kastama

SUBSTITUTE SENATE BILL NO. 5836, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Hill was excused.

## SECOND READING

SENATE BILL NO. 5386, by Senator Pridemore

Creating an organ donation work group.

## MOTIONS

On motion of Senator Pridemore, Substitute Senate Bill No. 5386 was substituted for Senate Bill No. 5386 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 5386 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5386.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5386 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt, Hill and Kastama

SUBSTITUTE SENATE BILL NO. 5386, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5171, by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe

Facilitating voting for service and overseas voters.

## MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5171 was substituted for Senate Bill No. 5171 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Pridemore moved that the following striking amendment by Senator Pridemore be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic (~~facsimile~~) transmissions of the following documents:

- (1) Declarations of candidacy;
- (2) County canvass reports;
- (3) Voters' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a (~~mandatory~~) recount;
- (8) Requests for (~~absentee~~) ballots;
- (9) Any other election related document authorized by rule adopted by the secretary of state under RCW (~~29A.04.610~~) 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being

legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

(If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule.) The secretary may by rule require that the original of any document, a copy of which is filed by (~~facsimile~~) electronic transmission under this section, also be filed by a deadline established by the secretary by rule.

**Sec. 2.** RCW 29A.04.311 and 2006 c 344 s 1 are each amended to read as follows:

(~~Nominating~~) Primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the (~~third~~) first Tuesday of the preceding August.

**Sec. 3.** RCW 29A.04.321 and 2009 c 413 s 2 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- (~~(e)~~) (d) The day of the primary as specified by RCW 29A.04.311; or
- (~~(d)~~) (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) (~~and (b)~~) through (c) of this section must be presented to the county auditor at least (~~forty five~~) forty six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(~~e~~) (~~or~~) (d) of this section must be presented to the county auditor (~~at least eighty four days prior to the election date~~) no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(e) of this section must be presented to the county auditor no later than the day of the primary.

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(4) In addition to the dates set forth in subsection (2)(a) through ~~((c))~~ (c) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections ~~((except for those elections held pursuant to a home rule charter adopted under Article XI, section 4 of the state Constitution))~~. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

**Sec. 4.** RCW 29A.04.330 and 2009 c 413 s 4, 2009 c 144 s 3, and 2009 c 413 s 3 are each reenacted and amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;
- (c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and
- (d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, may call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- ~~((e))~~ (d) The day of the primary election as specified by RCW 29A.04.311; or
- ~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((and (b)))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)~~((e-or))~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)~~((e-and))~~ (d) and

(e) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

**Sec. 5.** RCW 29A.16.040 and 2004 c 266 s 10 are each amended to read as follows:

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct ~~((boundaries))~~ changes may be ~~((changed))~~ made during the period starting ~~((on the thirtieth))~~ fourteen days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

**Sec. 6.** RCW 29A.24.040 and 2006 c 344 s 5 are each amended to read as follows:

A candidate may file his or her declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW 29A.24.031 (1) through (4).

(2) Electronic filing may begin at 9:00 a.m. the first ~~((Monday in June))~~ day of the filing period and continue through 4:00 p.m. the ~~((following Friday))~~ last day of the filing period.

~~((3))~~ (3) In case of special filing periods established in this chapter, electronic filings may be accepted beginning at 9:00 a.m. on the first

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day of the special filing period through 4:00 p.m. the last day of the special filing period.)

**Sec. 7.** RCW 29A.24.050 and 2006 c 344 s 6 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer (~~(no earlier than the first Monday in June)~~ beginning the Monday two weeks before Memorial day and ((no later than)) ending the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

**Sec. 8.** RCW 29A.24.131 and 2004 c 271 s 115 are each amended to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the (~~Thursday~~) Monday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. (~~The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered.~~) No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

**Sec. 9.** RCW 29A.24.141 and 2004 c 271 s 162 are each amended to read as follows:

A void in candidacy (~~(for a nonpartisan office)~~) occurs when an election (~~(for such office, except for the short term,)~~) has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

**Sec. 10.** RCW 29A.24.171 and 2006 c 344 s 7 are each amended to read as follows:

(Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three-day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the eleventh Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.) If,

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prior to the first day of the regular filing period, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term for which a successor must be elected at the next general election, filings for that office shall be accepted during the regular filing period. The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the primary and general election ballots unless no primary is required or unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

**Sec. 11.** RCW 29A.24.181 and 2006 c 344 s 8 are each amended to read as follows:

(~~Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction))~~ If, prior to the day of the primary, any of the following occur, filings shall be reopened for a period of three normal business days, such three-day period to be fixed by the ((election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when)) filing officer:

(1) A void in candidacy ((for such nonpartisan office)) occurs ((on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election)) following the regular filing period and deadline to withdraw; or

(2) ((A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten-day period immediately following the last day allotted for a candidate to withdraw; or

(3) A vacancy occurs in any nonpartisan office on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.) A vacancy occurs in an office for which filings have not already been held, leaving an unexpired term for which a successor must be elected at the next general election.

The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the general election ballots unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected. This section does not apply to voids in candidacy in the office of precinct committee officer, which are filled by appointment pursuant to RCW 29A.28.071.

**Sec. 12.** RCW 29A.24.191 and 2006 c 344 s 9 are each amended to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when(=

~~(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the eleventh Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;~~

~~(2) Except as otherwise specified in RCW 29A.24.181, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the eleventh Tuesday prior to a primary;~~

~~(3) In other elections for nonpartisan office)) a void in candidacy occurs ((or a vacancy occurs involving an unexpired term~~

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~~to be filed on or after the eleventh Tuesday prior to an election)) following the special three day filing period required by RCW 29A.24.181.~~

**Sec. 13.** RCW 29A.24.311 and 2004 c 271 s 117 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day ~~((before the primary or election))~~ ballots must be mailed according to RCW 29A.40.070. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.091.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by major political parties pursuant to RCW 29A.28.021 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if the manner in which the write-in is done does not make the office or position clear.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

**Sec. 14.** RCW 29A.28.041 and 2006 c 344 s 12 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the ~~((special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists))~~ primary at least seventy days after issuance of the writ, and fixing a date for the election at least seventy days after the date of the primary. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than ~~((six))~~ eight months before a state general election and before the ~~((second Friday following the))~~ close of the filing period for that general election, the special

primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the ~~((second Friday following the))~~ close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. ~~((The last day of the filing period shall not be later than the sixth Tuesday before the primary at which major political party candidates are to be nominated.))~~ The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the ~~((second Friday following the))~~ close of the filing period, a special primary ~~((special))~~ and vacancy election ~~((and the minor party and independent candidate conventions))~~ to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

**Sec. 15.** RCW 29A.36.010 and 2005 c 2 s 12 are each reenacted and amended to read as follows:

~~((On or before the day following the last day allowed for candidates to withdraw under RCW 29A.24.130))~~ Not later than the Tuesday following the regular filing period, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party preference or independent designation as shown on filed declarations.

**Sec. 16.** RCW 29A.40.070 and 2006 c 344 s 13 are each amended to read as follows:

(1) Except where a recount or litigation ~~((under RCW 29A.68.011))~~ is pending, the county auditor ~~((shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor))~~ must mail ~~((absentee))~~ ballots to each voter ~~((for whom the county auditor has received a request nineteen days before the primary or election))~~ at least eighteen days before ~~((the))~~ each primary or election, and as soon as possible for all subsequent registration changes. ~~((For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days)).~~

(2) ~~((At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters.))~~ Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election and at least forty-five days before each primary or general election. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots ~~((prescribed in subsection (1) of this~~

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~~section were available and~~) were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

((4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.

(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.

(6)) Failure to ~~((have absentee ballots available and mailed)) mail ballots~~ as prescribed in ~~((subsection (1) of))~~ this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

**Sec. 17.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return ~~((#))~~ the ballot to the county auditor.

(2) The ~~((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she))~~ voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election~~((, together with a summary of the penalties for any violation of any of the provisions of this chapter)). The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and((, except as otherwise provided by law,)) it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ((return envelope must provide space for the)) voter ((to)) must indicate the date on which the ballot was voted and ~~((for the voter to))~~ sign the ~~((oath))~~ declaration. ~~((It))~~ The ballot materials must also contain a space so that the voter may include a telephone number. ~~((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))~~~~

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

~~((4) The voter must be instructed to either return the ballot to the county auditor ((by whom it was issued))~~ no later than 8:00 p.m. the day of the election or primary, or ~~((attach sufficient first class~~

~~postage, if applicable, and))~~ mail the ballot to the ~~((appropriate))~~ county auditor with a postmark no later than the day of the election or primary ~~((for which the ballot was issued.~~

~~—If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed)).~~

**Sec. 18.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received ~~((absentee))~~ return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ~~((after 8:00 p.m. of the day of the primary or election))~~ processing. ~~((Absentee ballots that are to be tabulated on an electronic vote tallying system))~~ Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ~~((Before opening a returned absentee ballot,))~~ The canvassing board, or its designated representatives, shall examine the postmark~~((-statement,))~~ on the return envelope and signature on the ~~((return envelope that contains the security envelope and absentee ballot))~~ declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ~~((return envelope))~~ ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. ~~((For any absentee ballot,))~~ A variation between the signature of the voter on the ~~((return envelope))~~ ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ~~((For registered voters casting absentee ballots))~~ If the postmark is missing or illegible, the date on the ((return envelope)) ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot ~~((if the postmark is missing or is illegible)).~~ For overseas voters and service voters, the date on the ~~((return envelope))~~ declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or email by 8:00 p.m. on the day of the primary or election.

**Sec. 19.** RCW 29A.56.030 and 2006 c 344 s 15 are each amended to read as follows:

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

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(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than ~~((sixty))~~ seventy-five days before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29A.72.230 and 29A.72.240.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least ~~((fifty-two))~~ sixty-seven days before the presidential preference primary, executes and files with the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

**Sec. 20.** RCW 29A.60.190 and 2006 c 344 s 16 are each amended to read as follows:

(1) Except as provided by subsection ~~((3))~~ (2) of this section, ~~((fifteen))~~ fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. The county canvassing board must complete the canvass and certify the results of the April 17, 2012, special election ten days after election day. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

(2) ~~((At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.~~

~~(3))~~ On or before the thirtieth day after an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, the canvassing board shall complete the canvass and certify the results.

**Sec. 21.** RCW 29A.60.190 and 2006 c 344 s 17 are each amended to read as follows:

~~((15))~~ Fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

~~((2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.))~~

**Sec. 22.** RCW 29A.60.240 and 2003 c 111 s 1524 are each amended to read as follows:

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The secretary of state shall, as soon as possible but in any event not later than ~~((the third Tuesday))~~ seventeen days following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in Congress, and all other candidates whose district extends beyond the limits of a single county.

**Sec. 23.** RCW 29A.64.011 and 2004 c 271 s 177 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who ~~((was not declared nominated))~~ did not qualify for the general election may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for ~~((nomination to))~~ that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within ~~((three))~~ two business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

**Sec. 24.** RCW 29A.64.030 and 2005 c 243 s 20 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29A.64.081.

The county canvassing board shall determine the date, time, and place or places at which the recount will be conducted. Not less than ~~((two days))~~ one day before the date of the recount, the county auditor shall ~~((mail a notice of the time and place of the recount to))~~ notify the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office of the date, time, and place of the recount. ~~((The county auditor shall also notify the affected parties by either telephone, fax, e-mail, or other electronic means at the time of mailing. At least three attempts must be made over a two-day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response~~

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indicating that the notice has been received.) Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

**Sec. 25.** RCW 29A.68.011 and 2007 c 374 s 3 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the official certification of the election.

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than ~~((the second Friday))~~ two days following the closing of the filing period ~~((for nominations))~~ for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

**Sec. 26.** RCW 29A.76.010 and 2003 c 111 s 1901 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal

corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within ~~((forty-five))~~ fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

**Sec. 27.** RCW 42.12.070 and 1994 c 223 s 1 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is

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located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in (~~RCW 29.15.190 and 29.21.410~~) chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected (~~(that occurs twenty eight or more days after the occurrence of the vacancy)~~). If needed, special filing periods shall be authorized as provided in (~~RCW 29.15.170 and 29.15.180~~) chapter 29A.24 RCW for qualified persons to file for the vacant office. A primary shall be held to (~~(nominate)~~) qualify candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW (~~(29.01.135)~~) 29A.04.133 and shall service both the remainder of the unexpired term and the succeeding term.

**NEW SECTION. Sec. 28.** The following acts or parts of acts are each repealed:

(1) RCW 29A.04.310 (Primaries) and 2005 c 2 s 8, 2003 c 111 s 143, 1977 ex.s. c 361 s 29, 1965 ex.s. c 103 s 6, & 1965 c 9 s 29.13.070;

(2) RCW 29A.24.151 (Notice of void in candidacy) and 2004 c 271 s 163;

(3) RCW 29A.24.161 (Filings to fill void in candidacy--How made) and 2004 c 271 s 164;

(4) RCW 29A.24.210 (Vacancy in partisan elective office--Special filing period) and 2005 c 2 s 10 & 2003 c 111 s 621;

(5) RCW 29A.24.211 (Vacancy in partisan elective office--Special filing period) and 2006 c 344 s 10 & 2004 c 271 s 116;

(6) RCW 29A.36.011 (Certifying primary candidates) and 2004 c 271 s 124; and

(7) RCW 29A.40.150 (Overseas, service voters) and 2009 c 415 s 12, 2006 c 206 s 7, 2005 c 245 s 1, 2003 c 111 s 1015, 1993 c 417 s 7, 1987 c 346 s 19, & 1983 1st ex.s. c 71 s 8.

**NEW SECTION. Sec. 29.** 2005 c 2 s 15 is repealed.

**NEW SECTION. Sec. 30.** Section 21 of this act takes effect July 1, 2013.

**NEW SECTION. Sec. 31.** Section 20 of this act expires July 1, 2013.

**NEW SECTION. Sec. 32.** With the exception of sections 21 and 29 of this act, this act takes effect January 1, 2012.

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**NEW SECTION. Sec. 33.** Section 29 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Pridemore spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171.

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

#### MOTION

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

On page 1, line 2 of the title, after "voters;" strike the remainder of the title and insert "amending RCW 29A.04.255, 29A.04.311, 29A.04.321, 29A.16.040, 29A.24.040, 29A.24.050, 29A.24.131, 29A.24.141, 29A.24.171, 29A.24.181, 29A.24.191, 29A.24.311, 29A.28.041, 29A.40.070, 29A.40.091, 29A.40.110, 29A.56.030, 29A.60.190, 29A.60.190, 29A.60.240, 29A.64.011, 29A.64.030, 29A.68.011, 29A.76.010, and 42.12.070; reenacting and amending RCW 29A.04.330 and 29A.36.010; repealing RCW 29A.04.310, 29A.24.151, 29A.24.161, 29A.24.210, 29A.24.211, 29A.36.011, and 29A.40.150; repealing 2005 c 2 s 15; prescribing penalties; providing effective dates; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Swecker and Hobbs spoke in favor of passage of the bill.

Senator White spoke on final passage of the bill.

#### POINT OF INQUIRY

Senator White: "If the gentleman from the Fourth-Fourth District would yield to a question? I would just like to get one clarification regarding the signing of declaration of privacy related to ballots for military voters?"

President Owen: "He does not yield."

Senators Hargrove and Roach spoke against passage of the bill.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5171 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SENATE BILL NO. 5427, by Senator McAuliffe

Regarding an assessment of students in state-funded full-day kindergarten classrooms.

#### MOTIONS

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On motion of Senator McAuliffe, Second Substitute Senate Bill No. 5427 was substituted for Senate Bill No. 5427 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator McAuliffe, the rules were suspended, Second Substitute Senate Bill No. 5427 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Litzow, Tom, Brown, Shin and Murray spoke in favor of passage of the bill.

Senators Zarelli and Parlette spoke against passage of the bill.

POINT OF INQUIRY

Senator Carrell: "Would Senator McAuliffe yield to a question? I'm just reading on the second page of the bill, if I could ask you a question and clarification something. It says beginning with the 2012-13 school year to the extent funds are available 'identify the skills', understood, 'knowledge' and then it says 'characteristics.' Could you help me understand what characteristics this bill would be looking at?"

Senator McAuliffe: "I think to really define that right here and now, it's probably not going to be ok. I think I'd really like to talk to the stakeholders to find out what they see when they do the pilots. When I have seen the pilot, Senator. I have seen them look to see whether a child had a learning need, whether they were socially or emotionally developed as the other children were. Those are the kinds of things that I have observed. However, I would not want to clearly define every characteristic but in visiting the pilots you can see that they look for different characteristics that children have and what they are learning needs, social needs and emotional needs might be."

Senator Benton spoke against passage of the bill.

MOTION

On motion of Senator Pridemore, Senator Hobbs was excused.

Senators Schoesler and Roach spoke against passage of the bill.

MOTION

On motion of Senator Ranker, Senators Hatfield and Hobbs were excused.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5427.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5427 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Ranker, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Honeyford, Morton, Parlette, Pridemore, Regala, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Hewitt, Hill and Kastama

SECOND SUBSTITUTE SENATE BILL NO. 5427, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:10 p.m., on motion of Senator Eide, the Senate was declared to be at ease for the purpose of caucuses.

EVENING SESSION

The Senate was called to order at 6:10 p.m. by President Owen.

SECOND READING

SENATE BILL NO. 5432, by Senators Regala, Chase, Fraser, Rockefeller and Nelson

Reducing pollution from wood stoves. Revised for 1st Substitute: Reducing pollution from solid fuel burning devices and fireplaces.

MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5432 was substituted for Senate Bill No. 5432 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5432 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Honeyford and Tom spoke in favor of passage of the bill.

PARLIAMENTARY INQUIRY

Senator Honeyford: "If those terms are verbatim, how may we refer to that, those other people?"

REMARKS BY THE PRESIDENT

President Owen: "You may not. Your rules do not allow you to reference the actions of the other body of what they may do or have done or are doing to influence the passage of a piece of legislation in this body. You may not allude to the other house no matter how you call them. Period. One last clarification, when you get into conference or you get into disputes between the two houses of course then it's necessary to do so but as you are deciding on pieces of legislation here and House bills here you may not reference the other body in any manner."

PARLIAMENTARY INQUIRY

Senator Honeyford: "May we refer them as the unmentionables?"

POINT OF INQUIRY

Senator Roach: "May I ask a question of the maker of the bill?"

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President Owen: "She does not yield."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5432.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5432 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Haugen, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hatfield, Hobbs, Holmquist Newbry, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hewitt and Hill

SUBSTITUTE SENATE BILL NO. 5432, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5304, by Senators Kilmer, Brown, Rockefeller, Tom, Murray, McAuliffe and Shin

Requiring forecasting of caseloads of the state need grant program and the Washington college bound scholarship program.

The measure was read the second time.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Senate Bill No. 5304 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5304.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5304 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Honeyford, King, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hewitt and Hill

SENATE BILL NO. 5304, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5377, by Senators Morton, Swecker and Stevens

Concerning developer control of homeowners' associations.

The measure was read the second time.

#### MOTION

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

On page 4, line 26, after "~~cause~~")" insert "Any meeting by the board of directors must be held at a time and place that is convenient for the homeowners of the association. A convenient time is between five o'clock p.m. and nine o'clock p.m. on a weekday or between nine o'clock a.m. and five o'clock p.m. on a Saturday or Sunday. A convenient place means a location within twenty miles from any property subject to the governing documents.

(5)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Morton and Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 4, line 26 to Senate Bill No. 5377.

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

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Senate Bill No. 5377 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and Morton spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senator Shin was excused.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5377.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5377 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt, Hill and Shin

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ENGROSSED SENATE BILL NO. 5377, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator King spoke in favor of passage of the bill.

MOTION

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

On motion of Senator Ericksen, Senator Pflug was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5658.

SECOND READING

ROLL CALL

SENATE BILL NO. 5161, by Senators Fain, Schoesler, Holmquist Newbry, Conway, Delvin, Carrell, Murray, Hobbs, Pridemore and Rockefeller

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5658 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

The measure was read the second time.

Excused: Senators Hewitt, Hill, Pflug and Shin

MOTION

On motion of Senator Fain, the rules were suspended, Senate Bill No. 5161 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SUBSTITUTE SENATE BILL NO. 5658, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5161.

SECOND READING

ROLL CALL

SENATE BILL NO. 5662, by Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen and Fraser

The Secretary called the roll on the final passage of Senate Bill No. 5161 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Establishing a preference for resident contractors on public works. Revised for 2nd Substitute: Concerning preferences for in-state contractors bidding on public works.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

MOTIONS

Excused: Senators Hewitt, Hill and Shin

SENATE BILL NO. 5161, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Conway, Second Substitute Senate Bill No. 5662 was substituted for Senate Bill No. 5662 and the second substitute bill was placed on the second reading and read the second time.

SECOND READING

On motion of Senator Conway, the rules were suspended, Second Substitute Senate Bill No. 5662 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SENATE BILL NO. 5658, by Senators King, Haugen and Shin

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

Concerning the sale or exchange of surplus real property by the department of transportation.

Senator Zarelli spoke against passage of the bill.

MOTIONS

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5662.

On motion of Senator King, Substitute Senate Bill No. 5658 was substituted for Senate Bill No. 5658 and the substitute bill was placed on the second reading and read the second time.

ROLL CALL

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5658 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5662 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Parlette, Prentice,

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Pridemore, Ranker, Regala, Roach, Rockefeller, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Delvin, Ericksen, Honeyford, King, Litzow, Morton, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Hewitt, Hill, Pflug and Shin

SECOND SUBSTITUTE SENATE BILL NO. 5662, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5633, by Senators Pridemore, Hewitt, Kastama and Swecker

Exempting agricultural fair premiums from the unclaimed property act.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5633 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5633.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5633 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hewitt, Hill, Pflug and Shin

SENATE BILL NO. 5633, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5556, by Senators Prentice, Fain and Keiser

Concerning certain social card games in an area annexed by a city or town.

#### MOTIONS

On motion of Senator Prentice, Substitute Senate Bill No. 5556 was substituted for Senate Bill No. 5556 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Prentice, the rules were suspended, Substitute Senate Bill No. 5556 was advanced to third reading,

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

Senators Prentice, Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5556.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5556 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Haugen

Excused: Senators Hewitt, Hill, Pflug and Shin

SUBSTITUTE SENATE BILL NO. 5556, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5039, by Senators Murray, Keiser, Hatfield, Pridemore, Conway and Chase

Concerning insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law.

#### MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5039 was substituted for Senate Bill No. 5039 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser, Parlette and Becker be adopted:

On page 2, line 18 after "medication." Strike "(4) A health plan may not impose stepped-care requirements on tobacco cessation treatments."

Senators Keiser and Parlette spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser, Parlette and Becker on page 2, line 18 to Substitute Senate Bill No. 5039.

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

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker be adopted:

On page 2, line 27 after "section." Strike the remaining section and all language down through line 32.

Senator Keiser spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 2, line 27 to Substitute Senate Bill No. 5039.

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

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5039 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Keiser spoke in favor of passage of the bill.

Senators Becker and Parlette spoke against passage of the bill.

## MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5039 was deferred and the bill held its place on the third reading calendar.

## MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

## MOTION

At 7:17 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Friday, March 4, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 4, 2011

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

The Sergeant at Arms Color Guard consisting of Pages Kelsey Webster and Olivia Kovacs, presented the Colors. Father Felino Paulino of St. Edward Parish of Seattle offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 3, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1037,
- SUBSTITUTE HOUSE BILL NO. 1084,
- HOUSE BILL NO. 1150,
- HOUSE BILL NO. 1290,
- SUBSTITUTE HOUSE BILL NO. 1339,
- HOUSE BILL NO. 1498,
- HOUSE BILL NO. 1794,
- SUBSTITUTE HOUSE BILL NO. 1815,
- HOUSE BILL NO. 1937,
- HOUSE BILL NO. 1939.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 3, 2011

MR. PRESIDENT:

The House has passed:

- SUBSTITUTE HOUSE BILL NO. 1048,
- SUBSTITUTE HOUSE BILL NO. 1057,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1144,
- ENGROSSED HOUSE BILL NO. 1171,
- SUBSTITUTE HOUSE BILL NO. 1172,
- HOUSE BILL NO. 1178,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1265,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309,
- SUBSTITUTE HOUSE BILL NO. 1516,
- ENGROSSED HOUSE BILL NO. 1674,
- SUBSTITUTE HOUSE BILL NO. 1783,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1081 by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Frockt and Moeller)

AN ACT Relating to small facility siting; amending RCW 80.50.040, 80.50.060, 80.50.071, and 80.50.100; reenacting and amending RCW 80.50.090; adding new sections to chapter 80.50 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Environment, Water & Energy.

SHB 1089 by House Committee on Higher Education (originally sponsored by Representative McCoy)

AN ACT Relating to instructional materials provided in a specialized format version; amending RCW 28B.10.916; and creating a new section.

Referred to Committee on Higher Education & Workforce Development.

2SHB 1128 by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Carlyle, Kagi, Walsh, Orwall, Goodman, Reykdal, Kenney, Maxwell, Appleton, Hunt and Pettigrew)

AN ACT Relating to extended foster care services; amending RCW 13.04.011 and 74.13.020; reenacting and amending RCW 13.34.030, 74.13.031, and 13.34.145; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; and creating a new section.

Referred to Committee on Human Services & Corrections.

SHB 1133 by House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Goodman, Warnick, Rodne, Ladenburg and Maxwell)

AN ACT Relating to the display of massage practitioner licenses; amending RCW 18.108.040; and adding a new section to chapter 18.108 RCW.

Referred to Committee on Health & Long-Term Care.

2SHB 1163 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Liias, Johnson, Maxwell, Santos, Sullivan, Walsh, Orwall, Moeller, Van De Wege, Pedersen, McCoy, Ladenburg, Goodman, Hunt, Jinkins, Reykdal, Ormsby, Sells, Frockt, Upthegrove, Kagi, Blake, Fitzgibbon, Kenney, Stanford,

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Ryu, Miloscia, Carlyle, Pettigrew, Moscoso, Probst, Seaquist, Finn, Roberts, Appleton, Billig, Hasegawa, Clibborn, Hurst, Hudgins, Jacks, Dunshee, Green, Tharinger, Darneille and Rolfes)

AN ACT Relating to loans made under the consumer loan act; amending RCW 31.04.027; and reenacting and amending RCW 31.04.025.

AN ACT Relating to harassment, intimidation, and bullying prevention; amending RCW 28A.230.095; adding a new section to chapter 28A.300 RCW; creating new sections; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

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

E2SHB 1443 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Maxwell, Dammeier, Sullivan, Pedersen, Springer, Kagi, Anderson, Pettigrew, Finn, Morris, Ladenburg, Frockt, Jinkins, Upthegrove, Clibborn, Orwall, Haigh, Jacks, Liias, Billig, Kelley and Probst)

2SHB 1362 by House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Rolfes, Moeller, Liias, Probst, Green, Darneille, Frockt, Kirby, Miloscia, Roberts, Hunt, Dickerson, Upthegrove, Fitzgibbon, Kagi, Eddy, Hasegawa, Pettigrew, Ormsby, Sells, Kenney, Cody, Hudgins, Lytton, Moscoso, Ryu, Appleton, Reykdal, Van De Wege, Carlyle, Dunshee, Santos, McCoy, Tharinger, Haigh, Goodman, Jinkins, Jacks, Takko, Sullivan, Blake, Seaquist, Billig, Stanford, Ladenburg, Finn and Pedersen)

AN ACT Relating to continuing education reforms, including implementing recommendations of the quality education council; amending RCW 28A.150.260, 28A.150.220, 28A.657.050, 28A.165.015, 28A.165.015, 28A.165.025, 28A.320.190, 28A.180.090, 28A.185.020, 28A.185.030, 28C.18.162, 28A.660.042, 28A.660.050, 28A.660.040, and 28A.400.201; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.185 RCW; creating new sections; providing an effective date; and providing an expiration date.

AN ACT Relating to protecting and assisting homeowners from unnecessary foreclosures; amending RCW 61.24.030, 61.24.031, 61.24.135, and 82.45.030; reenacting and amending RCW 61.24.005; adding new sections to chapter 61.24 RCW; creating new sections; repealing 2009 c 292 s 13 (uncodified); and declaring an emergency.

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

Referred to Committee on Financial Institutions, Housing & Insurance.

EHB 1490 by Representatives Kenney, Orcutt and Santos

EHB 1364 by Representatives Pettigrew, Walsh, Eddy, Springer, Appleton, Goodman, Roberts, Kagi, Kenney and Santos

AN ACT Relating to a business and occupation tax deduction for certified community development financial institutions; adding a new section to chapter 82.04 RCW; and creating a new section.

AN ACT Relating to child care center subsidies; and adding a new section to chapter 43.215 RCW.

Referred to Committee on Ways & Means.

Referred to Committee on Human Services & Corrections.

HB 1491 by Representatives Goodman, Walsh, Roberts and Kagi

HB 1391 by Representatives Warnick, Haler, Fagan, Schmick, Chandler, McCune, Armstrong, Condotta, Johnson, Hinkle and Parker

AN ACT Relating to the membership of the early learning advisory council; reenacting and amending RCW 43.215.090; and creating a new section.

AN ACT Relating to water delivered from the federal Columbia basin project; and amending RCW 90.44.510.

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

Referred to Committee on Environment, Water & Energy.

SHB 1502 by House Committee on Community Development & Housing (originally sponsored by Representatives Ormsby, Kenney, Smith, Moeller, Sells, Condotta, Ryu, Billig and Roberts)

SHB 1401 by House Committee on Local Government (originally sponsored by Representative Upthegrove)

AN ACT Relating to clarifying the manufactured housing and mobile home program functions and account; amending RCW 59.22.010, 59.22.050, 43.22A.100, 46.17.150, 59.20.300, 59.22.020, and 59.21.050; reenacting and amending RCW 43.15.020; creating a new section; and repealing RCW 59.22.070 and 59.22.090.

AN ACT Relating to the foreclosure process for delinquent local improvement district assessments; amending RCW 35.49.030 and 35.50.030; and creating a new section.

Referred to Committee on Financial Institutions, Housing & Insurance.

Referred to Committee on Government Operations, Tribal Relations & Elections.

2SHB 1405 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Kirby, Kelley, Ladenburg, Darneille, Ryu, Stanford and Jinkins)

2SHB 1510 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Maxwell and Kelley)

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AN ACT Relating to the assessment of students in state-funded full- day kindergarten classrooms; amending RCW 28A.150.315; adding a new section to chapter 28A.655 RCW; creating a new section; and providing an effective date.

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

2SHB 1519 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hope, Dunshee, Anderson, Haler, Pettigrew, Fagan, Sells, Johnson, Orwall, Haigh, Kenney, Kelley and Ormsby)

AN ACT Relating to school assessments for students with cognitive disabilities; adding a new section to chapter 28A.655 RCW; and creating a new section.

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

SHB 1522 by House Committee on Higher Education (originally sponsored by Representatives Kenney, Haler, Maxwell, Probst, Haigh, Hasegawa, Frockt, Santos, Reykdal, Goodman, Ormsby and Moscoso)

AN ACT Relating to academic credit for prior learning; and adding a new section to chapter 28B.76 RCW.

Referred to Committee on Higher Education & Workforce Development.

ESHB 1547 by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Hunter, Dickerson, Cody, Hunt, Kagi, Sullivan and Kenney)

AN ACT Relating to the deportation of criminal alien offenders; amending RCW 9.94A.685; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

HB 1586 by Representatives Seaquist, Haler, Jacks, Dammeier, Moscoso, Carlyle, Zeiger, Moeller, Probst, Kenney, Stanford, Kelley, Dahlquist and Jinkins

AN ACT Relating to the provision of doctorate programs at the research university branch campuses in Washington; and amending RCW 28B.45.014.

Referred to Committee on Higher Education & Workforce Development.

E2SHB 1593 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Carlyle, Maxwell, Lytton, Probst, Ladenburg, Anderson, Pedersen, Billig, Dammeier, Wilcox, Dahlquist and Fagan)

AN ACT Relating to recruiting, preparing, and empowering school officials and holding them accountable; amending RCW 28A.400.100; adding new sections to chapter 28A.410 RCW; and creating new sections.

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

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E2SHB 1599 by House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Maxwell, Orwall, Haigh, Santos, Dammeier, Seaquist, Liias, Reykdal, Kagi, Roberts, Kenney and Ormsby)

AN ACT Relating to establishing the pay for actual student success dropout prevention program; amending RCW 28A.175.035; adding new sections to chapter 28A.175 RCW; adding a new section to chapter 28A.300 RCW; and creating a new section.

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

HB 1631 by Representatives Reykdal, Hope, Sells, Haigh, Seaquist, Rolfes, Santos, Appleton and Kenney

AN ACT Relating to salary increments for academic employees at community and technical colleges; amending RCW 28B.50.140 and 28B.52.035; adding new sections to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 1650 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hasegawa, Kenney, Santos, McCoy, Moscoso, Sells, Carlyle, Reykdal, Seaquist, Jacks, Probst, Maxwell and Ormsby)

AN ACT Relating to state need grant eligibility; and amending RCW 28B.92.080.

Referred to Committee on Ways & Means.

SHB 1699 by House Committee on Capital Budget (originally sponsored by Representatives Kenney, Smith and Maxwell)

AN ACT Relating to housing trust fund administrative costs; amending RCW 43.185.020, 43.185.050, 43.185A.010, and 43.185A.050; and reenacting and amending RCW 43.185.070 and 43.185A.030.

Referred to Committee on Ways & Means.

EHB 1703 by Representatives Dammeier, Haigh, Anderson, Probst, Parker, Alexander, Zeiger and Smith

AN ACT Relating to fiscal notes for legislation that uniquely affects school districts; amending RCW 43.88A.020 and 43.132.020; and adding a new section to chapter 28A.300 RCW.

Referred to Committee on Ways & Means.

ESHB 1731 by House Committee on Local Government (originally sponsored by Representatives Takko, Kagi and Reykdal)

AN ACT Relating to the formation, operation, and governance of regional fire protection service authorities; and amending RCW 52.26.020, 52.26.040, 52.26.080, and 84.52.044.

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Referred to Committee on Government Operations, Tribal Relations & Elections.

new sections to chapter 28A.300 RCW; and creating a new section.

SHB 1756 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Walsh, Haler, Green, Kagi, Jinkins, Darneille, Orwall, Upthegrove and Kenney)

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

AN ACT Relating to authorizing implementation of a nonexpiring license for early learning providers; and amending RCW 43.215.260 and 43.215.270.

SHB 1832 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Moscoso, Fitzgibbon, Stanford, Pettigrew, Sells, Goodman, Roberts, Green, Frockt, Kenney and Ormsby)

AN ACT Relating to protecting the rights of employees of service contractors at certain airports; amending RCW 14.08.015; adding a new section to chapter 14.08 RCW; repealing RCW 14.08.010; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SHB 1761 by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Ormsby)

Referred to Committee on Labor, Commerce & Consumer Protection.

AN ACT Relating to limiting private activity bond issues by out-of-state issuers; amending RCW 39.46.020 and 39.86.140; and adding a new section to chapter 39.46 RCW.

ESHB 1849 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Haigh, Santos, Dammeier, Seaquist, Finn, Maxwell, Sullivan, Probst, Hunt, Anderson, Frockt, Kenney and Kagi)

Referred to Committee on Financial Institutions, Housing & Insurance.

AN ACT Relating to establishing the Washington state education council; creating new sections; and providing an expiration date.

ESHB 1774 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Pettigrew, Orwall, Kenney, Roberts, Kagi and Moscoso)

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

AN ACT Relating to recognizing adopted siblings and adoptive parents as relatives; and amending RCW 13.34.130.

2SHB 1903 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney and Kelley)

Referred to Committee on Human Services & Corrections.

AN ACT Relating to background checks for child care licensees and employees; amending RCW 43.215.215; reenacting and amending RCW 43.215.010; and adding new sections to chapter 43.215 RCW.

E2SHB 1776 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Frockt, Eddy, Dickerson, Carlyle, Maxwell, Fitzgibbon, Roberts, Pedersen, Hudgins, Ryu, Kenney and Stanford)

AN ACT Relating to licensing requirements for child care centers located in publicly owned buildings; amending RCW 43.215.200; and creating a new section.

Referred to Committee on Human Services & Corrections.

Referred to Committee on Human Services & Corrections.

2SHB 1909 by House Committee on Ways & Means (originally sponsored by Representatives Reykdal, Haler, Seaquist, Carlyle, Hasegawa and Kenney)

E2SHB 1808 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Lytton, Dammeier, Maxwell, Dahlquist, Sullivan, Reykdal, Lias, Finn, Sells, Orwall, Rolfes and Kenney)

AN ACT Relating to the opportunity to earn postsecondary credit during high school; amending RCW 28A.230.130; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.76 RCW; and creating new sections.

AN ACT Relating to creating a funding mechanism to promote innovation at community and technical colleges; amending RCW 28B.15.031 and 28B.15.100; reenacting and amending RCW 43.79A.040; adding a new section to chapter 28B.50 RCW; and creating a new section.

Referred to Committee on Ways & Means.

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

SHB 1923 by House Committee on Judiciary (originally sponsored by Representatives Goodman, Reykdal, Hunt, Pedersen, Roberts and Hunter)

SHB 1829 by House Committee on Education (originally sponsored by Representatives Billig, Santos, Haigh, Probst, Sells, Kenney, Reykdal, Maxwell, Stanford, Morris, Hasegawa, Ryu, McCoy, Hunt, Moscoso, Hope, Appleton and Ormsby)

AN ACT Relating to requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law; and reenacting and amending RCW 9.41.070.

AN ACT Relating to creating an Indian education division in the office of the superintendent of public instruction; adding

Referred to Committee on Judiciary.

HB 2003 by Representatives Pettigrew, Hunter, Ryu and Kenney

AN ACT Relating to premium payments for children's health coverage for children in families with income greater than two hundred percent of the federal poverty level who are not eligible for the federal children's health insurance program; amending RCW 74.09.470; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Substitute House Bill No. 1756 which was referred to the Committee on Human Services & Corrections.

#### MOTION

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

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9083, Robert Ozuna, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senators Prentice and King spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Delvin, Senator Hill was excused.

#### APPOINTMENT OF ROBERT OZUNA

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9083, Robert Ozuna as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9083, Robert Ozuna as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

Gubernatorial Appointment No. 9083, Robert Ozuna, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Murray moved that Gubernatorial Appointment No. 9012, Marty Brown, as Director of the Office of Financial Management, be confirmed.

Senator Murray spoke in favor of the motion.

#### APPOINTMENT OF MARTY BROWN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9012, Marty Brown as Director of the Office of Financial Management.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9012, Marty Brown as Director of the Office of Financial Management and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

Gubernatorial Appointment No. 9012, Marty Brown, having received the constitutional majority was declared confirmed as Director of the Office of Financial Management.

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 4, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 4, 2011 by voice vote.

#### SECOND READING

SENATE BILL NO. 5423, by Senators Regala, Hargrove, Chase and Kline

Encouraging the reduction of recidivism by modifying legal financial obligation provisions. Revised for 1st Substitute: Modifying legal financial obligation provisions.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5423 was substituted for Senate Bill No. 5423 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5423 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5423.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5423 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Absent: Senator Brown

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5423, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5452, by Senators Hargrove, Stevens and Haugen

Regarding communication, collaboration, and expedited medicaid attainment concerning persons with mental health or chemical dependency disorders who are confined in a state institution.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5452 was substituted for Senate Bill No. 5452 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5452 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5452.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5452 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5452, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5300, by Senators Hargrove and Ranker

Enhancing the use of Washington natural resources in public buildings.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5300 was substituted for Senate Bill No. 5300 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5300 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5300.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5300 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Becker and Ericksen

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5300, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5691, by Senator Hargrove

Streamlining the crime victims' compensation program.

#### MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5691 was substituted for Senate Bill No. 5691 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5691 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5691.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5691 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Holmquist Newbry

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5691, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5188, by Senators Becker, Haugen, Swecker, Stevens, King, Fain, Delvin, Holmquist Newbry, Honeyford and Hewitt

Harmonizing certain traffic control signal provisions relative to yellow change intervals and certain fine amount limitations. Revised for 1st Substitute: Harmonizing certain traffic control signal provisions relative to yellow change intervals, certain fine amount limitations, and certain signage and reporting requirements.

#### POINT OF ORDER

Senator Stevens: "Thank you Mr. President, I believe that the committee amendment offered is beyond the scope and object of the underlying bill. The underlying bill is a restricted bill. It limits the use of red light cameras. The bill only does two things: it restricts the use of red light cameras by limiting the fine probable for the violation detected through the use of red light cameras; and, number two, it prohibits the reduction of time it takes for the light to turn from yellow to red. By contrast the committee amendment expands the use of the red light camera by expanding the location and the ability to use the red light camera to include intersections with more than two arterials. For these reasons I believe the amendment offered is outside the scope of the object of the underlying bill and I respectfully request a ruling thereon."

Senator Haugen spoke on the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5188 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SENATE JOINT RESOLUTION NO. 8206, by Senators Zarelli, Brown, Pridemore, Tom, Kilmer, White and Parlette

Requiring extraordinary revenue growth to be transferred to the budget stabilization account.

The measure was read the second time.

#### MOTION

On motion of Senator Zarelli, the rules were suspended, Senate Joint Resolution No. 8206 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

Senator Zarelli spoke in favor of passage of the resolution.

#### POINT OF INQUIRY

Senator Hargrove: "Would Senator Zarelli yield to a question? Thank you Senator. In general this sounds like a great idea but I'm a little concerned when we have a biennium or two that goes negative like we're doing right now, so could you give me a little bit of a snap shot if we have a couple biennium's in a row that went negative how this one-third would apply? You know negative times negative and how all that works and since we're putting this in the constitution."

Senator Zarelli: "Yes, this is one of the changes that we made in this bill is to recognize that during times of severe recession obviously revenue goes down considerably and one would expect coming out of that recession you have exceptional revenue built. So, we've exempted those first two biennium moving out from the average that would be required to be put in the rainy day fund. So, it gives us the ability, with the change that we made to this version of this amendment, to recognize that we will potentially have exceptional growth coming out of that recession era period but would not be required to then put that revenue away."

Senator Murray spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8206.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8206 and the resolution passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Conway, Kohl-Welles and Nelson

Excused: Senator Hill

SENATE JOINT RESOLUTION NO. 8206, having received the constitutional majority, was declared passed.

#### SECOND READING

SENATE BILL NO. 5222, by Senators Kastama, Delvin, Eide, Honeyford, Hargrove, Haugen, Prentice, Hobbs, Shin and Chase

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Increasing the flexibility for industrial development district levies for public port districts.

Fraser, Hargrove, Harper, Haugen, Hewitt, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 5222 was substituted for Senate Bill No. 5222 and the substitute bill was placed on the second reading and read the second time.

Voting nay: Senators Hatfield and Honeyford

Excused: Senator Hill

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 5222 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

SUBSTITUTE SENATE BILL NO. 5741, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Kastama spoke in favor of passage of the bill.

SECOND READING

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5222.

SENATE BILL NO. 5186, by Senators Kastama, Delvin and Eide

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5222 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Prohibiting skiing in areas closed to skiing. Revised for 1st Substitute: Concerning skiing in an area or ski trail closed to the public.

MOTION

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

On motion of Senator Kastama, Substitute Senate Bill No. 5186 was substituted for Senate Bill No. 5186 and the substitute bill was placed on the second reading and read the second time.

MOTION

Voting nay: Senator Schoesler

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5222, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senator Kastama moved that the following striking amendment by Senators Kastama, Delvin, Morton and Regala be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.52.080 and 1979 ex.s. c 244 s 13 are each amended to read as follows:

SECOND READING

SENATE BILL NO. 5741, by Senators Kastama and Chase

Concerning the economic development commission.

(1) A person is guilty of criminal trespass in the second degree if he or she knowingly:

(a) Enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree; or

(b) Skis in an area or on a ski trail, owned or controlled by a ski area operator, that is closed to the public and that has signs posted indicating the closure.

(2) Criminal trespass in the second degree is a misdemeanor."

Senator Kastama spoke in favor of adoption of the striking amendment.

MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 5741 was substituted for Senate Bill No. 5741 and the substitute bill was placed on the second reading and read the second time.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama, Delvin, Morton and Regala to Substitute Senate Bill No. 5186.

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 5741 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

Senators Kastama and Roach spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5741.

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

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5741 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

On page 1, line 1 of the title, after "public;" strike the remainder of the title and insert "amending RCW 9A.52.080; and prescribing penalties."

Voting yea: Senators Baumgartner, Baxter, Becker, Benton,

Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

MOTION

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On motion of Senator Kastama, the rules were suspended, Engrossed Substitute Senate Bill No. 5186 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama, Morton and Delvin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5186.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5186 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Carrell, Hewitt, Holmquist Newbry and King

Excused: Senator Hill

ENGROSSED SUBSTITUTE SENATE BILL NO. 5186, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5631, by Senators Swecker, Hatfield, Haugen and Shin

Concerning miscellaneous provisions regulated by the department of agriculture.

The measure was read the second time.

#### MOTION

On motion of Senator Swecker, the rules were suspended, Senate Bill No. 5631 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5631.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5631 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SENATE BILL NO. 5631, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5555, by Senators Parlette, Hatfield, Morton, Honeyford and Hewitt

Concerning interbasin transfers of water rights.

#### MOTION

On motion of Senator Parlette, Substitute Senate Bill No. 5555 was substituted for Senate Bill No. 5555 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Parlette moved that the following amendment by Senators Parlette, Rockefeller and Morton be adopted:

On page 1, beginning on line 5, strike all of section 1 and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that because it is increasingly difficult for water users to acquire new water rights, transfers are a valuable and necessary water management tool. The legislature further finds that interbasin water right transfers may impact the economic and social welfare of rural communities. Therefore, the legislature intends for the department of ecology to provide notice electronically of a proposed interbasin water rights transfer to the board of commissioners in the county of origin before issuing a change authorization."

On page 4, line 30, after "after" strike "conferring with" and insert "providing notice electronically to"

On page 4, beginning on line 31, after "origin" strike "regarding the effect the transfer will have on the county of origin" and insert "upon receipt of an application"

On page 7, line 24, after "after" strike "conferring with" and insert "providing notice electronically to"

On page 7, beginning on line 25, after "origin" strike "regarding the effect the transfer will have on the county of origin" and insert "upon receipt of an application"

Senator Parlette spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Parlette, Rockefeller and Morton on page 1, line 5 to Substitute Senate Bill No. 5555.

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

#### MOTION

On motion of Senator Parlette, the rules were suspended, Engrossed Substitute Senate Bill No. 5555 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Parlette and Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5555.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5555 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

ENGROSSED SUBSTITUTE SENATE BILL NO. 5555, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5576, by Senators Kilmer, Zarelli, Tom and Shin

Regarding capital construction and building purposes at the University of Washington and Washington State University.

MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 5576 was substituted for Senate Bill No. 5576 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 5576 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5576.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5576 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5576, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5785, by Senators Murray, Kohl-Welles, White, Kline, Prentice, Nelson, Brown, McAuliffe and Keiser

Reconvening an Alaskan Way viaduct and Seattle Seawall replacement project expert review panel.

MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5785 was substituted for Senate Bill No. 5785 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5785 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5785.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5785 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5785, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5171, by Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe).

Facilitating voting for service and overseas voters.

The bill was read on Third Reading.

MOTION

On motion of Senator Pridemore, the rules were suspended and Engrossed Substitute Senate Bill No. 5171 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5171, by Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hobbs, Roach,

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Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe)

Facilitating voting for service and overseas voters.

The measure was read the second time.

## MOTION

Senator Pridemore moved that the following amendment by Senators Benton and White to the striking amendment be adopted:

On page 15, line 32 of the amendment, after "~~guaranteed~~)." insert "For overseas and service voters, the declaration must also explain that a voter may fax or e-mail a voted ballot and the signed declaration if the voter agrees to waive secrecy."

On page 17, line 1 of the amendment, after "voter" insert "who agrees to waive secrecy"

## MOTION

On motion of Senator Pridemore and without objection, the motion by Senator Pridemore to adopt the amendment by Senators Benton and White on page 15, line 32 to the striking amendment was withdrawn.

## MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Pridemore moved that the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted on the previous day be immediately reconsidered.

The President declared the question before the Senate to be the motion by Senator Pridemore to immediately reconsider the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted on the previous day.

The motion by Senator Pridemore carried and the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted was immediately reconsidered by voice vote.

## MOTION

Senator Pridemore moved that the following amendment by Senators Benton and White to the striking amendment be adopted:

On page 15, line 32 of the amendment, after "~~guaranteed~~)." insert "For overseas and service voters, the declaration must also explain that a voter may fax or e-mail a voted ballot and the signed declaration if the voter agrees to waive secrecy."

On page 17, line 1 of the amendment, after "voter" insert "who agrees to waive secrecy"

Senator Pridemore spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and White on page 15, line 32 to the striking amendment to Engrossed Substitute Senate Bill No. 5171.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Pridemore to Engrossed Substitute Senate Bill No. 5171 as amended.

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

## MOTION

On motion of Senator Pridemore, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Hobbs, Hargrove, White and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5171.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5171 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Hill

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5171, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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

## SECOND READING

SENATE BILL NO. 5731, by Senators Chase, Kastama, Shin and Conway

Concerning Washington manufacturing services.

The measure was read the second time.

## MOTION

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

On page 3, after line 18, insert the following:

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) RCW 43.131.409 (Manufacturing innovation and modernization extension service program--Termination) and 2008 c 315 s 7; and

(2) RCW 43.131.410 (Manufacturing innovation and modernization extension service program--Repeal) and 2008 c 315 s 8."

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On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 24.50.010; and repealing RCW 43.131.409 and 43.131.410."

WITHDRAWAL OF AMENDMENT

On motion of Senator Chase, the amendment by Senator Chase on page 3, line 18 to Senate Bill No. 5731 was withdrawn.

MOTION

On motion of Senator Chase, the rules were suspended, Senate Bill No. 5731 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Chase spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5731.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5731 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senator Hill

SENATE BILL NO. 5731, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Ranker moved adoption of the following resolution:

SENATE RESOLUTION  
8629

By Senators Ranker, Hatfield, Hobbs, Harper, Pridemore, Nelson, Hargrove, Kastama, Kilmer, and Keiser

WHEREAS, Sheriff William Cumming, an infantry veteran of the Vietnam War; six term elected sheriff of San Juan County, and a graduate of the U.C. Berkeley School of Criminology, has served to ensure the county and its communities have the resources to fulfill the basic mission of law enforcement; and

WHEREAS, The public safety, peace, and well-being of a community is maintained and protected by the professionalism, vigilance, attention, and strength to the needs of its citizens by its law enforcement; and

WHEREAS, Sheriff Cumming has led the men and women of the San Juan County Sheriff's Department who are some of the finest and most dedicated public servants in justice; and

WHEREAS, Sheriff Cumming leaves his public safety operations after years of service in law and justice as the second longest serving sheriff in Washington State; and

WHEREAS, He continuously relied on support from his loving family to help carry him on through his years of service to his community; and

WHEREAS, Sheriff Cumming has also served the community with his many countless hours as a volunteer, and we are indebted for his service to our community; and

WHEREAS, Sheriff Cumming has consolidated and improved the efficiency and effectiveness of dispatch units in the county; and

WHEREAS, Sheriff Cumming has worked to acquire critical watercraft operated and maintained by the department to serve the police, medical, and emergency transportation needs of the county; and

WHEREAS, He collaborated with San Juan Islands Emergency Medical Services to retrofit a Sheriff's Department boat, known as "The Guardian," into a fully licensed ambulance that could serve as a backup in shuttling critical care patients to the mainland when planes and helicopters were grounded by bad weather; and

WHEREAS, Sheriff Cumming often piloted "The Guardian" when weather conditions were extreme, because his expertise and knowledge of the islands and the water remain second to none; and

WHEREAS, In the last few years, several lives have been saved because of his willingness to put himself out there on the line, demonstrating how he has been a real hero for his community; and

WHEREAS, He worked relentlessly to help pass levies to keep schools and other community programs like Island Recreation going on schedule; and

WHEREAS, He fathered two sons, Dan and Tim Cumming, who have successfully launched into their own lives at Johns Hopkins University and Pacific Lutheran University; and

WHEREAS, Sheriff Cumming has overseen the modernization and enhancements of the Sheriff's Department and its ability to quickly respond, both on land and water; and

WHEREAS, Sheriff Cumming's retirement signifies the end of a great era in law enforcement and public safety, while allowing him to begin anew; and

WHEREAS, His professional career may have come to an end, but his legacy of true dedication as a public servant will continuously live on through those who had the pleasure to know and work with him, and the paths of leadership he left behind;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and congratulate Sheriff William Cumming for his twenty-four years as Sheriff and his dedication to the citizens of San Juan County and the State of Washington; and

BE IT FURTHER RESOLVED, That a copy of this resolution honoring him be immediately transmitted by the Secretary of the Senate to Sheriff William Cumming, Mrs. Maude Cumming, and Mr. Tim and Dan Cumming; and

BE IT FURTHER RESOLVED, That a copy of this resolution honoring Sheriff Cumming be immediately transmitted by the Secretary of the Senate to the San Juan County Sheriff's Department, the San Juan Islander, the Island Guardian, the Island Sounder, and the Journal of San Juans.

Senator Ranker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8629.

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

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## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Sheriff William Cummings and wife Maude who were seated in the gallery.

## MOTION

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

## SECOND READING

SENATE BILL NO. 5546, by Senators Kohl-Welles, Delvin, Chase, Pflug, Fraser, Keiser, Rockefeller, Regala, Kline, Holmquist Newbry, King, Shin, White, Stevens, Roach and Conway

Concerning the crime of human trafficking.

## MOTIONS

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5546 was substituted for Senate Bill No. 5546 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kohl-Welles, the rules were suspended, Substitute Senate Bill No. 5546 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5546.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5546 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5546, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5545, by Senators Delvin, Kohl-Welles, Hargrove, Stevens, Fraser, Swecker, Chase, McAuliffe, White, Eide, Roach, Shin and Regala

Addressing police investigations of commercial sexual exploitation of children and human trafficking.

## MOTIONS

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On motion of Senator Delvin, Substitute Senate Bill No. 5545 was substituted for Senate Bill No. 5545 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Delvin, the rules were suspended, Substitute Senate Bill No. 5545 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5545.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5545 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5545, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 11:55 a.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator White moved that Gubernatorial Appointment No. 9102, Albert Shen, as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6, be confirmed.

Senator White spoke in favor of the motion.

## MOTION

On motion of Senator Pridemore, Senator Hobbs was excused.

## MOTION

On motion of Senator Ericksen, Senator Parlette was excused.

## APPOINTMENT OF ALBERT SHEN

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9102, Albert Shen as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6.

Gubernatorial Appointment No. 9092, Margaret Rojas, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Skagit Valley Community College District No. 4.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9102, Albert Shen as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

SECOND READING

SENATE BILL NO. 5298, by Senators White, Ericksen, Carrell, Shin, Ranker, Hill and Conway

Authorizing the use of digital outdoor advertising signs to expand the state's emergency messaging capabilities.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

MOTIONS

On motion of Senator White, Substitute Senate Bill No. 5298 was substituted for Senate Bill No. 5298 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator White, the rules were suspended, Substitute Senate Bill No. 5298 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Absent: Senator Kline  
Excused: Senators Hill and Parlette

Gubernatorial Appointment No. 9102, Albert Shen, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Seattle, South Seattle and North Seattle Community Colleges District No. 6.

Senators White and King spoke in favor of passage of the bill.

MOTION

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5298.

At 1:40 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

ROLL CALL

The Senate was called to order at 1:50 p.m. by President Owen.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5298 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, White and Zarelli

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Ranker moved that Gubernatorial Appointment No. 9092, Margaret Rojas, as a member of the Board of Trustees, Skagit Valley Community College District No. 4, be confirmed.  
Senator Ranker spoke in favor of the motion.

Voting nay: Senators Chase, Fraser, Haugen, Kastama, Keiser, Nelson, Sheldon and Tom

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5298, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

APPOINTMENT OF MARGARET ROJAS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9092, Margaret Rojas as a member of the Board of Trustees, Skagit Valley Community College District No. 4.

SECOND READING

SENATE BILL NO. 5749, by Senators Brown, Hewitt and Shin

Regarding the Washington advanced college tuition payment (GET) program.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9092, Margaret Rojas as a member of the Board of Trustees, Skagit Valley Community College District No. 4 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

MOTIONS

On motion of Senator Brown, Substitute Senate Bill No. 5749 was substituted for Senate Bill No. 5749 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Brown, the rules were suspended, Substitute Senate Bill No. 5749 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Hargrove and Haugen

Excused: Senators Hill and Parlette

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Senators Brown and Hewitt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5749.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5749 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Nelson

Excused: Senator Hill

SUBSTITUTE SENATE BILL NO. 5749, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5614, by Senators White, Kilmer, Tom, Kohl-Welles, Keiser, Kline and Conway

Establishing procedures for requesting the funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements with the University of Washington under chapter 41.80 RCW.

## MOTIONS

On motion of Senator White, Substitute Senate Bill No. 5614 was substituted for Senate Bill No. 5614 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator White, the rules were suspended, Substitute Senate Bill No. 5614 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5614.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5614 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senator Hill  
SUBSTITUTE SENATE BILL NO. 5614, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5463, by Senators Kilmer, Becker, Kastama, Shin, Tom and White

Requiring the college board to establish minimum standards for common student identifiers.

The measure was read the second time.

## MOTION

On motion of Senator Kilmer, the rules were suspended, Senate Bill No. 5463 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5463.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5463 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Hill

SENATE BILL NO. 5463, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5241, by Senators Roach and Tom

Modifying the authority of a watershed management partnership.

The measure was read the second time.

## MOTION

On motion of Senator Roach, the rules were suspended, Senate Bill No. 5241 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Rockefeller spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5241.

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## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5241 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Delvin, Hatfield, Holmquist Newbry, Honeyford, King and Morton

Excused: Senator Hill

SENATE BILL NO. 5241, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5638, by Senators Keiser, Fain, Prentice and Shin

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies.

The measure was read the second time.

## MOTION

Senator Ericksen moved that the following amendment by Senators Ericksen, King and Ranker be adopted:

On page 2, line 17, after "districts" insert "in a county with a population of one million five hundred thousand or more"

On page 2, line 23, after "district" insert "in a county with a population of one million five hundred thousand or more"

On page 4, line 11, after "county" insert "that has a population of one million five hundred thousand or more"

On page 6, line 11 after "districts" insert "in a county with a population of one million five hundred thousand or more"

Senators Ericksen and Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Ericksen, King and Ranker on page 2, line 17 to Senate Bill No. 5638.

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

## MOTION

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

On page 6, after line 11, insert the following:

"**Sec. 3.** RCW 84.52.120 and 1995 c 99 s 1 are each amended to read as follows:

A metropolitan park district with a population of one hundred fifty thousand or more, or any metropolitan park district located in a county with a population of one million five hundred thousand or more, may submit a ballot proposition to voters of the district authorizing the protection of the district's tax levy from prorationing

under RCW 84.52.010(2) by imposing all or any portion of the district's twenty-five cent per thousand dollars of assessed valuation tax levy outside of the five dollar and ninety cent per thousand dollar of assessed valuation limitation established under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010(2)(c), for taxes imposed in any year on or before the first day of January six years after the ballot proposition is approved. A simple majority vote of voters voting on the proposition is required for approval."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Keiser on page 6, after line 11 to Senate Bill No. 5638.

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

## MOTION

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

On page 1, line 3 of the title, after "levies", insert "while protecting other levies from pro-rationing"

On page 1, line 3 of the title, after "84.52.010" insert ", 84.52.120,"

## MOTION

On motion of Senator Ericksen, the rules were suspended, Engrossed Senate Bill No. 5638 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Fain spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Murray was excused.

## POINT OF INQUIRY

Senator Roach: "Would Senator Keiser yield to a question? It says in the summary of the bill about flood damage being enormous and the potential of that is certainly there. It says our goal is to remove one-hundred percent of the homes that are at risk of flooding. Is the intent then to buy up property and remove the homes through some sort of eminent domain situation or what... Am I reading this right?"

Senator Keiser: "I cannot speak for the testimony that was given in terms of the flood plain in the Green River Valley and FEMA is currently redoing the maps for the entire valley. We don't have final determination of what really is at risk but in fact we do have concerns that if we have people living, especially if they're living in areas that could be inundated, that we have some way to protect their property and their lives. The King County Flood district is mostly incorporated and in place to repair levies and provide public safety."

## MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

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The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5638.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5638 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Holmquist Newbry and Stevens

Excused: Senators Hill, Murray and Zarelli

ENGROSSED SENATE BILL NO. 5638, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 2:36 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:10 p.m. by President Owen.

## SECOND READING

SENATE BILL NO. 5800, by Senators King, Haugen and Shin

Authorizing the use of modified off-road motorcycles on public roads.

## MOTIONS

On motion of Senator King, Substitute Senate Bill No. 5800 was substituted for Senate Bill No. 5800 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator King, the rules were suspended, Substitute Senate Bill No. 5800 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5800.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5800 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug,

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

Voting nay: Senators Holmquist Newbry and Stevens

Absent: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5800, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5343, by Senators Haugen, Delvin, Hatfield, Honeyford, Becker, Shin and Schoesler

Concerning air emissions from anaerobic digesters.

## MOTIONS

On motion of Senator Hatfield, Substitute Senate Bill No. 5343 was substituted for Senate Bill No. 5343 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hatfield, the rules were suspended, Substitute Senate Bill No. 5343 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield and Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5343.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5343 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Chase, Fraser, Kohl-Welles, Murray, Nelson, Rockefeller and White

SUBSTITUTE SENATE BILL NO. 5343, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator White, Senator Prentice was excused.

## SECOND READING

SENATE BILL NO. 5022, by Senators Kilmer, Regala, Pflug and Rockefeller

Clarifying the statute of limitations for any court action brought under RCW 42.56.550.

## MOTIONS

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On motion of Senator Kilmer, Substitute Senate Bill No. 5022 was substituted for Senate Bill No. 5022 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 5022 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5022.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5022 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Conway

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5022, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5374, by Senators Becker and Hobbs

Making technical, nonsubstantive changes to various sections of the Revised Code of Washington that impact the department of agriculture.

MOTIONS

On motion of Senator Becker, Substitute Senate Bill No. 5374 was substituted for Senate Bill No. 5374 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Becker, the rules were suspended, Substitute Senate Bill No. 5374 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5374.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5374 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala,

Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5374, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5748, by Senators Rockefeller, Honeyford and Chase

Regarding cottage food operations.

MOTION

On motion of Senator Hatfield, Substitute Senate Bill No. 5748 was substituted for Senate Bill No. 5748 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senators Rockefellers, Hatfield and Delvin be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 69.07 RCW to read as follows:

(1) A cottage food operation licensed by the department is exempt from prohibitions against the use of a home kitchen under provisions of rules adopted by the department or the Washington state food service code.

(2) A cottage food operation licensed by the department is not subject to permitting and inspection by local health jurisdictions under the Washington state food service code except in response to a foodborne outbreak or other public health emergency.

(3) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the food may not be repackaged or used as an ingredient in other foods by a food processing plant or food service establishment.

(4) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

(a) The name and address of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight;

(d) The net weight or net volume of the cottage food product;

(e) Allergen labeling as specified by federal labeling requirements;

(f) If any nutritional claim is made, appropriate labeling as specified by federal labeling requirements;

(g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen."

(5) Cottage food products may not be sold by internet or mail order or for resale outside the state.

(6) The gross sales of cottage food products may not exceed ten thousand dollars annually. The determination of the ten thousand dollar annual gross sales shall be computed on the basis of the amount of gross sales within or at a particular domestic residence and shall not be computed on a per person basis within or at that domestic residence. The department may request in writing documentation to verify the annual gross sales figure.

(7) Cottage food products must be stored only in the primary domestic residence.

(8) This section does not affect the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

Sec. 2. RCW 69.07.010 and 1992 c 34 s 3 are each amended to read as follows:

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

(1) "Department" means the department of agriculture of the state of Washington(;).

(2) "Director" means the director of the department(;).

(3) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component(;).

(4) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media(;).

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state(;).

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing(;).

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants(;).

(8) "Person" means an individual, partnership, corporation, or association.

(9) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

(10) "Cottage food products" means nonpotentially hazardous baked goods; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150; and other nonpotentially hazardous foods identified by the department in rule.

(11) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

(12) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one stove or oven, which may be a double oven, designed for residential use.

(13) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of Clostridium botulinum.

(14) "Washington state food service code" means food safety rules adopted by the state board of health under the authority of chapter 43.20 RCW.

Sec. 3. RCW 69.07.040 and 1995 c 374 s 21 are each amended to read as follows:

It shall be unlawful for any person to operate a food processing plant or process foods in the state without first having obtained an annual license from the department, which shall expire on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates. Application for a license shall be on a form prescribed by the director and accompanied by the license fee. The license fee is determined by computing the gross annual sales for the accounting year immediately preceding the license year. If the license is for a new operator, the license fee shall be based on an estimated gross annual sales for the initial license period.

If gross annual sales are: The license fee is:

|  |               |
|--|---------------|
| \$0 to \$10,000, Cottage food.....operation only | .....\$30.00  |
| .....\$0 to \$50,000                             | .....\$55.00  |
| .....\$50,001 to \$500,000                       | .....\$110.00 |
| .....\$500,001 to \$1,000,000                    | .....\$220.00 |
| .....\$1,000,001 to \$5,000,000                  | .....\$385.00 |
| .....\$5,000,001 to \$10,000,000                 | .....\$550.00 |
| .....Greater than \$10,000,000                   | .....\$825.00 |

Such application shall include the full name of the applicant for the license and the location of the food processing plant he or she intends to operate. If such applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership, or names of the officers of the association or corporation shall be given on the application. Such application shall further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant. The application shall also specify the type of food to be processed and the method or nature of processing operation or preservation of that food and any other necessary information. Upon the approval of the application by the director and compliance with the provisions of this chapter, including the applicable regulations adopted hereunder by the department, the applicant shall be issued a license or renewal thereof.

Licenses shall be issued to cover only those products, processes, and operations specified in the license application and approved for licensing. Wherever a license holder wishes to engage in processing a type of food product that is different than the type specified on the application supporting the licensee's existing license and processing that type of food product would require a major addition to or modification of the licensee's processing facilities or has a high potential for harm, the licensee shall submit an

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amendment to the current license application. In such a case, the licensee may engage in processing the new type of food product only after the amendment has been approved by the department.

If upon investigation by the director, it is determined that a person is processing food for retail sale and is not under permit, license, or inspection by a local health authority, then that person may be considered a food processor and subject to the provisions of this chapter. The director may waive the licensure requirements of this chapter for a person's operations at a facility if the person has obtained a milk processing plant license under chapter 15.36 RCW to conduct the same or a similar operation at the facility.

**Sec. 4.** RCW 69.07.080 and 1969 c 68 s 3 are each amended to read as follows:

(1) For purpose of determining whether the rules adopted pursuant to RCW 69.07.020, as now or hereafter amended are complied with, the department shall have access for inspection purposes to any part, portion or area of a food processing plant or cottage food operation, and any records required to be kept under the provisions of this chapter or rules ~~((and regulations))~~ adopted hereunder. Such inspection shall, when possible, be made during regular business hours or during any working shift of said food processing plant or cottage food operation. The department may, however, inspect such food processing plant or cottage food operation at any time when it has received information that an emergency affecting the public health has arisen and such food processing plant or cottage food operation is or may be involved in the matters causing such emergency.

(2) The department may apply for an administrative inspection warrant to a court of competent jurisdiction and an administrative inspection warrant may be issued where:

(a) The department has attempted an inspection under this chapter and access to all or part of the regulated business or entity has been actually or constructively denied; or

(b) There is reasonable cause to believe that a violation of this chapter or of rules adopted under this chapter is occurring or has occurred."

Senator Rockefeller spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Rockefeller, Hatfield and Delvin to Substitute Senate Bill No. 5748.

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

#### MOTION

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

On page 1, line 1 of the title, after "operations;" strike the remainder of the title and insert "amending RCW 69.07.010, 69.07.040, and 69.07.080; and adding a new section to chapter 69.07 RCW."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute Senate Bill No. 5748 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5748.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5748 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 5748, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5540, by Senators Hobbs, Delvin, King and Hewitt

Authorizing the use of automated school bus safety cameras.

#### MOTIONS

On motion of Senator Hobbs, Substitute Senate Bill No. 5540 was substituted for Senate Bill No. 5540 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hobbs, the rules were suspended, Substitute Senate Bill No. 5540 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs, Hargrove and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5540.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5540 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5540, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5501, by Senators Murray, Kilmer, Schoesler, Conway, Honeyford, Kohl-Welles, Keiser, Shin, Holmquist Newbry and White

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Concerning the taxation of employee meals provided without specific charge.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5501 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5501.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5501 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5501, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5590, by Senator Benton

Concerning lien holder requirements for certain foreclosure sales.

## MOTIONS

On motion of Senator Benton, Substitute Senate Bill No. 5590 was substituted for Senate Bill No. 5590 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Benton, the rules were suspended, Substitute Senate Bill No. 5590 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5590.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5590 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala,

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SUBSTITUTE SENATE BILL NO. 5590, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5359, by Senators Morton, Swecker, Honeyford and Schoesler

Concerning contiguous land under current use open space property tax programs.

## MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 5359 was substituted for Senate Bill No. 5359 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 5359 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5359.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5359 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5359, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5695, by Senators Fraser, Swecker and Kilmer

Concerning the authorization of bonds issued by Washington local governments.

## MOTIONS

On motion of Senator Fraser, Substitute Senate Bill No. 5695 was substituted for Senate Bill No. 5695 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Fraser, the rules were suspended, Substitute Senate Bill No. 5695 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5695.

Addressing hospital benefit zones that have already formed. Revised for 1st Substitute: Concerning hospital benefit zones that have already formed.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5695 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5695, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5143, by Senators McAuliffe and Shin

Addressing the annexation of unincorporated areas served by fire protection districts.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5143 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5143.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5143 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Hatfield

SENATE BILL NO. 5143, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5525, by Senators Kilmer and Carrell

MOTIONS

On motion of Senator Kilmer, Substitute Senate Bill No. 5525 was substituted for Senate Bill No. 5525 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Bill No. 5525 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5525.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5525 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5525, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5849, by Senators Prentice and Parlette

Concerning estates and trusts.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Bill No. 5849 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5849.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5849 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King,

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Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Kline

SENATE BILL NO. 5849, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5124, by Senators White, Pridemore, Fraser and Shin

Modifying elections by mail provisions.

#### MOTION

On motion of Senator White, Substitute Senate Bill No. 5124 was substituted for Senate Bill No. 5124 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

On page 20, line 32, after "~~law~~")" strike "two thousand" and insert "one thousand five hundred"

Senator White spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White on page 20, line 32 to Substitute Senate Bill No. 5124.

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

#### MOTION

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

On page 50, at the beginning of line 20, strike "(1)"

On page 50, line 23, after "apply to" strike "~~((4))~~ (a)" and insert "(1)"

On page 50, at the beginning of line 25, strike "~~((2))~~ (b)" and insert "(2)"

On page 50, beginning on line 27, strike all of subsection (2)

On page 53, after line 13, insert the following:

**NEW SECTION. Sec. 77.** A new section is added to chapter 29A.84 RCW to read as follows:

Any person, other than an election worker or a member of the voter's family, who handles another person's ballot after that ballot is filled out and the ballot declaration is signed shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. Each ballot handled shall constitute a separate offense."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 17 of the title, after "29A.52 RCW;" insert "adding a new section to chapter 29A.84 RCW;"

Senator Benton spoke in favor of adoption of the amendment.

Senators Pridemore and Swecker spoke against adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 50, line 20 to Substitute Senate Bill No. 5124.

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

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 29A.04.008 and 2007 c 38 s 1 are each amended to read as follows:

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Provisional ballot" means a ballot issued at the polling place on election day by the precinct election board to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the Help America Vote Act, including but not limited to the following:

(a) The voter's name does not appear in the poll book or list of registered voters for the county;

(b) There is an indication in the poll book that the voter has requested an absentee ballot, but the voter wishes to vote at the polling place;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(d) Any other reason allowed by law;

(6) "Party ballot" means a primary election ballot specific to a particular major political party that lists all candidates for partisan office who affiliate with that same major political party, as well as the nonpartisan races and ballot measures to be voted on at that primary;

(7) "Nonpartisan ballot" means a primary election ballot that lists all nonpartisan races and ballot measures to be voted on at that primary.

**Sec. 2.** RCW 29A.04.013 and 2003 c 111 s 103 are each amended to read as follows:

"Canvassing" means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of a primary or general election and includes the

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tabulation of any votes that were not previously tabulated at the precinct or in a counting center on the day of the primary or election.

**Sec. 3.** RCW 29A.04.031 and 2003 c 111 s 106 are each amended to read as follows:

For registered voters voting by absentee or mail ballot, "date of mailing" means the date of the postal cancellation on the envelope in which the ballot is returned to the election official by whom it was issued. For all ~~((nonregistered absentee))~~ service and overseas voters, "date of mailing" means the date stated by the voter on the ~~((envelope in which the ballot is returned to the election official by whom it was issued))~~ declaration.

**Sec. 4.** RCW 29A.04.037 and 2010 c 161 s 1103 are each amended to read as follows:

"Disabled voter" means any registered voter who qualifies for special parking privileges under RCW 46.19.010, or who is defined as blind under RCW 74.18.020, or who qualifies to require assistance with voting under ~~((RCW 29A.44.240))~~ section 25 of this act.

**Sec. 5.** RCW 29A.04.216 and 2004 c 271 s 104 are each amended to read as follows:

The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be the county auditor's duty to provide places for holding such primaries and elections; ~~((to appoint the precinct election officers and to provide for their compensation;))~~ to provide the supplies and materials necessary for the conduct of elections ~~((to the precinct election officers;))~~; and to publish and post notices of calling such primaries and elections in the manner provided by law. The notice of a primary held in an even-numbered year must indicate that the office of precinct committee officer will be on the ballot. The auditor shall also apportion to each city, town, or district, and to the state of Washington in the odd-numbered year, its share of the expense of such primaries and elections. This section does not apply to general or special elections for any city, town, or district that is not subject to RCW 29A.04.321 and 29A.04.330, but all such elections must be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

**Sec. 6.** RCW 29A.04.235 and 2003 c 111 s 138 are each amended to read as follows:

The secretary of state shall ensure that each county auditor is provided with the most recent version of the election laws of the state, as contained in this title. Where amendments have been enacted after the last compilation of the election laws, he or she shall ensure that each county auditor receives a copy of those amendments before the next primary or election. ~~((The county auditor shall ensure that any statutory information necessary for the precinct election officers to perform their duties is supplied to them in a timely manner.))~~

**Sec. 7.** RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic facsimile transmissions of the following documents:

- (1) Declarations of candidacy;
- (2) County canvass reports;
- (3) Voters' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a mandatory recount;

(8) Requests for absentee ballots;

(9) Any other election related document authorized by rule adopted by the secretary of state under RCW ~~((29A.04.610))~~ 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule. The secretary may by rule require that the original of any document, a copy of which is filed by facsimile transmission under this section, also be filed by a deadline established by the secretary by rule.

**Sec. 8.** RCW 29A.04.470 and 2004 c 267 s 203 are each amended to read as follows:

(1) The secretary of state shall create an advisory committee and adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria for administering the local government grant program, which may include a preference for grants that include a match of local funds.

(2) The advisory committee shall review grant proposals and establish a prioritized list of projects to be considered for funding by the third Tuesday in May of each year beginning in 2004 and continuing as long as funds in the election account established by ~~((chapter 48, Laws of 2003 [RCW 29A.04.440]))~~ RCW 29A.04.440 are available. The grant award may have an effective date other than the date the project is placed on the prioritized list, including money spent previously by the county that would qualify for reimbursement under the Help America Vote Act (P.L. 107-252).

(3) Examples of projects that would be eligible for local government grant funding include, but are not limited to the following:

- (a) Replacement or upgrade of voting equipment, including the replacement of punch card voting systems;
- (b) Purchase of additional voting equipment, including the purchase of equipment to meet the disability requirements of the Help America Vote Act (P.L. 107-252);
- (c) Purchase of new election management system hardware and software capable of integrating with the statewide voter registration system required by the Help America Vote Act (P.L. 107-252);
- (d) Development and production of poll worker recruitment and training materials;
- (e) Voter education programs;
- (f) Publication of a local voters' pamphlet;
- (g) Toll-free access system to provide notice of the outcome of provisional ballots; and
- (h) Training for local election officials.

**Sec. 9.** RCW 29A.04.540 and 2009 c 415 s 9 are each amended to read as follows:

A person having responsibility for the administration or conduct of elections ~~((other than precinct election officers;))~~ shall, within eighteen months of undertaking those responsibilities, receive general training regarding the conduct of elections and specific training regarding their responsibilities and duties as prescribed by this title or by rules adopted by the secretary of state under this title. Included among those persons for whom such training is mandatory are the following:

- (1) Secretary of state elections division personnel;
- (2) County elections administrators under RCW 36.22.220; and
- (3) Any other person or group charged with election administration responsibilities if the person or group is designated by rule adopted by the secretary of state as requiring the training.

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Neither this section nor RCW 29A.04.530 may be construed as requiring an elected official to receive training or a certificate of training as a condition for seeking or holding elective office or as a condition for carrying out constitutional duties.

**Sec. 10.** RCW 29A.04.580 and 2003 c 111 s 156 are each amended to read as follows:

The county auditor may designate any person who has been certified under this chapter, other than the auditor, to participate in a review conducted in the county under this chapter. Each county auditor and canvassing board shall cooperate fully during an election review by making available to the reviewing staff any material requested by the staff. The reviewing staff shall have full access to ~~((ballot pages, absentee voting materials, any other election material normally kept in a secure environment after the election, and other requested))~~ the county's election material. If ballots are reviewed by the staff, they shall be reviewed in the presence of the canvassing board or its designees. Ballots shall not leave the custody of the canvassing board. During the review and after its completion, the review staff may make appropriate recommendations to the county auditor or canvassing board, or both, to bring the county into compliance with the training required under this chapter, and the laws or rules of the state of Washington, to safeguard election material or to preserve the integrity of the elections process.

**Sec. 11.** RCW 29A.04.611 and 2009 c 369 s 5 are each amended to read as follows:

The secretary of state as chief election officer shall make reasonable rules in accordance with chapter 34.05 RCW not inconsistent with the federal and state election laws to effectuate any provision of this title and to facilitate the execution of its provisions in an orderly, timely, and uniform manner relating to any federal, state, county, city, town, and district elections. To that end the secretary shall assist local election officers by devising uniform forms and procedures.

In addition to the rule-making authority granted otherwise by this section, the secretary of state shall make rules governing the following provisions:

- (1) The maintenance of voter registration records;
- (2) The preparation, maintenance, distribution, review, and filing of precinct maps;
- (3) Standards for the design, layout, and production of ballots;
- (4) The examination and testing of voting systems for certification;
- (5) The source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;
- (6) Standards and procedures for the acceptance testing of voting systems by counties;
- (7) Standards and procedures for testing the programming of vote tallying software for specific primaries and elections;
- (8) Standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;
- (9) Standards and procedures to ensure the accurate tabulation and canvassing of ballots;
- (10) Consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;
- (11) Procedures to ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;
- (12) The use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device, the counting of votes

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cast on the substitute device, and the documentation that must be submitted to the county auditor regarding such circumstances;

- (13) Procedures for the transportation of sealed containers of voted ballots or sealed voting devices;
- (14) The acceptance and filing of documents via electronic ~~((facsimile))~~ transmission;
- (15) Voter registration applications and records;
- (16) The use of voter registration information in the conduct of elections;
- (17) The coordination, delivery, and processing of voter registration records accepted by driver licensing agents or the department of licensing;
- (18) The coordination, delivery, and processing of voter registration records accepted by agencies designated by the governor to provide voter registration services;
- (19) Procedures to receive and distribute voter registration applications by mail;
- (20) Procedures for a voter to change his or her voter registration address within a county by telephone;
- (21) Procedures for a voter to change the name under which he or she is registered to vote;
- (22) Procedures for canceling dual voter registration records and for maintaining records of persons whose voter registrations have been canceled;
- (23) Procedures for the electronic transfer of voter registration records between county auditors and the office of the secretary of state;
- (24) Procedures and forms for declarations of candidacy;
- (25) Procedures and requirements for the acceptance and filing of declarations of candidacy by electronic means;
- (26) Procedures for the circumstance in which two or more candidates have a name similar in sound or spelling so as to cause confusion for the voter;
- (27) Filing for office;
- (28) The order of positions and offices on a ballot;
- (29) Sample ballots;
- (30) Independent evaluations of voting systems;
- (31) The testing, approval, and certification of voting systems;
- (32) The testing of vote tallying software programming;
- (33) Standards and procedures to prevent fraud and to facilitate the accurate processing and canvassing of absentee ballots and mail ballots, including standards for the approval and implementation of hardware and software for automated signature verification systems;
- (34) Standards and procedures to guarantee the secrecy of absentee ballots and mail ballots;
- (35) Uniformity among the counties of the state in the conduct of absentee voting and mail ballot elections;
- (36) Standards and procedures to accommodate overseas voters and service voters;
- (37) The tabulation of paper ballots ~~((before the close of the polls))~~;
- (38) The accessibility of polling places and registration facilities that are accessible to elderly and disabled persons and voting centers;
- (39) The aggregation of precinct results if reporting the results of a single precinct could jeopardize the secrecy of a person's ballot;
- (40) Procedures for conducting a statutory recount;
- (41) Procedures for filling vacancies in congressional offices if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;
- (42) Procedures for the statistical sampling of signatures for purposes of verifying and canvassing signatures on initiative, referendum, and recall election petitions;

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(43) Standards and deadlines for submitting material to the office of the secretary of state for the voters' pamphlet;

(44) Deadlines for the filing of ballot titles for referendum bills and constitutional amendments if none have been provided by the legislature;

(45) Procedures for the publication of a state voters' pamphlet;

(46) Procedures for conducting special elections regarding nuclear waste sites if the general statutory time requirements for availability of absentee ballots, certification, canvassing, and related procedures cannot be met;

(47) Procedures for conducting partisan primary elections;

(48) Standards and procedures for the proper conduct of voting ~~((during the early voting period to provide accessibility for the blind or visually impaired))~~ on accessible voting devices;

(49) Standards for voting technology and systems used by the state or any political subdivision to be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as other voters;

(50) All data formats for transferring voter registration data on electronic or machine-readable media for the purpose of administering the statewide voter registration list required by the Help America Vote Act (P.L. 107-252);

(51) Defining the interaction of electronic voter registration election management systems employed by each county auditor to maintain a local copy of each county's portion of the official state list of registered voters;

(52) Provisions and procedures to implement the state-based administrative complaint procedure as required by the Help America Vote Act (P.L. 107-252);

(53) Facilitating the payment of local government grants to local government election officers or vendors; and

(54) Standards for the verification of signatures on absentee, mail, and provisional ballot ~~((envelopes))~~ declarations.

**Sec. 12.** RCW 29A.08.130 and 2009 c 369 s 13 are each amended to read as follows:

Election officials shall not include inactive voters in the count of registered voters for the purpose of dividing precincts, creating vote-by-mail precincts, determining voter turnout, or other purposes in law for which the determining factor is the number of registered voters. ~~((Election officials shall not include persons who are ongoing absentee voters under RCW 29A.40.040 in determining the maximum permissible size of vote by mail precincts or in determining the maximum permissible size of precincts. Nothing in this section may be construed as altering the vote tallying requirements of RCW 29A.60.230.))~~

**Sec. 13.** RCW 29A.08.140 and 2009 c 369 s 15 are each amended to read as follows:

(1) In order to vote in any primary, special election, or general election, a person who is not registered to vote in Washington must:

(a) Submit a registration application no later than twenty-nine days before the day of the primary, special election, or general election; or

(b) Register in person at the county auditor's office in his or her county of residence no later than eight days before the day of the primary, special election, or general election. A person registering under this subsection will be issued an absentee ballot.

(2) A person who is already registered to vote in Washington may update his or her registration no later than twenty-nine days before the day of the primary, special election, or general election to be in effect for that primary, special election, or general election. A registered voter who fails to transfer his or her residential address by this deadline may vote according to his or her previous registration address.

~~((3) Prior to each primary and general election, the county auditor shall give notice of the registration deadlines by one publication in a newspaper of general circulation in the county at least thirty-five days before the primary or general election.))~~

**Sec. 14.** RCW 29A.08.820 and 2006 c 320 s 5 are each amended to read as follows:

(1) Challenges initiated by a registered voter against a voter who registered to vote less than sixty days before the election, or who changed residence less than sixty days before the election without transferring his or her registration, must be filed not later than ten days before any primary or election, general or special, or within ten days of the voter being added to the voter registration database, whichever is later, at the office of the appropriate county auditor. Challenges initiated by a registered voter ~~((against any other voter))~~ or county prosecuting attorney must be filed not later than forty-five days before the election. ~~((Challenges initiated by the office of the county prosecuting attorney must be filed in the same manner as challenges initiated by a registered voter.))~~

(2)(a) If the challenge is filed within forty-five days before an election at which the challenged voter is eligible to vote, a notation of the challenge must be made immediately in the poll book or voter registration system, and the county canvassing board presides over the hearing.

(b) If the challenge is filed before the challenged voter's ballot is received, the ballot must be treated as a challenged ballot. A challenged ballot received at a polling place must be placed in a sealed envelope separate from other voted ballots.

(c) If the challenge is filed after the challenged voter's ballot is received, the challenge cannot affect the current election.

(3) If the challenge is filed at least forty-five days before an election at which the challenged voter is eligible to vote, the county auditor presides over the hearing.

**Sec. 15.** RCW 29A.12.085 and 2005 c 242 s 1 are each amended to read as follows:

Beginning on January 1, 2006, all direct recording electronic voting devices must produce a paper record of each vote that may be accepted or rejected by the voter before finalizing his or her vote. This record may not be removed from the polling place or voting center, and must be human readable without an interface and machine readable for counting purposes. If the device is programmed to display the ballot in multiple languages, the paper record produced must be printed in the language used by the voter. Rejected records must either be destroyed or marked in order to clearly identify the record as rejected. Paper records produced by direct recording electronic voting devices are subject to all the requirements of chapter 29A.60 RCW for ballot handling, preservation, reconciliation, transit, and storage. The paper records must be preserved in the same manner and for the same period of time as ballots.

**Sec. 16.** RCW 29A.12.110 and 2003 c 111 s 311 are each amended to read as follows:

In preparing a voting device for a primary or election, a record shall be made of the ballot format programming installed in each device and the precinct or portion of a precinct for which that device has been prepared. Except where provided by a rule adopted under RCW ~~((29A.04.610))~~ 29A.04.611, after being prepared for a primary or election, each device shall be sealed with a uniquely numbered seal and provided to the inspector of the appropriate polling place. The programmed memory pack for each voting device must be sealed into the device during final preparation and logic and accuracy testing. Except in the case of a device breakdown or error in programming, the memory pack must remain sealed in the device until after 8:00 p.m. on the day of the primary, special election, or general election.

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**Sec. 17.** RCW 29A.12.120 and 2003 c 111 s 312 are each amended to read as follows:

(1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all (~~(precinct election officers appointed under RCW 29A.44.410,)~~) counting center personnel(~~(s)~~) and political party observers designated under RCW 29A.60.170 who will operate a voting system in the proper conduct of their voting system duties.

(2) The county auditor may waive instructional requirements for (~~(precinct election officers,)~~) counting center personnel(~~(s)~~) and political party observers who have previously received instruction and who have served for a sufficient length of time to be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) (~~(As compensation for the time spent in receiving instruction, each precinct election officer who qualifies and serves at the subsequent primary or election shall receive an additional two hours compensation, to be paid at the same time and in the same manner as compensation is paid for services on the day of the primary or election.~~)

(4) Except for the appointment of a precinct election officer to fill a vacancy under RCW 29A.44.440, no inspector or judge may serve at any primary or election at which voting systems are used unless he or she has received the required instruction and is qualified to perform his or her duties in connection with the voting devices.)) No person may work in a counting center at a primary or election at which a vote tallying system is used unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling and tallying of ballots for that primary or election. No person may serve as a political party observer unless that person has received the required instruction and is familiar with the operation of the counting center and the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system.

**Sec. 18.** RCW 29A.12.160 and 2004 c 267 s 701 are each amended to read as follows:

(1) At each polling location or voting center, at least one voting unit certified by the secretary of state shall provide access to individuals who are blind or visually impaired.

(2) ((Compliance with this provision in regard to voting technology and systems purchased prior to July 27, 2003, shall be achieved at the time of procurement of an upgrade of technology compatible with nonvisual voting methods or replacement of existing voting equipment or systems.

(3) Compliance with subsection (2) of this section is contingent on available funds to implement this provision.

(4)) For purposes of this section, the following definitions apply:

(a) "Accessible" includes receiving, using, selecting, and manipulating voter data and controls.

(b) "Nonvisual" includes synthesized speech, Braille, and other output methods.

(c) "Blind and visually impaired" excludes persons who are both deaf and blind.

~~((5))~~ (3) This section does not apply to voting by absentee ballot.

**Sec. 19.** RCW 29A.16.040 and 2004 c 266 s 10 are each amended to read as follows:

The county legislative authority of each county in the state (~~(hereafter formed)~~) shall (~~(, at their first session,)~~) divide (~~(their respective counties)~~) the county into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct (~~(boundaries)~~) changes may be (~~(changed)~~) made during the period starting (~~(on the thirtieth)~~) fourteen days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for such precincts and the number may be less than the number established by law, but in no case may the number exceed (~~(that authorized by law)~~) two thousand active registered voters.

(3) ((Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters.)) The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

**Sec. 20.** RCW 29A.32.260 and 2003 c 111 s 818 are each amended to read as follows:

As soon as practicable before the primary, special election, or general election, the county auditor, or if applicable, the city clerk of a first-class or code city, as appropriate, shall mail the local voters' pamphlet to every residence in each jurisdiction that has included information in the pamphlet. The county auditor or city clerk, as appropriate, may choose to mail the pamphlet to each registered voter in each jurisdiction that has included information in the pamphlet, if in his or her judgment, a more economical and effective distribution of the pamphlet would result. (~~(If the county or city chooses to mail the pamphlet to each residence, no notice of election otherwise required by RCW 29A.52.350 need be published.))~~)

**Sec. 21.** RCW 29A.36.220 and 2003 c 111 s 922 are each amended to read as follows:

The cost of printing and mailing ballots, (~~(ballot cards)~~) envelopes, and instructions (~~(and the delivery of this material to the precinct election officers)~~) shall be an election cost that shall be borne as determined under RCW 29A.04.410 and 29A.04.420, as appropriate.

**Sec. 22.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the

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election, how to mark the ballot, and how to return ~~((#))~~ the ballot to the county auditor.

(2) The ((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she)) voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election((, together with a summary of the penalties for any violation of any of the provisions of this chapter)). The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and((, except as otherwise provided by law.)) it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ((return envelope)) ballot materials must provide space for the voter to indicate the date on which the ballot was voted ((and for the voter)),<sub>2</sub> to sign the ((oath)). It must also contain a space so that the voter may include)) declaration, and to provide a telephone number. ((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. Sec. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor ~~((by whom it was issued or attach sufficient first class postage, if applicable, and))~~ no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the ~~((appropriate))~~ county auditor with a postmark no later than the day of the election or primary ~~((for which the ballot was issued)).~~

((If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed.))

**Sec. 23.** RCW 29A.40.100 and 2003 c 111 s 1010 are each amended to read as follows:

County auditors must request that observers be appointed by the major political parties to be present during the processing of absentee ballots at the counting or polling center. County auditors have discretion to also request that observers be appointed by any campaigns or organizations. The absence of the observers will not prevent the processing of absentee ballots if the county auditor has requested their presence.

**Sec. 24.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received absentee return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ~~((after 8:00 p.m. of the day of the primary or election))~~ processing. Absentee ballots that are to be tabulated on an electronic vote tallying system may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ~~((Before opening a returned absentee ballot,))~~ The canvassing board, or its designated representatives, shall examine the postmark~~((statement,))~~ on the return envelope and signature on the ~~((return envelope that contains the security envelope and absentee ballot))~~ declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ~~((return envelope))~~ ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. For any absentee ballot, a variation between the signature of the voter on the ~~((return envelope))~~ ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ~~((For registered voters casting absentee ballots))~~ If the postmark is missing or illegible, the date on the ~~((return envelope))~~ ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot ~~((if the postmark is missing or is illegible)).~~ For overseas voters and service voters, the date on the ~~((return envelope))~~ declaration to which the voter has attested determines the validity,<sub>2</sub> as to the time of voting, for that absentee ballot.

**NEW SECTION. Sec. 25.** A new section is added to chapter 29A.44 RCW to read as follows:

(1) Each county auditor in a county that does not provide polling places for voters shall open a voting center each primary, special election, and general election. The voting center shall be open during business hours during the voting period, which begins eighteen days before, and ends at 8:00 p.m. on the day of, the primary, special election, or general election.

(2) The voting center must provide voter registration materials, ballots, provisional ballots, disability access voting units, sample ballots, instructions on how to properly vote the ballot, a ballot drop box, and voters' pamphlets, if a voters' pamphlet has been published.

(3) The voting center must be accessible to persons with disabilities. Each state agency and entity of local government shall permit the use of any of its accessible facilities as voting centers when requested by a county auditor.

(4) The voting center must provide at least one voting unit certified by the secretary of state that provides access to individuals who are blind or visually impaired, enabling them to vote with privacy and independence.

(5) No person may interfere with a voter attempting to vote in a voting center. Interfering with a voter attempting to vote is a violation of RCW 29A.84.510.

(6) Before opening the voting center, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the county auditor shall verify that no votes have been registered for any issue or office, and that the device has been sealed with a unique numbered seal at the time of final preparation and

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logic and accuracy testing. A log must be made of all device numbers and seal numbers.

(7) The county auditor shall require any person desiring to vote at a voting center to either sign a ballot declaration or provide identification.

(a) The signature on the declaration must be compared to the signature on the voter registration record before the ballot may be counted. If the voter registered using a mark, or can no longer sign his or her name, the election officers shall require the voter to be identified by another registered voter.

(b) The identification must be valid photo identification, such as a driver's license, state identification card, student identification card, tribal identification card, or employer identification card. Any individual who desires to vote in person but cannot provide identification shall be issued a provisional ballot, which shall be accepted if the signature on the declaration matches the signature on the voter's registration record.

(8) Provisional ballots must be accompanied by a declaration and security envelope, as required by RCW 29A.40.091, and space for the voter's name, date of birth, current and former registered address, reason for the provisional ballot, and disposition of the provisional ballot. The voter shall vote and return the provisional ballot at the voting center. The voter must be provided information on how to ascertain whether the provisional ballot was counted and, if applicable, the reason why the vote was not counted.

(9) Any voter may take printed or written material into the voting device to assist in casting his or her vote. The voter shall not use this material to electioneer and shall remove it when he or she leaves the voting center.

(10) If any voter states that he or she is unable to cast his or her votes due to a disability, the voter may designate a person of his or her choice, or two election officers, to enter the voting booth and record the votes as he or she directs.

(11) No voter is entitled to vote more than once at a primary, special election, or general election. If a voter incorrectly marks a ballot, he or she may be issued a replacement ballot.

(12) A voter who has already returned a ballot but requests to vote at a voting center shall be issued a provisional ballot. The canvassing board shall not count the provisional ballot if it finds that the voter has also voted a regular ballot in that primary, special election, or general election.

(13) The county auditor must prevent overflow of each ballot drop box to allow a voter to deposit his or her ballot securely. Ballots must be removed from a ballot drop box by at least two people, with a record kept of the date and time ballots were removed, and the names of people removing them. Ballots from drop boxes must be returned to the counting center in secured transport containers. A copy of the record must be placed in the container, and one copy must be transported with the ballots to the counting center, where the seal number must be verified by the county auditor or a designated representative. All ballot drop boxes must be secured at 8:00 p.m. on the day of the primary, special election, or general election.

(14) Any voter who is inside or in line at the voting center at 8:00 p.m. on the day of the primary, special election, or general election must be allowed to vote.

(15) For each primary, special election, and general election, the county auditor may provide election services at locations in addition to the voting center. The county auditor has discretion to establish which services will be provided at the additional locations, and which days and hours the locations will be open.

**Sec. 26.** RCW 29A.46.260 and 2010 c 215 s 5 are each amended to read as follows:

(1) The legislature finds that the elimination of polling places resulting from the transition to vote by mail creates barriers that

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

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

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

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

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

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

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

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

(3) Counties may form a joint advisory committee to develop the plan identified in subsection (2) of this section if no more than one of the participating counties has a population greater than seventy thousand.

**NEW SECTION. Sec. 27.** A new section is added to chapter 29A.52 RCW to read as follows:

Notice for any state, county, district, or municipal primary or election, whether special or general, must be given by the county auditor between five and fifteen days prior to the deadline for mail-in registrations. The notice must be published in one or more newspapers of general circulation and must contain, at a minimum, the last date to register online or through the mail, the last date to transfer or update an existing registration, the last date to register in person for first-time voters, information on where a person can register, the type of election, the date of the election, how a voter can obtain a ballot, a list of all jurisdictions involved in the election, including positions and short titles for ballot measures appearing on the ballot, and the times and dates of any public meetings associated with the election. The notice shall also include where additional information regarding the election may be obtained. This is the only notice required for a state, county, district, or municipal primary or special or general election. If the county or city chooses to mail a local voters' pamphlet as described in RCW 29A.32.210 to each residence, the notice required in this section need only include the last date to register online or through the mail, the last date to transfer or update an existing registration, the last date to register in person for first-time voters, information on where a person can register, and the times and dates of any public meetings associated with the election.

**Sec. 28.** RCW 29A.60.040 and 2009 c 414 s 2 are each amended to read as follows:

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A ballot is invalid and no votes on that ballot may be counted if it is found folded together with another ballot.

Those parts of a ballot are invalid and no votes may be counted for those issues or offices where more votes are cast for the office or issue than are permitted by law; write-in votes do not contain all of the information required under RCW 29A.60.021; or that issue or office is not marked with sufficient definiteness to determine the voter's choice or intention. No write-in vote may be rejected due to a variation in the form of the name if the ~~((election board or the))~~ canvassing board can determine the issue for or against which the person and the office for which the voter intended to vote.

**Sec. 29.** RCW 29A.60.050 and 2005 c 243 s 13 are each amended to read as follows:

Whenever the ~~((precinct election officers or the))~~ counting center personnel have a question about the validity of a ballot or the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise record of the facts in question or dispute. These ballots shall be delivered to the canvassing board for processing. A ballot is not considered rejected until the canvassing board has rejected the ballot individually, or the ballot was included in a batch or on a report of ballots that was rejected in its entirety by the canvassing board. All ballots shall be preserved in the same manner as valid ballots for that primary or election.

**Sec. 30.** RCW 29A.60.165 and 2006 c 209 s 4 and 2006 c 208 s 1 are each reenacted and amended to read as follows:

(1) If the voter neglects to sign the ~~((outside envelope of an absentee or provisional))~~ ballot declaration, the auditor shall notify the voter by first-class mail and advise the voter of the correct procedures for completing the unsigned ~~((affidavit))~~ declaration. If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. ~~((In order for the ballot to be counted, the voter must either:~~

— (a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

— (b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.)

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope or a ballot declaration is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by first-class mail, enclosing a copy of the ~~((envelope affidavit))~~ declaration, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the absentee or provisional ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. ~~((In order for the ballot to be counted, the voter must either:~~

— (i) Appear in person and sign a new registration form no later than the day before the certification of the primary or election; or

— (ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. The voter may enclose with the affidavit a photocopy of a valid government or tribal issued identification document that includes the voter's current signature. ~~— If the signature on the copy of the affidavit does not match the signature on file or the signature on the copy of the identification document, the voter must appear in person and sign a new registration form no~~

~~later than the day before the certification of the primary or election in order for the ballot to be counted.)~~

(b) If the signature on an absentee or provisional ballot envelope or a ballot declaration is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope or a ballot declaration is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.

**Sec. 31.** RCW 29A.68.070 and 2003 c 111 s 1707 are each amended to read as follows:

No irregularity or improper conduct in the proceedings of any ~~((election))~~ county canvassing board or any member of the board amounts to such malconduct as to annul or set aside any election unless the irregularity or improper conduct was such as to procure the person whose right to the office may be contested, to be declared duly elected although the person did not receive the highest number of legal votes.

**Sec. 32.** RCW 29A.68.080 and 2003 c 111 s 1708 are each amended to read as follows:

When any election for an office exercised in and for a county is contested on account of any malconduct on the part of ~~((any election))~~ a county canvassing board, or any member thereof, the election shall not be annulled and set aside upon any proof thereof, unless the rejection of the vote of such precinct or precincts will change the result as to such office in the remaining vote of the county.

**Sec. 33.** RCW 29A.84.020 and 2003 c 111 s 2102 are each amended to read as follows:

Every officer who willfully violates RCW 29A.56.110 through 29A.56.270, for the violation of which no penalty is prescribed in this title or who willfully fails to comply with the provisions of ~~((this chapter))~~ RCW 29A.56.110 through 29A.56.270 is guilty of a gross misdemeanor.

**Sec. 34.** RCW 29A.84.050 and 2005 c 243 s 23 are each amended to read as follows:

(1) A person who knowingly destroys, alters, defaces, conceals, or discards a completed voter registration form or signed absentee or provisional ballot signature affidavit or ballot declaration is guilty of a gross misdemeanor. This section does not apply to ~~((the))~~ (a) the voter who completed the ~~((voter registration))~~ form or declaration, or ~~((the))~~ (b) a county auditor ~~((or registration assistant))~~ who acts as authorized by ~~((voter registration))~~ law.

(2) Any person who intentionally fails to return another person's completed voter registration form or signed ballot declaration to the proper state or county elections office by the applicable deadline is guilty of a gross misdemeanor.

**Sec. 35.** RCW 29A.84.510 and 2003 c 111 s 2121 are each amended to read as follows:

(1) ~~((On the day of any primary or general or special election))~~ During the voting period that begins eighteen days before and ends the day of a special election, general election, or primary, no person

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may, within a polling place or voting center, or in any public area within three hundred feet of any entrance to such polling place or voting center:

- (a) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures to any kind of petition; or
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place or voting center.

(2) No person may obstruct the doors or entries to a building in which a polling place, voting center, or ballot drop location is located or prevent free access to and from any polling place, voting center, or ballot drop location. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

(3) No person may:

- (a) Except as provided in RCW 29A.44.050, remove any ballot from the polling place before the closing of the polls; or
- (b) Solicit any voter to show his or her ballot.
- (4) No person other than an inspector or judge of election may receive from any voter a voted ballot or deliver a blank ballot to such elector.

(5) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.

**Sec. 36.** RCW 29A.84.520 and 2003 c 111 s 2122 are each amended to read as follows:

Any election officer who does any electioneering (~~on primary or election day~~) during the voting period that begins eighteen days before and ends the day of a special election, general election, or primary, is guilty of a misdemeanor, and upon conviction must be fined in any sum not exceeding one hundred dollars and pay the costs of prosecution.

**Sec. 37.** RCW 29A.84.530 and 2003 c 111 s 2123 are each amended to read as follows:

Deliberately impeding other voters from casting their votes by refusing to leave a voting booth or voting device is a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. (~~The precinct~~) Election officers may provide assistance in the manner provided by (~~RCW 29A.44.240~~) section 25 of this act to any voter who requests it.

**Sec. 38.** RCW 29A.84.540 and 2003 c 111 s 2124 are each amended to read as follows:

Any person who, without lawful authority, removes a ballot from a polling place, voting center, or ballot drop location is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

**Sec. 39.** RCW 29A.84.545 and 2005 c 242 s 6 are each amended to read as follows:

Anyone who, without authorization, removes from a polling place or voting center a paper record produced by (~~an~~) a direct recording electronic voting device is guilty of a class C felony punishable under RCW 9A.20.021.

**Sec. 40.** RCW 29A.84.550 and 2003 c 111 s 2125 are each amended to read as follows:

Any person who willfully defaces, removes, or destroys any of the supplies or materials that the person knows are intended both for use in a polling place or voting center and for enabling a voter to prepare his or her ballot is guilty of a class C felony punishable under RCW 9A.20.021.

**Sec. 41.** RCW 29A.84.655 and 2003 c 111 s 2132 are each amended to read as follows:

Any ((precinct)) election officer who ((knowingly permits any voter to cast a second vote at any primary or general or special election, or knowingly permits any person not a qualified voter to vote at any primary or general or special election)) intentionally tabulates or causes to be tabulated, through any act or omission, an invalid ballot when the person has actual knowledge that the ballot is invalid, is guilty of a class C felony punishable under RCW 9A.20.021.

**Sec. 42.** RCW 27.12.370 and 2006 c 344 s 19 are each amended to read as follows:

The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next special election date according to RCW 29A.04.321, and shall cause notice of such election to be given as provided for in (~~RCW 29A.52.351~~) section 27 of this act.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of . . . . . be annexed to and be a part of . . . . . library district?  
 YES .....   
 NO .....

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such library district.

**Sec. 43.** RCW 36.93.030 and 2006 c 344 s 28 are each amended to read as follows:

(1) There is hereby created and established in each county with a population of two hundred ten thousand or more a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other county in the following manner:

- (a) The county legislative authority may, by majority vote, adopt a resolution establishing a boundary review board; or
- (b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his or her name from a petition after it has been filed with the auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the county legislative authority, together with his or her certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the county legislative authority shall submit the question of whether a boundary review board should be established to the electorate at the next primary or general election according to RCW 29A.04.321. Notice of the election shall be given as provided in (~~RCW 29A.52.351~~) section 27 of this act and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established.

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Sec. 44. RCW 52.04.071 and 2009 c 115 s 2 are each amended to read as follows:

The county legislative authority or authorities shall by resolution call a special election to be held in the city, partial city as set forth in RCW 52.04.061(2), or town and in the fire protection district at the next date according to RCW 29A.04.321, and shall cause notice of the election to be given as provided for in ((RCW 29A.52.351)) section 27 of this act.

The election on the annexation of the city, partial city as set forth in RCW 52.04.061(2), or town into the fire protection district shall be conducted by the auditor of the county or counties in which the city, partial city as set forth in RCW 52.04.061(2), or town and the fire protection district are located in accordance with the general election laws of the state. The results thereof shall be canvassed by the canvassing board of the county or counties. No person is entitled to vote at the election unless he or she is a qualified elector in the city, partial city as set forth in RCW 52.04.061(2), or town or unless he or she is a qualified elector within the boundaries of the fire protection district. The ballot proposition shall be in substantially the following form:

"Shall the city, partial city as set forth in RCW 52.04.061(2), or town of . . . . . be annexed to and be a part of . . . . . fire protection district?

YES . . . . .
NO . . . . ."

If a majority of the persons voting on the proposition in the city, partial city as set forth in RCW 52.04.061(2), or town and a majority of the persons voting on the proposition in the fire protection district vote in favor thereof, the city, partial city as set forth in RCW 52.04.061(2), or town shall be annexed and shall be a part of the fire protection district.

NEW SECTION. Sec. 45. RCW 29A.46.260 is recodified as a section in chapter 29A.04 RCW."

On page 1, line 1 of the title, after "mail;" strike the remainder of the title and insert "amending RCW 29A.04.008, 29A.04.013, 29A.04.031, 29A.04.037, 29A.04.216, 29A.04.235, 29A.04.255, 29A.04.470, 29A.04.540, 29A.04.580, 29A.04.611, 29A.08.130, 29A.08.140, 29A.08.820, 29A.12.085, 29A.12.110, 29A.12.120, 29A.12.160, 29A.16.040, 29A.32.260, 29A.36.220, 29A.40.091, 29A.40.100, 29A.40.110, 29A.46.260, 29A.60.040, 29A.60.050, 29A.68.070, 29A.68.080, 29A.84.020, 29A.84.050, 29A.84.510, 29A.84.520, 29A.84.530, 29A.84.540, 29A.84.545, 29A.84.550, 29A.84.655, 27.12.370, 36.93.030, and 52.04.071; reenacting and amending RCW 29A.60.165; adding a new section to chapter 29A.44 RCW; adding a new section to chapter 29A.52 RCW; adding a new section to chapter 29A.04 RCW; recodifying RCW 29A.46.260; and prescribing penalties."

Senator Carrell spoke in favor of adoption of the striking amendment.

MOTION

Senator White moved that the following amendment by Senator White to the striking amendment be adopted:

On page 15, line 13 of the amendment, after "law))" strike "two thousand" and insert "one thousand five hundred"

Senator White spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White on page 15, line 13 to the striking amendment to Substitute Senate Bill No. 5124.

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

MOTION

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

On page 26, at the beginning of line 26 of the amendment, strike "(1)"

On page 26, line 29 of the amendment, after "apply to" strike "(((+))) (a)" and insert "(1)"

On page 26, at the beginning of line 31 of the amendment, strike "(((=))) (b)" and insert "(2)"

Beginning on page 26, line 33 of the amendment, strike all of subsection (2)

On page 29, after line 9 of the amendment, insert the following: "NEW SECTION. Sec. 42. A new section is added to chapter 29A.84 RCW to read as follows:

Any person, other than an election worker or a member of the voters's family, who handles another person's ballot after that ballot is filled out and the ballot declaration is signed shall be guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021. Each ballot handled shall constitute a separate offense."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 32, line 8 of the title amendment, after "29A.52 RCW;" insert "adding a new section to chapter 29A.84 RCW;"

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 26, line 26 to the striking amendment to Substitute Senate Bill No. 5124 was withdrawn.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Carrell and others as amended to Substitute Senate Bill No. 5124.

Senators Regala and Conway spoke against the adoption of the striking amendment as amended.

Senators Roach and Becker spoke in favor of the adoption of the striking amendment as amended.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Benton, Kastama and Carrell spoke in favor of the adoption of the striking amendment as amended.

ROLL CALL

The Secretary called the roll on the adoption of the striking amendment as amended and the amendment was not adopted by the following vote: Yeas, 23; Nays, 26; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hargrove, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

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## MOTION

On motion of Senator White, the rules were suspended, Engrossed Substitute Senate Bill No. 5124 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White, Swecker and Kilmer spoke in favor of passage of the bill.

Senators Roach, Carrell and Benton spoke against passage of the bill.

## POINT OF ORDER

Senator Eide: "I believe that good Senator is impugning our motives here in the chamber."

## REPLY BY THE PRESIDENT

President Owen: "Senator Benton, it would be, you are slipping across the line a little bit there. Please bring it back."

Senators Stevens and Hargrove spoke against passage of the bill.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5124.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5124 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hargrove, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5124, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5124 was immediately transmitted to the House of Representatives.

## MOTION

Senator Benton moved that the Senate adjourn until 9:00 a.m. Saturday morning.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate adjourn until 9:00 a.m. Saturday morning.

The motion by Senator Benton failed by a voice vote.

## POINT OF ORDER

Senator Benton: "Mr. President, Senate Rule 15 specifically states that the Senate will break for dinner. We have not done that. It also specifically states how much time. We have been on the floor since 1:30 this afternoon and we have members that need to eat and we need to have either a dinner break or we need to adjourn until tomorrow morning."

## REPLY BY THE PRESIDENT

President Owen: "In responding to Senator Benton's point of order, it is true that, the Senate is required to provide a dinner break of I believe its ninety minutes. The Rule does not say when that must take place so your point is not well taken."

## REMARKS BY SENATOR EIDE

Senator Eide: "For the good Senator's information we have two bills left on the order of consideration, they should go fairly fast. One of them is your amendment Senator so we will probably adopt it and then you might have your dinner by eight o'clock if we get these rolling. Ok, 8:15 p.m. at the latest. Thank you Mr. President."

## SECOND READING

SENATE BILL NO. 5730, by Senator Rockefeller

Authorizing mileage-based automobile insurance. Revised for 1st Substitute: Exempting certain usage or mileage-based insurance information from public inspection.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, Substitute Senate Bill No. 5730 was not substituted for Senate Bill No. 5730 and the substitute bill was not adopted.

## MOTION

Senator Rockefeller moved that the following striking amendment by Senators Rockefeller and Benton be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that among the choices of automobile insurance policies that are available to drivers in this state should be policies whose premiums are priced based upon the demonstration of safe driving behavior. Having such usage-based policies available will provide people an opportunity to save money in the costs of insuring their vehicles, and would provide an incentive for reduced and safer driving that will reduce costs for fuel and vehicle maintenance, reduce accidents, and decrease driving-related pollution and congestion. Therefore, it is the purpose of this legislation to encourage the offering of these policies in Washington by eliminate existing regulatory barriers to offering usage-based automobile insurance policies, expressly authorizing the insurance commissioner to approve the offering of such policies, ensuring the privacy of drivers is protected, and allowing trade secret protection for proprietary usage-based insurance models.

**Sec. 2.** RCW 48.19.040 and 1994 c 131 s 8 are each amended to read as follows:

(1) Every insurer or rating organization shall, before using, file with the commissioner every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule, and every modification of any of the foregoing which it

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proposes. The insurer need not so file any rate on individually rated risks as described in subdivision (1) of RCW 48.19.030; except that any such specific rate made by a rating organization shall be filed.

(2) Every such filing shall indicate the type and extent of the coverage contemplated and must be accompanied by sufficient information to permit the commissioner to determine whether it meets the requirements of this chapter. An insurer or rating organization shall offer in support of any filing:

(a) The experience or judgment of the insurer or rating organization making the filing;

(b) An exhibit detailing the major elements of operating expense for the types of insurance affected by the filing;

(c) An explanation of how investment income has been taken into account in the proposed rates; and

(d) Any other information which the insurer or rating organization deems relevant.

(3) If an insurer has insufficient loss experience to support its proposed rates, it may submit loss experience for similar exposures of other insurers or of a rating organization.

(4) Every such filing shall state its proposed effective date.

(5)(a) A filing made pursuant to this chapter shall be exempt from the provisions of RCW 48.02.120(3). However, the filing and all supporting information accompanying it shall be open to public inspection only after the filing becomes effective unless such information is specifically exempt from public inspection.

(b) Information associated with an auto insurance filing for a usage or mileage-based insurance product that constitutes a trade secret as defined in RCW 19.108.010 is exempt from public inspection.

(6) Where a filing is required no insurer shall make or issue an insurance contract or policy except in accordance with its filing then in effect, except as is provided by RCW 48.19.090.

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Rockefeller spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Rockefeller and Benton to Senate Bill No. 5730.

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

MOTION

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

On page 1, line 1 of the title, strike all material through line 3, and insert "An act relating to usage-based automobile insurance and exempting certain usage-based insurance information from public inspection; adding amending RCW 48.19.040; and adding creating a new section."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Senate Bill No. 5730 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5730.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5730 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Harper, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove, Hatfield and Holmquist Newbry

ENGROSSED SENATE BILL NO. 5730, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5492, by Senators Schoesler, Hatfield and Hewitt

Changing Washington beer commission provisions.

The measure was read the second time.

MOTION

On motion of Senator Schoesler, the rules were suspended, Senate Bill No. 5492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5492.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5492 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove, Haugen and Holmquist Newbry

SENATE BILL NO. 5492, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 7:59 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, March 5, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, March 5, 2011

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Keiser, Pflug and Roach.

The Sergeant at Arms Color Guard consisting of Senate Interns Ismaila Maidadi and Cody Raysinger, presented the Colors. Senator Morton offered the prayer.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5864 by Senators Benton, Roach, Carrell, Baxter, Baumgartner, Stevens, Morton, Zarelli, Holmquist Newbry, Ericksen, Parlette, Hill, Fain and Hewitt

AN ACT Relating to greater governmental fiscal responsibility through limitations on expenditures; and amending RCW 43.135.010 and 43.135.025.

Referred to Committee on Ways & Means.

SB 5865 by Senators Kline and Hargrove

AN ACT Relating to participation in the WorkFirst program; amending RCW 74.08A.010 and 74.08A.270; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

SB 5866 by Senators Kline and Hargrove

AN ACT Relating to reducing prison sentences in order to generate correctional cost savings and invest in evidence-based programming; amending RCW 9.94A.728; adding a new section to chapter 9.94A RCW; creating a new section; and declaring an emergency.

Referred to Committee on Human Services & Corrections.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1037 by House Committee on Judiciary (originally sponsored by Representatives Ross, Johnson, Bailey, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Angel, Warnick, Schmick, Short, Klippert, Dammeier, McCune, Fagan, Nealey, Blake, Ladenburg, Kristiansen, Pearson, Tharinger and Moeller)

AN ACT Relating to restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities; and adding a new section to chapter 4.24 RCW.

Referred to Committee on Human Services & Corrections.

SHB 1048 by House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hunt)

AN ACT Relating to making technical corrections needed as a result of the recodification of campaign finance provisions in chapter 204, Laws of 2010; amending RCW 15.65.280, 15.66.140, 15.89.070, 15.115.140, 18.25.210, 18.32.765, 18.71.430, 18.79.390, 19.09.020, 19.34.240, 28B.15.610, 28B.133.030, 29A.32.031, 29A.84.250, 35.02.130, 35.21.759, 36.70A.200, 40.14.070, 42.17A.125, 42.17A.255, 42.17A.415, 42.17A.770, 42.36.040, 42.52.010, 42.52.150, 42.52.180, 42.52.185, 42.52.380, 42.52.560, 43.03.305, 43.17.320, 43.52A.030, 43.60A.175, 43.105.260, 43.105.310, 43.167.020, 44.05.020, 44.05.080, 44.05.110, 46.20.075, 47.06B.020, 50.38.015, 68.52.220, 79A.25.830, 82.08.02525, 82.12.02525, and 47.06B.901; reenacting and amending RCW 42.17A.005 and 42.17A.225; reenacting RCW 42.17A.110 and 42.17A.235; providing an effective date; and providing a contingent expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1057 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Hudgins, Green and Reykdal)

AN ACT Relating to the creation of the farm labor account; and amending RCW 19.30.030.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1084 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives McCoy and Hunt)

AN ACT Relating to creating the board on geographic names; amending RCW 43.30.215; and adding new sections to chapter 43.30 RCW.

Referred to Committee on Natural Resources & Marine Waters.

E2SHB 1144 by House Committee on Ways & Means (originally sponsored by Representatives McCoy, Crouse, Eddy, Morris, Haler, Kelley, Liias, Jacks, Frockt and Hudgins)

AN ACT Relating to renewable energy investment cost recovery program; amending RCW 82.16.130; and reenacting and amending RCW 82.16.110 and 82.16.120.

Referred to Committee on Environment, Water & Energy.

HB 1150 by Representatives Smith, Probst, Schmick, Warnick, Dahlquist, Hunt, Ross, Pearson, Dammeier, Kenney, Rodne, Kagi, Hargrove, Harris, Nealey, Short, Liias, Orcutt,

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Finn, Kelley, Takko, Taylor, Maxwell, Bailey, Reykdal, Upthegrove, Billig, Kristiansen, Frockt, Carlyle, Blake, Springer, Angel, Hurst, McCune, Rolfes, Condotta and Klippert

AN ACT Relating to extending the time in which a small business may correct a violation without a penalty; and amending RCW 34.05.110.

Referred to Committee on Government Operations, Tribal Relations & Elections.

EHB 1171 by Representatives Rolfes, Armstrong, Liias, Billig, Angel, Finn, Appleton, Seaquist and Reykdal

AN ACT Relating to high capacity transportation system plan components and review; and amending RCW 81.104.100 and 81.104.110.

Referred to Committee on Transportation.

SHB 1172 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kenney, Hasegawa, Maxwell, Finn, Ryu, Reykdal and Upthegrove)

AN ACT Relating to beer and wine tasting at farmers markets; amending RCW 66.24.170 and 66.28.040; reenacting and amending RCW 66.24.244; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1178 by Representatives Appleton and Miloscia

AN ACT Relating to the office of regulatory assistance; amending RCW 34.05.328; repealing RCW 43.131.401 and 43.131.402; providing an effective date; and declaring an emergency.

Referred to Committee on Economic Development, Trade & Innovation.

ESHB 1202 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Taylor and Moscoso)

AN ACT Relating to on-premise spirits sampling; amending RCW 66.08.050, 66.16.070, and 66.28.040; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

E2SHB 1206 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt and Schmick)

AN ACT Relating to harassment against criminal justice participants; amending RCW 9A.46.020; reenacting and amending RCW 40.24.030; adding a new section to chapter 9.94A RCW; prescribing penalties; and providing an expiration date.

Referred to Committee on Judiciary.

ESHB 1265 by House Committee on Local Government (originally sponsored by Representatives Kagi, Ryu, Rodne, Liias, Takko, Roberts, Smith and Upthegrove)

AN ACT Relating to land use planning in qualifying unincorporated portions of urban growth areas; adding a new section to chapter 43.21C RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1290 by Representatives Green, Cody, Van De Wege, Sells, Kenney and Reykdal

AN ACT Relating to the prohibition on mandatory overtime for certain health care employees; and amending RCW 49.28.130.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 1309 by House Committee on Judiciary (originally sponsored by Representatives Roberts, Appleton, Rodne, Springer, Hasegawa, Ryu, Eddy, Green, Kagi and Kelley)

AN ACT Relating to reserve accounts and studies for condominium and homeowners' associations; amending RCW 64.34.020, 64.34.308, 64.34.380, 64.34.382, 64.34.384, 64.38.010, and 64.38.025; reenacting and amending RCW 64.34.010; adding new sections to chapter 64.38 RCW; and providing an effective date.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1339 by House Committee on Judiciary (originally sponsored by Representatives Fitzgibbon, Hope, Rolfes, Appleton, Billig, Liias, Frockt, Haigh, Cody, Goodman, Moeller, Pedersen and Kenney)

AN ACT Relating to negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way; amending RCW 46.63.070; reenacting and amending RCW 46.20.342; adding a new section to chapter 46.61 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Judiciary.

HB 1498 by Representatives Pettigrew, Orcutt, Sullivan, Parker, Springer, Kenney, Chandler, Condotta, Santos, Billig, Kagi, Stanford and Kelley

AN ACT Relating to the taxation of employee meals provided without specific charge; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1516 by House Committee on Transportation (originally sponsored by Representatives Morris, Armstrong,

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Rolfes, Clibborn, Fitzgibbon, Liias, Maxwell, Appleton, Sells, Eddy and Smith)

AN ACT Relating to improving and measuring performance of the management of the state ferry system; adding new sections to chapter 47.60 RCW; adding a new section to chapter 47.64 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Transportation.

EHB 1674 by Representatives Kenney, Smith, Ryu, Johnson, Walsh, Finn, Maxwell and Stanford

AN ACT Relating to providing that the manufacturing innovation and modernization extension service program is not to sunset; amending RCW 43.338.040; and repealing RCW 43.131.409 and 43.131.410.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 1783 by House Committee on Local Government (originally sponsored by Representatives Pedersen, Uptegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel and Kenney)

AN ACT Relating to houseboats and houseboat moorages; and amending RCW 79.105.060 and 90.58.270.

Referred to Committee on Natural Resources & Marine Waters.

HB 1794 by Representatives Ladenburg, Klippert and Kelley

AN ACT Relating to adding court-related employees to the assault in the third degree statute; and amending RCW 9A.36.031.

Referred to Committee on Judiciary.

SHB 1815 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Sullivan, Anderson, Haigh, Dammeier, Parker, Maxwell, Reykdal and Santos)

AN ACT Relating to preserving the school district levy base; reenacting and amending RCW 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

ESHB 1864 by House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Frockt, Fitzgibbon, Ryu, Billig, Moscoso, Ladenburg and Kenney)

AN ACT Relating to business practices of collection agencies; and reenacting and amending RCW 19.16.250.

Referred to Committee on Judiciary.

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HB 1937 by Representatives Ryu, Kenney, Moscoso, Ladenburg and Roberts

AN ACT Relating to authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development; and amending RCW 35.43.040.

Referred to Committee on Economic Development, Trade & Innovation.

HB 1939 by Representative Appleton

AN ACT Relating to defining federally recognized tribes as agencies for purposes of agency-affiliated counselors; and amending RCW 18.19.020.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### MOTION

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

#### MOTION

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

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 5, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through March 5, 2011 by voice vote.

#### SECOND READING

SENATE BILL NO. 5819, by Senator Litzow

Concerning guardian and limited guardian duties.

The measure was read the second time.

#### MOTION

On motion of Senator Litzow, the rules were suspended, Senate Bill No. 5819 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5819.

#### ROLL CALL

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The Secretary called the roll on the final passage of Senate Bill No. 5819 and the bill passed the Senate by the following vote:

Yeas, 46; Nays, 0; Absent, 3; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Keiser, Pflug and Roach

SENATE BILL NO. 5819, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Ericksen, Senators Pflug and Roach were excused.

#### SECOND READING

SENATE BILL NO. 5656, by Senators Hargrove, Regala, White, McAuliffe and Kline

Creating a state Indian child welfare act.

#### MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5656 was substituted for Senate Bill No. 5656 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. SHORT TITLE.** This chapter shall be known and cited as the "Washington state Indian child welfare act."

**NEW SECTION. Sec. 2. APPLICATION.** This chapter shall apply in all child custody proceedings as that term is defined in this chapter. Whenever there is a conflict between chapter 13.32A, 13.34, 13.36, 26.10, or 26.33 RCW, the provisions of this chapter shall apply.

**NEW SECTION. Sec. 3. INTENT.** The legislature finds that the state is committed to protecting the essential tribal relations and best interests of Indian children by promoting practices designed to prevent out-of-home placement of Indian children that is inconsistent with the rights of the parents, the health, safety, or welfare of the children, or the interests of their tribe. Whenever out-of-home placement of an Indian child is necessary in a proceeding subject to the terms of the federal Indian child welfare act and in this chapter, the best interests of the Indian child may be served by placing the Indian child in accordance with the placement priorities expressed in this chapter. The legislature further finds that where placement away from the parent or Indian custodian is necessary for the child's safety, the state is committed to a placement that reflects and honors the unique values of the child's tribal culture and is best able to assist the Indian child in establishing, developing,

and maintaining a political, cultural, social, and spiritual relationship with the child's tribe and tribal community.

It is the intent of the legislature that this chapter is a step in clarifying existing laws and codifying existing policies and practices. This chapter shall not be construed to reject or eliminate current policies and practices that are not included in its provisions.

The legislature further intends that nothing in this chapter is intended to interfere with policies and procedures that are derived from agreements entered into between the department and a tribe or tribes, as authorized by section 109 of the federal Indian child welfare act. The legislature finds that this chapter specifies the minimum requirements that must be applied in a child custody proceeding and does not prevent the department from providing a higher standard of protection to the right of any Indian child, parent, Indian custodian, or Indian child's tribe.

It is also the legislature's intent that the department's policy manual on Indian child welfare, the tribal-state agreement, and relevant local agreements between individual federally recognized tribes and the department should serve as persuasive guides in the interpretation and implementation of the federal Indian child welfare act, this chapter, and other relevant state laws.

**NEW SECTION. Sec. 4. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Active efforts" means the following:

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to directly provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and affirmative efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

(iii) In any termination of parental rights proceeding regarding an Indian child under chapter 13.34 RCW in which the department or supervising agency provided services to the parent, parents, or Indian custodian, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs ordered by the court or identified in the department or supervising agency's individual service and safety

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plan rather than requiring that the plan or court order be performed on its own.

(b) In any foster care placement or termination of parental rights proceeding in which the petitioner does not otherwise have a statutory or contractual duty to directly provide services to, or procure services for, the parent or Indian custodian, "active efforts" means a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in services capable of meeting the criteria set out in (a) of this subsection.

(2) "Best interests of the Indian child" means the use of practices in accordance with the federal Indian child welfare act, this chapter, and other applicable law, that are designed to accomplish the following: (a) Protect the safety, well-being, development, and stability of the Indian child; (b) prevent the unnecessary out-of-home placement of the Indian child; (c) acknowledge the right of Indian tribes to maintain their existence and integrity which will promote the stability and security of their children and families; (d) recognize the value to the Indian child of establishing, developing, or maintaining a political, cultural, social, and spiritual relationship with the Indian child's tribe and tribal community; and (e) in a proceeding under this chapter where out-of-home placement is necessary, to prioritize placement of the Indian child in accordance with the placement preferences of this chapter.

(3) "Child custody proceeding" includes:

(a) "Foster care placement" which means any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home, institution, or with a relative, guardian, conservator, or suitable other person where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) "Termination of parental rights" which means any action resulting in the termination of the parent-child relationship;

(c) "Preadoptive placement" which means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights but before or in lieu of adoptive placement; and

(d) "Adoptive placement" which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

These terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a dissolution proceeding of custody to one of the parents.

(4) "Court of competent jurisdiction" means a federal or state court that entered an order in a child custody proceeding involving an Indian child, as long as the state court had proper subject matter jurisdiction in accordance with this chapter and the laws of that state, or the tribal court that had or has exclusive or concurrent jurisdiction pursuant to 25 U.S.C. Sec. 1911.

(5) "Department" means the department of social and health services and any of its divisions. "Department" also includes supervising agencies as defined in RCW 74.13.020(12) with which the department entered into a contract to provide services, care, placement, case management, contract monitoring, or supervision to children subject to a petition filed under chapter 13.34 or 26.33 RCW.

(6) "Indian" means a person who is a member of an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. Sec. 1606.

(7) "Indian child" means an unmarried and unemancipated Indian person who is under eighteen years of age and is either: (a) A member of an Indian tribe; or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

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(8) "Indian child's family" or "extended family member" means an individual, defined by the law or custom of the child's tribe, as a relative of the child. If the child's tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent, even following termination of the marriage.

(9) "Indian child's tribe" means a tribe in which an Indian child is a member or eligible for membership.

(10) "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child, or to whom the parent has transferred temporary care, physical custody, and control of an Indian child.

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. Sec. 1602(c).

(12) "Member" and "membership" means a determination by an Indian tribe that a person is a member or eligible for membership in that Indian tribe.

(13) "Parent" means a biological parent or parents of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent" does not include an unwed father whose paternity has not been acknowledged or established.

(14) "Secretary of the interior" means the secretary of the United States department of the interior.

(15) "Tribal court" means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

(16) "Tribal customary adoption" means adoption or other process through the tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent and through which the nonparent is vested with the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

**NEW SECTION. Sec. 5. DETERMINATION OF INDIAN STATUS.** Any party seeking the foster care placement of, termination of parental rights over, or the adoption of a child must make a good faith effort to determine whether the child is an Indian child. This shall be done by consultation with the child's parent or parents, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child's possible membership or eligibility for membership in an Indian tribe to determine if the child is an Indian child, and by contacting any Indian tribe in which the child may be a member or may be eligible for membership. Preliminary contacts for the purpose of making a good faith effort to determine a child's possible Indian status, do not constitute legal notice as required by section 7 of this act.

**NEW SECTION. Sec. 6. JURISDICTION.** (1) An Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, the tribe has expressly declined to exercise its exclusive jurisdiction, or the state is exercising emergency jurisdiction in strict compliance with section 14 of this act.

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(2) If an Indian child is already a ward of a tribal court at the start of the child custody proceeding, the Indian tribe may retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

**NEW SECTION. Sec. 7. NOTICE.** (1) In any involuntary child custody proceeding seeking the foster care placement of, or the termination of parental rights to, a child in which the petitioning party or the court knows, or has reason to know, that the child is or may be an Indian child as defined in this chapter, the petitioning party shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by certified mail, return receipt requested, and by use of a mandatory Indian child welfare act notice. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the secretary of the interior by registered mail, return receipt requested, in accordance with the regulations of the bureau of Indian affairs. The secretary of the interior has fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe. The parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for the proceeding.

(2) The determination of the Indian status of a child shall be made as soon as practicable in order to serve the best interests of the Indian child and protect the interests of the child's tribe.

(3)(a) A written determination by an Indian tribe that a child is a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is an Indian child;

(b) A written determination by an Indian tribe that a child is not a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is not a member or eligible for membership in that tribe. Such determinations are presumptively those of the tribe where submitted in the form of a tribal resolution, or signed by or testified to by the person(s) authorized by the tribe's governing body to speak for the tribe, or by the tribe's agent designated to receive notice under the federal Indian child welfare act where such designation is published in the federal register;

(c) Where a tribe provides no response to notice under section 7 of this act, such nonresponse shall not constitute evidence that the child is not a member or eligible for membership. Provided, however, that under such circumstances the party asserting application of the federal Indian child welfare act, or this chapter, will have the burden of proving that the child is an Indian child.

(4) Where a child has been determined not to be an Indian child, any party to the proceeding, or an Indian tribe that subsequently determines the child is a member, may move the court for redetermination of the child's Indian status at any time based upon new evidence, redetermination by the child's tribe, or newly conferred federal recognition of the tribe.

**NEW SECTION. Sec. 8. TRANSFER OF JURISDICTION.** (1) In any proceeding for the foster care placement of, or termination of parental rights to, an Indian child who is not domiciled or residing within the reservation of the Indian child's tribe, the court shall, in the absence of good cause to the contrary, transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the motion of any of the following persons:

- (a) Either of the child's parents;
- (b) The child's Indian custodian;
- (c) The child's tribe; or
- (d) The child, if age twelve or older.

The transfer shall be subject to declination by the tribe. The tribe shall have seventy-five days to affirmatively respond to a motion or

order transferring jurisdiction to the tribal court. A failure of the tribe to respond within the seventy-five day period shall be construed as a declination to accept transfer of the case.

(2) If the child's tribe has not formally intervened, the moving party shall serve a copy of the motion and all supporting documents on the tribal court to which the moving party seeks transfer.

(3) If either of the Indian child's parents objects to transfer of the proceeding to the Indian child's tribe, the court shall not transfer the proceeding.

(4) Following entry of an order transferring jurisdiction to the Indian child's tribe:

(a) Upon receipt of an order from a tribal court accepting jurisdiction, the state court shall dismiss the child custody proceeding without prejudice.

(b) Pending receipt of such tribal court order, the state court may conduct additional hearings and enter orders which strictly comply with the requirements of the federal Indian child welfare act and this chapter. The state court shall not enter a final order in any child custody proceeding, except an order dismissing the proceeding and returning the Indian child to the care of the parent or Indian custodian from whose care the child was removed, while awaiting receipt of a tribal court order accepting jurisdiction, or in the absence of a tribal court order or other formal written declination of jurisdiction.

(c) If the Indian child's tribe declines jurisdiction, the state court shall enter an order vacating the order transferring jurisdiction and proceed with adjudication of the child custody matter in strict compliance with the federal Indian child welfare act, this chapter, and any applicable tribal-state agreement.

**NEW SECTION. Sec. 9. INTERVENTION.** The Indian child, the Indian child's tribe or tribes, and the Indian custodian have the right to intervene at any point in any child custody proceeding involving the Indian child.

**NEW SECTION. Sec. 10. FULL FAITH AND CREDIT.** The state shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to Indian child custody proceedings.

**NEW SECTION. Sec. 11. RIGHT TO COUNSEL.** In any child custody proceeding under this chapter in which the court determines the Indian child's parent or Indian custodian is indigent, the parent or Indian custodian shall have the right to court-appointed counsel. The court may, in its discretion, appoint counsel for the Indian child upon a finding that the appointment is in the best interests of the Indian child.

**NEW SECTION. Sec. 12. RIGHT TO ACCESS TO EVIDENCE.** Each party to a child custody proceeding involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the proceeding may be based.

**NEW SECTION. Sec. 13. EVIDENTIARY REQUIREMENTS.** (1) A party seeking to effect a foster care placement of or termination of parental rights to an Indian child shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(2) No foster care placement may be ordered in a child custody proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For purposes of this subsection, any harm to the bond between the foster parent and the child that could result from removing the child from foster care shall not be the sole basis or primary reason for continuing the child in foster care.

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(3) No termination of parental rights may be ordered in a child custody proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(4)(a) For purposes of this section, "qualified expert witness" means a person who provides testimony in a proceeding under this chapter to assist a court in the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child. In any proceeding in which the child's Indian tribe has intervened pursuant to section 9 of this act or, if the department is the petitioner and the Indian child's tribe has entered into a local agreement with the department for the provision of child welfare services, the petitioner shall contact the tribe and ask the tribe to identify a tribal member or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices. The petitioner shall notify the child's Indian tribe of the need to provide a "qualified expert witness" at least twenty days prior to any evidentiary hearing in which the testimony of the witness will be required. If the child's Indian tribe does not identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner may proceed to identify such a witness pursuant to (b) of this subsection.

(b) In any proceeding in which the child's Indian tribe has not intervened or entered into a local agreement with the department for the provision of child welfare services, or a child's Indian tribe has not responded to a request to identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner shall provide a "qualified expert witness" who meets one or more of the following requirements in descending order of preference:

(i) A member of the child's Indian tribe or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices for this purpose;

(ii) Any person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe;

(iii) Any person having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe; or

(iv) A professional person having substantial education and experience in the area of his or her specialty.

(c) When the petitioner is the department or a supervising agency, the currently assigned department or agency caseworker or the caseworker's supervisor may not testify as a "qualified expert witness" for purposes of this section. Nothing in this section shall bar the assigned department or agency caseworker or the caseworker's supervisor from testifying as an expert witness for other purposes in a proceeding under this chapter. Nothing in this section shall bar other department or supervising agency employees with appropriate expert qualifications or experience from testifying as a "qualified expert witness" in a proceeding under this chapter. Nothing in this section shall bar the petitioner or any other party in a proceeding under this chapter from providing additional witnesses or expert testimony, subject to the approval of the court, on any issue before the court including the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child.

**NEW SECTION. Sec. 14. EMERGENCY REMOVAL OF AN INDIAN CHILD.** (1) Notwithstanding any other provision of federal or state law, nothing shall be construed to prevent the department or law enforcement from the emergency removal of an Indian child who is a resident of or is domiciled on an Indian reservation, but is temporarily located off the reservation, from his or her parent or Indian custodian or the emergency placement of such child in a foster home, under applicable state law, to prevent imminent physical damage or harm to the child.

(2) The department or law enforcement agency shall ensure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of the federal Indian child welfare act and this chapter to transfer the child to the jurisdiction of the appropriate Indian tribe or restore the child to the child's parent or Indian custodian, if appropriate.

(3) When the nature of the emergency allows, the department must notify the child's tribe before the removal has occurred. If prior notification is not possible, the department shall notify the child's tribe by the quickest means possible. The notice must contain the basis for the Indian child's removal, the time, date, and place of the initial hearing, and the tribe's right to intervene and participate in the proceeding. This notice shall not constitute the notice required under section 7 of this act for purposes of subsequent dependency, termination of parental rights, or adoption proceedings.

**NEW SECTION. Sec. 15. CONSENT.** (1) If an Indian child's parent or Indian custodian voluntarily consents to a foster care placement of the child or to termination of parental rights, the consent is not valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court must also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent for release of custody given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) An Indian child's parent or Indian custodian may withdraw consent to a voluntary foster care placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or Indian custodian.

(3) In a voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of an order terminating parental rights or a final decree of adoption, and the child shall be returned to the parent.

(4) After the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress. Upon a finding that such consent was obtained through fraud or duress the court shall vacate the decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under this section unless otherwise allowed by state law.

**NEW SECTION. Sec. 16. IMPROPER REMOVAL OF AN INDIAN CHILD.** If a petitioner in a child custody proceeding under this chapter has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian unless returning the child to the parent or Indian custodian would

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subject the child to substantial and immediate danger or threat of such danger.

**NEW SECTION. Sec. 17. REMOVAL OF INDIAN CHILD FROM ADOPTIVE OR FOSTER CARE PLACEMENT.**

(1) If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, the biological parent or prior Indian custodian may petition to have the child returned to their custody and the court shall grant the request unless there is a showing by clear and convincing evidence that return of custody to the biological parent or prior Indian custodian is not in the best interests of the Indian child.

(2) If an Indian child is removed from a foster care placement or a preadoptive or adoptive home for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

**NEW SECTION. Sec. 18. PLACEMENT PREFERENCES.** (1) When an emergency removal, foster care placement, or preadoptive placement of an Indian child is necessary, a good faith effort will be made to place the Indian child:

- (a) In the least restrictive setting;
- (b) Which most approximates a family situation;
- (c) Which is in reasonable proximity to the Indian child's home; and

(d) In which the Indian child's special needs, if any, will be met.

(2) In any foster care or preadoptive placement, a preference shall be given, in absence of good cause to the contrary, to the child's placement with one of the following:

- (a) A member of the child's extended family.
- (b) A foster home licensed, approved, or specified by the child's tribe.
- (c) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.
- (d) A child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(e) A non-Indian child foster care agency approved by the child's tribe.

(f) A non-Indian family that is committed to:

- (i) Promoting and allowing appropriate extended family visitation;
- (ii) Establishing, maintaining, and strengthening the child's relationship with his or her tribe or tribes; and
- (iii) Participating in the cultural and ceremonial events of the child's tribe.

(3) In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

- (a) Extended family members;
- (b) An Indian family of the same tribe as the child;
- (c) An Indian family that is of a similar culture to the child's tribe;
- (d) Another Indian family; or
- (e) Any other family which can provide a suitable home for an Indian child, such suitability to be determined in consultation with the Indian child's tribe or, where the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

(4) Notwithstanding the placement preferences listed in subsections (2) and (3) of this section, if a different order of placement preference is established by the child's tribe, the court or agency effecting the placement shall follow the order of preference

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established by the tribe so long as the placement is in the least restrictive setting appropriate to the particular needs of the child. Where appropriate, the preference of the Indian child or his or her parent shall be considered.

(5) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties.

(6) Nothing in this section shall prevent the department or the court from placing the child with a parent to effectuate a permanent plan regardless of the parent's relationship to the child's tribe.

**NEW SECTION. Sec. 19. COMPLIANCE.** (1) The department, in consultation with Indian tribes, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the federal Indian child welfare act and this chapter. These standards and procedures and the monitoring methods shall also be integrated into the department's child welfare contracting and contract monitoring process.

(2) Any Indian child who is the subject of any action for foster care placement or termination of parental rights under chapter 13.34 or 26.33 RCW, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated provisions of this chapter or the federal Indian child welfare act.

**NEW SECTION. Sec. 20. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Sec. 21.** RCW 13.32A.152 and 2004 c 64 s 5 are each amended to read as follows:

(1) Whenever a child in need of services petition is filed by: (a) A youth pursuant to RCW 13.32A.150; (b) the child or the child's parent pursuant to RCW 13.32A.120; or (c) the department pursuant to RCW 13.32A.140, the filing party shall have a copy of the petition served on the parents of the youth. Service shall first be attempted in person and if unsuccessful, then by certified mail with return receipt.

(2) Whenever a child in need of services petition is filed by a youth or parent pursuant to RCW 13.32A.150, the court shall immediately notify the department that a petition has been filed.

~~(3) ((a) Whenever) When a child in need of services petition is filed by the department, and the court or the petitioning party knows or has reason to know that an Indian child is involved, the ((petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.~~

~~(b) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court)) provisions of chapter 13.--- RCW (the new chapter created in section 34 of this act) apply.~~

**Sec. 22.** RCW 13.34.030 and 2010 1st sp.s. c 8 s 13, 2010 c 272 s 10, and 2010 c 94 s 6 are each reenacted and amended to read as follows:

For purposes of this chapter:

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(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms,

applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ~~((25 U.S.C. Sec. 1903(4)))~~ section 4 of this act.

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

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(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

**Sec. 23.** RCW 13.34.040 and 2004 c 64 s 3 are each amended to read as follows:

(1) Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child and requesting that the superior court deal with such child as provided in this chapter. There shall be no fee for filing such petitions.

(2) In counties having paid probation officers, these officers shall, to the extent possible, first determine if a petition is reasonably justifiable. Each petition shall be verified and contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of the alleged dependent child.

(3) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act. If the child is an Indian child ~~((as defined under the Indian child welfare act, the provisions of the act))~~ chapter 13,--- RCW (the new chapter created in section 34 of this act) shall apply.

(4) Every order or decree entered under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13,--- RCW (the new chapter created in section 34 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13,--- RCW (the new chapter created in section 34 of this act) does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the federal Indian child welfare act and chapter 13,--- RCW (the new chapter created in section 34 of this act) have been satisfied.

**Sec. 24.** RCW 13.34.065 and 2009 c 520 s 22, 2009 c 491 s 1, 2009 c 477 s 3, and 2009 c 397 s 2 are each reenacted and amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act, whether the provisions of the federal Indian child welfare act or chapter 13--- RCW (the new chapter created in section 34 of this act) apply, and whether there is compliance with the federal Indian child welfare act and chapter 13--- RCW (the new chapter created in section 34 of this act), including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 25.** RCW 13.34.070 and 2004 c 64 s 4 are each amended to read as follows:

(1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. When the custodian is summoned, the parent or guardian or both shall also be served with a

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summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or her right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him or her to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he or she may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:  
VIOLATION OF THIS ORDER  
IS SUBJECT TO PROCEEDING  
FOR CONTEMPT OF COURT  
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department employee.

(10) ~~((a))~~ Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child as defined in section 4 of this act is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall ~~((be by certified mail~~

~~with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.~~

~~—(b) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court)) comply with section 7 of this act.~~

**Sec. 26.** RCW 13.34.105 and 2010 c 180 s 3 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties;

(f) To represent and be an advocate for the best interests of the child; ~~((and))~~

(g) To inform the child, if the child is twelve years old or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel, pursuant to RCW 13.34.100(6). The guardian ad litem shall report to the court that the child was notified of this right and indicate the child's position regarding appointment of counsel. The guardian ad litem shall report to the court his or her independent recommendation as to whether appointment of counsel is in the best interest of the child; and

(h) In the case of an Indian child as defined in section 4 of this act, know, understand, and advocate the best interests of the Indian child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

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(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

**Sec. 27.** RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in this subsection (1)(b). The court shall consider the child's existing relationships and attachments when determining placement.

(2) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in ~~((RCW 13.34.250 and in 25 U.S.C. Sec. 1915))~~ section 18 of this act.

(3) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from

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the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(7) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

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**Sec. 28.** RCW 13.34.132 and 2000 c 122 s 16 are each amended to read as follows:

A court may order that a petition seeking termination of the parent and child relationship be filed if the following requirements are met:

(1) The court has removed the child from his or her home pursuant to RCW 13.34.130;

(2) Termination is recommended by the supervising agency;

(3) Termination is in the best interests of the child; and

(4) Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interests of the child. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) Conviction of the parent of attempting, soliciting, or conspiring to commit a crime listed in (a), (b), (c), or (d) of this subsection;

(f) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(g) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim. In the case of a parent of an Indian child, as defined in ~~((the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903)))~~ section 4 of this act, the court shall also consider tribal efforts to assist the parent in completing treatment and make it possible for the child to return home;

(h) An infant under three years of age has been abandoned;

(i) Conviction of the parent, when a child has been born of the offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest under RCW 9A.64.020.

**Sec. 29.** RCW 13.34.136 and 2009 c 520 s 28 and 2009 c 234 s 5 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the

department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in section 4 of this act; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130~~((5))~~ (6), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services

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which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(5)~~) ~~(6)~~, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(~~(4)~~) ~~(4)~~. Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

**Sec. 30.** RCW 13.34.190 and 2010 c 288 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter an order terminating all parental rights to a child only if the court finds that:

(a)(i) The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence; or

(ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are established beyond a reasonable doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When an infant has been abandoned, as defined in RCW 13.34.030, and the abandonment has been proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

(iii) The allegation under RCW 13.34.180(2) is established beyond a reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.132 exist; or

(iv) The allegation under RCW 13.34.180(3) is established beyond a reasonable doubt; and

(b) Such an order is in the best interests of the child.

(2) The provisions of chapter 13.--- RCW (the new chapter created in section 34 of this act) must be followed in any proceeding under this chapter for termination of the parent-child relationship of an Indian child as defined in ((25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child)) section 4 of this act.

**Sec. 31.** RCW 26.10.034 and 2004 c 64 s 1 are each amended to read as follows:

(1)((~~(a)~~)) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)), chapter 13.--- RCW (the new chapter created in section 34 of this act) shall apply.

((b) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(c) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.)

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 34 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 34 of this act) does apply, the decree or order must also contain a finding that all notice ((requirements)) and evidentiary requirements under the federal Indian child welfare act

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and chapter 13.--- RCW (the new chapter created in section 34 of this act) have been satisfied.

**Sec. 32.** RCW 26.33.040 and 2004 c 64 s 2 are each amended to read as follows:

(1)(a) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act. If the child is an Indian child ~~((as defined under the Indian child welfare act, the provisions of the act)),~~ chapter 13.--- RCW (the new chapter created in section 34 of this act) shall apply.

(b) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 34 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 34 of this act) does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the federal Indian child welfare act and chapter 13.--- RCW (the new chapter created in section 34 of this act) have been satisfied.

(c) In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether an Indian child ~~((as defined under the Indian child welfare act, 25 U.S.C. Sec. 1903,))~~ is involved.

(d) Whenever the court or the petitioning party knows or has reason to know that an Indian child is involved in any termination, relinquishment, or placement proceeding under this chapter, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(e) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

(f) No termination, relinquishment, or placement proceeding shall be held until at least ten days after receipt of notice by the tribe. If the tribe requests, the court shall grant the tribe up to twenty additional days to prepare for such proceeding.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Soldiers and Sailors Civil Relief Act of 1940 does or does not apply.

**Sec. 33.** RCW 74.13.350 and 2004 c 183 s 4 are each amended to read as follows:

It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of an out-of-home placement may be needed. It is the intent of the legislature that, when the sole reason for the out-of-home placement is the child's developmental disability, such services be offered by the department to these children and their families through a voluntary placement agreement. In these cases, the parents shall retain legal custody of the child.

As used in this section, "voluntary placement agreement" means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a

licensed facility. Under the terms of this agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed ~~((in writing before the court and filed with the court as provided in RCW 13.34.245))~~ in accordance with section 15 of this act. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

As used in this section, "out-of-home placement" and "out-of-home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.

Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination under RCW 13.04.030(1)(b) is required. The permanency planning hearings shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.

Nothing in this section shall prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

It is the intent of the legislature that the department undertake voluntary out-of-home placement in cases where the child's developmental disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child, and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home. If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW.

Nothing in this section prohibits the department from seeking support from parents of a child, including a child with a developmental disability if the child has been placed into care as a result of an action under chapter 13.34 RCW, when state or federal funds are expended for the care and maintenance of that child or when the department receives an application for services from the physical custodian of the child, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents.

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**NEW SECTION. Sec. 34.** Sections 1 through 20 of this act constitute a new chapter in Title 13 RCW.

**NEW SECTION. Sec. 35.** RCW 13.34.250 (Preference characteristics when placing Indian child in foster care home) and 1979 c 155 s 53 are each repealed."

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

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens to Substitute Senate Bill No. 5656.

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

#### MOTION

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

On page 1, line 1 of the title, after "welfare act;" strike the remainder of the title and insert "amending RCW 13.32A.152, 13.34.040, 13.34.070, 13.34.105, 13.34.130, 13.34.132, 13.34.190, 26.10.034, 26.33.040, and 74.13.350; reenacting and amending RCW 13.34.030, 13.34.065, and 13.34.136; adding a new chapter to Title 13 RCW; and repealing RCW 13.34.250."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5656 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5656.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5656 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Pflug and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5656, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5740, by Senators Kastama, Chase and Roach

Preventing predatory guardianships of incapacitated adults.

#### MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 5740 was substituted for Senate Bill No. 5740 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 11.88.030 and 2009 c 521 s 36 are each amended to read as follows:

(1) Any person or entity may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

(i) A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;

(j) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(k) The requested term of the limited guardianship to be included in the court's order of appointment;

(l) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the

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petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

(4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

IMPORTANT NOTICE                      PLEASE READ  
CAREFULLY

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED DOMESTIC PARTNERSHIP;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;
- (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS. YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE THAT PERSON.

(5) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party or the guardian ad litem within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(6) The court must provide a person filing a petition under this section information regarding professional and lay guardians. The purpose of the information is to provide family members of incapacitated adults with information detailing: What a guardian is, the different types of guardianships in Washington, the powers granted to a guardian, an explanation of how professional guardian fees are approved by the court and how professional guardians may bill for their services, a description of the process to modify a guardianship or to remove a guardian, and information about the certified professional guardian board and program. Failure to provide the information set forth in this subsection shall not constitute the sole cause for discharge of a guardian or delay of a guardianship hearing.

**Sec. 2.** RCW 11.88.040 and 2008 c 6 s 803 are each amended to read as follows:

(1) Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be served personally upon the alleged incapacitated person, if over fourteen years of age, and served upon the guardian ad litem.

(2) Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ~~(ten)~~ fifteen days after service thereof, ~~(shall)~~ the name of the person who the court or guardian ad litem proposes to be appointed as guardian or limited guardian, a copy of the petition for appointment of guardian, and the statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order must be given by registered or certified mail to the last known address requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by personal service in the manner provided for services of summons, but duplicates of information already provided under RCW 11.88.030 or other applicable statutes or rules need not be given, to the following:

~~((4))~~ (a) The alleged incapacitated person, or minor, if under fourteen years of age;

~~((2))~~ (b) A parent, if the alleged incapacitated person is a minor, all known children not residing with a notified person, and the spouse or domestic partner of the alleged incapacitated person if any;

~~((3))~~ (c) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incapacitated person resides. No notice need be given to those persons named in ~~((subsections (2) and (3)))~~ (a) and (b) of this subsection if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing.

~~((4))~~ (3) If the petition is by a parent asking for appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition is accompanied by the written consent of a minor of the age of fourteen years or upward, who consents to the appointment of the guardian or limited guardian asked for, or if the petition is by a nonresident guardian of any minor or incapacitated person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

(4) The alleged incapacitated person shall be present in court at the final hearing on the petition(~~(: PROVIDED, That)~~). However, this requirement may be waived at the discretion of the court for good cause other than mere inconvenience shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incapacitated person and conduct the final hearing in the presence of the alleged incapacitated person. Final

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hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

(5) If presence of the alleged incapacitated person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition.

**Sec. 3.** RCW 11.88.120 and 1991 c 289 s 7 are each amended to read as follows:

(1) At any time after establishment of a guardianship or appointment of a guardian, the court may, upon the death of the guardian or limited guardian, or, for other good reason, modify or terminate the guardianship or replace the guardian or limited guardian.

(2) Any person, including an incapacitated person, may apply to the court for an order to modify or terminate a guardianship or to replace a guardian or limited guardian.

(a) If applicants are represented by counsel, counsel shall move for an order to show cause why the relief requested should not be granted.

(b) If applicants are not represented by counsel, they may move for an order to show cause, or they may deliver a written request to the clerk of the court, which must be considered by the court as the equivalent of a motion for an order to show cause.

(3) By the next judicial day after receipt of ~~((an unrepresented))~~ a person's request to modify or terminate a guardianship order, or to replace a guardian or limited guardian, the clerk shall deliver the request to the court. The court ~~((may (a)))~~ must direct the clerk to schedule a hearing ~~((or (b)))~~ on the request and mail notice to the guardian, the incapacitated person, the applicant, all counsel of record, and any other person entitled to receive notice of proceedings in the matter, except that the court may deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous. The court may appoint a guardian ad litem to investigate the issues raised by the application or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held ~~((or (c) deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous))~~. Any denial of an application without a hearing shall be in writing with the reasons for the denial explained. A copy of the order shall be mailed by the clerk to the applicant, to the guardian, and to any other person entitled to receive notice of proceedings in the matter. ~~((Unless within thirty days after receiving the request from the clerk the court directs otherwise, the clerk shall schedule a hearing on the request and mail notice to the guardian, the incapacitated person, the applicant, all counsel of record, and any other person entitled to receive notice of proceedings in the matter.))~~

(4) In a hearing on an application to modify or terminate a guardianship, or to replace a guardian or limited guardian, the court may grant such relief as it deems just and in the best interest of the incapacitated person. If there is a professional guardian, and the applicant makes a prima facie showing that the guardian has breached a fiduciary, professional, or ethical duty with respect to the guardianship as proscribed by the certified professional guardian board, the burden of proof shall shift to the guardian to establish that his or her conduct was appropriate.

(5) The court may order persons who have been removed as guardians to deliver any property or records belonging to the incapacitated person in accordance with the court's order. Similarly, when guardians have died or been removed and property or records of an incapacitated person are being held by any other person, the court may order that person to deliver it in accordance with the court's order. Disobedience of an order to deliver shall be punishable as contempt of court.

**Sec. 4.** RCW 11.88.090 and 2008 c 6 s 804 are each amended to read as follows:

(1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180 shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any incapacitated person interested in any suit or matter pending therein, or to commence and prosecute any suit in his or her behalf.

(2) Prior to the appointment of a guardian or a limited guardian, whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, upon the motion of the alleged incapacitated person or the guardian ad litem, or subsequent to such appointment, whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, upon the motion of any interested person, the court may:

(a) Require any party or other person subject to the jurisdiction of the court to participate in mediation;

(b) Establish the terms of the mediation; and

(c) Allocate the cost of the mediation ~~((pursuant to RCW 11.96.140)).~~

(3) ~~(a)~~ Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incapacitated person, who shall be a person found or known by the court to:

~~((a))~~ (i) Be free of influence from anyone interested in the result of the proceeding; and

~~((b))~~ (ii) Have the requisite knowledge, training, or expertise to perform the duties required by this section.

(b) The guardian ad litem shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, each party with a statement including: His or her training relating to the duties as a guardian ad litem; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the guardian ad litem's statement, any party may set a hearing and file and serve a motion for an order to show cause why the guardian ad litem should not be removed for one of the following three reasons: (i) Lack of expertise necessary for the proceeding; (ii) an hourly rate higher than what is reasonable for the particular proceeding; or (iii) a conflict of interest. Notice of the hearing shall be provided to the guardian ad litem and all parties. If, after a hearing, the court enters an order replacing the guardian ad litem, findings shall be included, expressly stating the reasons for the removal. If the guardian ad litem is not removed, the court has the authority to assess to the moving party, attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(c) No guardian ad litem need be appointed when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (5) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incapacitated person and shall not overcome the presumption of competency or full legal and civil rights of the alleged incapacitated person.

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(4)(a) The superior court of each county shall develop and maintain a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardian ad litem a person whose name appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

(b) To be eligible for the registry a person shall:

(i) Present a written statement outlining his or her background and qualifications. The background statement shall include, but is not limited to, the following information:

(A) Level of formal education;

(B) Training related to the guardian ad litem's duties;

(C) Number of years' experience as a guardian ad litem;

(D) Number of appointments as a guardian ad litem and the county or counties of appointment;

(E) Criminal history, as defined in RCW 9.94A.030; and

(F) Evidence of the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapters 11.88 and 11.92 RCW.

The written statement of qualifications shall include the names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and

(ii) Complete the training as described in (e) of this subsection. The training is not applicable to guardians ad litem appointed pursuant to special proceeding Rule 98.16W.

(c) Superior court shall remove any person from the guardian ad litem registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court.

(d) The background and qualification information shall be updated annually.

(e) The department of social and health services shall convene an advisory group to develop a model guardian ad litem training program and shall update the program biennially. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, domestic violence, aging, legal, court administration, the Washington state bar association, and other interested parties.

(f) The superior court shall require utilization of the model program developed by the advisory group as described in (e) of this subsection, to assure that candidates applying for registration as a qualified guardian ad litem shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem.

(5) The guardian ad litem appointed pursuant to this section (~~shall have~~) has the following duties:

(a) To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to independent legal

counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To investigate alternate arrangements made, or which might be created, by or on behalf of the alleged incapacitated person, such as revocable or irrevocable trusts, durable powers of attorney, or blocked accounts; whether good cause exists for any such arrangements to be discontinued; and why such arrangements should not be continued or created in lieu of a guardianship;

(f) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

(iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

(iv) A description of any alternative arrangements previously made by the alleged incapacitated person or which could be made, and whether and to what extent such alternatives should be used in lieu of a guardianship, and if the guardian ad litem is recommending discontinuation of any such arrangements, specific findings as to why such arrangements are contrary to the best interest of the alleged incapacitated person;

(v) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

(vi) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

(vii) Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

(viii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

(ix) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.

Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the guardian ad litem, and at least fifteen days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged incapacitated person and his or her counsel, spouse or domestic partner, all children not residing with a notified person, those persons described in (f)(viii) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150. If the guardian ad litem needs additional time to finalize his or her report, then the guardian ad litem shall petition the court for a postponement of the hearing or, with the consent of all other parties, an extension or reduction of time for filing the report. If the hearing does not occur within sixty days of filing the petition, then upon the two-month anniversary of filing the petition and on or before the same day of each following month until the hearing, the guardian ad litem shall file interim reports summarizing his or her activities on the proceeding during that time period as well as fees and costs incurred;

(g) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five court days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel;

(h) To disclose in writing to the court any prior or existing relationship, or other circumstance that would cause the appearance of a conflict of interest in the guardian ad litem's recommendation when the guardian ad litem is making a recommendation of appointment of a particular person or persons as a guardian to a court. Such disclosure must also be provided to persons receiving copies of the report as required in (f)(ix) of this subsection (5).

(6) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to subsection (5)(f) of this section.

(7) The parties to the proceeding may file responses to the guardian ad litem report with the court and deliver such responses to the other parties and the guardian ad litem at any time up to the second day prior to the hearing. If a guardian ad litem fails to file his or her report in a timely manner, the hearing shall be continued to give the court and the parties at least fifteen days before the hearing to review the report. At any time during the proceeding upon motion of any party or on the court's own motion, the court may remove the guardian ad litem for failure to perform his or her duties as specified in this chapter, provided that the guardian ad litem shall have five days' notice of any motion to remove before the court enters such order. In addition, the court in its discretion may reduce a guardian ad litem's fee for failure to carry out his or her duties.

(8) The court appointed guardian ad litem shall have the authority, in the event that the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to give consent for such emergency life-saving medical services on behalf of the alleged incapacitated person.

(9) The court-appointed guardian ad litem shall have the authority to move for temporary relief under chapter 7.40 RCW to protect the alleged incapacitated person from abuse, neglect, abandonment, or exploitation, as those terms are defined in RCW 74.34.020, or to address any other emergency needs of the alleged incapacitated person. Any alternative arrangement executed before filing the petition for guardianship shall remain effective unless the court grants the relief requested under chapter 7.40 RCW, or unless, following notice and a hearing at which all parties directly affected by the arrangement are present, the court finds that the alternative arrangement should not remain effective.

(10) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incapacitated person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That the court may charge such fee to the petitioner, the alleged incapacitated person, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(11) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense.

(12) The guardian ad litem shall appear in person at all hearings on the petition unless all parties provide a written waiver of the requirement to appear.

(13) At any hearing the court may consider whether any person who makes decisions regarding the alleged incapacitated person or estate has breached a statutory or fiduciary duty.

NEW SECTION. Sec. 5. A new section is added to chapter 2.56 RCW to read as follows:

The administrator for the courts must publish on its web site information regarding professional and lay guardians. The purpose of the publication is to provide family members of incapacitated adults with information detailing: What a guardian is, the different types of guardianships in Washington, the powers granted to a guardian, an explanation of how professional guardian fees are approved by the court and how professional guardians may bill for their services, a description of the process to modify a guardianship or to remove a guardian, and information about the certified professional guardian board and program.

Sec. 6. RCW 43.190.060 and 1999 c 133 s 1 are each amended to read as follows:

(1) A long-term care ombudsman ~~((shall))~~ must:

~~((4))~~ (a) Identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

~~((2))~~ (b) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

~~((3))~~ (c) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in long-term care facilities; and

~~((4))~~ (d) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A trained volunteer long-term care ombudsman, in accordance with the policies and procedures

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established by the state long-term care ombudsman program, shall inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

(2) Publish on a web site, or otherwise make available to residents, families of residents, and the public information regarding professional and lay guardians. The purpose of the publication is to provide family members of incapacitated adults with information detailing: What a guardian is, the different types of guardianships in Washington, the powers granted to a guardian, an explanation of how professional guardian fees are approved by the court and how professional guardians may bill for their services, a description of the process to modify a guardianship or to remove a guardian, and information about the certified professional guardian board and program.

(3) Nothing in (~~chapter 133, Laws of 1999 shall~~) this section or RCW 43.190.065 may be construed to empower the state long-term care ombudsman or any local long-term care ombudsman with statutory or regulatory licensing or sanctioning authority."

Senator Kastama spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kastama and others to Substitute Senate Bill No. 5740.

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

MOTION

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

On page 1, line 2 of the title, after "adults;" strike the remainder of the title and insert "amending RCW 11.88.030, 11.88.040, 11.88.120, 11.88.090, and 43.190.060; and adding a new section to chapter 2.56 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute Senate Bill No. 5740 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5740.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5740 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5740, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5068, by Senators Conway, Prentice and Kohl-Welles

Addressing the abatement of violations of the Washington industrial safety and health act during an appeal.

MOTION

On motion of Senator Conway, Substitute Senate Bill No. 5068 was substituted for Senate Bill No. 5068 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Conway moved that the following striking amendment by Senators Conway and Holmquist Newbry be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.17.140 and 1994 c 61 s 1 are each amended to read as follows:

(1) If after an inspection or investigation the director or the director's authorized representative issues a citation under the authority of RCW 49.17.120 or 49.17.130, the department, within a reasonable time after the termination of such inspection or investigation, shall notify the employer by certified mail of the penalty to be assessed under the authority of RCW 49.17.180 and shall state that the employer has fifteen working days within which to notify the director that the employer wishes to appeal the citation or assessment of penalty. If, within fifteen working days from the communication of the notice issued by the director the employer fails to notify the director that the employer intends to appeal the citation or assessment penalty, and no notice is filed by any employee or representative of employees under subsection (3) of this section within such time, the citation and the assessment shall be deemed a final order of the department and not subject to review by any court or agency.

(2) If the director has reason to believe that an employer has failed to correct a violation for which ((a citation has been issued within the period permitted in the citation for its correction, which period shall not begin to run until the entry of a final order in the case of any appeal proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties)) the employer was previously cited and which has become a final order, the director shall notify the employer by certified mail of such failure to correct the violation and of the penalty to be assessed under RCW 49.17.180 by reason of such failure, and shall state that the employer has fifteen working days from the communication of such notification and assessment of penalty to notify the director that the employer wishes to appeal the director's notification of the assessment of penalty. If, within fifteen working days from the receipt of notification issued by the director the employer fails to notify the director that the employer intends to appeal the notification of assessment of penalty, the notification and assessment of penalty shall be deemed a final order of the department and not subject to review by any court or agency.

(3) If any employer notifies the director that the employer intends to appeal the citation issued under either RCW 49.17.120 or

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49.17.130 or notification of the assessment of a penalty issued under subsections (1) or (2) of this section, or if, within fifteen working days from the issuance of a citation under either RCW 49.17.120 or 49.17.130 any employee or representative of employees files a notice with the director alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the director may reassume jurisdiction over the entire matter, or any portion thereof upon which notice of intention to appeal has been filed with the director pursuant to this subsection. If the director reassumes jurisdiction of all or any portion of the matter upon which notice of appeal has been filed with the director, any redetermination shall be completed and corrective notices of assessment of penalty, citations, or revised periods of abatement completed within a period of thirty working days. The thirty-working-day redetermination period may be extended up to fifteen additional working days upon agreement of all parties to the appeal. The redetermination shall then become final subject to direct appeal to the board of industrial insurance appeals within fifteen working days of such redetermination with service of notice of appeal upon the director. In the event that the director does not reassume jurisdiction as provided in this subsection, the director shall promptly notify the state board of industrial insurance appeals of all notifications of intention to appeal any such citations, any such notices of assessment of penalty and any employee or representative of employees notice of intention to appeal the period of time fixed for abatement of a violation and in addition certify a full copy of the record in such appeal matters to the board. The director shall adopt rules of procedure for the reassumption of jurisdiction under this subsection affording employers, employees, and employee representatives notice of the reassumption of jurisdiction by the director, and an opportunity to object or support the reassumption of jurisdiction, either in writing or orally at an informal conference to be held prior to the expiration of the redetermination period. Except as otherwise provided under subsection (4) of this section, a notice of appeal filed under this section shall stay the effectiveness of any citation or notice of the assessment of a penalty pending review by the board of industrial insurance appeals, but such appeal shall not stay the effectiveness of any order of immediate restraint issued by the director under the authority of RCW 49.17.130. The board of industrial insurance appeals shall afford an opportunity for a hearing in the case of each such appellant and the department shall be represented in such hearing by the attorney general and the board shall in addition provide affected employees or authorized representatives of affected employees an opportunity to participate as parties to hearings under this subsection. The board shall thereafter make disposition of the issues in accordance with procedures relative to contested cases appealed to the state board of industrial insurance appeals.

Upon application by an employer showing that a good faith effort to comply with the abatement requirements of a citation has been made and that the abatement has not been completed because of factors beyond the employer's control, the director after affording an opportunity for a hearing shall issue an order affirming or modifying the abatement requirements in such citation.

(4) An appeal of any violation classified and cited as serious, willful, repeated serious violation, or failure to abate a serious violation does not stay abatement dates and requirements except as follows:

(a) An employer may request a stay of abatement for any serious, willful, repeated serious violation, or failure to abate a serious violation in a notice of appeal under subsection (3) of this section;

(b) When the director reassumes jurisdiction of an appeal under subsection (3) of this section, it will include the stay of abatement request. The issued redetermination decision will include a decision on the stay of abatement request. The department shall

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stay the abatement for any serious, willful, repeated serious violation, or failure to abate a serious violation where the department cannot determine that the preliminary evidence shows a substantial probability of death or serious physical harm to workers. The decision on stay of abatement will be final unless the employer renews the request for a stay of abatement in any direct appeal of the redetermination to the board of industrial insurance appeals under subsection (3) of this section;

(c) The board of industrial insurance appeals shall adopt rules necessary for conducting an expedited review on any stay of abatement requests identified in the employer's notice of appeal, and shall issue a final decision within forty-five working days of the board's notice of filing of appeal. This rule making shall be initiated in 2011;

(d) Affected employees or their representatives must be afforded an opportunity to participate as parties in an expedited review for stay of abatement;

(e) The board shall grant a stay of an abatement for a serious, willful, repeated serious violation, or failure to abate a serious violation where there is good cause for a stay unless based on the preliminary evidence it is more likely than not that a stay would result in death or serious physical harm to a worker;

(f) As long as a motion to stay abatement is pending all abatement requirements will be stayed.

(5) When the board of industrial insurance appeals denies a stay of abatement and abatement is required while the appeal is adjudicated, the abatement process must be the same process as the process required for abatement upon a final order.

(6) The department shall develop rules necessary to implement subsections (4) and (5) of this section. In an application for a stay of abatement, the department will not grant a stay when it can determine that the preliminary evidence shows a substantial probability of death or serious physical harm to workers. The board will not grant a stay where based on the preliminary evidence it is more likely than not that a stay would result in death or serious physical harm to a worker. This rule making shall be initiated in 2011."

Senators Conway and Holmquist Newbry spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Conway and Holmquist Newbry to Substitute Senate Bill No. 5068.

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

## MOTION

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

On page 1, line 2 of the title, after "appeal;" strike the remainder of the title and insert "and amending RCW 49.17.140."

## MOTION

On motion of Senator Conway, the rules were suspended, Engrossed Substitute Senate Bill No. 5068 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5068.

## ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5068 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford and Schoesler

ENGROSSED SUBSTITUTE SENATE BILL NO. 5068, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5834, by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain and Eide

Permitting counties to direct an existing portion of local lodging taxes to programs for arts and heritage.

#### MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5834 was substituted for Senate Bill No. 5834 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5834 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray, Kohl-Welles, Keiser and McAuliffe spoke in favor of passage of the bill.

Senators Carrell, Zarelli and Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5834.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5834 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Hewitt, Morton, Pflug, Prentice, Roach, Schoesler, Sheldon and Stevens

SUBSTITUTE SENATE BILL NO. 5834, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5039, by Senate Committee on Health & Long-Term Care (originally sponsored by Senators Murray, Keiser, Hatfield, Pridemore, Conway and Chase).

Concerning insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law.

The bill was read on Third Reading.

Senators Murray, Keiser, Pridemore and Pflug spoke in favor of passage of the bill.

Senators Schoesler, Becker and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5039.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5039 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5039, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5352, by Senators Honeyford, Regala and Swecker

Regarding providing eyeglasses to medicaid enrollees.

#### MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5352 was substituted for Senate Bill No. 5352 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5352 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5352.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5352 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE BILL NO. 5352, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5020, by Senators Murray, Regala, Kohl-Welles, Prentice and Chase

Protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education.

## MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5020 was substituted for Senate Bill No. 5020 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Stevens and Murray be adopted:

Beginning on page 2, after line 32, strike all material through "(b)" on page 3, line 3 and insert the following:

"(a) Persons employed in Washington on the effective date of this section under the job title of social worker so long as the person continues to be employed by the same agency as on the effective date of this section;

(b) Persons employed by the state of Washington on the effective date of this section under the job title of social worker so long as the person continues to be employed by the state and who shall continue to have the same layoff, reversion, transfer, and promotional opportunities as were available to the employee on the effective date of this section;

(c)"

Reletter the remaining subsection consecutively and correct any internal references accordingly

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Stevens

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and Murray on page 2, after line 32 to Substitute Senate Bill No. 5020.

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

## MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5020 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5020.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5020 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Benton, Ericksen, Holmquist Newbry and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5020, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5239, by Senators Honeyford, Morton, Swecker and Becker

Allocating federal forest revenue to public schools based on resident students. Revised for 1st Substitute: Requiring a definition of "resident" for purposes of the allocation method used to distribute federal forest revenue to schools.

## MOTIONS

On motion of Senator Honeyford, Substitute Senate Bill No. 5239 was substituted for Senate Bill No. 5239 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Honeyford, the rules were suspended, Substitute Senate Bill No. 5239 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5239.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5239 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5239, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5595, by Senator Parlette

Concerning distribution of the public utility district privilege tax. Revised for 2nd Substitute: Concerning the distribution of the public utility district privilege tax.

#### MOTIONS

On motion of Senator Parlette, Second Substitute Senate Bill No. 5595 was substituted for Senate Bill No. 5595 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Parlette, the rules were suspended, Second Substitute Senate Bill No. 5595 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5595.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5595 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SECOND SUBSTITUTE SENATE BILL NO. 5595, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5242, by Senators Hargrove, Pflug, Kline, Regala, Harper, Carrell, Keiser, Nelson, Sheldon, Conway and Shin

Addressing motorcycle profiling.

The measure was read the second time.

#### MOTION

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

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The criminal justice training commission shall ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers in conjunction with existing training regarding profiling.

(2) Local law enforcement agencies shall add a statement condemning motorcycle profiling to existing policies regarding profiling.

(3) For the purposes of this section, "motorcycle profiling" means the illegal use of the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington state Constitution."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Senate Bill No. 5242.

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

#### MOTION

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

On page 1, line 1 of the title, after "profiling;" strike the remainder of the title and insert "and adding a new section to chapter 43.101 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 5242 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5242.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5242 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SENATE BILL NO. 5242, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5516, by Senators Tom, Hill, Becker, Kilmer, White and Shin

Allowing advance payments for equipment maintenance services for institutions of higher education.

The measure was read the second time.

#### MOTION

On motion of Senator Tom, the rules were suspended, Senate Bill No. 5516 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5516.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5516 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5516, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:55 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:33 p.m. by President Owen.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

March 4, 2011

MR. PRESIDENT:  
The House has passed:

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 1009,  
HOUSE BILL NO. 1184,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311,  
SUBSTITUTE HOUSE BILL NO. 1431,  
ENGROSSED HOUSE BILL NO. 1517,  
SUBSTITUTE HOUSE BILL NO. 1560,  
SUBSTITUTE HOUSE BILL NO. 1563,  
SUBSTITUTE HOUSE BILL NO. 1575,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1740,  
SUBSTITUTE HOUSE BILL NO. 1782,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790,  
SUBSTITUTE HOUSE BILL NO. 1858,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1901,  
HOUSE BILL NO. 1953,  
ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4404.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

March 4, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094,  
HOUSE BILL NO. 1381,  
HOUSE BILL NO. 1412,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1469,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634,  
HOUSE BILL NO. 1649,  
SECOND SUBSTITUTE HOUSE BILL NO. 1662,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701,  
ENGROSSED HOUSE BILL NO. 1702,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1708,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1792,  
SECOND SUBSTITUTE HOUSE BILL NO. 1803,  
HOUSE BILL NO. 1875,  
ENGROSSED HOUSE BILL NO. 1969,  
SUBSTITUTE HOUSE BILL NO. 1997.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### SECOND READING

SENATE BILL NO. 5647, by Senators Fraser, Honeyford, Rockefeller, Morton, Shin and Chase

Modifying the Columbia river basin management program.

The measure was read the second time.

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MOTION

Senator Fraser moved that the following amendment by Senator Rockefeller be adopted:

On page 7, line 34, after "of" strike "aggregate"

On page 7, line 36, after "of" strike "aggregate"

On page 8, beginning on line 4, after "populations." strike all material through "account." on line 9

On page 9, beginning on line 6, strike all of section 6

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 13, after line 17, insert the following:

**"NEW SECTION. Sec. 8.** The department of ecology shall, within existing resources and in consultation with stakeholders, evaluate options for aggregating projects to achieve the instream and out-of-stream allocation under RCW 90.90.020. The department shall report its findings to the legislature, consistent with RCW 43.01.035, by September 15, 2011."

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 7, line 34 to Senate Bill No. 5647.

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

MOTION

There being no objection the following title amendment was adopted:

On page 1, line 3 of the title, after "90.90.010" strike ", 90.90.020, and 90.90.040" and insert "and 90.90.020"

On page 1, line 4 of the title, after "43.84.092;" strike "and"

On page 1, line 4 of the title, after "90.90 RCW" insert "; and creating a new section"

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Senate Bill No. 5647 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5647.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5647 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SENATE BILL NO. 5647, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5618, by Senators Chase, Kline and Hobbs

Limiting private activity bond issues by out-of-state issuers.

MOTIONS

On motion of Senator Chase, Substitute Senate Bill No. 5618 was substituted for Senate Bill No. 5618 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Chase, the rules were suspended, Substitute Senate Bill No. 5618 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Chase spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5618.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5618 and the bill failed the Senate by the following vote: Yeas, 21; Nays, 28; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SUBSTITUTE SENATE BILL NO. 5618, having failed to receive the constitutional majority, was declared lost.

SECOND READING

SENATE BILL NO. 5566, by Senators Kohl-Welles and Kline

Concerning long-term disability for injured workers and costs to the workers' compensation program.

The measure was read the second time.

MOTION

Senator Holmquist Newbry moved that the following striking amendment by Senators Holmquist Newbry and Kilmer be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 51.04 RCW to read as follows:

(1)(a) Notwithstanding RCW 51.04.060 or any other provision of this title, beginning September 1, 2011, the parties to an allowed claim for benefits may enter into a voluntary settlement agreement as provided in this section with respect to one or more allowed claims for benefits under this title. All voluntary settlement

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agreements must be approved by the board of industrial insurance appeals. The voluntary settlement agreement may:

(i) Bind the parties with regard to any or all aspects of an allowed claim including, but not limited to, monetary payment, vocational services, and claim closure;

(ii) Not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and

(iii) Not be submitted to the board under subsection (2) or (3) of this section within twelve weeks of the date of injury or disease manifestation.

(b) For purposes of this section, "parties" means:

(i) For a self-insured claim, the worker and the employer; and

(ii) For a state fund claim, the worker, the employer, and the department.

(c) For state fund claims, the department shall negotiate the settlement with the worker. Any voluntary settlement agreement entered into under this section must be signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the voluntary settlement agreement. Unless one of the parties revokes consent to the agreement, as provided in subsection (3) of this section, the voluntary settlement agreement becomes final and binding thirty days after approval of the agreement by the board of industrial insurance appeals.

(d) A voluntary settlement agreement that has become final and binding as provided in this section is binding on the department and on all parties to the agreement as to its terms and the injuries and occupational diseases to which the voluntary settlement applies. A voluntary settlement agreement that has become final and binding is not subject to appeal.

(2)(a) If a worker is not represented by an attorney at the time of signing a voluntary settlement agreement, the parties must forward a copy of the signed settlement agreement to the board with a request for a conference with a settlement officer. Unless one of the parties requests a later date, the settlement officer must convene a conference within fourteen days after receipt of the request for the limited purpose of receiving the voluntary settlement agreement of the parties, explaining to the worker the benefits generally available under this title, and explaining that a voluntary settlement agreement may alter the benefits payable on a claim. In no event may a settlement officer render legal advice to any party.

(b) Before approving the settlement agreement, the settlement officer shall ensure that the worker has an adequate understanding of the settlement proposal and its consequences to the worker.

(c)(i) The settlement officer may approve a settlement agreement only if the officer finds that the settlement is in the best interest of the worker. When determining whether the settlement is in the best interest of the worker, the settlement officer shall consider the following factors, taken as a whole, with no individual factor being determinative:

(A) The nature and extent of the injuries and disabilities of the worker;

(B) The age and life expectancy of the injured worker;

(C) Whether the injured worker has any health, disability, or related insurance;

(D) Any other benefits the injured worker is receiving or is entitled to receive and the effect a settlement agreement might have on those benefits;

(E) The marital status of the injured worker; and

(F) The number of dependents of the injured worker.

(ii) Within seven days after the conference, the settlement officer shall issue an order allowing or rejecting the voluntary settlement agreement. There is no appeal from the settlement officer's decision.

(d) If the settlement officer issues an order allowing the voluntary settlement agreement, the order must be submitted to the board.

(3) If a worker is represented by an attorney at the time of signing a voluntary settlement agreement, the parties may submit the agreement directly to the board without the conference described in this section.

(4) Upon receiving the voluntary settlement agreement, the board shall approve the agreement within thirty working days of receipt unless it finds that the parties have not entered into the agreement knowingly and willingly. If the board approves the agreement, it shall provide notice to the department of the binding terms of the agreement and provide for placement of the agreement in the applicable claim files.

(5) A party may revoke consent to the voluntary settlement agreement by providing written notice to the other parties and the board within thirty days after the date the agreement is approved by the board.

(6) To the extent the worker is found to be entitled to temporary total disability or permanent total disability benefits while a voluntary settlement agreement is being negotiated, or during the revocation period of an agreement, the benefits must be paid until the agreement becomes final.

(7) When future liability for medical benefits is released or otherwise relinquished in a settlement agreement under this section, any monetary compensation for medical benefits must be dispensed pursuant to a schedule of payments as established in the settlement agreement. The schedule of payments must be reasonably calculated to provide the injured worker with periodic payments throughout the expected time during which the worker will need medical treatment.

(8) A claim closed pursuant to a voluntary settlement agreement can be reopened only upon a showing of worsening of the related medical conditions under RCW 51.32.160 for medical treatment only. Further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable under the same claim for which a voluntary settlement has been approved by the board.

NEW SECTION. Sec. 2. A new section is added to chapter 51.04 RCW to read as follows:

(1) In calendar years 2016, 2021, and 2026, the department shall contract for an independent study of voluntary settlement agreements approved by the board under this section. The study must be performed by a researcher that has experience in workers' compensation systems. When selecting the independent researcher, the department shall consult with the workers' compensation advisory committee. The study must evaluate the quality and effectiveness of settlement agreements of state fund and self-insured claims, provide information on the impact of settlement agreements to the state fund and to self-insured employers, and evaluate the outcomes of workers who have settled their claims. The study must be submitted to the appropriate committees of the legislature.

(2) The department shall contract with an independent entity with research experience in workers' compensation systems nationwide to study the nature, incidence, and cost of occupational disease claims in the Washington workers' compensation system. When selecting the independent researcher the department shall consult with the workers' compensation advisory committee. The study shall include, but not be limited to, an examination of the frequency and severity of occupational disease claims for state fund and self-insured employers, both currently and with respect to historical trends; the impact of occupational disease claims on long-term disability and pension trends; consideration of the statutory definition of occupational disease, and interpretation of it by courts, the board, and the department, how it compares to

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definitions in other states' systems and whether as applied it clearly delineates conditions caused by occupational exposures and those caused by nonoccupational exposures; consideration of the statute of limitation for filing occupational disease claims, and its interpretation by courts, and whether as applied it functions as an appropriate limitation on the filing of state claims; issues related to the apportionment of occupational diseases between workers and employers; and a comparison of other states and their definitions of occupational disease. The study must be submitted to the appropriate committees of the legislature by September 1, 2012.

(3) The department shall contract for an independent study of the return to work provisions under RCW 51.32.090. The study must be performed by a researcher that has experience in workers' compensation systems. When selecting the independent researcher, the department shall consult with the workers' compensation advisory committee. The study must evaluate the quality and effectiveness of the return to work program and whether the program is being utilized by employers, and evaluate the outcomes of workers participating in the program. The study must be submitted to the appropriate committees of the legislature by December 2016.

**NEW SECTION. Sec. 3.** A new section is added to chapter 51.04 RCW to read as follows:

The department must maintain copies of all voluntary settlement agreements entered into between the parties and develop processes under RCW 51.28.070 to furnish copies of such agreements to any party contemplating any subsequent voluntary settlement agreement with the worker on any claim. The department shall also furnish claims histories that include all prior permanent disability awards received by the worker on any claims by body part and category or percentage rating, as applicable. Copies of such agreements and claims histories shall be furnished within ten working days of a written request. An employer may not consider a prior settlement agreement or claims history when making a decision about hiring or the terms or conditions of employment.

**NEW SECTION. Sec. 4.** A new section is added to chapter 51.04 RCW to read as follows:

If a worker has received a prior award of, or entered into a voluntary settlement for, total or partial permanent disability benefits, it shall be conclusively presumed that the medical condition causing the prior permanent disability exists and is disabling at the time of any subsequent industrial injury or occupational disease. Except in the case of total permanent disability, the accumulation of all permanent disability awards issued with respect to any one part of the body in favor of the worker may not exceed one hundred percent over the worker's lifetime. When entering into a voluntary settlement agreement under this chapter, the department or self-insured employer may exclude amounts paid to settle claims for prior portions of a worker's permanent total or partial disability.

**Sec. 5.** RCW 51.32.090 and 2007 c 284 s 3 and 2007 c 190 s 1 are each reenacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments

shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) ~~((Whenever))~~ The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) The employer of injury ~~((requests that))~~ may provide light duty or transitional work to a worker who is entitled to temporary total disability under this chapter ~~((be certified by a physician or licensed advanced registered nurse practitioner as able to perform available work other than his or her usual work.))~~. The employer or the department shall obtain from the physician or licensed advanced registered nurse practitioner a statement confirming the light duty or transitional work is consistent with the worker's medical restrictions related to the injury. This statement should be obtained before the start of the light duty or transitional work unless the worker has already returned to work with the employer of injury in which case the statement may be obtained following the start date of the job. The employer shall furnish to the physician or licensed advanced registered nurse practitioner, with a copy to the worker, a statement describing the work ~~((available))~~ with the employer of injury in terms that will enable the physician or licensed advanced registered nurse practitioner to relate the physical activities of the job to the worker's disability. The physician or licensed advanced registered nurse practitioner shall ~~((then determine))~~ confirm whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall ~~((continue until the worker is released by his or her physician or licensed advanced registered nurse practitioner for the work, and begins the work with the employer of injury. If))~~ stop effective the date the light duty or transitional job starts. Temporary total disability payments shall resume if the work ~~((thereafter))~~ comes to an end before the worker's recovery is sufficient in the judgment of his or her physician or licensed advanced registered nurse practitioner to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury ~~((, the worker's temporary total disability payments shall be resumed.))~~. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician or licensed advanced registered nurse practitioner he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work at the direction of the physician or licensed advanced registered nurse practitioner.

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~~((b))~~ (c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to fifty percent of the basic, gross wages paid for that work, for a maximum of sixty-six work days within a consecutive twenty-four month period. In no event may the wage subsidies paid to an employer on a claim exceed ten thousand dollars. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer offers a worker work pursuant to this subsection (4) and the worker must be provided with training or instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of one thousand dollars. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095 and 51.32.099.

(e) If an employer offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of four hundred dollars: PROVIDED, HOWEVER, That an employer shall not receive reimbursement for any clothing it provided to the worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of two thousand five hundred dollars. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer receive wage subsidies for more than sixty-six days of work in a consecutive twenty-four month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed sixty-six days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive

wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's physician or licensed advanced registered nurse practitioner has restricted him or her from performing his or her usual work and the worker's physician or licensed advanced registered nurse practitioner has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the ~~((worker's written consent, or without prior review and))~~ approval ~~((by))~~ of the worker's physician or licensed advanced registered nurse practitioner. An employer who directs a claimant to perform work other than that approved by the attending physician and without the approval of the worker's physician or licensed advanced registered nurse practitioner shall not receive any wage subsidy or other reimbursements for such work.

~~((k))~~ (k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

~~((l))~~ (l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section and for the cost of creating a reserve for anticipated liabilities. Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

~~((8))~~ (8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

~~((9))~~ (9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

| AFTER | PERCENTAGE |
|-------|------------|
|-------|------------|

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|               |      |
|---------------|------|
| June 30, 1993 | 105% |
| June 30, 1994 | 110% |
| June 30, 1995 | 115% |
| June 30, 1996 | 120% |

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if the worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection ~~((7))~~ (9)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

~~((8))~~ (10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

NEW SECTION. Sec. 6. The department of labor and industries may adopt rules to implement this act.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Holmquist Newbry spoke in favor of adoption of the striking amendment.

MOTION

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

On page 1, line 3, strike all of section 1 and insert the following: "NEW SECTION. Sec. 1. A new section is added to chapter 51.04 RCW to read as follows:

The legislature finds that Washington's workers' compensation system is a complex system that has several unique features not commonly found in the workers' compensation systems of other governments. The legislature acknowledges that there have been calls for systematic reform of Washington's workers' compensation system in order to reduce short term and long term pension costs, and bring the system more in line with the systems of other states. However, the legislature finds it is critical that proposals to reduce costs be balanced against the fundamental purpose of the workers' compensation system, which is to provide sure and certain relief for workers injured in the course of their employment. The legislature finds that proposals for significant systematic workers compensation reform need deliberate, collaborative, and thoughtful evaluation in order to ensure changes have no adverse impact on worker outcomes, accountability, system efficiency, or cost predictability. The legislature therefore establishes a joint select committee on workers compensation to review and recommend proposals to reduce short term and long term pension costs while protecting the rights and outcomes of injured workers, including an examination of voluntary settlement agreements, programs to encourage and facilitate light duty and transitional work, and an evaluation of occupational diseases.

The joint select committee shall consist of eight members, including the chair and ranking minority member of the Senate labor, commerce, and consumer protection committee and the chair and ranking minority member of the House labor and workforce

development committee. Two of the remaining members shall be appointed by the leaders of the two largest caucuses in the Senate; and two shall be appointed by the leaders of the two largest caucuses in the House of Representatives. Members of the committee must be reimbursed for travel expenses in accordance with RCW 44.04.120; expenses of the committee must be paid jointly by the Senate and the House of Representatives; and committee expenditures are subject to approval by the Senate facilities and operations committee and the House of Representatives executive rules committee, or their successor committees. The committee shall choose its co-chairs from among its membership, with the chair of the Senate labor, commerce, and consumer protection committee and the chair of the House labor and workforce development committee convening the initial meeting of the committee.

The committee must report its findings and recommendations to the appropriate committees of the legislature by December 1, 2011.

This section expires January 1, 2012."

On page 4, line 4, strike all of section 2.

On page 5, line 14, strike all of section 3.

On page 5, line 28, strike all of section 4.

Renumber the remaining sections.

On page 12, line 7 of the title amendment, strike everything after "authorization" and insert "creation of a joint select committee to review and evaluate proposals to reduce short term and long term costs while protecting the rights and outcomes of injured workers and creation of a return to work subsidy program; reenacting and amending RCW 51.32.090; adding a new section to chapter 51.04 RCW; and creating a new section."

Senators Nelson, Keiser, Conway and Kohl-Welles spoke in favor of adoption of the amendment to the striking amendment.

Senators Holmquist Newbry, Hobbs, Zarelli, King, Schoesler and Kastama spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson and others on page 1, line 3 to the striking amendment to Senate Bill No. 5566.

The motion by Senator Nelson failed and the amendment to the striking amendment was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove, the amendment by Senator Hargrove on page 1, line 6 to the striking amendment to Senate Bill No. 5566 was withdrawn.

Senator Hargrove spoke on adoption of the amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Holmquist Newbry and Kilmer to Senate Bill No. 5566.

The motion by Senator Holmquist Newbry carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "workers' compensation reform through authorization of voluntary settlements, creation of a return to work subsidy program, and authorization of a study of occupational disease; reenacting and amending RCW 51.32.090; adding new sections to chapter 51.04 RCW; and creating a new section."

## MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Engrossed Senate Bill No. 5566 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holmquist Newbry, Pridemore, Kilmer and King spoke in favor of passage of the bill.

Senators Nelson, Kline, Conway, Kohl-Welles and Keiser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5566.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5566 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Delvin, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Chase, Conway, Eide, Fraser, Harper, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala and White

ENGROSSED SENATE BILL NO. 5566, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 2:44 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:53 p.m. by President Owen.

## SECOND READING

SENATE BILL NO. 5769, by Senators Rockefeller, Pridemore, Kohl-Welles, White, Chase, Murray, Ranker, Regala, Fraser, Shin and Kline

Regarding coal-fired electric generation facilities.

## MOTION

On motion of Senator Rockefeller, Second Substitute Senate Bill No. 5769 was substituted for Senate Bill No. 5769 and the second substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Rockefeller moved that the following striking amendment by Senators Rockefeller and Swecker be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 101.** (1) The legislature finds that generating electricity from the combustion of coal produces large amounts of harmful pollutants, including ammonia, arsenic, lead,

mercury, hydrochloric acid, nitrogen oxides, sulfuric acid, sulfur dioxide, particulate matter, and several toxic heavy metals, all of which have been determined by medical science to be harmful to human health and safety. In addition, the emissions from the combustion of coal in the state impact visibility in eight class I areas in the state. While the emission of many of these pollutants continues to be addressed through application of federal and state air quality laws, the emission of greenhouse gases resulting from the combustion of coal has not been addressed. Furthermore, these harmful by-products may be damaging the cultural history of Washington and its people by eroding ancient native American petroglyphs and pictographs and by accumulating in the soil and waters of the usual and accustomed areas for tribal hunting, fishing, gathering, and grazing.

(2) The legislature has previously found that greenhouse gas emissions contribute to climate change and has found that Washington is especially vulnerable to climate change. The legislature now finds that coal-fired electricity generation is one of the largest sources of greenhouse gas emissions in the state, and is the largest source of such emissions from the generation of electricity in the state.

(3) The legislature finds coal-fired electric generation may provide baseload power that is necessary in the near-term for the stability and reliability of the electrical transmission grid and that contributes to the availability of affordable power in the state. The legislature further finds that efforts to transition power to other fuels requires a reasonable period of time to ensure grid stability and to maintain affordable electricity resources.

(4) The legislature finds that coal-fired baseload electric generation facilities are a significant contributor to family-wage jobs and economic health in parts of the state and that transition of these facilities must address the economic future and the preservation of jobs in affected communities.

(5) The legislature finds that coal-fired baseload electric generation facilities are large industrial facilities that require substantial planning and funding for closure and postclosure to ensure that the site is fully restored and free of contamination.

(6) Therefore, it is the purpose of this act to provide for the reduction of greenhouse gas emissions from large coal-fired baseload electric power generation facilities, to effect an orderly transition to cleaner fuels in a manner that ensures reliability of the state's electrical grid, to ensure appropriate cleanup and site restoration upon decommissioning of any of these facilities in the state, and to provide assistance to host communities planning for new economic development and mitigating the economic impacts of the closure of these facilities.

**Sec. 102.** RCW 80.80.010 and 2009 c 565 s 54 and 2009 c 448 s 1 are each reenacted and amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Average available greenhouse gas emissions output" means the level of greenhouse gas emissions as surveyed and determined by the energy policy division of the department of commerce under RCW 80.80.050.

(4) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

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(5) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(6) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(7) "Commission" means the Washington utilities and transportation commission.

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(9) "Department" means the department of ecology.

(10) "Distributed generation" means electric generation connected to the distribution level of the transmission and distribution grid, which is usually located at or near the intended place of use.

(11) "Electric utility" means an electrical company or a consumer-owned utility.

(12) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

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

(15) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(16) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(17) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by a jurisdiction inside or outside the state.

(18) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

(19) "Coal transition power" means the output of a coal-fired electric generation facility located in Washington that is subject to RCW 80.80.040(3)(c).

(20) "Memorandum of agreement" or "memorandum" means a binding and enforceable contract entered into pursuant to section 106 of this act between the governor on behalf of the state and an

owner of a baseload electric generation facility in the state that produces coal transition power.

**Sec. 103.** RCW 80.80.040 and 2009 c 448 s 2 are each amended to read as follows:

(1) Beginning July 1, 2008, the greenhouse gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

(a) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(b) The average available greenhouse gas emissions output as determined under RCW 80.80.050.

(2) This chapter does not apply to long-term financial commitments with the Bonneville power administration.

(3)(a) Except as provided in (c) of this subsection, all baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments.

(b) All baseload electric generation that commences operation after June 30, 2008, and is located in Washington, must comply with the greenhouse gas emissions performance standard established in subsection (1) of this section.

(c)(i) A coal-fired baseload electric generation facility in Washington that emitted more than one million tons of greenhouse gases in calendar year 2005 must comply with the lower of the following greenhouse gas emissions performance standard such that one generating boiler is in compliance by December 31, 2020, and any other generating boiler is in compliance by December 31, 2025:

(A) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(B) The average available greenhouse gas emissions output as determined under RCW 80.80.050.

(ii) This subsection (3)(c) does not apply to a coal-fired baseload electric generating facility in the event the department determines as a requirement of state or federal law or regulation that selective catalytic reduction technology must be installed on any of its boilers.

(4) All electric generation facilities or power plants powered exclusively by renewable resources, as defined in RCW 19.280.020, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(5) All cogeneration facilities in the state that are fueled by natural gas or waste gas or a combination of the two fuels, and that are in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of a new ownership interest or are upgraded.

(6) In determining the rate of emissions of greenhouse gases for baseload electric generation, the total emissions associated with producing electricity shall be included.

(7) In no case shall a long-term financial commitment be determined to be in compliance with the greenhouse gas emissions performance standard if the commitment includes more than twelve percent of electricity from unspecified sources.

(8) For a long-term financial commitment with multiple power plants, each specified power plant must be treated individually for the purpose of determining the annualized plant capacity factor and net emissions, and each power plant must comply with subsection (1) of this section, except as provided in subsections (3) through (5) of this section.

(9) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse

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gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gas emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(10) The following greenhouse gas emissions produced by baseload electric generation owned or contracted through a long-term financial commitment shall not be counted as emissions of the power plant in determining compliance with the greenhouse gas emissions performance standard:

(a) Those emissions that are injected permanently in geological formations;

(b) Those emissions that are permanently sequestered by other means approved by the department; and

(c) Those emissions sequestered or mitigated as approved under subsection (16) of this section.

(11) In adopting and implementing the greenhouse gas emissions performance standard, the department of (~~community, trade, and economic development~~) commerce energy policy division, in consultation with the commission, the department, the Bonneville power administration, the western electricity (~~coordination [coordinating]~~) coordinating council, the energy facility site evaluation council, electric utilities, public interest representatives, and consumer representatives, shall consider the effects of the greenhouse gas emissions performance standard on system reliability and overall costs to electricity customers.

(12) In developing and implementing the greenhouse gas emissions performance standard, the department shall, with assistance of the commission, the department of (~~community, trade, and economic development~~) commerce energy policy division, and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

(13) The directors of the energy facility site evaluation council and the department shall each adopt rules under chapter 34.05 RCW in coordination with each other to implement and enforce the greenhouse gas emissions performance standard. The rules necessary to implement this section shall be adopted by June 30, 2008.

(14) In adopting the rules for implementing this section, the energy facility site evaluation council and the department shall include criteria to be applied in evaluating the carbon sequestration plan, for baseload electric generation that will rely on subsection (10) of this section to demonstrate compliance, but that will commence sequestration after the date that electricity is first produced. The rules shall include but not be limited to:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological or other approved sequestration commencing within five years of plant operation, including full and sufficient technical documentation to support the planned sequestration;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule;

(e) Provisions for an owner to purchase emissions reductions in the event of the failure of a sequestration plan under subsection (16) of this section; and

(f) Provisions for public notice and comment on the carbon sequestration plan.

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(15)(a) Except as provided in (b) of this subsection, as part of its role enforcing the greenhouse gas emissions performance standard, the department shall determine whether sequestration or a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities.

(b) For facilities under its jurisdiction, the energy facility site evaluation council shall contract for review of sequestration or the carbon sequestration plan with the department consistent with the conditions under (a) of this subsection, consider the adequacy of sequestration or the plan in its adjudicative proceedings conducted under RCW 80.50.090(3), and incorporate specific findings regarding adequacy in its recommendation to the governor under RCW 80.50.100.

(16) A project under consideration by the energy facility site evaluation council by July 22, 2007, is required to include all of the requirements of subsection (14) of this section in its carbon sequestration plan submitted as part of the energy facility site evaluation council process. A project under consideration by the energy facility site evaluation council by July 22, 2007, that receives final site certification agreement approval under chapter 80.50 RCW shall make a good faith effort to implement the sequestration plan. If the project owner determines that implementation is not feasible, the project owner shall submit documentation of that determination to the energy facility site evaluation council. The documentation shall demonstrate the steps taken to implement the sequestration plan and evidence of the technological and economic barriers to successful implementation. The project owner shall then provide to the energy facility site evaluation council notification that they shall implement the plan that requires the project owner to meet the greenhouse gas emissions performance standard by purchasing verifiable greenhouse gas emissions reductions from an electric (~~generating~~) generation facility located within the western interconnection, where the reduction would not have occurred otherwise or absent this contractual agreement, such that the sum of the emissions reductions purchased and the facility's emissions meets the standard for the life of the facility.

**Sec. 104.** RCW 80.80.060 and 2009 c 448 s 3 and 2009 c 147 s 1 are each reenacted and amended to read as follows:

(1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse (~~gases [gas]~~) gas emissions performance standard established under RCW 80.80.040.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30, 2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse (~~gases [gas]~~) gas emissions performance standard established under RCW 80.80.040.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse (~~gases [gas]~~) gas emissions performance standard to address: (a) Unanticipated electric system reliability needs; (b) extraordinary cost impacts on utility ratepayers; or (c) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

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(5) Upon application by an electrical company, the commission shall determine whether the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity complies with the greenhouse ~~((gases) gas))~~ gas emissions performance standard established under RCW 80.80.040. The commission shall not decide in a proceeding under this subsection (5) issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding for recovery of the resource or contract costs.

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with a long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding for recovery of these costs. For the purpose of this subsection (6) only, the term "long-term financial commitment" also includes an electric company's ownership or power purchase agreement with a term of five or more years associated with an eligible renewable resource as defined in RCW 19.285.030.

(7) The commission shall consult with the department to apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040. The department shall report to the commission whether baseload electric generation will comply with the greenhouse ~~((gases) gas))~~ gas emissions performance standard for the duration of the period the baseload electric generation is supplied to the electrical company.

(8) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(9) This section does not apply to a long-term financial commitment for the purchase of coal transition power with termination dates consistent with the applicable dates in RCW 80.80.040(3)(c).

(10) The commission shall adopt rules necessary to implement this section by December 31, 2008.

**Sec. 105.** RCW 80.80.070 and 2007 c 307 s 9 are each amended to read as follows:

(1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(2) The governing board shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter and after consultation with the department, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial

commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse ~~((gases))~~ gas emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(7) This section does not apply to long-term financial commitments for the purchase of coal transition power with termination dates consistent with the applicable dates in RCW 80.80.040(3)(c).

**NEW SECTION. Sec. 106.** A new section is added to chapter 80.80 RCW to read as follows:

(1) By January 1, 2012, the governor on behalf of the state shall enter into a memorandum of agreement with the owners of a coal-fired baseload facility in Washington that emitted more than one million tons of greenhouse gases in calendar year 2005.

(2) The memorandum of agreement must:

(a) Incorporate by reference RCW 80.80.040, 80.80.060, and 80.80.070 as of the effective date of this section;

(b) Incorporate binding commitments to install selective noncatalytic reduction pollution control technology in any coal-fired generating boilers by January 1, 2013, after discussing the proper use of ammonia in this technology.

(3)(a) The memorandum of agreement must include provisions by which the facility owner will provide financial assistance:

(i) To the affected community for economic development and energy efficiency and weatherization; and

(ii) For energy technologies with the potential to create considerable energy, economic development, and air quality, haze, or other environmental benefits.

(b) Except as described in (c) of this subsection, the financial assistance in (a)(i) of this subsection must be in the amount of thirty million dollars and the financial assistance in (a)(ii) of this subsection must be in the amount of twenty-five million dollars, with investments beginning January 1, 2012, and consisting of equal annual investments through December 31, 2023, or until the full amount has been provided. Only funds for energy efficiency and weatherization may be spent prior to December 31, 2015.

(c) If the tax exemptions provided under RCW 82.08.811 or 82.12.811 are repealed, any remaining financial assistance required by this section is no longer required.

(4) The memorandum of agreement must:

(a) Specify that the investments in subsection (3) of this section be held in independent accounts at an appropriate financial institution; and

(b) Identify individuals to approve expenditures from the accounts. Individuals must have relevant expertise and must include members representing the community, employees at the facility, and the facility owner.

(5) The memorandum of agreement must include a provision that allows for the termination of the memorandum of agreement in

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the event the department determines as a requirement of federal law or regulation that selective catalytic reduction technology must be installed on any of its boilers.

(6) The memorandum of agreement must include enforcement provisions to ensure implementation of the agreement by the parties.

(7) If the memorandum of agreement is not signed by January 1, 2012, the governor must implement the provisions in subsection (2)(b) of this section.

**NEW SECTION. Sec. 107.** A new section is added to chapter 80.80 RCW to read as follows:

No state agency or political subdivision of the state may adopt or impose a greenhouse gas emission performance standard, or other operating or financial requirement or limitation relating to greenhouse gas emissions, on a coal-fired electric generation facility located in Washington or upon an electric utility's long-term purchase of coal transition power, that is inconsistent with or additional to the provisions of RCW 80.80.040 or the memorandum of agreement entered into under section 106 of this act.

**NEW SECTION. Sec. 108.** A new section is added to chapter 80.80 RCW to read as follows:

(1) A memorandum of agreement entered into pursuant to section 106 of this act may include provisions to assist in the financing of emissions reductions that exceed those required by RCW 80.80.040(3)(c) by providing for the recognition of such reductions in applicable state policies and programs relating to greenhouse gas emissions, and by encouraging and advocating for the recognition of the reductions in all established and emerging emission reduction frameworks at the regional, national, or international level.

(2) The governor may recommend actions by the legislature to strengthen implementation of an agreement or a proposed agreement relating to recognition of investments in early emissions reductions.

**Sec. 109.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to read as follows:

(1) The council shall report to the governor its recommendations as to the approval or rejection of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant. In the case of an application filed prior to December 31, 2025, for certification of an energy facility proposed for construction, modification, or expansion for the purpose of providing generating facilities that meet the requirements of RCW 80.80.040 and are located in a county with a coal-fired electric generating facility subject to RCW 80.80.040(3)(c), the council shall expedite the processing of the application pursuant to RCW 80.50.075 and shall report its recommendations to the governor within one hundred eighty days of receipt by the council of such an application, or a later time as is mutually agreed by the council and the applicant. If the council recommends approval of an application for certification, it shall also submit a draft certification agreement with the report. The council shall include conditions in the draft certification agreement to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110 as now or hereafter amended.

(2)(a) Within sixty days of receipt of the council's report the governor shall take one of the following actions:

~~((a))~~ (i) Approve the application and execute the draft certification agreement; or

~~((b))~~ (ii) Reject the application; or

~~((e))~~ (iii) Direct the council to reconsider certain aspects of the draft certification agreement.

(b) The council shall reconsider such aspects of the draft certification agreement by reviewing the existing record of the application or, as necessary, by reopening the adjudicative proceeding for the purposes of receiving additional evidence. Such reconsideration shall be conducted expeditiously. The council shall resubmit the draft certification to the governor incorporating any amendments deemed necessary upon reconsideration. Within sixty days of receipt of such draft certification agreement, the governor shall either approve the application and execute the certification agreement or reject the application. The certification agreement shall be binding upon execution by the governor and the applicant.

(3) The rejection of an application for certification by the governor shall be final as to that application but shall not preclude submission of a subsequent application for the same site on the basis of changed conditions or new information.

**NEW SECTION. Sec. 201.** The legislature finds that very large coal-fired baseload electric generation facilities are major industrial facilities whose closure, removal of structures, and site reclamation requires significant planning and funding. In order to ensure that the site of these facilities after closure is fully cleaned up, it is necessary to require that the facility owner demonstrate during the facility's operation that sufficient funding will be available for closure and postclosure activities. Since the degree of cleanup depends, in part, on the proposed future uses of a site, the closure and postclosure requirements must consider the land use designations and economic development plans of the host community. It is the intent of the legislature to facilitate the transition of these facilities by requiring facility decommissioning and site restoration plans that are coordinated and consistent with economic development plans of affected communities.

**NEW SECTION. Sec. 202.** (1) A facility subject to closure under RCW 80.80.040(3)(c), or a memorandum of agreement under section 106 of this act, must provide the department of ecology with a plan for the closure and postclosure of the facility at least twenty-four months prior to its closure. This plan must be consistent with the rules established by the energy facility site evaluation council for site restoration and preservation applicable to facilities subject to a site certification agreement under chapter 80.50 RCW and include but not be limited to:

(a) A detailed estimate of the cost to implement the plan based on the cost of hiring a third party to conduct all activities;

(b) Demonstrating financial assurance to fund the closure and postclosure of the facility and providing methods by which this assurance may be demonstrated;

(c) Methods for estimating closure costs, including full site reclamation under all applicable federal and state clean-up standards; and

(d) A decommissioning and site restoration plan that addresses restoring physical topography, cleanup of all hazardous substances on the site, potential future uses of the site following restoration, and coordination with local and community plans for economic development in the vicinity of the site.

(2) All cost estimates in the plan must be in current dollars and may not include a net present value adjustment or offsets for salvage value of wastes or other property.

(3) Adoption of the plan and significant revisions to the plan must be approved by the department of ecology.

**NEW SECTION. Sec. 203.** (1) A facility subject to closure under RCW 80.80.040(3)(c), or a memorandum of agreement under section 106 of this act, must guarantee funds are available to perform all activities specified in the decommissioning plan developed under section 202 of this act. The amount must equal

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the cost estimates specified in the decommissioning plan and must be updated annually for inflation. All guarantees under this section must be assumed by any successor owner, parent company, or holding company.

(2) The guarantee required under subsection (1) of this section may be accomplished by letter of credit, surety bond, or other means acceptable to the department of ecology.

(3) The issuing institution of the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated by a federal or state agency.

(4) A qualifying facility that uses a letter of credit to satisfy the requirements of this act must also establish a standby trust fund as a means to hold any funds issued from the letter of credit. Under the terms of the letter of credit, all amounts paid pursuant to a draft from the department of ecology must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the department of ecology. This standby trust fund must be approved by the department of ecology.

(5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies both the qualifying facility and the department of ecology of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when both the qualifying plant and the department of ecology have received the notice, as evidenced by certified mail return receipts or by overnight courier delivery receipts.

(6) If the qualifying facility does not establish an alternative method of guaranteeing decommissioning funds are available within ninety days after receipt by both the qualifying facility plant and the department of ecology of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the department of ecology must draw on the letter of credit. The department of ecology must approve any replacement or substitute guarantee method before the expiration of the ninety-day period.

(7) If a qualifying facility elects to use a letter of credit as the sole method for guaranteeing decommissioning funds are available, the face value of the letter of credit must meet or exceed the current inflation-adjusted cost estimate.

(8) A qualifying facility must adjust the decommissioning costs and financial guarantees annually for inflation and may use an amendment to increase the face value of a letter of credit each year to account for this inflation. A qualifying facility is not required to obtain a new letter of credit to cover annual inflation adjustments.

**NEW SECTION. Sec. 204.** Sections 201 through 203 of this act constitute a new chapter in Title 80 RCW.

**NEW SECTION. Sec. 301.** It is in the public interest to assist local communities in which very large energy generating facilities may be closed, in order to plan for future economic uses of the site and in the community surrounding the site.

**Sec. 302.** RCW 43.160.076 and 2008 c 327 s 8 are each amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board shall approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties are clearly insufficient to use up the allocations under subsection (1) of this section, then the board shall

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estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties.

(3) The board shall solicit qualifying projects to plan, design, and construct public facilities needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in calendar year 2005. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall provide a priority for funding projects at the following levels:

(a) For the 2011-2013 biennium, at least two hundred fifty thousand dollars;

(b) For the 2013-2015 biennium, at least two hundred fifty thousand dollars;

(c) For the 2015-2017 biennium, at least one million dollars;

(d) For the 2017-2019 biennium, at least one million dollars;

(e) For the 2019-2021 biennium, at least two million dollars; and

(f) For the 2021-2023 biennium, at least two million dollars.

**NEW SECTION. Sec. 303.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall solicit qualifying projects to plan, design, and construct public works projects needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in calendar year 2005. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall provide a priority for funding projects at the following levels:

(1) For the 2011-2013 biennium, at least two hundred fifty thousand dollars;

(2) For the 2013-2015 biennium, at least two hundred fifty thousand dollars;

(3) For the 2015-2017 biennium, at least one million dollars;

(4) For the 2017-2019 biennium, at least one million dollars;

(5) For the 2019-2021 biennium, at least two million dollars; and

(6) For the 2021-2023 biennium, at least two million dollars.

**NEW SECTION. Sec. 304.** A new section is added to chapter 80.80 RCW to read as follows:

The legislature finds that an electrical company's acquisition of coal transition power helps to achieve the state's greenhouse gas emission reduction goals by effecting an orderly transition to cleaner fuels and supports the state's public policy.

**NEW SECTION. Sec. 305.** A new section is added to chapter 80.04 RCW to read as follows:

(1) On the petition of an electrical company, the commission shall approve or disapprove a purchase power agreement for acquisition of coal transition power, as defined in RCW 80.80.010, and the recovery of related acquisition costs. No agreement for an electrical company's acquisition of coal transition power takes effect until it is approved by the commission.

(2) When a petition is filed, the commission shall provide notice to the public and potentially affected parties and expedite the

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hearing of that petition. The hearing of such a petition is not considered a general rate case. However, the commission may require the utility to file supporting testimony and exhibits. An administrative law judge of the commission may enter an initial order including findings of fact and conclusions of law, as provided in RCW 80.01.060(3). The commission shall issue a final order that approves or disapproves the acquisition of coal transition power within one hundred eighty days after an electrical company files the petition.

(3) The commission must approve the acquisition of coal transition power if it determines the resource is needed by the electrical company to serve its ratepayers and the resource meets the need in a cost-effective manner as determined under the lowest reasonable cost resource standards under chapter 19.280 RCW. As part of these determinations, the commission shall consider, among other factors:

(a) The long-term economic benefit to the electrical company and its ratepayers of such a long-term purchase; and

(b) The environmental benefits attributable to the orderly transition away from coal-fired electric generation power.

(4) If the commission has not issued a final order within one hundred eighty days from the date the petition is filed, or if the commission disapproves the petition, the agreement for purchase of coal transition power is null and void. In the event the commission approves the agreement upon conditions other than those set forth in the petition, the electrical company has the right to reject the agreement.

(5) Upon commission approval of an electrical company's acquisition of coal transition power in accordance with this section, the electrical company is allowed to earn its equity component of its authorized rate of return in the same manner as if it had purchased or built an equivalent plant plus the cost of the coal transition power contract. For purposes of this section, the initial value of an equivalent plant is a purchased or self-built electric generation plant with equivalent capacity costs as compared to the electrical company's integrated resource plan in effect at the time the petition is filed. The equivalent plant determined in the approval process will be amortized on a straight line calculation over the life of the coal transition power contract for the determination of the equity return in future proceedings. This recovery must be determined and approved in the process set forth in subsections (1) and (2) of this section.

(6) An electrical company that purchases coal transition power, as defined in RCW 80.80.010, under an agreement approved by the commission pursuant to this section, may acquire other flexible capacity resources, including for the purpose of integrating renewable resources, and the purchase of coal transition power does not prohibit the electrical company from acquiring other flexible capacity resources. The commission shall not include the electric company's purchase of coal transition power when considering the electrical company's purchase of other flexible capacity resources.

**Sec. 306.** RCW 19.280.020 and 2009 c 565 s 19 are each amended to read as follows:

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

(1) "Commission" means the utilities and transportation commission.

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a

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mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Department" means the department of commerce.

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide. The analysis also must consider public policies adopted by Washington state to reduce greenhouse gases from thermal electric generation facilities in the long term by temporarily exempting certain of those facilities from the provisions of RCW 80.80.060 and 80.80.070.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) by-products of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in RCW 19.280.030(2).

**Sec. 307.** RCW 19.280.030 and 2006 c 195 s 3 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

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(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power from existing resources or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost and risk to the utility and its ratepayers; and

(f) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

**NEW SECTION. Sec. 308.** No civil liability may be imposed by any court on the state, its officers, employees, instrumentalities, or subdivisions under section 101, 201, or 301 of this act.

**NEW SECTION. Sec. 309.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senators Rockefeller and Swecker spoke in favor of adoption of the striking amendment.

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford, Rockefeller and Swecker to the striking amendment be adopted:

On page 13, line 1 of the amendment after "the" strike "community," and insert "Lewis Economic Development Council, local elected officials,"

Senator Honeyford spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford, Rockefeller and Swecker on page 13, line 1 to the striking amendment to Second Substitute Senate Bill No. 5769.

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

MOTION

Senator Honeyford moved that the following amendment by Senators Honeyford, Rockefeller and Swecker to the striking amendment be adopted:

On page 24, after line 27 of the amendment, insert the following:

**"NEW SECTION. Sec. 308.** A new section is added to chapter 80.70 RCW to read as follows:

An applicant for a natural gas-fired generation plant to be constructed in a county with a coal-fired electric generation facility subject to RCW 80.80.040(3)(c) is exempt from this chapter if the application is filed before December 31, 2025."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators Honeyford and Rockefeller spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Honeyford, Rockefeller and Swecker on page 24, after line 27 to the striking amendment as amended to Second Substitute Senate Bill No. 5769.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Rockefeller and Swecker to Second Substitute Senate Bill No. 5769 as amended.

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

MOTION

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

On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 80.80.040, 80.80.070, 80.50.100, 43.160.076, 19.280.020, and 19.280.030; reenacting and amending RCW 80.80.010 and 80.80.060; adding new sections to chapter 80.80 RCW; adding a new section to chapter 43.155 RCW; adding a new section to chapter 80.04 RCW; adding a new chapter to Title 80 RCW; and creating new sections."

On page 25, line 6 of the title amendment, after "80.04 RCW;" insert "adding a new section to chapter 80.70 RCW;"

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5769 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Swecker, Nelson and Brown spoke in favor of passage of the bill.

Senators Delvin, Sheldon, Schoesler and Stevens spoke against passage of the bill.

Senator Honeyford spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5769.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5769 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Erickson, Hewitt, Holmquist Newbry, Honeyford, King, Schoesler, Sheldon, Stevens and Zarelli

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5769, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Pridemore and without objection, the motion by Senator Pridemore to adopt the amendment by Senators Benton and White on page 15, line 32 to the striking amendment was withdrawn.

#### MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side, Senator Pridemore moved that the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted on the previous day be immediately reconsidered.

The President declared the question before the Senate to be the motion by Senator Pridemore to immediately reconsider the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted on the previous day.

The motion by Senator Pridemore carried and the vote by which the striking amendment by Senator Pridemore to Substitute Senate Bill No. 5171 was adopted was immediately reconsidered by voice vote.

#### MOTION

At 4:26 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Monday, March 7, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY SEVENTH DAY**

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MORNING SESSION

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March 5, 2011

Senate Chamber, Olympia, Monday, March 7, 2011

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Holmquist Newbry, Kline and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Amy Johnson and Sean Johnston, presented the Colors. Pastor Erik Wilson Weiberg of First Lutheran Church of Seattle offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

January 3, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

DOUG PORTER, appointed May 1, 2010, for the term ending at the governor's pleasure, as Administrator of the Washington State Health Care Authority, Administrator.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 5, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5801.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1042,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,  
SUBSTITUTE HOUSE BILL NO. 1253,  
ENGROSSED HOUSE BILL NO. 1382,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1421,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1487,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1676,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725,  
HOUSE BILL NO. 1726,  
SUBSTITUTE HOUSE BILL NO. 1793,  
SUBSTITUTE HOUSE BILL NO. 1854,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2002.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 5, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1046,  
SUBSTITUTE HOUSE BILL NO. 1167,  
SUBSTITUTE HOUSE BILL NO. 1257,  
SUBSTITUTE HOUSE BILL NO. 1384,  
HOUSE BILL NO. 1473,  
SUBSTITUTE HOUSE BILL NO. 1483,  
HOUSE BILL NO. 1694,  
SUBSTITUTE HOUSE BILL NO. 1700,  
SUBSTITUTE HOUSE BILL NO. 1861,  
SUBSTITUTE HOUSE BILL NO. 1897,  
SUBSTITUTE HOUSE BILL NO. 1933,  
SUBSTITUTE HOUSE BILL NO. 1966.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 5, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1135,  
HOUSE BILL NO. 1179,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224,  
HOUSE BILL NO. 1347,  
ENGROSSED HOUSE BILL NO. 1409,  
SUBSTITUTE HOUSE BILL NO. 1518,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716,  
SUBSTITUTE HOUSE BILL NO. 1718,  
HOUSE BILL NO. 1770,  
HOUSE BILL NO. 1805,  
SUBSTITUTE HOUSE BILL NO. 1860,

FIFTY SEVENTH DAY, MARCH 7, 2011

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902,  
 SUBSTITUTE HOUSE BILL NO. 1998,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5867 by Senators White, King, Ranker, Swecker, Morton, Litzow, Kilmer, Fain, Delvin, Parlette and Holmquist Newbry

AN ACT Relating to increasing off-road fuel tax refunds; amending RCW 46.10.530 and 79A.25.070; reenacting and amending RCW 46.09.520; and providing an effective date.

Referred to Committee on Transportation.

SB 5868 by Senators Tom and Zarelli

AN ACT Relating to tuition fees for students with excess credits or prior degrees; and adding a new section to chapter 28B.15 RCW.

Referred to Committee on Higher Education & Workforce Development.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1009 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Chandler, Blake, Takko, Kretz, Taylor, Orcutt, McCune and Pearson)

AN ACT Relating to the authority of state agencies to enter into agreements with the federal government under the endangered species act; adding a new section to chapter 77.12 RCW; adding a new section to chapter 43.30 RCW; adding a new section to chapter 43.21A RCW; and adding a new section to chapter 79A.05 RCW.

Referred to Committee on Natural Resources & Marine Waters.

ESHB 1041 by House Committee on Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller and Upthegrove)

AN ACT Relating to including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions; amending RCW 9.41.060 and 9.41.300; and adding a new section to chapter 9.41 RCW.

Referred to Committee on Judiciary.

ESHB 1094 by House Committee on Local Government (originally sponsored by Representatives Kretz, Blake, Taylor, Shea, Short, Haler and McCune)

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AN ACT Relating to providing a process for county legislative authorities to withdraw from voluntary planning under the growth management act; and amending RCW 36.70A.040 and 36.70A.060.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1184 by Representatives Maxwell, Orcutt, Kenney, Finn, Smith, Ryu, Goodman, Asay, Tharinger, Alexander, Pedersen, Appleton, Kelley, Eddy, Van De Wege, Sullivan, Dammeier, Angel, Seaquist, Clibborn, Bailey, Upthegrove, Rolfes, Carlyle and Frockt

AN ACT Relating to clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction; amending RCW 82.04.255; and creating new sections.

Referred to Committee on Ways & Means.

ESHB 1220 by House Committee on Health Care & Wellness (originally sponsored by Representatives Rolfes, Cody, Appleton, Frockt, Hinkle, Liias, Fitzgibbon, Jinkins, Hunt, Van De Wege, Moeller and Kenney)

AN ACT Relating to regulating insurance rates; amending RCW 48.02.120; and adding a new section to chapter 48.43 RCW.

Referred to Committee on Health & Long-Term Care.

ESHB 1311 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist and Dickerson)

AN ACT Relating to establishing a public/private collaborative to improve health care quality, cost-effectiveness, and outcomes in Washington state; amending RCW 70.250.010 and 70.250.030; adding a new section to chapter 70.250 RCW; creating a new section; and repealing RCW 70.250.020.

Referred to Committee on Health & Long-Term Care.

HB 1381 by Representatives Warnick, Blake, Hinkle, Taylor, Haler, McCune, Armstrong, Condotta, Johnson, Parker and Shea

AN ACT Relating to sufficient cause for the nonuse of water; amending RCW 90.14.140; reenacting and amending RCW 90.14.140; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

HB 1412 by Representatives Santos, Dammeier, Probst, Liias, Kelley, Kenney and Van De Wege

AN ACT Relating to high school mathematics end-of-course assessments; amending RCW 28A.655.066; and creating a new section.

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

SHB 1431 by House Committee on Education (originally sponsored by Representatives Anderson and Haigh)

AN ACT Relating to addressing financial insolvency of school districts; and creating new sections.

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

ESHB 1469 by House Committee on Local Government (originally sponsored by Representatives Springer, Rodne, Tharinger, Carlyle, Eddy, Dammeier, Liias, Fitzgibbon, Goodman, Zeiger, Upthegrove, Sullivan, Reykdal and Smith)

AN ACT Relating to landscape conservation and local infrastructure; amending RCW 36.70A.080; adding a new chapter to Title 39 RCW; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

ESHB 1478 by House Committee on Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney)

AN ACT Relating to fiscal relief for cities and counties during periods of economic downturn by delaying or modifying certain regulatory and statutory requirements; amending RCW 36.70A.215, 43.19.648, 43.325.080, 46.68.113, 82.02.070, 82.02.080, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section.

Referred to Committee on Government Operations, Tribal Relations & Elections.

ESHB 1509 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Dunshee and Ryu)

AN ACT Relating to the forestry riparian easement program; amending RCW 76.13.120, 76.13.140, and 76.13.160; adding a new section to chapter 76.13 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Natural Resources & Marine Waters.

EHB 1517 by Representatives Jinkins, Hinkle, Green, Harris and Stanford

AN ACT Relating to requiring comparable coverage for patients who require orally administered anticancer medication; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SHB 1560 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Jinkins)

AN ACT Relating to the health insurance partnership; and amending RCW 70.47A.020, 70.47A.030, 70.47A.050, and 70.47A.110.

Referred to Committee on Health & Long-Term Care.

SHB 1563 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Moeller, Green and Kenney)

AN ACT Relating to establishing uniformity in the protection of health-related information; amending RCW 70.02.050; reenacting and amending RCW 70.24.105, 71.05.390, and 71.05.630; creating a new section; and repealing RCW 70.24.450.

Referred to Committee on Health & Long-Term Care.

SHB 1575 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Van De Wege, Moeller and Jinkins)

AN ACT Relating to clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW; amending RCW 70.230.010 and 70.230.040; adding a new section to chapter 70.230 RCW; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

E2SHB 1634 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Angel, Morris and Armstrong)

AN ACT Relating to underground utilities; amending RCW 19.122.010, 19.122.020, 19.122.027, 19.122.030, 19.122.033, 19.122.035, 19.122.040, 19.122.050, 19.122.070, 19.122.075, 19.122.080, 19.122.100, and 19.122.110; adding new sections to chapter 19.122 RCW; prescribing penalties; providing an effective date; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

HB 1649 by Representatives Jinkins, Pedersen, Kenney, Pettigrew, Ladenburg, Lytton, Stanford, Billig, Ryu, Liias, Seaquist, Darneille, Dickerson, Dunshee, Fitzgibbon, Upthegrove, Reykdal, Finn, Moscoso, Takko, Rolfes, Clibborn, Jacks, Morris, Cody, Roberts, Orwall, Green, Van De Wege, Ormsby, Hudgins, Sells, Kelley, Blake, Appleton, Kagi, Santos, Hurst, Kirby, Eddy, Probst, Springer, Miloscia, Maxwell, Sullivan, Goodman, Frockt, Carlyle, Haigh, Moeller, Hunter, Tharinger, Hunt, McCoy and Hasegawa

AN ACT Relating to giving legal effect to domestic partnerships; and amending RCW 26.60.090 and 1.12.080.

Referred to Committee on Government Operations, Tribal Relations & Elections.

2SHB 1662 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Rodne and Angel)

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AN ACT Relating to appeal and permit procedures under the shoreline management act; and amending RCW 90.58.140.

Referred to Committee on Natural Resources & Marine Waters.

ESHB 1701 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Ormsby, Green, Sells, Kenney, Van De Wege, Hasegawa, Hudgins, Moeller, Miloscia, Sullivan, Upthegrove, Pettigrew, Seaquist, Hunter and Frockt)

AN ACT Relating to the underground economy by addressing the loss in state revenue through misclassification of workers as independent contractors in the construction industry; amending 2009 c 432 s 13 (uncodified); adding new sections to chapter 18.27 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

EHB 1702 by Representatives Liias, Rodne, Angel, Springer, Eddy, Smith, Anderson, Clibborn, Stanford and Takko

AN ACT Relating to establishing a process for the payment of impact fees through provisions stipulated in recorded covenants; amending RCW 82.02.050 and 36.70A.070; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

ESHB 1708 by House Committee on Labor & Workforce Development (originally sponsored by Representative Moeller)

AN ACT Relating to mechanics' and materialmen's claims of liens; amending RCW 60.04.091, 60.04.171, and 60.04.900; and adding a new section to chapter 60.04 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 1737 by House Committee on Health Care & Wellness (originally sponsored by Representatives Short, Seaquist and Schmick)

AN ACT Relating to the department of social and health services' audit program for pharmacy payments; amending RCW 74.09.200; adding a new section to chapter 74.09 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

ESHB 1740 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Schmick, Jinkins and Hinkle)

AN ACT Relating to the creation of a health benefit exchange; adding new sections to chapter 41.05 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

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SHB 1782 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Hinkle, Kagi, Orcutt, Hunter, Rodne, Carlyle, Armstrong, Pettigrew, Haler, Green, Angel, Ross, Van De Wege, Bailey, Kenney, Ahern, Ryu, Crouse, Short, Eddy, Nealey, Finn, DeBolt, Condotta, Moeller, Sullivan, Darneille, McCune, Buys, Dahlquist, Alexander, Fagan, Johnson, Sells, Overstreet, Maxwell, Seaquist, Haigh, Blake, Hargrove, Dickerson, Rivers, McCoy, Schmick, Santos, Smith, Zeiger, Tharinger, Wilcox, Dammeier, Rolfes, Warnick, Liias, Kretz, Cody, Parker, Probst, Taylor, Fitzgibbon, Reykdal, Shea, Goodman, Asay, Stanford, Klippert, Walsh, Moscoso, Harris, Takko, Kristiansen, Jacks, Roberts, Orwall, Hasegawa, Ladenburg, Jinkins, Hunt, Billig, Ormsby, Upthegrove, Hudgins, Frockt, Appleton, Dunshee, Kelley, Pedersen and Miloscia)

AN ACT Relating to constraints of expenditures for WorkFirst and child care programs; and amending RCW 74.08A.340.

Referred to Committee on Human Services & Corrections.

ESHB 1790 by House Committee on Ways & Means (originally sponsored by Representatives Dammeier, Sullivan, Hinkle, Green and Ormsby)

AN ACT Relating to school district contracts with direct practice health providers; and amending RCW 28A.400.280 and 28A.400.350.

Referred to Committee on Ways & Means.

E2SHB 1792 by House Committee on Ways & Means (originally sponsored by Representatives Sells, Hope, Dunshee, Haler, McCoy, Moscoso and Liias)

AN ACT Relating to expanding opportunities in higher education in north Puget Sound; amending RCW 28B.50.795; adding a new section to chapter 28B.30 RCW; creating a new section; and repealing RCW 28B.50.901.

Referred to Committee on Higher Education & Workforce Development.

2SHB 1803 by House Committee on Capital Budget (originally sponsored by Representatives Chandler, Van De Wege, Blake, Kretz and Warnick)

AN ACT Relating to modifying the Columbia river basin management program to prospectively maximize investment tools; amending RCW 90.90.010, 90.90.020, and 90.90.040; reenacting and amending RCW 43.84.092; adding new sections to chapter 90.90 RCW; and creating a new section.

Referred to Committee on Environment, Water & Energy.

SHB 1858 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Parker, Kagi, Dickerson, Goodman, Lytton, Jacks, Probst, Walsh, Carlyle, Kenney and Ormsby)

AN ACT Relating to the department of social and health services' authority with regard to semi-secure and secure crisis residential centers and HOPE centers; and amending RCW 74.13.032, 74.15.220, and 74.15.255.

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Referred to Committee on Human Services & Corrections.

HB 1875 by Representatives Taylor, DeBolt and McCune

AN ACT Relating to water recreation facilities; and amending RCW 70.90.140.

Referred to Committee on Health & Long-Term Care.

E2SHB 1901 by House Committee on Health & Human Services Appropriations & Oversight (originally sponsored by Representatives Cody and Hinkle)

AN ACT Relating to reshaping the delivery of long-term care services; amending RCW 18.20.020, 18.20.030, and 18.52.030; reenacting and amending RCW 70.127.040; adding a new section to chapter 18.20 RCW; adding a new section to chapter 74.42 RCW; and creating new sections.

Referred to Committee on Health & Long-Term Care.

HB 1953 by Representatives Springer, Asay, Takko, Upthegrove, Haler, Fitzgibbon, Angel, Smith and Sullivan

AN ACT Relating to county and city real estate excise taxes; amending RCW 82.46.010 and 82.46.035; reenacting and amending RCW 82.46.035; providing an effective date; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

EHB 1969 by Representatives Hasegawa and Springer

AN ACT Relating to the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies; amending RCW 84.52.010 and 84.52.043; adding a new section to chapter 84.52 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1997 by House Committee on Ways & Means (originally sponsored by Representatives Orwall, Kenney, Goodman, Fitzgibbon, Maxwell, Santos and Pedersen)

AN ACT Relating to providing economic development by funding tourism promotion, workforce housing, art and heritage programs, and community development; amending RCW 67.28.180, 82.14.049, 82.14.360, 36.38.010, and 36.100.220; and adding a new section to chapter 67.28 RCW.

Referred to Committee on Economic Development, Trade & Innovation.

ESHCR 4404 by House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Cody, Hinkle and Frockt)

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

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

MOTION

On motion of Senator Ericksen, Senators Benton, Pflug and Stevens were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9034, Sharon Fairchild, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senator Shin spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

APPOINTMENT OF SHARON FAIRCHILD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9034, Sharon Fairchild as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9034, Sharon Fairchild as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senators Holmquist Newbry and Pflug

Gubernatorial Appointment No. 9034, Sharon Fairchild, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

MOTION

On motion of Senator White, Senator Kline was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

FIFTY SEVENTH DAY, MARCH 7, 2011

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Senator Regala moved that Gubernatorial Appointment No. 9009, Charley Bingham, as a member of the Higher Education Coordinating Board, be confirmed.

Senator Regala spoke in favor of the motion.

#### APPOINTMENT OF CHARLEY BINGHAM

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9009, Charley Bingham as a member of the Higher Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9009, Charley Bingham as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Holmquist Newbry and Pflug

Gubernatorial Appointment No. 9009, Charley Bingham, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9088, Royce Pollard, as a member of the Board of Trustees, Clark Community College District No. 14, be confirmed.

Senator Pridemore spoke in favor of the motion.

#### APPOINTMENT OF ROYCE POLLARD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9088, Royce Pollard as a member of the Board of Trustees, Clark Community College District No. 14.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9088, Royce Pollard as a member of the Board of Trustees, Clark Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Holmquist Newbry

Gubernatorial Appointment No. 9088, Royce Pollard, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clark Community College District No. 14.

#### MOTION

At 9:31 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 9:38 a.m. by President Owen.

#### MOTION

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

#### MOTION

Senator Hewitt moved adoption of the following resolution:

#### SENATE RESOLUTION

8615

By Senators Hewitt, Delvin, Morton, Swecker, King, Schoesler, Litzow, Hill, Conway, Honeyford, Ericksen, Carrell, McAuliffe, Becker, Kohl-Welles, Parlette, Fraser, Hatfield, Prentice, White, and Holmquist Newbry

WHEREAS, Jeannette Hayner was born in 1919 in Portland, Oregon, just one year prior to women receiving the national right to vote; and

WHEREAS, Upon receiving her bachelor of arts from the University of Oregon, Jeannette Hayner was one of two women to graduate from the University of Oregon Law School in 1942; and

WHEREAS, Jeannette Hayner was accomplished in her personal life, marrying fellow University of Oregon Law School graduate and WWII veteran H.H. "Dutch" Hayner and raising three children; and

WHEREAS, Jeannette Hayner chose to pursue politics, first becoming an active member of the Walla Walla school board then running for the open seat in the State Legislature in 1972; and

WHEREAS, After defeating three opponents, Jeannette Hayner took her seat in the House of Representatives in 1973, she then ran successfully for an open seat in the Senate, and she would run and be reelected every four years until her retirement in 1992; and

WHEREAS, Jeannette Hayner became the Senate Republican Leader in 1979, and Senate Majority Leader in 1981, the first woman to ever hold the title, and she would continue to proudly lead her fellow Republicans for the following 13 years; and

WHEREAS, During her 20-year career with the Legislature, Jeannette Hayner did not shy away from responsibility, showing constant wisdom and strength, taking initiative in creating the infamous "Rule of 13" where a simple majority of 13 caucus members would bind all the rest to the decision; and

WHEREAS, Jeannette Hayner, even after her passing, provides the women of Washington with great hope for heightened representation and the continued success of women in a position of political influence;

NOW, THEREFORE, BE IT RESOLVED, That it is with great respect, that the Washington State Senate remember and honor the accomplishments, courage, and excellence of character exemplified by former Senate Majority Leader Jeannette Hayner.

Senators Hewitt, Prentice, Roach, Fraser, Rockefeller, Kohl-Welles, Sheldon and Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8615.

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

## MOTION

At 9:59 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:20 a.m. by President Owen.

## MOTION

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

## SECOND READING

SENATE BILL NO. 5852, by Senators Hewitt and Brown

Addressing the public employment of retirees from plan 1 of the teachers' retirement system and plan 1 of the public employees' retirement system.

The measure was read the second time.

## MOTION

On motion of Senator Brown, the rules were suspended, Senate Bill No. 5852 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brown, Schoesler and Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5852.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5852 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5852, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5494, by Senators Brown, Zarelli and Shin

Addressing the default investment option available to new members of the plan 3 retirement systems.

The measure was read the second time.

## MOTION

On motion of Senator Brown, the rules were suspended, Senate Bill No. 5494 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brown and Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5494.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5494 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5494, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5596, by Senators Parlette, Zarelli, Becker and Hewitt

Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program.

## MOTION

On motion of Senator Parlette, Second Substitute Senate Bill No. 5596 was substituted for Senate Bill No. 5596 and the second substitute bill was placed on the second reading and read the second time.

## MOTION

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

On page 3, line 25, after "caps" insert "; and (h) The development of an alternative payment methodology for federally qualified health centers and rural health clinics that enables capitated or global payment of enhanced payments" Senators Keiser and Zarelli spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser on page 3, line 25 to Second Substitute Senate Bill No. 5596.

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

## MOTION

On motion of Senator Parlette, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5596 was advanced

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

Senators Parlette and Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5596.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5596 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5605, by Senator Hargrove

Limiting liability for specified state workers for errors of judgment. Revised for 1st Substitute: Limiting governmental liability for various activities.

#### MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5605 was substituted for Senate Bill No. 5605 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.44.010 and 1999 c 176 s 27 are each amended to read as follows:

The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children(~~(:—PROVIDED, That such)~~).

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When the child's interests of basic nurture, physical and mental health, and safety conflict with the parents' interests, the interests of the child should prevail. When determining whether a parent and child should be separated during or immediately following an investigation of alleged child abuse or neglect, the safety of the child shall be the department's paramount concern. Reports of child abuse and neglect shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions(~~(:—PROVIDED FURTHER, That)~~). This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

NEW SECTION. Sec. 2. A new section is added to chapter 4.24 RCW to read as follows:

(1) No governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties pursuant to chapter 26.44 RCW with regard to investigating allegations of child abuse or neglect if such duties were performed without gross negligence.

(2) The duty to conduct a reasonable investigation of child abuse or neglect upon a referral runs only to children who are the subject of a referral under chapter 26.44 RCW.

(3) The department and its employees shall comply with the orders of the court, including shelter care and other dependency orders, and are not liable for acts performed to comply with such court orders. In providing reports and recommendations to the court, caseworkers are entitled to the same witness immunity as would be provided to any other witness.

(4) Nothing in this section diminishes any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees.

NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW to read as follows:

(1) No governmental entity or its officers, agents, employees, and volunteers, shall be criminally or civilly liable for performing duties with regard to the supervision of offenders so long as the duties were performed without gross negligence.

(2) For the purposes of this section, supervision includes any type of community-based supervision including, but not limited to, probation, parole, community custody, community placement, community supervision, and postrelease supervision.

(3) Nothing in this section diminishes any immunity or defense that may otherwise be applicable to the governmental entity or its past or present employees."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Substitute Senate Bill No. 5605.

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

#### MOTION

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

On page 1, line 1 of the title, after "liability;" strike the remainder of the title and insert "amending RCW 26.44.010; and adding new sections to chapter 4.24 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5605 was advanced to third

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

Senator Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5605.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5605 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Benton, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, Pflug and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5605, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5485, by Senators Hargrove and Ranker

Maximizing the use of our state's natural resources.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5485 was substituted for Senate Bill No. 5485 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that research has shown the importance of reducing environmental impacts through building design. The primary focus on building designs has been an attempt to reduce energy requirements, primarily heating and cooling, over the course of a building's lifetime. However, what has been overlooked are opportunities to reduce greenhouse gas emissions and other environmental impacts at earlier stages in the building and construction design process. The selection of building materials and products, such as using wood and wood products in the design stage, provides substantial opportunities to reduce lifetime greenhouse gas emissions. A key component of life-cycle cost analysis is the energy expended in the extraction, transportation, manufacturing, and production of the building materials being considered in the construction of buildings.

**NEW SECTION. Sec. 2.** (1) The University of Washington, in conjunction with a nonprofit consortium involved in research on renewable industrial materials, in consultation with the state building code council, shall conduct a review of other states' existing codes, international standards, and literature on life-cycle

assessment, embodied energy, and embodied carbon in building materials.

(2) By July 2012, the University of Washington, in conjunction with a nonprofit consortium involved in research on renewable industrial materials, shall make recommendations to the legislature for methodologies to: (1) Conduct an assessment and determine the amount of embodied energy and carbon in building materials or greenhouse gas emissions avoided by using building materials with low-embodied energy or carbon; and (2) develop a comprehensive guideline using a common and consistent metric for the embodied energy and carbon in building materials. The University of Washington, in conjunction with a nonprofit consortium involved in research on renewable industrial materials, shall seek input from building materials industries and other interested parties when developing its recommendations. The department of general administration shall make recommendations for streamlining current statutory requirements for life-cycle cost analysis, energy conservation in design, and high performance of public buildings."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Rockefeller to Substitute Senate Bill No. 5485.

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

MOTION

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

On page 1, line 2 of the title, after "resources;" strike the remainder of the title and insert "and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5485 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5485.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5485 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Carrell, Delvin, Ericksen and Fain

ENGROSSED SUBSTITUTE SENATE BILL NO. 5485, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5457, by Senators White, Shin, Murray, Kohl-Welles, Harper, Nelson, Keiser, Prentice, Kline and McAuliffe

Providing a congestion reduction charge to fund the operational and capital needs of transit agencies.

MOTION

On motion of Senator White, Substitute Senate Bill No. 5457 was substituted for Senate Bill No. 5457 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 2, line 18, strike "or the voters within that county may impose by majority vote" and insert "may impose, if approved by a majority of the voters within that county or a two thirds majority of the governing body,"

Senator Sheldon spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 2, line 18 to Substitute Senate Bill No. 5457.

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

MOTION

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

On page 2, line 33, after "expended" strike "in a manner consistent with the recommendations of the regional transit task force" and insert "exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution"

Senator King spoke in favor of adoption of the amendment.

Senator White spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 2, line 23 to Substitute Senate Bill No. 5457.

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

MOTION

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

On page 3, at the beginning of line 38, strike all material through "first" on line 38

On page 4, line 2, after "June 30," strike "2014" and insert "2017"

On page 4, line 7, after "December 31," strike "2014" and insert "2017"

On page 4, after line 29, insert the following:

"**NEW SECTION. Sec. 4.** This act takes effect June 30, 2015."

On page 1, line 4 of the title, after "section;" insert "providing an effective date;"

Senator King spoke in favor of adoption of the amendment.

Senator White spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 3, line 38 to Substitute Senate Bill No. 5457.

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

MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted.

On page 2, line 18, strike " or the voters within that county may impose by majority vote" and insert "may impose, if approved by a majority of the voters within that county."

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

Senator White spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 18 to Substitute Senate Bill No. 5457.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Benton and the amendment was not adopted by the following vote: Yeas, 22; Nays, 27; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Pflug, Roach, Schoesler, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and White

MOTION

Senator King moved that the following striking amendment by Senator King be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature recognizes that public transportation provides many benefits to the citizens of the state and the environment, including through public transportation's ability to alleviate congestion and offset the burdens placed by general vehicular traffic on the state's transportation infrastructure. In these challenging economic times, many transit agencies find themselves struggling to continue to provide a level of service that reduces congestion.

It is the intent of the legislature that any county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system conduct an evaluation of methods to reduce congestion. This evaluation should include the effectiveness of a congestion reduction charge on reducing congestion and should be conducted within existing resources."

On page 1, line 1 of the title, after "Relating to" strike all material through "date" on line 4 of the title, and insert "evaluating a congestion reduction charge; and creating a new section"

Senator King spoke in favor of adoption of the striking amendment.

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Senator White spoke against adoption of the striking amendment.

Senator Shin spoke in favor of the motion.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator King to Substitute Senate Bill No. 5457.

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

MOTION

On motion of Senator Ericksen, Senators Benton, Pflug, Roach and Stevens were excused.

APPOINTMENT OF DAN DIXON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9026, Dan Dixon as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9026, Dan Dixon as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Absent: Senator Zarelli

Excused: Senator Pflug

Gubernatorial Appointment No. 9026, Dan Dixon, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

SECOND READING

SENATE BILL NO. 5367, by Senators Kastama, Chase, Holmquist Newbry, Shin and Kilmer

Authorizing the economic development finance authority to continue issuing bonds.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, Senate Bill No. 5367 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5367.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5367 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

MOTION

On motion of Senator White, the rules were suspended, Engrossed Substitute Senate Bill No. 5457 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White and Haugen spoke in favor of passage of the bill.

Senators Carrell, King and Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5457.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5457 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker, Tom and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5457, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5457 was immediately transmitted to the House of Representatives.

MOTION

At 12:29 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:28 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9026, Dan Dixon, as a member of the Board of Trustees, Central Washington University, be confirmed.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Pflug

SENATE BILL NO. 5367, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5553, by Senators Roach, Pridemore and Chase

Requiring public agencies, special purpose districts, and municipalities to post certain information on their web sites.

#### MOTIONS

On motion of Senator Roach, Substitute Senate Bill No. 5553 was substituted for Senate Bill No. 5553 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Pridemore, the rules were suspended, Substitute Senate Bill No. 5553 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5553.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5553 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Regala

SUBSTITUTE SENATE BILL NO. 5553, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5122, by Senators Keiser and Kline

Regulating health care insurance. Revised for 1st Substitute: Making the necessary changes for implementation of the affordable care act in Washington state.

#### MOTION

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On motion of Senator Keiser, Substitute Senate Bill No. 5122 was substituted for Senate Bill No. 5122 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Keiser moved that the following amendment by Senators Becker and Keiser be adopted:

On page 9, line 11, after "Sec. 4." Strike all language in section 4 down through line 31, page 11.

Re-number sections accordingly and correct internal references.

Senators Keiser and Becker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker and Keiser on page 9, line 11 to Substitute Senate Bill No. 5122.

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

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker be adopted:

On page 35, after line 24, insert the following:

"Sec. 18. RCW 48.21.157 and 2007 c 259 s 20 are each amended to read as follows:

Any group disability insurance contract or blanket disability insurance contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any (~~unmarried~~) dependent under the age of (~~(twenty-five)~~) twenty-six."

Re-number the remaining section consecutively.

Senator Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 35, after line 24 to Substitute Senate Bill No. 5122.

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

#### MOTION

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

On page 1, line 5 of the title, after "48.41.100," strike "and 48.41.140" and insert "48.41.140, and 48.21.157"

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5122 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5122.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5122 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

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Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell and Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5122, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5395, by Senators Hargrove and Stevens

Changing provisions involving domestic violence fatality review panels.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Senate Bill No. 5395 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5395.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5395 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5395, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5801.

SECOND READING

SENATE BILL NO. 5482, by Senators Kohl-Welles, Hobbs, Eide, Keiser, Fraser, Prentice and Conway

Authorizing existing funding to house victims of human trafficking and their families.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Bill No. 5482 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Senate Bill No. 5482.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5482 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SENATE BILL NO. 5482, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5788, by Senators Conway, Hewitt, Kohl-Welles and King

Concerning the omnibus liquor act. Revised for 1st Substitute: Regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.

MOTION

On motion of Senator Conway, Substitute Senate Bill No. 5788 was substituted for Senate Bill No. 5788 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, after line 8, insert the following:

"PART I – INTENT

NEW SECTION. **Sec. 101.** The legislature intends for privatization of retail and distribution of liquor to result in a system that is more efficient than public sector retail and distribution. The legislature finds that the present system of state control includes a markup amount at distribution that generates revenue for the state and local governments, and that this markup will be eliminated when liquor sales and distribution are privatized. The legislature further intends that the privatization of liquor sales and distribution not result in revenue losses to state or local governments as compared to projected revenues assumed under state control, not including any separate licenses or franchises.

PART II - CURRENT CHANGES

**Sec. 201.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor control board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Liquor franchise" means a specific location designated by the board where spirits, wine, and beer may be sold in original packages for off-premises consumption, or where liquor may be sold to holders of a permit to purchase.

(27) "Liquor franchise agreement" means approval by the board to operate a liquor franchise in accordance with the provisions of this title.

(28) "Liquor franchise applicant" means any person who submits an application for a liquor franchise agreement to sell spirits, wine, and beer in accordance with the provisions of this title.

(29) "Liquor franchise area" means a geographic area designated as such by the board for the purpose of issuing franchise agreements.

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(30) "Liquor franchise holder" means a person who has been granted a liquor franchise agreement in accordance with the provisions of this title.

(31) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

~~((27))~~ (32) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

~~((28))~~ (33) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both, and has an occupancy load of one hundred or more.

~~((29))~~ (34) "Package" means any container or receptacle used for holding liquor.

~~((30))~~ (35) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

~~((31))~~ (36) "Permit" means a permit for the purchase of liquor under this title.

~~((32))~~ (37) "Person" means an individual, copartnership, association, or corporation.

~~((33))~~ (38) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

~~((34))~~ (39) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

~~((35))~~ (40) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

~~((36))~~ (41) "Regulations" means regulations made by the board under the powers conferred by this title.

~~((37))~~ (42) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

~~((38))~~ (43) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include

a raffle authorized under RCW 9.46.0315(~~PROVIDED, That~~), However, the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

~~((39))~~ (44) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

~~((40))~~ (45) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

~~((41))~~ (46) "Store" means a state liquor store established under this title.

~~((42))~~ (47) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

~~((43))~~ (48)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" ~~(shall)~~ does not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

~~((44))~~ (49) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

~~((45))~~ (50) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

~~((46))~~ (51) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

**Sec. 202.** RCW 66.08.030 and 2002 c 119 s 2 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) of this section, it is declared that the

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power of the board to make regulations in the manner set out in that subsection (~~shall~~) extends to:

(a) Regulating the equipment and management of liquor franchises and stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;

(b) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(c) Governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;

(d) Determining the classes, varieties, and brands of liquor to be kept for sale at any store;

(e) Prescribing(~~(, subject to RCW 66.16.080, the hours during which the state liquor stores shall be kept open for the sale of liquor)~~) the hours of operation for a liquor franchise encompassing a retail area less than ten thousand square feet;

(f) Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;

(g) Prescribing an official seal and official labels and stamps and determining the manner in which they shall be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(h) Providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;

(i) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(j) Prescribing the fees payable in respect of permits and licenses and liquor franchise agreements issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(k) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same shall be kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(l) Regulating the sale of liquor kept by the holders of licenses and liquor franchise agreements which entitle the holder to purchase and keep liquor for sale;

(m) Prescribing the records of purchases or sales of liquor kept by the holders of licenses and liquor franchise agreements, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(n) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(o) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(p) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

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(q) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(r) Prescribing the conditions, accommodations and qualifications requisite for the obtaining of licenses to sell beer and wines, and regulating the sale of beer and wines thereunder;

(s) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers shall deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(t) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(u) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(v) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(w) Providing for the giving of fidelity bonds by any or all of the employees of the board(~~(= PROVIDED, That)~~). However, the premiums therefor shall be paid by the board;

(x) Providing for the shipment by mail or common carrier of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(y) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(z) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board(~~(= PROVIDED, That)~~). Nothing herein contained shall be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

**Sec. 203.** RCW 66.08.070 and 1985 c 226 s 2 are each amended to read as follows:

(1) Every order for the purchase of liquor shall be authorized by the board, and no order for liquor shall be valid or binding unless it is so authorized and signed by the board or its authorized designee.

(2) A duplicate of every such order shall be kept on file in the office of the board.

(3) All cancellations of such orders made by the board shall be signed in the same manner and duplicates thereof kept on file in the office of the board. Nothing in this title shall be construed as preventing the board from accepting liquor on consignment.

(4) In the purchase of wine or malt beverages the board shall not require, as a term or condition of purchase, any warranty or affirmation with respect to the relationship of the price charged the board to any price charged any other buyer.

(5) This section does not apply to liquor franchises pursuant to this title.

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**Sec. 204.** RCW 66.08.130 and 1981 1st ex.s. c 5 s 4 are each amended to read as follows:

For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books and records of

- (1) any manufacturer;
- (2) any license holder;
- (3) any liquor franchise holder;
- (4) any drug store holding a permit to sell on prescriptions;

~~((4))~~ (5) the freight and express books and records and all waybills, bills of lading, receipts and documents in the possession of any common carrier doing business within the state, containing any information or record relating to any goods shipped or carried, or consigned or received for shipment or carriage within the state. Every manufacturer, license holder, liquor franchise holder, drug store holding a permit to sell on prescriptions, and common carrier, and every owner or officer or employee of the foregoing, who neglects or refuses to produce and submit for inspection any book, record or document referred to in this section when requested to do so by the board or by a person so appointed by it shall be guilty of a violation of this title.

**Sec. 205.** RCW 66.08.140 and 1945 c 48 s 1 are each amended to read as follows:

For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this title, the board, or any person appointed by it in writing for the purpose, may inspect the books, documents and records of any person lending money to or in any manner financing any license, or liquor franchise agreement, holder or applicant for license, or liquor franchise holder insofar as such books, documents and/or records pertain to the financial transaction involved. Every person who neglects or refuses to produce and submit for inspection any book, record or document as required by this section when requested to do so by the board or by a person duly appointed by it shall be guilty of a violation of this title.

**Sec. 206.** RCW 66.08.150 and 2007 c 370 s 3 are each amended to read as follows:

The action, order, or decision of the board as to any denial of an application for the reissuance of a permit ~~((or))~~, license, or liquor franchise agreement or as to any revocation, suspension, or modification of any permit ~~((or))~~, license, or liquor franchise agreement shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit ~~((or))~~, license, or liquor franchise agreement prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee ~~((or))~~, licensee, or liquor franchise holder prior to a revocation or modification of any permit ~~((or))~~, license, or liquor franchise agreement and, except as provided in subsection (4) of this section, prior to the suspension of any permit ~~((or))~~, license, or liquor franchise agreement.

(3) No hearing shall be required until demanded by the applicant, permittee, ~~((or))~~ licensee, or liquor franchise holder.

(4) The board may summarily suspend a license ~~((or))~~, permit, or liquor franchise agreement for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year in the event the

proceedings for revocation or other action cannot be completed during the initial one hundred eighty day period due to actions by the ~~((licensee or))~~ permittee, licensee, or liquor franchise holder. The board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

**Sec. 207.** RCW 66.24.010 and 2009 c 271 s 6 are each amended to read as follows:

(1) Every license and liquor franchise agreement shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license or liquor franchise agreement, or the renewal of a license or liquor franchise agreement, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license or liquor franchise agreement and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license or liquor franchise agreement, the liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the board and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW ~~((shall))~~ do not apply to such cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license or liquor franchise agreement applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (8)(d) and (12) of this section. Authority to approve an uncontested or unopposed license or liquor franchise agreement may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority shall be adopted by rule. No retail license or liquor franchise agreement of any kind may be issued to:

(a) A person doing business as a sole proprietor who has not resided in the state for at least one month prior to receiving a license, except in cases of licenses or liquor franchise agreements issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license or liquor franchise agreement, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee, or liquor franchise holder;

(d) A corporation or a limited liability company, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3)(a) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license or liquor franchise agreement; and all rights of the licensee, or liquor franchise holder to keep or sell liquor thereunder shall be suspended or terminated, as the case may be.

(b) The board shall immediately suspend the license ~~((or))~~, certificate, or liquor franchise agreement of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other

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requirements for reinstatement during the suspension, reissuance of the license ~~((or))~~, certificate ~~((shall be))~~, or liquor franchise agreement is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee, or liquor franchise holder is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license or liquor franchise agreement, the licensee, or liquor franchise holder shall forthwith deliver up the license to the board. Where the license or liquor franchise agreement has been suspended only, the board shall return the license or liquor franchise agreement to the licensee, or liquor franchise holder at the expiration or termination of the period of suspension. The board shall notify all vendors in the city or place where the licensee, or liquor franchise holder has its premises of the suspension or cancellation of the license or liquor franchise agreement; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee, or liquor franchise holder.

(5)(a) At the time of the original issuance of a spirits, beer, and wine restaurant license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license or liquor franchise agreement issued under this section shall be subject to all conditions and restrictions imposed by this title or by rules adopted by the board. All conditions and restrictions imposed by the board in the issuance of an individual license or liquor franchise agreement shall be listed on the face of the individual license or liquor franchise agreement along with the trade name, address, and expiration date.

(7) Every licensee, or liquor franchise holder shall post and keep posted its license, ~~((or))~~ licenses, or liquor franchise agreement, in a conspicuous place on the premises.

(8)(a) Unless (b) of this subsection applies, before the board issues a new or renewal license or liquor franchise agreement to an applicant it shall give notice of such application to the chief

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executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license or liquor franchise agreement outside the boundaries of incorporated cities or towns.

(b) If the application for a special occasion license or liquor franchise agreement is for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on property owned by the county but located within an incorporated city or town, the county legislative authority shall be the entity notified by the board under (a) of this subsection. The board shall send a duplicate notice to the incorporated city or town within which the fair is located.

(c) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, ~~((shall have))~~ has the right to file with the board within twenty days after the date of transmittal of such notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewal license or liquor franchise agreement is asked. The board may extend the time period for submitting written objections.

(d) The written objections shall include a statement of all facts upon which such objections are based, and in case written objections are filed, the city or town or county legislative authority may request and the liquor control board may in its discretion hold a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license ~~((or))~~ renewal, or liquor franchise agreement based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If such a hearing is held at the request of the applicant, liquor control board representatives shall present and defend the board's initial decision to deny a license ~~((or))~~ renewal, or liquor franchise agreement.

(e) Upon the granting of a license or liquor franchise agreement under this title the board shall send written notification to the chief executive officer of the incorporated city or town in which the license or liquor franchise agreement is granted, or to the county legislative authority if the license or liquor franchise agreement is granted outside the boundaries of incorporated cities or towns. When the license or liquor franchise agreement is for a special occasion license or liquor franchise agreement for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on county-owned property but located within an incorporated city or town, the written notification shall be sent to both the incorporated city or town and the county legislative authority.

(9)(a) Before the board issues any license or liquor franchise agreement to any applicant, it shall give (i) due consideration to the location of the business to be conducted under such license or liquor franchise agreement with respect to the proximity of churches, schools, and public institutions and (ii) written notice, with receipt verification, of the application to public institutions identified by the board as appropriate to receive such notice, churches, and schools within five hundred feet of the premises ~~((to be licensed))~~. The board shall not issue a liquor license for either on-premises or off-premises consumption covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the main entrance of the school to the nearest public entrance of the premises proposed for license or liquor franchise agreement, and if, after receipt by the school of the notice as provided in this subsection, the board

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receives written objection, within twenty days after receiving such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license or liquor franchise agreement because of proximity to a school. The board may extend the time period for submitting objections. For the purpose of this section, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. For the purpose of this section, "public institution" means institutions of higher education, parks, community centers, libraries, and transit centers.

(b) No liquor license may be issued or reissued by the board to any motor sports facility ((~~or~~), licensee, or liquor franchise agreement operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies.

(c) It is the intent under this subsection (9) that a retail license or liquor franchise agreement shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee, or liquor franchise holder. The board shall fully consider and give substantial weight to objections filed by private schools. If a license or liquor franchise agreement is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license or liquor franchise agreement.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11)(a) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or distributor license to an applicant to operate the retail or distributor premises during the period the application for the license is pending. The board may establish a fee for a temporary license by rule.

(b) A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for additional periods of sixty days upon payment of an additional fee and upon compliance with all conditions required in this section.

(c) Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 applies to temporary licenses.

(d) Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

(12) In determining whether to grant or deny a license or renewal of any license, the board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town,

or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

**Sec. 208.** RCW 66.24.012 and 1997 c 58 s 862 are each amended to read as follows:

The board shall immediately suspend the license or liquor franchise agreement of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or liquor franchise agreement shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee or liquor franchise holder is in compliance with the order.

**Sec. 209.** RCW 66.24.015 and 1988 c 200 s 4 are each amended to read as follows:

An application for a new annual retail license under this title shall be accompanied by payment of a nonrefundable seventy-five dollar fee to cover expenses incurred in processing the application. If the application is approved, the application fee shall be applied toward the fee charged for the license. An application for a liquor franchise agreement under this title shall be accompanied by a nonrefundable fee to be determined by the board by rule. If the liquor franchise application is approved, the application fee shall be applied toward the fee charged for the license.

**Sec. 210.** RCW 66.24.025 and 2002 c 119 s 4 are each amended to read as follows:

(1) If the board approves, a license or liquor franchise agreement may be transferred, without charge, to the surviving spouse only of a deceased licensee or liquor franchise holder if the parties were maintaining a marital community and the license or liquor franchise agreement was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party or parties to receive a liquor license or liquor franchise agreement, the liquor control board may require a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding and/or issued stock of a licensed corporation or any proposed change in the officers of a licensed corporation must be reported to the board, and board approval must be obtained before such changes are made. A fee of seventy-five dollars will be charged for the processing of such change of stock ownership and/or corporate officers.

**Sec. 211.** RCW 66.24.120 and 1973 1st ex.s. c 209 s 12 are each amended to read as follows:

The board in suspending any license or liquor franchise agreement may further provide in the order of suspension that such suspension shall be vacated upon payment to the board by the licensee or liquor franchise holder of a monetary penalty in an amount then fixed by the board.

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**Sec. 212.** RCW 66.44.200 and 1998 c 259 s 1 are each amended to read as follows:

(1) No person shall sell any liquor to any person apparently under the influence of liquor.

(2)(a) No person who is apparently under the influence of liquor may purchase or consume liquor on any premises licensed by the board or any liquor franchise designated by the board.

(b) A violation of this subsection is an infraction punishable by a fine of not more than five hundred dollars.

(c) A defendant's intoxication may not be used as a defense in an action under this subsection.

((((d) Until July 1, 2000, every establishment licensed under RCW 66.24.330 or 66.24.420 shall conspicuously post in the establishment notice of the prohibition against the purchase or consumption of liquor under this subsection.))

(3) An administrative action for violation of subsection (1) of this section and an infraction issued for violation of subsection (2) of this section arising out of the same incident are separate actions and the outcome of one shall not determine the outcome of the other.

**Sec. 213.** RCW 66.44.318 and 1995 c 100 s 2 are each amended to read as follows:

Licensees holding nonretail class liquor licenses and liquor franchise holders are permitted to allow their employees between ~~((the))~~ the ages of eighteen and twenty-one to stock, merchandise, and handle liquor, beer, or wine on or about the nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises.

**Sec. 214.** RCW 66.44.340 and 1999 c 281 s 11 are each amended to read as follows:

Employers holding grocery store or beer and/or wine specialty shop licenses and liquor franchise holders exclusively are permitted to allow their employees, between the ages of eighteen and twenty-one years, to sell, stock, and handle liquor, beer, or wine in, on or about any establishment holding a grocery store or beer and/or wine specialty shop license or liquor franchise agreement exclusively(~~(= PROVIDED, That))~~ if there is an adult twenty-one years of age or older on duty supervising the sale of liquor at the licensed premises(~~(= PROVIDED, That))~~. Minor employees may make deliveries of beer and/or wine purchased from licensees holding grocery store or beer and/or wine specialty shop licenses exclusively, when delivery is made to cars of customers adjacent to such licensed premises but only, however, when the minor employee is accompanied by the purchaser.

**NEW SECTION. Sec. 215.** A new section is added to chapter 66.08 RCW to read as follows:

(1) By July 1, 2013, the board must close all state liquor stores and state liquor distribution facilities, and must sell at auction all assets pertaining to the state sale and distribution of liquor. Funds received from these auctions shall be deposited in the state general fund.

(2)(a) By July 1, 2013, the board must:

(i) Determine liquor franchise areas throughout the state in which a certain number of liquor franchises can be located;

(ii) Establish criteria for the placement of liquor franchises in liquor franchise areas, including input gained from cities, counties, towns, schools, churches, and public institutions pursuant to RCW 66.24.010, and the amount of the purchase price offered by the liquor franchise applicant;

(iii) Collect information from incorporated cities and towns regarding acceptable locations for liquor franchises within their boundaries. The board must not locate liquor franchises in any locations that have not been deemed acceptable by cities and towns;

(iv) Award liquor franchise agreements to applicants in all liquor franchise areas;

(v) Grant a liquor franchise agreement to a liquor franchise applicant who has paid applicable fees, has retail sales of grocery products for off-premises consumption that are more than forty percent of the applicant's gross sales, and operates a fully enclosed retail area encompassing at least ten thousand square feet. The board may issue a liquor franchise to an applicant with a retail area encompassing less than ten thousand square feet if the board determines that no applicant in the community the applicant serves meets the square footage requirement and the applicant meets operational requirements established by the board by rule or the applicant has obtained the approval of local government;

(vi) Grant a liquor franchise agreement to a liquor franchise applicant who has paid applicable fees and is a membership organization that requires members to be eighteen years of age and operates a fully enclosed retail area encompassing at least ten thousand square feet; and

(vii) Grant a liquor franchise agreement to a liquor franchise applicant who has paid applicable fees and is a federally recognized tribe with a current state contract for the sales of spirits, wine, or beer.

(b) For the purposes of subsection (a)(v) through (vii) of this subsection (2), no liquor franchise applicant can be granted a liquor franchise agreement if the liquor franchise applicant has had more than one public safety violation within the past two years.

(3) The board shall provide an orderly transition from state liquor store sales to liquor franchise sales.

(4) After July 1, 2013, it is unlawful for the board to lease space for or to operate a state retail or wholesale liquor store.

(5) Nothing in this section shall be construed to eliminate liquor vendors as referenced in RCW 66.08.050.

(6) The board may adopt rules to carry out the provisions of this section. These rules may include, but are not limited to:

(a) The establishment of franchise agreement periods, expiration dates, and renewal procedures;

(b) The enumeration of records to be kept by franchise holders;

(c) The procedures for advertising and other promotion of sales of spirits by liquor franchise holders, in accordance with RCW 66.08.060; and

(d) The establishment of fees and administrative penalties for liquor franchise holders.

(7) The price of liquor sold at liquor franchises must be set by each liquor franchise holder, but cannot be less than the price the franchise holder paid to obtain the liquor, including any applicable taxes.

(8) The board shall determine the hours and days, subject to RCW 66.08.167, during which liquor may be sold at liquor franchises.

### PART III - FUTURE CHANGES

**Sec. 301.** RCW 66.04.010 and 2011 c . . . s 201 (section 201 of this act) are each amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

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(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor control board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in

carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Liquor franchise" means a specific location designated by the board where spirits, wine, and beer may be sold in original packages for off-premises consumption, or where liquor may be sold to holders of a permit to purchase.

(27) "Liquor franchise agreement" means approval by the board to operate a liquor franchise in accordance with the provisions of this title.

(28) "Liquor franchise applicant" means any person who bids for a liquor franchise agreement to sell spirits, wine, and beer in accordance with the provisions of this title.

(29) "Liquor franchise area" means a geographic area designated as such by the board for the purpose of issuing franchise agreements.

(30) "Liquor franchise holder" means a person who has been granted a liquor franchise agreement in accordance with the provisions of this title.

(31) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(32) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

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(33) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both, and has an occupancy load of one hundred or more.

(34) "Package" means any container or receptacle used for holding liquor.

(35) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(36) "Permit" means a permit for the purchase of liquor under this title.

(37) "Person" means an individual, copartnership, association, or corporation.

(38) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(39) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(40) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(41) "Regulations" means regulations made by the board under the powers conferred by this title.

(42) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(43) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315. However, the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(44) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(45) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(46) ("~~Store~~" means a state liquor store established under this title.

~~(47))~~ "Tavern" means any establishment with special space and

accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

~~((48))~~ (47)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" does not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

~~((49))~~ (48) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

~~((50))~~ (49) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

~~((51))~~ (50) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

**Sec. 302.** RCW 66.08.012 and 1961 c 307 s 7 are each amended to read as follows:

There shall be a board, known as the "Washington state liquor control board," consisting of three members~~((, to))~~. One member shall be qualified by local government experience. Two members shall be qualified by experience or training in matters pertaining to retail sales and/or distribution. All three members shall be appointed by the governor, with the consent of the senate, who shall each be paid an annual salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The governor may, in his or her discretion, appoint one of the members as chair of the board, and a majority of the members shall constitute a quorum of the board.

**Sec. 303.** RCW 66.08.020 and 1933 ex.s. c 62 s 5 are each amended to read as follows:

The administration of this title~~((, including the general control, management and supervision of all liquor stores, shall be))~~ is vested in the liquor control board, constituted under this title.

**Sec. 304.** RCW 66.08.026 and 2008 c 67 s 1 are each amended to read as follows:

Administrative expenses of the board shall be appropriated and paid from the liquor revolving fund. These administrative expenses shall include, but not be limited to: The salaries and expenses of the board and its employees, ~~((the cost of opening additional state liquor stores and warehouses;))~~ legal services, pilot projects, annual or other audits, and other general costs of

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conducting the business of the board. ~~((The administrative expenses shall not include costs of liquor and lottery tickets purchased, the cost of transportation and delivery to the point of distribution, the cost of operating, maintaining, relocating, and leasing state liquor stores and warehouses, other costs pertaining to the acquisition and receipt of liquor and lottery tickets, agency commissions for contract liquor stores, transaction fees associated with credit or debit card purchases for liquor in state liquor stores and in contract liquor stores pursuant to RCW 66.16.040 and 66.16.041, sales tax, and those amounts distributed pursuant to RCW 66.08.180, 66.08.190, 66.08.200, 66.08.210 and 66.08.220. Agency commissions for contract liquor stores shall be established by the liquor control board after consultation with and approval by the director of the office of financial management.))~~ All expenditures and payment of obligations authorized by this section are subject to the allotment requirements of chapter 43.88 RCW.

**Sec. 305.** RCW 66.08.030 and 2011 c. . . s 202 (section 202 of this act) are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of this title according to their true intent or of supplying any deficiency therein, the board may make such regulations not inconsistent with the spirit of this title as are deemed necessary or advisable. All regulations so made shall be a public record and shall be filed in the office of the code reviser, and thereupon shall have the same force and effect as if incorporated in this title. Such regulations, together with a copy of this title, shall be published in pamphlets and shall be distributed as directed by the board.

(2) Without thereby limiting the generality of the provisions contained in subsection (1) of this section, it is declared that the power of the board to make regulations in the manner set out in that subsection extends to:

(a) ~~((Regulating the equipment and management of liquor franchises and stores and warehouses in which state liquor is sold or kept, and prescribing the books and records to be kept therein and the reports to be made thereon to the board;~~

(b)) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

~~((c) Governing the purchase of liquor by the state and the furnishing of liquor to stores established under this title;~~

(d) Determining the classes, varieties, and brands of liquor to be kept for sale at any store;

(e) Providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each variety of liquor kept for sale under this title;

(f)) ~~(b)~~ Prescribing an official seal and official labels and stamps and determining the manner in which they shall be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

~~((g) Providing for the payment by the board in whole or in part of the carrying charges on liquor shipped by freight or express;~~

(h)) ~~(c)~~ Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

~~((i))~~ ~~(d)~~ Prescribing the fees payable in respect of permits and licenses and liquor franchise agreements issued under this title for

which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

~~((j))~~ ~~(e)~~ Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same shall be kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

~~((k))~~ ~~(f)~~ Regulating the sale of liquor kept by the holders of licenses and liquor franchise agreements which entitle the holder to purchase and keep liquor for sale;

~~((l))~~ ~~(g)~~ Prescribing the records of purchases or sales of liquor kept by the holders of licenses and liquor franchise agreements, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

~~((m))~~ ~~(h)~~ Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

~~((n))~~ ~~(i)~~ Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

~~((o))~~ ~~(j)~~ Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

~~((p))~~ ~~(k)~~ Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

~~((q))~~ ~~(l)~~ Prescribing the conditions, accommodations and qualifications requisite for the obtaining of licenses to sell beer and wines, and regulating the sale of beer and wines thereunder;

~~((r))~~ ~~(m)~~ Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers shall deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

~~((s))~~ ~~(n)~~ Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

~~((t))~~ ~~(o)~~ Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

~~((u))~~ ~~(p)~~ Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

~~((v))~~ ~~(q)~~ Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor shall be paid by the board;

~~((w))~~ ~~(r)~~ Providing for the shipment by mail or common carrier of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

~~((x))~~ ~~(s)~~ Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

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~~((7))~~ (1) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. Nothing herein contained shall be construed as authorizing the liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages.

**Sec. 306.** RCW 66.08.050 and 2005 c 151 s 3 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, shall:

(1) ((Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may) Appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. ((Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and)) Such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require;

((3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;

(5)) (2) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

~~((6))~~ (3) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

~~((7))~~ (4) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

((8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9)) (5) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

~~((10))~~ (6) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

~~((11))~~ (7) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor(~~(= PROVIDED, That)~~). However, the board shall have no authority to regulate the content of spoken language on licensed premises

where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

**Sec. 307.** RCW 66.08.060 and 2005 c 231 s 3 are each amended to read as follows:

((1) The board shall not advertise liquor in any form or through any medium whatsoever.

(2) In-store liquor merchandising is not advertising for the purposes of this section.

(3)) The board shall have power to adopt any and all reasonable rules as to the kind, character, and location of advertising of liquor for liquor franchise holders encompassing a retail area less than ten thousand square feet.

**Sec. 308.** RCW 66.08.167 and 2005 c 231 s 4 are each amended to read as follows:

(1) (~~Before the board determines which state liquor stores~~) The board may adopt rules regarding which liquor franchises will be open on Sundays(~~(=#)~~). In adopting Sunday sales rules, the board shall give: (a) Due consideration to the location of the liquor (~~store~~) franchise with respect to the proximity of places of worship, schools, and public institutions; (b) due consideration to motor vehicle accident data in the proximity of the liquor (~~store~~) franchise; and (c) written notice by certified mail of the proposed Sunday opening, including proposed Sunday opening hours, to places of worship, schools, and public institutions within five hundred feet of the liquor (~~store~~) franchise proposed to be open on Sunday.

(2) Before permitting (~~an agency vendor~~) a liquor (~~store~~) franchise to open for business on Sunday, the board must meet the due consideration and written notice requirements established in subsection (1) of this section.

(3) For the purpose of this section, "place of worship" means a building erected for and used exclusively for religious worship and schooling or other related religious activity.

**Sec. 309.** RCW 66.16.110 and 1993 c 422 s 2 are each amended to read as follows:

The board shall cause liquor franchises to (~~be posted~~) post in conspicuous places, in a number determined by the board, (~~within each state liquor store,~~) notices in print not less than one inch high warning persons that consumption of alcohol shortly before conception or during pregnancy may cause birth defects, including fetal alcohol syndrome and fetal alcohol effects.

**Sec. 310.** RCW 66.12.110 and 1999 c 281 s 3 are each amended to read as follows:

A person twenty-one years of age or over may bring into the state from without the United States, free of tax and markup, for his personal or household use such alcoholic beverages as have been declared and permitted to enter the United States duty free under federal law.

Such entry of alcoholic beverages in excess of that herein provided may be authorized by the board upon payment of ((an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a Washington state liquor store)) state sales tax. The board shall adopt appropriate regulations pursuant to chapter 34.05 RCW for the purpose of carrying out the provisions of this section. The board may issue a spirits, beer, and wine private club license to a charitable or nonprofit corporation of the state of Washington, the majority of the officers and directors of which are United States citizens and the minority of the officers and directors of which are citizens of the Dominion of Canada, and where the location of the premises for such spirits, beer, and wine private club license is not more than ten miles south of the border between the United States and the province of British Columbia.

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**Sec. 311.** RCW 66.12.120 and 1995 c 100 s 1 are each amended to read as follows:

Notwithstanding any other provision of Title 66 RCW, a person twenty-one years of age or over may, free of tax and markup, for personal or household use, bring into the state of Washington from another state no more than once per calendar month up to two liters of spirits or wine or two hundred eighty-eight ounces of beer. Additionally, such person may be authorized by the board to bring into the state of Washington from another state a reasonable amount of alcoholic beverages in excess of that provided in this section for personal or household use only upon payment of ~~((an equivalent markup and tax as would be applicable to the purchase of the same or similar liquor at retail from a state liquor store))~~ state sales tax. The board shall adopt appropriate regulations pursuant to chapter 34.05 RCW for the purpose of carrying into effect the provisions of this section.

**Sec. 312.** RCW 66.12.140 and 1982 c 85 s 8 are each amended to read as follows:

(1) Nothing in this title shall prevent the use of beer, wine, and/or spirituous liquor, for cooking purposes only, in conjunction with a culinary or restaurant course offered by a college, university, community college, area vocational technical institute, or private vocational school. Further, nothing in this title shall prohibit the making of beer or wine in food fermentation courses offered by a college, university, community college, area vocational technical institute, or private vocational school.

(2) "Culinary or restaurant course" as used in this section means a course of instruction which includes practical experience in food preparation under the supervision of an instructor who is twenty-one years of age or older.

(3) Persons under twenty-one years of age participating in culinary or restaurant courses may handle beer, wine, or spirituous liquor for purposes of participating in the courses, but nothing in this section shall be construed to authorize consumption of liquor by persons under twenty-one years of age or to authorize possession of liquor by persons under twenty-one years of age at any time or place other than while preparing food under the supervision of the course instructor.

(4) Beer, wine, and/or spirituous liquor to be used in culinary or restaurant courses shall be purchased at retail from ~~((the board or))~~ a retailer licensed under this title. All such liquor shall be securely stored in the food preparation area and shall not be displayed in an area open to the general public.

(5) Colleges, universities, community colleges, area vocational technical institutes, and private vocational schools shall obtain the prior written approval of the board for use of beer, wine, and/or spirituous liquor for cooking purposes in their culinary or restaurant courses.

**Sec. 313.** RCW 66.20.010 and 2008 c 181 s 602 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation ~~((at prices to be fixed by the board))~~;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from ~~((the board))~~ a liquor franchise or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from ~~((the board))~~ liquor franchise or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from ~~((the board))~~ a liquor franchise and any such beer or wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

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(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests.

**Sec. 314.** RCW 66.20.160 and 2005 c 151 s 8 are each amended to read as follows:

Words and phrases as used in RCW 66.20.160 to 66.20.210, inclusive, shall have the following meaning:

"Card of identification" means any one of those cards described in RCW 66.16.040.

"Licensee" means the holder of a retail liquor license issued by the board, and includes any employee or agent of the licensee.

~~("Store employee" means a person employed in a state liquor store to sell liquor.")~~ "Liquor franchise holder" means a person who has been granted a liquor franchise agreement in accordance with the provisions of this title.

**Sec. 315.** RCW 66.20.170 and 1973 1st ex.s. c 209 s 5 are each amended to read as follows:

A card of identification may, for the purpose of this title and for the purpose of procuring liquor, be accepted as an identification card by any licensee or ~~((store employee))~~ liquor franchise holder and as evidence of legal age of the person presenting such card, provided the licensee or ~~((store employee))~~ liquor franchise holder complies with the conditions and procedures prescribed herein and such regulations as may be made by the board.

**Sec. 316.** RCW 66.20.180 and 2005 c 151 s 9 are each amended to read as follows:

A card of identification shall be presented by the holder thereof upon request of any licensee, ~~((store employee,))~~ contract liquor store manager, contract liquor store employee, liquor franchise holder, peace officer, or enforcement officer of the board for the purpose of aiding the licensee, ~~((store employee,))~~ contract liquor store manager, contract liquor store employee, liquor franchise holder, peace officer, or enforcement officer of the board to determine whether or not such person is of legal age to purchase liquor when such person desires to procure liquor from a licensed establishment or state liquor store or contract liquor store.

**Sec. 317.** RCW 66.20.190 and 1981 1st ex.s. c 5 s 9 are each amended to read as follows:

In addition to the presentation by the holder and verification by the licensee or ~~((store employee))~~ liquor franchise holder of such card of identification, the licensee or ~~((store employee))~~ liquor franchise holder who is still in doubt about the true age of the holder shall require the person whose age may be in question to sign a certification card and record an accurate description and serial number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee or ~~((store employee))~~ liquor franchise holder at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any peace officer or agent or employee of the board at all times. The certification card shall also contain in bold-face type a statement stating that the signer understands that conviction for unlawful purchase of alcoholic beverages or misuse of the certification card may result in criminal penalties including imprisonment or fine or both.

**Sec. 318.** RCW 66.20.200 and 2003 c 53 s 295 are each amended to read as follows:

(1) It shall be unlawful for the owner of a card of identification to transfer the card to any other person for the purpose of aiding such person to procure alcoholic beverages from any licensee or ~~((store~~

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~~employee))~~ liquor franchise holder. Any person who shall permit his or her card of identification to be used by another or transfer such card to another for the purpose of aiding such transferee to obtain alcoholic beverages from a licensee or ~~((store employee))~~ liquor franchise holder or gain admission to a premises or portion of a premises classified by the board as off-limits to persons under twenty-one years of age, shall be guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution.

(2) Any person not entitled thereto who unlawfully procures or has issued or transferred to him or her a card of identification, and any person who possesses a card of identification not issued to him or her, and any person who makes any false statement on any certification card required by RCW 66.20.190, to be signed by him or her, shall be guilty of a misdemeanor punishable as provided by RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars shall be imposed and any sentence requiring community restitution shall require not fewer than twenty-five hours of community restitution.

**Sec. 319.** RCW 66.20.210 and 1973 1st ex.s. c 209 s 9 are each amended to read as follows:

No licensee or the agent or employee of the licensee, or ~~((store employee))~~ liquor franchise holder, shall be prosecuted criminally or be sued in any civil action for serving liquor to a person under legal age to purchase liquor if such person has presented a card of identification in accordance with RCW 66.20.180, and has signed a certification card as provided in RCW 66.20.190.

Such card in the possession of a licensee may be offered as a defense in any hearing held by the board for serving liquor to the person who signed the card and may be considered by the board as evidence that the licensee acted in good faith.

**Sec. 320.** RCW 66.24.145 and 2010 c 290 s 2 are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to two liters per person per day. ~~((Spirits sold under this subsection must be purchased from the board and sold at the retail price established by the board.))~~ A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distill spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. ~~((Spirits used for samples must be purchased from the board.))~~

(4) The board shall adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice.

**Sec. 321.** RCW 66.24.360 and 2007 c 226 s 2 are each amended to read as follows:

There shall be a beer and/or wine retailer's license to be designated as a grocery store license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold ~~((, at any store other than the state liquor stores)).~~

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(1) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(2) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(3) The board shall issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

(5) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

~~(c) ((A holder of this special endorsement to the grocery store license shall be considered not in violation of RCW 66.28.010.~~

~~(d))~~ Any beer, strong beer, or wine sold under this license must be sold at a price no less than the acquisition price paid by the holder of the license.

~~((e))~~ (d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

(6) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

**Sec. 322.** RCW 66.24.371 and 2009 c 373 s 6 are each amended to read as follows:

(1) There shall be a beer and/or wine retailer's license to be designated as a beer and/or wine specialty shop license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold~~((at any store other than the state liquor stores))~~. Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid. The annual fee for the beer and/or wine specialty shop license is one hundred dollars for each store. The sale of any container holding four gallons or more must comply with RCW 66.28.200 and 66.28.220.

(2) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to RCW ~~((66.28.040))~~ 66.28.305 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or distributor of liquor.

(3) The board shall issue a restricted beer and/or wine specialty shop license, authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

(4) Licensees holding a beer and/or wine specialty shop license must maintain a minimum three thousand dollar wholesale inventory of beer, strong beer, and/or wine.

**Sec. 323.** RCW 66.24.380 and 2005 c 151 s 10 are each amended to read as follows:

There shall be a retailer's license to be designated as a special occasion license to be issued to a not-for-profit society or organization to sell spirits, beer, and wine by the individual serving for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specified date and place; fee sixty dollars per day.

(1) The not-for-profit society or organization is limited to sales of no more than twelve calendar days per year. For the purposes of this subsection, special occasion licensees that are "agricultural area fairs" or "agricultural county, district, and area fairs," as defined by RCW 15.76.120, that receive a special occasion license may, once per calendar year, count as one event fairs that last multiple days, so long as alcohol sales are at set dates, times, and locations, and the board receives prior notification of the dates, times, and locations. The special occasion license applicant will pay the sixty dollars per day for this event.

(2) The licensee may sell beer and/or wine in original, unopened containers for off-premises consumption if permission is obtained from the board prior to the event.

(3) Sale, service, and consumption of spirits, beer, and wine is to be confined to specified premises or designated areas only.

(4) Spirituous liquor sold under this special occasion license must be purchased at a ~~((state liquor store or contract liquor store without discount at retail prices, including all taxes))~~ liquor franchise.

(5) Any violation of this section is a class 1 civil infraction having a maximum penalty of two hundred fifty dollars as provided for in chapter 7.80 RCW.

**Sec. 324.** RCW 66.24.395 and 1997 c 321 s 25 are each amended to read as follows:

(1)(a) There shall be a license that may be issued to corporations, associations, or persons operating as federally licensed commercial common passenger carriers engaged in interstate

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commerce, in or over territorial limits of the state of Washington on passenger trains, vessels, or airplanes. Such license shall permit the sale of spirituous liquor, wine, and beer at retail for passenger consumption within the state upon one such train passenger car, vessel, or airplane, while in or over the territorial limits of the state. Such license shall include the privilege of transporting into and storing within the state such liquor for subsequent retail sale to passengers in passenger train cars, vessels or airplanes. The fees for such master license shall be seven hundred fifty dollars per annum (class CCI-1)(~~(= PROVIDED, That)~~). However:

(i) Upon payment of an additional sum of five dollars per annum per car, or vessel, or airplane, the privileges authorized by such license classes shall extend to additional cars, or vessels, or airplanes operated by the same licensee within the state, and a duplicate license for each additional car, or vessel, or airplane shall be issued(~~(= PROVIDED, FURTHER, That)~~);

(ii) Such licensee may make such sales and/or service upon cars, or vessels, or airplanes in emergency for not more than five consecutive days without such license(~~(= AND PROVIDED, FURTHER, That)~~); and

(iii) Such license shall be valid only while such cars, or vessels, or airplanes are actively operated as common carriers for hire in interstate commerce and not while they are out of such common carrier service.

(b) Alcoholic beverages sold and/or served for consumption by such interstate common carriers while within or over the territorial limits of this state shall be subject to ((~~such board markup and~~)) the state liquor taxes in an amount to approximate the revenue that would have been realized from ((~~such markup and~~)) the taxes had the alcoholic beverages been purchased in Washington(~~(= PROVIDED, That the board's markup shall be applied on spirituous liquor only)~~). Such common carriers shall report such sales and/or service and pay ((~~such markup and~~)) taxes in accordance with procedures prescribed by the board.

(2) Alcoholic beverages sold and delivered in this state to interstate common carriers for use under the provisions of this section shall be considered exported from the state, subject to the conditions provided in subsection (1)(b) of this section. The storage facilities for liquor within the state by common carriers licensed under this section shall be subject to written approval by the board.

**Sec. 325.** RCW 66.24.400 and 2008 c 41 s 10 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only. A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the club for consumption in guest rooms, hospitality rooms, or at banquets in the club. A patron of a bona fide restaurant or club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the discretion of the board should have, a

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spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell bottled wine for off-premises consumption. Spirits and beer may not be sold for off-premises consumption under this section except as provided in subsection (4) of this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

(4) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption malt liquor in kegs or other containers that are capable of holding four gallons or more of liquid and are registered in accordance with RCW 66.28.200. Beer may also be sold under the endorsement to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(5) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license or liquor franchise holder to purchase spirits, beer, and wine from Washington state distributors or directly from out-of-state distillers, brewers, or wineries.

**Sec. 326.** RCW 66.24.540 and 1999 c 129 s 1 are each amended to read as follows:

There shall be a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

(1) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

(a) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

(b) (~~All spirits to be sold under the license must be purchased from the board.~~

~~(e))~~ The licensee shall require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest shall also execute an affidavit verifying that no one under twenty-one years of age shall have access to the spirits, beer, and wine in the honor bar.

(2) Provide without additional charge, to overnight guests of the motel, beer and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All beer and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

The annual fee for a motel license is five hundred dollars.

"Motel" as used in this section means a transient accommodation licensed under chapter 70.62 RCW.

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As used in this section, "spirits," "beer," and "wine" have the meanings defined in RCW 66.04.010.

**Sec. 327.** RCW 66.24.590 and 2008 c 41 s 11 are each amended to read as follows:

(1) There shall be a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license shall meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell (~~(spirited)~~) spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee shall require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest shall also execute an affidavit verifying that no one under twenty-one years of age shall have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

~~((g))~~ (h) Place in guest rooms at check-in, a complimentary bottle of beer, including strong beer, or wine in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and shall be separately owned and stored by the separate licensees.

(4) ~~((All spirits to be sold under this license must be purchased from the board.~~

~~((5))~~ All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

~~((6))~~ (5)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization,

the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery premises.

~~((7))~~ (6) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

~~((8))~~ (7) Minors may be allowed in all areas of the hotel where alcohol may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by minors.

~~((9))~~ (8) The annual fee for this license is two thousand dollars.

~~((10))~~ (9) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

**Sec. 328.** RCW 66.28.060 and 2008 c 94 s 7 are each amended to read as follows:

Every distillery licensed under this title shall make monthly reports to the board pursuant to the regulations. ((No such distillery shall make any sale of spirits within the state of Washington except to the board and as provided in RCW 66.24.145.))

**Sec. 329.** RCW 66.32.010 and 1955 c 39 s 3 are each amended to read as follows:

Except as permitted by the board, no liquor shall be kept or had by any person within this state unless the package in which the liquor was contained had, while containing that liquor, been sealed with the official seal adopted by the board, except in the case of:

(1) ~~((Liquor imported by the board; or~~

~~((2))~~ Liquor manufactured in the state for ~~((sale to the board or for))~~ export; or

~~((3))~~ (2) Beer, purchased in accordance with the provisions of law; or

~~((4))~~ (3) Wine or beer exempted in RCW 66.12.010.

**Sec. 330.** RCW 66.44.150 and 1955 c 289 s 5 are each amended to read as follows:

If any person in this state buys alcoholic beverages from any person other than ~~((the board, a state liquor store, or))~~ some person authorized by the board to sell them, he or she shall be guilty of a misdemeanor.

**Sec. 331.** RCW 66.44.160 and 1955 c 289 s 6 are each amended to read as follows:

Except as otherwise provided in this title, any person who has or keeps or transports alcoholic beverages other than those purchased from ~~((the board, a state liquor store,))~~ a liquor franchise or some person authorized by the board to sell them~~((s))~~ shall be guilty of a violation of this title.

**NEW SECTION. Sec. 332.** The following acts or parts of acts are each repealed:

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(1) RCW 66.08.070 (Purchase of liquor by board--Consignment not prohibited--Warranty or affirmation not required for wine or malt purchases) and 2011 c ... s 203 (section 203 of this act), 1985 c 226 s 2, 1973 1st ex.s. c 209 s 1, & 1933 ex.s. c 62 s 67;

(2) RCW 66.08.160 (Acquisition of warehouse authorized) and 1947 c 134 s 1;

(3) RCW 66.08.165 (Strategies to improve operational efficiency and revenue) and 2005 c 231 s 1;

(4) RCW 66.08.166 (Sunday sales authorized--Store selection and other requirements) and 2005 c 231 s 2;

(5) RCW 66.08.220 (Liquor revolving fund--Separate account--Distribution) and 2009 c 271 s 4, 2007 c 370 s 15, 1999 c 281 s 2, & 1949 c 5 s 11;

(6) RCW 66.08.235 (Liquor control board construction and maintenance account) and 2005 c 151 s 4, 2002 c 371 s 918, & 1997 c 75 s 1;

(7) RCW 66.16.010 (Board may establish--Price standards--Prices in special instances) and 2005 c 518 s 935, 2003 1st sp.s. c 25 s 928, 1939 c 172 s 10, 1937 c 62 s 1, & 1933 ex.s. c 62 s 4;

(8) RCW 66.16.040 (Sales of liquor by employees--Identification cards--Permit holders--Sales for cash--Exception) and 2005 c 206 s 1, 2005 c 151 s 5, 2005 c 102 s 1, 2004 c 61 s 1, 1996 c 291 s 1, 1995 c 16 s 1, 1981 1st ex.s. c 5 s 8, 1979 c 158 s 217, 1973 1st ex.s. c 209 s 3, 1971 ex.s. c 15 s 1, 1959 c 111 s 1, & 1933 ex.s. c 62 s 7;

(9) RCW 66.16.041 (Credit and debit card purchases--Rules--Provision, installation, maintenance of equipment by board--Consideration of offsetting liquor revolving fund balance reduction) and 2005 c 151 s 6, 2004 c 63 s 2, 1998 c 265 s 3, 1997 c 148 s 2, & 1996 c 291 s 2;

(10) RCW 66.16.050 (Sale of beer and wine to person licensed to sell) and 1933 ex.s. c 62 s 8;

(11) RCW 66.16.060 (Sealed packages may be required, exception) and 1943 c 216 s 1 & 1933 ex.s. c 62 s 9;

(12) RCW 66.16.070 (Liquor cannot be opened or consumed on store premises) and 1933 ex.s. c 62 s 10;

(13) RCW 66.16.090 (Record of individual purchases confidential--Penalty for disclosure) and 1933 ex.s. c 62 s 89;

(14) RCW 66.16.100 (Fortified wine sales) and 1997 c 321 s 42 & 1987 c 386 s 5;

(15) RCW 66.16.120 (Employees working on Sabbath) and 2005 c 231 s 5; and

(16) RCW 66.28.180 (Price list--Contents--Contracts and memoranda with distributors) and 2009 c 506 s 10, 2006 c 302 s 10, & 2005 c 274 s 327.

Renumber the remaining parts and sections consecutively and correct any internal references accordingly.

Beginning on page 6, line 25, strike all of sections 203 and 204

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 16, line 11, after "66.28.170" strike "and 66.28.180" and insert "~~(and 66.28.180)~~"

Beginning on page 18, line 4, strike all of section 213

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 21, line 24, strike all of section 401

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 24, line 5, strike all of section 403

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 26, beginning on line 23, strike all of section 501 and insert the following:

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**"NEW SECTION. Sec. 901.** RCW 66.16.110 is recodified as a section in chapter 66.08 RCW.

**NEW SECTION. Sec. 902.** (1) Sections 201 through 215 of this act take effect August 1, 2011.

(2) Sections 301 through 332 of this act take effect July 1, 2013.

(3) Section 604 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011.

**NEW SECTION. Sec. 903.** The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "liquor; amending RCW 66.08.030, 66.08.070, 66.08.130, 66.08.140, 66.08.150, 66.24.010, 66.24.012, 66.24.015, 66.24.025, 66.24.120, 66.44.200, 66.44.318, 66.44.340, 66.04.010, 66.08.012, 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.08.167, 66.16.110, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.145, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.400, 66.24.540, 66.24.590, 66.28.060, 66.32.010, 66.44.150, 66.44.160, 66.28.290, 66.24.570, 66.24.580, 66.28.040, 66.28.042, 66.28.043, 66.28.155, 66.28.190, 66.24.240, 66.24.310, and 66.24.450; reenacting and amending RCW 66.04.010 and 66.28.310; adding new sections to chapter 66.08 RCW; creating a new section; recodifying RCW 66.16.110; repealing RCW 66.08.070, 66.08.160, 66.08.165, 66.08.166, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.120, 66.28.180, and 66.28.010; providing effective dates; providing for submission of this act to a vote of the people; and declaring an emergency."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Sheldon, the striking amendment by Senator Sheldon to Substitute Senate Bill No. 5788 was withdrawn.

#### MOTION

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

On page 26, beginning on line 21, strike all material through "2011." on line 26

On page 1, beginning on line 6 of the title, after "66.28.310;" strike all material through "emergency" on line 7 and insert "and repealing RCW 66.28.010"

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Sheldon, the amendment by Senator Sheldon on page 26, line 21 to Substitute Senate Bill No. 5788 was withdrawn.

#### MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Substitute Senate Bill No. 5788 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5788.

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## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5788 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Hargrove

SUBSTITUTE SENATE BILL NO. 5788, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5773, by Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry

Making a health savings account option and high deductible health plan available to public employees.

The measure was read the second time.

## MOTION

Senator Brown moved that the following amendment by Senators Brown and Zarelli be adopted:

On page 8, after line 18, insert the following:

**Sec. 2.** RCW 41.05.021 and 2009 c 537 s 4 are each amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services; and administer grants that further the mission and goals of the authority. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis;

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031; and

(vi) In collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(A) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(I) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(II) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(B) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020(4), integrated delivery systems, and providers that:

(I) Facilitate diagnosis or treatment;

(II) Reduce unnecessary duplication of medical tests;

(III) Promote efficient electronic physician order entry;

(IV) Increase access to health information for consumers and their providers; and

(V) Improve health outcomes;

(C) Coordinate a strategy for the adoption of health information technology systems using the final health information technology report and recommendations developed under chapter 261, Laws of 2005;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205 and (g) of this subsection, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To review and approve or deny the application when the governing body of a tribal government applies to transfer their employees to an insurance or self-insurance program administered under this chapter. In the event of an employee transfer pursuant to this subsection (1)(f), members of the governing body are eligible to be included in such a transfer if the members are authorized by the tribal government to participate in the insurance program being

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transferred from and subject to payment by the members of all costs of insurance for the members. The authority shall: (i) Establish the conditions for participation; (ii) have the sole right to reject the application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050. Approval of the application by the authority transfers the employees and dependents involved to the insurance, self-insurance, or health care program approved by the authority;

(g) To ensure the continued status of the employee insurance or self-insurance programs administered under this chapter as a governmental plan under section 3(32) of the employee retirement income security act of 1974, as amended, the authority shall limit the participation of employees of a county, municipal, school district, educational service district, or other political subdivision, or a tribal government, including providing for the participation of those employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities;

(h) To establish billing procedures and collect funds from school districts in a way that minimizes the administrative burden on districts;

(i) To publish and distribute to nonparticipating school districts and educational service districts by October 1st of each year a description of health care benefit plans available through the authority and the estimated cost if school districts and educational service district employees were enrolled;

(j) To apply for, receive, and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and make arrangements as to the use of these receipts to implement initiatives and strategies developed under this section;

(k) To issue, distribute, and administer grants that further the mission and goals of the authority;

(l) To adopt rules consistent with this chapter as described in RCW 41.05.160 including, but not limited to:

(i) Setting forth the criteria established by the board under RCW 41.05.065 for determining whether an employee is eligible for benefits;

(ii) Establishing an appeal process in accordance with chapter 34.05 RCW by which an employee may appeal an eligibility determination;

(iii) Establishing a process to assure that the eligibility determinations of an employing agency comply with the criteria under this chapter, including the imposition of penalties as may be authorized by the board.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans statewide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

(3)(a) During the 2013 and 2014 plan years, the authority must include in its provider network for a self-insured health benefit plan a direct patient-provider primary care practice as provided in chapter 48.150 RCW.

(b) The authority shall use best efforts to enroll at least one thousand members residing in King, Pierce, or Thurston counties.

(c) To participate in the network, a practice must have prior experience with at least two thousand direct patients, as defined in RCW 48.150.010, and must have the capability to produce and analyze data on disease management, prevention measures, practice utilization, medication utilization, and referrals and be able to link to downstream utilization data provided by the plan.

(d) By November 30, 2015, the authority shall submit to the legislature a performance evaluation of direct patient-provider primary care practices participation under this subsection. The evaluation shall include the cost effectiveness of this model and the impact on employee access to quality, affordable health care.

(e) Funding for services provided by a direct patient-provider primary care practice under this section must not increase the resources provided by employer funding rates provided for employee health benefits in the omnibus appropriations act in the absence of these provisions.

**Sec. 3.** RCW 48.150.040 and 2009 c 552 s 2 are each amended to read as follows:

(1) Direct practices may not:

(a) Enter into a participating provider contract as defined in RCW 48.44.010 or 48.46.020 with any carrier or with any carrier's contractor or subcontractor, or plans administered under chapter ~~((41.05,))~~ 70.47~~((,))~~ or 70.47A RCW, to provide health care services through a direct agreement except as set forth in subsection (2) of this section;

(b)~~(i)~~ Submit a claim for payment to any carrier or any carrier's contractor or subcontractor, or plans administered under chapter ~~((41.05,))~~ 70.47~~((,))~~ or 70.47A RCW, for health care services provided to direct patients as covered by their agreement; or

(ii) Submit a claim for payment, other than the direct fee and any other negotiated ancillary costs, to any plan administered under chapter 41.05 RCW, for health care services provided to direct patients as covered by their agreement;

(c) With respect to services provided through a direct agreement, be identified by a carrier or any carrier's contractor or subcontractor, or plans administered under chapter ~~((41.05,))~~ 70.47~~((,))~~ or 70.47A RCW, as a participant in the carrier's or any carrier's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a carrier's benefit plan; or

(d) Pay for health care services covered by a direct agreement rendered to direct patients by providers other than the providers in the direct practice or their employees, except as described in subsection (2)(b) of this section.

(2) Direct practices and providers may:

(a) Enter into a participating provider contract as defined by RCW 48.44.010 and 48.46.020 or plans administered under chapter 41.05, 70.47, or 70.47A RCW for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such providers shall be subject to all other provisions of the participating provider contract applicable to participating providers including but not limited to the right to:

(i) Make referrals to other participating providers;

(ii) Admit the carrier's members to participating hospitals and other health care facilities;

(iii) Prescribe prescription drugs; and

(iv) Implement other customary provisions of the contract not dealing with reimbursement of services;

(b) Pay for charges associated with the provision of routine lab and imaging services. In aggregate such payments per year per direct patient are not to exceed fifteen percent of the total annual direct fee charged that direct patient. Exceptions to this limitation

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may occur in the event of short-term equipment failure if such failure prevents the provision of care that should not be delayed; and

(c) Charge an additional fee to direct patients for supplies, medications, and specific vaccines provided to direct patients that are specifically excluded under the agreement, provided the direct practice notifies the direct patient of the additional charge, prior to their administration or delivery."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Brown spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Brown and Zarelli on page 8, after line 18 to Senate Bill No. 5773.

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

MOTION

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

On page 1, line 2 of the title, after "health plan", insert " option and a direct patient-provider primary care practice option".

On page 1, line 3 of the title, after "41.05.065", insert ", 41.05.021 and 48.150.040".

MOTION

On motion of Senator Zarelli, the rules were suspended, Engrossed Senate Bill No. 5773 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5773.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5773 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Hargrove, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Conway, Fraser, Harper, Hatfield, Nelson, Ranker and White

ENGROSSED SENATE BILL NO. 5773, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5077, by Senators Pflug, Shin, Carrell, Swecker, Sheldon, Becker, Honeyford, Benton, Schoesler, Stevens, Delvin, Keiser, Hewitt, Roach and Holmquist Newbry

Prohibiting the use of eminent domain for economic development.

MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5077 was substituted for Senate Bill No. 5077 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 6, after "(1)" insert ""Consumer-owned utility" has the same meaning as in RCW 19.27A.140.

(2)"

Correct any internal references accordingly.

On page 1, line 12, after "company" insert ", consumer-owned utility,"

On page 2, line 4, after "company, a" strike "publicly owned" and insert "consumer-owned"

On page 2, at the beginning of line 8, strike "(2)" and insert "(3) "Public service company" has the same meaning as defined in RCW 80.04.010.

(4)"

On page 2, line 12, after "companies, a" strike "publicly owned" and insert "consumer-owned"

Senator Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 1, line 6 to Substitute Senate Bill No. 5077.

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

MOTION

Senator Pflug moved that the following amendment by Senator Haugen be adopted:

On page 2, line 7, after "53 RCW." insert ""Economic development" also does not include highway projects."

Senator Pflug spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 2, line 7 to Substitute Senate Bill No. 5077.

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

MOTION

On motion of Senator Pflug, the rules were suspended, Engrossed Substitute Senate Bill No. 5077 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pflug and Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5077.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5077 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Fraser, Harper, Kohl-Welles and Ranker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5077, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5264, by Senators Swecker and Sheldon

Requiring a study of Mazama pocket gophers.

#### MOTIONS

On motion of Senator Swecker, Substitute Senate Bill No. 5264 was substituted for Senate Bill No. 5264 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Swecker, the rules were suspended, Substitute Senate Bill No. 5264 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Swecker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Haugen, Senator Prentice was excused.

#### POINT OF INQUIRY

Senator Carrell: "Would Senator Swecker yield to a question? Well, I'm just wondering if this is a gopher that is found in pockets around in various places as you've implied or is it one that would fit in my pocket or does it have pockets?"

Senator Swecker: "Well, unfortunately I'm going to have to refer you to the literature on that issue. I'm not certain about all those details."

#### POINT OF INQUIRY

Senator Parlette: "Would Senator Swecker yield to a question? Senator Swecker, I represent Mazama Washington. Are they moving in or moving out?"

Senator Swecker: "I can't answer that question either, sorry."

#### POINT OF INQUIRY

Senator Ranker: "Would Senator Swecker yield to a question? If we kill off all the golfers will they lock us up and throw away the key?"

Senator Swecker: "Yes, I think that's probably true if we kill all the golfers."

#### MOTION

On motion of Senator Ericksen, Senator Baumgartner was excused.

#### POINT OF INQUIRY

Senator Hargrove: "Would Senator Swecker yield to a question? You know, I've seen a lot of gophers before but I'm not sure if I can tell the difference between a regular gopher and a Mazama pocket gopher. Can you tell me the distinguishing characteristic of a Mazama pocket gopher that would let us all know how we can tell it?"

Senator Ranker: "I really don't want to. We heard it in committee and that's why you are asking me. Sure, what the heck. Just for the gallery. Is there any school kids here right now. I'm not going to. You can go back to the fish and wildlife biologists and ask them about the genitalia."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5264.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5264 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Becker, Ericksen and Holmquist Newbry

Excused: Senators Baumgartner and Prentice

SUBSTITUTE SENATE BILL NO. 5264, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5688, by Senators Ranker, Swecker, Rockefeller, Litzow, Shin and Kline

Concerning shark finning activities.

#### MOTIONS

On motion of Senator Ranker, Substitute Senate Bill No. 5688 was substituted for Senate Bill No. 5688 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Substitute Senate Bill No. 5688 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker, Morton and Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5688.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5688 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5688, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Kline was excused.

#### SECOND READING

SENATE BILL NO. 5356, by Senators Morton, Swecker, Ericksen, Schoesler, Delvin, Hatfield and Roach

Establishing seasons for hunting cougars with the aid of dogs. Revised for 1st Substitute: Allowing the use of dogs to hunt cougars.

#### MOTIONS

On motion of Senator Morton, Substitute Senate Bill No. 5356 was substituted for Senate Bill No. 5356 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Morton, the rules were suspended, Substitute Senate Bill No. 5356 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Morton, Ranker and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5356.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5356 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Chase, Fraser, Hill, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Regala, Tom and White

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5356, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 3:51 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:12 p.m. by President Owen.

#### SECOND READING

SENATE BILL NO. 5487, by Senators Schoesler, Hatfield, Hobbs, Delvin, Honeyford, Becker and Shin

Establishing a certification program for commercial egg laying chicken operations. Revised for 1st Substitute: Regarding eggs and egg products in intrastate commerce.

#### MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 5487 was substituted for Senate Bill No. 5487 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 5487 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5487.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5487 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Fraser, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Ranker, Regala, Tom and White

Absent: Senator Baxter

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5487, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### STATEMENT FOR THE JOURNAL

On Monday March 7, 2011 I was called away from the floor to discuss issues with a constituent and inadvertently missed the vote on Substitute Senate Bill No. 5487. For the record, I would have voted yes.

SENATOR BAXTER, 4<sup>th</sup> LEGISLATIVE DISTRICT

#### MOTION

On motion of Senator Delvin, Senator Baxter was excused.

#### SECOND READING

SENATE BILL NO. 5676, by Senators Kastama, Holmquist Newbry and Shin

Concerning projects of statewide significance for economic development.

#### MOTIONS

On motion of Senator Kastama, Substitute Senate Bill No. 5676 was substituted for Senate Bill No. 5676 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Kastama, the rules were suspended, Substitute Senate Bill No. 5676 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5676.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5676 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 11; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, McAuliffe, Morton, Parlette, Pflug, Pridemore, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Chase, Fraser, Hargrove, Harper, Kohl-Welles, Litzow, Murray, Nelson, Ranker, Rockefeller and White

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5676, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5497, by Senators Sheldon, Pflug and Carrell

Requiring the removal of a mobile home, manufactured home, or park model from a mobile home park by a secured party after default.

The measure was read the second time.

#### MOTION

On motion of Senator Sheldon, the rules were suspended, Senate Bill No. 5497 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5497.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5497 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SENATE BILL NO. 5497, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5519, by Senators Tom, Hill, Kilmer and Shin

Changing public contracting authority.

#### MOTIONS

On motion of Senator Tom, Substitute Senate Bill No. 5519 was substituted for Senate Bill No. 5519 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Tom, the rules were suspended, Substitute Senate Bill No. 5519 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5519.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5519 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SUBSTITUTE SENATE BILL NO. 5519, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5098, by Senators Carrell and Chase

Exempting personal information of minors in parks and recreation programs from public inspection and copying. Revised

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for 1st Substitute: Exempting personal information from public inspection and copying.

MOTION

On motion of Senator Carrell, Substitute Senate Bill No. 5098 was substituted for Senate Bill No. 5098 and the substitute bill was placed on the second reading and read the second time.

MOTION

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

On page 1, line 12, after "in" strike "a" and insert "an agency or"

On page 1, line 12, after "to," insert "early learning or child care services,"

WITHDRAWAL OF AMENDMENT

On motion of Senator Carrell, the amendment by Senator Carrell on page 1, line 12 to Substitute Senate Bill No. 5098 was withdrawn.

MOTION

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

On page 1, beginning on line 12, insert "in an agency or"

On page 1, line 12, after ""to," insert "early learning or child care services."

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senator Nelson spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson on page 1, line 12 to Substitute Senate Bill No. 5098.

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

MOTION

On motion of Senator Carrell, the rules were suspended, Engrossed Substitute Senate Bill No. 5098 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5098.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5098 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5098, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5169, by Senators Rockefeller, Kilmer and Shin

Encouraging economic development by exempting certain counties from the forest land compensating tax.

The measure was read the second time.

MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Rockefeller be adopted:

On page 8, beginning on line 20, after "population" strike all material through "management" on line 23 and insert "of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010"

On page 9, beginning on line 30, after "population" strike all material through "management" on line 33 and insert "of at least two hundred forty-five thousand inhabitants that borders Puget Sound as defined in RCW 90.71.010"

Senator Fraser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Rockefeller on page 8, line 20 to Senate Bill No. 5169.

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

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Senate Bill No. 5169 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5169.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5169 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SENATE BILL NO. 5169, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White  
Absent: Senator Hatfield

## MOTION

Senator Eide moved that the Senate immediately consider Senate Bill No. 5442.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate immediately consider Senate Bill No. 5442.

The motion by Senator Eide carried and Senate Bill 5442 was scheduled for immediate consideration by a voice vote.

## MOTION

Senator Schoesler moved that, pursuant to Senate Rule 18, that Senate Bill No. 5407 be the special order of business for 4:55 p.m.

The President declared the question before the Senate to be the motion by Senator Schoesler that Senate Bill No. 5407 be made a special order of business for 4:55 p.m.

Senator Eide spoke against the motion.

Senator Eide demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

The Secretary called the roll on the motion by Senator Schoesler and the motion did not carry by the following vote: Yeas, 23; Nays, 25; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Absent: Senator Hatfield

## MOTION

Senator Schoesler moved that, pursuant to Senate Rule 18, that Senate Bill No. 5547 be made a special order of business for 4:59 p.m.

The President declares the question before the Senate to be the motion by Senator Schoesler that Senate Bill No. 5547 be made a special order of business for 4:59 p.m.

Senator Eide spoke against the motion.

## MOTION

Senator Eide demanded a roll call vote.

The President declared that at least one-sixth of the Senate joined the demand and the demand was sustained.

The Secretary called the roll on the motion by Senator Schoesler and the motion did not carry by the following vote: Yeas, 23; Nays, 25; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Haugen, Hobbs, Kastama, Keiser, Kilmer,

## SECOND READING

SENATE BILL NO. 5442, by Senators Shin, Tom, Kilmer, White and Chase

Requiring the development of accelerated baccalaureate programs at state colleges and universities. Revised for 1st Substitute: Requiring the development of three-year baccalaureate programs.

## POINT OF ORDER

Senator Zarelli: "Senate Bill No. 5442 was not taken up before the cut off. Is it now properly before us?"

## REPLY BY THE PRESIDENT

President Owen: "Senator Zarelli, you had made a motion which the body supported, the majority of the body supported to immediately consider that bill. The President does not believe that your motions to go to other orders can interfere with that so he believes that the bill was appropriately before us at that time and therefore it is appropriately before us now because you are allowed to finish a bill that is started prior to five o'clock."

## MOTIONS

On motion of Senator Shin, Substitute Senate Bill No. 5442 was substituted for Senate Bill No. 5442 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Shin, the rules were suspended, Substitute Senate Bill No. 5442 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Shin and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5442.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5442 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell and Pflug

SUBSTITUTE SENATE BILL NO. 5442, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:08 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, March 8, 2011.

FIFTY SEVENTH DAY, MARCH 7, 2011

2011 REGULAR SESSION

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTY EIGHTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Tuesday, March 8, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 5, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1177,  
ENGROSSED HOUSE BILL NO. 1364,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1952.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL NO. 1021,  
SUBSTITUTE HOUSE BILL NO. 1053,  
HOUSE BILL NO. 1166,  
HOUSE BILL NO. 1625,  
SUBSTITUTE HOUSE BILL NO. 1663,  
SUBSTITUTE HOUSE BILL NO. 1874.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 1223,  
ENGROSSED HOUSE BILL NO. 1357,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1546,

SUBSTITUTE HOUSE BILL NO. 1689,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1789,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846,  
ENGROSSED HOUSE BILL NO. 2011.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5869 by Senators Tom, Becker and Ericksen

AN ACT Relating to requiring insurance benefits with wellness incentives for public employees; amending RCW 41.05.065 and 28A.400.350; and creating a new section.

Referred to Committee on Health & Long-Term Care.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1042 by House Committee on Ways & Means (originally sponsored by Representatives Seaquist, Walsh, Kirby, Appleton, Miloscia, Blake and Goodman)

AN ACT Relating to providing a property tax exemption for property held under lease, sublease, or lease-purchase by a nonprofit organization that provides job training, placement, or preemployment services; amending RCW 84.36.030; and creating a new section.

Referred to Committee on Ways & Means.

SHB 1046 by House Committee on Transportation (originally sponsored by Representatives Moeller, Condotta and Morris)

AN ACT Relating to vehicle and vessel quick title; amending RCW 88.02.640 and 46.17.040; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.17 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 88.02 RCW; creating new sections; and providing effective dates.

Referred to Committee on Transportation.

ESHB 1055 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Hudgins, Green, McCoy, Eddy, Kenney and Reykdal)

AN ACT Relating to streamlining contractor appeals; and amending RCW 18.27.250, 18.27.270, and 18.27.370.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1135 by House Committee on Environment (originally sponsored by Representatives Finn, Armstrong and Uptegrove)

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AN ACT Relating to refrigerants for motor vehicles; and amending RCW 46.37.470.

26.21A.530, 26.21A.535, 26.21A.540, 26.21A.545, 26.21A.550, and 26.21A.570; adding new sections to chapter 26.21A RCW; repealing RCW 26.21A.105, 26.21A.145, and 26.21A.600; and providing a contingent effective date.

Referred to Committee on Environment, Water & Energy.

Referred to Committee on Human Services & Corrections.

SHB 1167 by House Committee on Judiciary (originally sponsored by Representatives Liias, Goodman, Probst, Rolfes, Moscoso, Roberts, Fitzgibbon, Billig, Miloscia and Maxwell)

SHB 1257 by House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Kirby and Kelley)

AN ACT Relating to driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs; amending RCW 2.28.190, 46.61.5056, and 46.61.5152; reenacting and amending RCW 46.61.5054; adding a new section to chapter 2.28 RCW; and adding a new section to chapter 10.01 RCW.

AN ACT Relating to adopting the investments of insurers model act; amending RCW 48.13.350; reenacting and amending RCW 42.56.400; adding new sections to chapter 48.13 RCW; repealing RCW 48.13.010, 48.13.020, 48.13.030, 48.13.040, 48.13.050, 48.13.060, 48.13.070, 48.13.080, 48.13.090, 48.13.100, 48.13.110, 48.13.120, 48.13.125, 48.13.130, 48.13.140, 48.13.150, 48.13.160, 48.13.170, 48.13.180, 48.13.190, 48.13.200, 48.13.210, 48.13.218, 48.13.220, 48.13.230, 48.13.240, 48.13.250, 48.13.260, 48.13.265, 48.13.270, 48.13.273, 48.13.275, 48.13.280, 48.13.285, 48.13.290, and 48.13.340; and providing an effective date.

Referred to Committee on Judiciary.

Referred to Committee on Financial Institutions, Housing & Insurance.

EHB 1177 by Representatives Hunt and McCoy

AN ACT Relating to archaeological investigations on private land; amending RCW 27.53.030; and reenacting and amending RCW 27.53.070.

Referred to Committee on Government Operations, Tribal Relations & Elections.

HB 1179 by Representatives Hunt, Hudgins, Appleton, Liias, Miloscia, McCoy, Reykdal, Goodman, Darneille, Van De Wege, Upthegrove, Ormsby, Billig, Orwall, Green, Kenney, Dickerson, Santos, Frockt, Tharinger and Moscoso

ESHB 1346 by House Committee on Ways & Means (originally sponsored by Representative Hunter)

AN ACT Relating to public employees' attendance at informational or educational meetings regarding legislative issues; and adding a new section to chapter 42.52 RCW.

AN ACT Relating to making changes to laws administered by the department of revenue that do not create any new or broaden any existing tax preference as defined in RCW 43.136.021 or increase any person's tax burden; amending RCW 82.04.220, 82.12.040, and 43.06.400; and repealing RCW 82.16.140 and 82.32.570.

Referred to Committee on Government Operations, Tribal Relations & Elections.

Referred to Committee on Ways & Means.

ESHB 1224 by House Committee on Ways & Means (originally sponsored by Representatives Green, Dammeier, Cody, Appleton, Darneille, Harris and Roberts)

HB 1347 by Representatives Hunter and Orcutt

AN ACT Relating to a business and occupation tax deduction for amounts received with respect to mental health services; amending RCW 82.04.4297 and 82.04.431; adding a new section to chapter 82.04 RCW; creating a new section; and providing an expiration date.

AN ACT Relating to sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue; amending RCW 82.08.02565, 82.04.120, and 82.32.585; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

Referred to Committee on Ways & Means.

SHB 1253 by House Committee on Judiciary (originally sponsored by Representatives Fitzgibbon, Rivers, Pedersen and Rodne)

EHB 1382 by Representatives Clibborn, Maxwell, Liias, Eddy, Hunter and Springer

AN ACT Relating to revising the uniform interstate family support act; amending RCW 26.21A.010, 26.21A.015, 26.21A.020, 26.21A.100, 26.21A.110, 26.21A.115, 26.21A.125, 26.21A.130, 26.21A.135, 26.21A.140, 26.21A.150, 26.21A.200, 26.21A.215, 26.21A.220, 26.21A.225, 26.21A.230, 26.21A.235, 26.21A.245, 26.21A.250, 26.21A.260, 26.21A.275, 26.21A.280, 26.21A.285, 26.21A.290, 26.21A.350, 26.21A.415, 26.21A.420, 26.21A.430, 26.21A.500, 26.21A.505, 26.21A.510, 26.21A.515, 26.21A.520, 26.21A.525,

AN ACT Relating to the use of express toll lanes in the eastside corridor; amending RCW 47.56.810; reenacting and amending RCW 43.84.092; adding new sections to chapter 47.56 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Transportation.

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SHB 1384 by House Committee on Transportation (originally sponsored by Representatives Moscoso, Lias, Clibborn, Billig, Ryu, Kenney, Stanford and Reykdal)

AN ACT Relating to public improvement contracts involving certain federally funded transportation projects; reenacting and amending RCW 60.28.011; and creating a new section.

Referred to Committee on Transportation.

EHB 1409 by Representatives Appleton, Hurst and McCoy

AN ACT Relating to the sale, exchange, transfer, or lease of public property; and amending RCW 39.33.010.

Referred to Committee on Government Operations, Tribal Relations & Elections.

ESHB 1421 by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Lytton, Moscoso, Van De Wege, Green, Sells, Blake, Sullivan, Eddy, Fitzgibbon, Frockt, Dunshee, Ryu, Upthegrove, Kenney, Reykdal and Tharinger)

AN ACT Relating to providing the authority to create a community forest trust to be managed by the department of natural resources; amending RCW 79.17.210, 43.30.385, 79.64.020, and 79.64.040; reenacting and amending RCW 79.02.010; and adding a new chapter to Title 79 RCW.

Referred to Committee on Ways & Means.

HB 1473 by Representatives Parker, Hurst, Ormsby and Billig

AN ACT Relating to the use of existing fees collected for the cost of traffic schools; and adding new sections to chapter 46.83 RCW.

Referred to Committee on Transportation.

SHB 1483 by House Committee on Transportation (originally sponsored by Representative Pearson)

AN ACT Relating to traffic infractions; and amending RCW 46.63.060.

Referred to Committee on Transportation.

ESHB 1487 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Springer and Condotta)

AN ACT Relating to claims management by retrospective rating plan employers and groups; adding new sections to chapter 51.18 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1518 by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Reykdal and Kenney)

AN ACT Relating to pretax payroll deductions for qualified transit and parking benefits; and amending RCW 41.04.230.

Referred to Committee on Government Operations, Tribal Relations & Elections.

ESHB 1635 by House Committee on Transportation (originally sponsored by Representatives Upthegrove, Clibborn, Eddy, Armstrong, Lias, Rivers, Angel, Van De Wege, Wilcox, Maxwell, Rolfes, Finn, Sullivan, Dammeier, Orwall, Warnick and Moscoso)

AN ACT Relating to reducing customer wait times at driver licensing offices; amending RCW 28A.220.030, 46.20.049, 46.20.117, 46.20.161, 46.20.181, 46.20.505, and 46.20.515; reenacting and amending RCW 46.20.120; adding a new section to chapter 46.01 RCW; adding a new section to chapter 46.82 RCW; and creating new sections.

Referred to Committee on Transportation.

ESHB 1676 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Reykdal, Kenney, Green, McCoy, Ormsby, Hudgins and Hunt)

AN ACT Relating to the abatement of violations of the Washington industrial safety and health act during an appeal; and amending RCW 49.17.140.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1694 by Representatives Stanford and Kirby

AN ACT Relating to unauthorized insurance; amending RCW 48.15.040, 48.15.040, 48.15.090, 48.15.110, and 48.15.120; adding new sections to chapter 48.15 RCW; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Financial Institutions, Housing & Insurance.

SHB 1700 by House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Angel, Appleton, Armstrong, Rolfes, Johnson, Clibborn, Rivers, Reykdal, Ormsby, Upthegrove, Lias, Billig and Moeller)

AN ACT Relating to modifying the requirements related to designing various transportation projects; amending RCW 35.75.060, 35.78.030, 36.82.145, and 43.32.020; adding a new section to chapter 35.78 RCW; adding a new section to chapter 47.04 RCW; and creating a new section.

Referred to Committee on Transportation.

ESHB 1716 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Asay, Hurst, Klippert, Pearson and Miloscia)

AN ACT Relating to the regulation of secondhand dealers; amending RCW 19.60.010 and 19.60.085; adding new sections to chapter 19.60 RCW; creating a new section; and prescribing penalties.

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Referred to Committee on Labor, Commerce & Consumer Protection.

SHB 1718 by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Moeller, Dammeier and Green)

AN ACT Relating to offenders with developmental disabilities or traumatic brain injuries; amending RCW 2.28.180 and 74.09.555; and adding a new section to chapter 70.48 RCW.

Referred to Committee on Human Services & Corrections.

ESHB 1725 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Reykdal, Ormsby, Kenney and Upthegrove)

AN ACT Relating to administrative efficiencies for the workers' compensation program; amending RCW 51.04.030, 51.04.082, 51.24.060, 51.32.240, 51.48.120, 51.48.150, and 51.52.050; adding a new section to chapter 51.18 RCW; and adding a new section to chapter 51.36 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1726 by Representatives Sells, Roberts, Ormsby, Reykdal, Kenney, Miloscia, Moeller and Upthegrove

AN ACT Relating to recommendations of the vocational rehabilitation subcommittee for workers' compensation; amending RCW 51.32.095 and 51.32.099; and providing an expiration date.

Referred to Committee on Labor, Commerce & Consumer Protection.

HB 1770 by Representatives Hasegawa, Kenney, Orcutt, Frockt and Stanford

AN ACT Relating to enhancing small business participation in state purchasing; amending RCW 39.29.050, 43.19.1901, and 43.19.1905; adding new sections to chapter 43.19 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Economic Development, Trade & Innovation.

SHB 1793 by House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi)

AN ACT Relating to restricting access to juvenile records; amending RCW 13.50.010; adding new sections to chapter 13.50 RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

HB 1805 by Representatives Kelley, Fitzgibbon, Green, Stanford and Santos

AN ACT Relating to increasing the criminal penalty for making unlicensed small loans; amending RCW 31.45.180; and prescribing penalties.

Referred to Committee on Judiciary.

SHB 1854 by House Committee on Ways & Means (originally sponsored by Representatives Upthegrove, Rolfes, Finn, Hunt, Hope, Fitzgibbon, Stanford, Kenney and Ormsby)

AN ACT Relating to annexation of territory by regional fire protection service authorities; amending RCW 52.26.100 and 84.52.044; and adding a new section to chapter 52.26 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1860 by House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hurst)

AN ACT Relating to partisan elections; amending RCW 29A.04.216, 29A.20.021, 29A.24.031, 29A.24.091, 29A.24.131, 29A.28.071, 29A.36.151, 29A.56.020, 29A.56.060, 29A.80.041, and 29A.80.051; reenacting and amending RCW 29A.40.061; adding a new section to chapter 29A.80 RCW; creating a new section; and recodifying RCW 29A.28.071.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SHB 1861 by House Committee on Transportation (originally sponsored by Representatives Armstrong, Clibborn, Hargrove, Liias, Billig and Schmick)

AN ACT Relating to the sale or lease of surplus state-owned railroad properties; amending RCW 47.76.280 and 47.76.290; adding a new section to chapter 46.68 RCW; and declaring an emergency.

Referred to Committee on Transportation.

SHB 1897 by House Committee on Transportation (originally sponsored by Representatives Billig, Johnson, Clibborn, Armstrong, Liias, Takko, Walsh, Blake, Dunshee, Rolfes, Van De Wege, Lytton, Fitzgibbon and Ormsby)

AN ACT Relating to establishing a rural mobility grant program; reenacting and amending RCW 43.84.092; adding a new section to chapter 46.68 RCW; and adding a new section to chapter 47.66 RCW.

Referred to Committee on Transportation.

ESHB 1902 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Goodman and Stanford)

AN ACT Relating to a business and occupation tax deduction for amounts received with respect to child welfare services; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

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ESHB 1922 by House Committee on Transportation (originally sponsored by Representatives Shea, Taylor and McCune)

AN ACT Relating to requiring certain vehicles to stop at a weigh station for inspection and weight measurement; adding a new section to chapter 46.44 RCW; and prescribing penalties.

Referred to Committee on Transportation.

SHB 1933 by House Committee on Transportation (originally sponsored by Representative Finn)

AN ACT Relating to license plate fraud and law enforcement safety; amending RCW 46.18.220; adding a new section to chapter 46.18 RCW; prescribing penalties; and providing effective dates.

Referred to Committee on Transportation.

E2SHB 1952 by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Uptegrove, Short, Fagan and McCune)

AN ACT Relating to streamlining the state environmental policy act process; adding new sections to chapter 43.21C RCW; creating a new section; and providing expiration dates.

Referred to Committee on Environment, Water & Energy.

SHB 1966 by House Committee on Transportation (originally sponsored by Representatives Pearson, Haler and Bailey)

AN ACT Relating to clarifying that manure is an agricultural product for the purposes of commercial drivers' licenses; and amending RCW 46.25.050.

Referred to Committee on Transportation.

ESHB 1967 by House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Armstrong, Liias, Nealey, Clibborn, Billig, Frockt and Reykdal)

AN ACT Relating to public transportation systems; amending RCW 35.58.2795, 35.58.2796, 47.01.101, 47.01.141, 47.04.280, and 47.06.140; adding a new section to chapter 43.19 RCW; and adding a new section to chapter 47.04 RCW.

Referred to Committee on Transportation.

SHB 1998 by House Committee on Ways & Means (originally sponsored by Representatives Bailey and Seaquist)

AN ACT Relating to actuarial services for the state's public employee retirement systems; reenacting and amending RCW 44.44.040; adding a new section to chapter 41.45 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

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ESHB 2002 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Ryu, Ormsby and Kenney)

AN ACT Relating to industrial insurance employer wage subsidies and reimbursements for light duty or transitional work; reenacting and amending RCW 51.32.090; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Labor, Commerce & Consumer Protection.

#### MOTION

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

#### MOTION

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

#### MOTION

Senator Kohl-Welles moved adoption of the following resolution:

#### SENATE RESOLUTION 8632

By Senators Kohl-Welles, Ranker, Haugen, Rockefeller, Pridemore, Eide, Kline, White, Murray, Keiser, Harper, Hatfield, Ericksen, Kilmer, Swecker, Fraser, Sheldon, and Prentice

WHEREAS, The Washington state commercial fishing fleet begins leaving in March for the Pacific and Alaskan waters, and the Blessing of the Fleet will occur March 13, 2011, at Fisherman's Terminal in Ballard; and

WHEREAS, This is the 83rd year that the Ballard First Lutheran Church has held the blessing; and

WHEREAS, The Washington state commercial fishing fleet begins leaving Blaine waters in May, and the Blessing of the Fleet will occur at Saw Tooth Dock in Blaine Harbor, May 1, 2011; and

WHEREAS, The Washington state commercial fishing fleet is one of the world's largest distant water fleets; and

WHEREAS, The commercial fishing industry directly and indirectly employs thousands of people and is one of the largest industries in Washington state; and

WHEREAS, The harvest annually contributes significantly to the Washington state economy; and

WHEREAS, The life of a fisher is fraught with danger and hardship that most people will never face; and

WHEREAS, Strength and courage are requirements for anyone who chooses to work on the sea, braving the elements in order to harvest the ocean's resources; and

WHEREAS, The men and women who work on fishing boats, at times in dangerous circumstances, deserve our admiration, thanks, and, when tragedy strikes, our remembrance; and

WHEREAS, Too often fishers lose their lives, devastating not only the close-knit community of fishing families in our region, but also our entire state;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate extend its condolences to the families and

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friends of all our fishers who have lost their lives at sea, wish the entire commercial fishing fleet a safe and prosperous season, and express its hope that all of our fishers will return home safely to their families, friends, and communities.

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

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8632.

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

MOTION

At 12:07 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Wednesday, March 9, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

FIFTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 9, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Carrell, Delvin, Hargrove, Hewitt, Hobbs, Holmquist Newbry, Kilmer, Kline, Litzow, Pflug, Pridemore, Ranker, Regala, Roach, Sheldon, Stevens, Tom and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Piper Napier and Marcos Aparicio presented the Colors. Reverend Jerry Buss, Director for Evangelical Mission and Assistant to the Bishop of the Northwest Washington Synod of the Evangelical Lutheran Church of Seattle offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 8, 2011

SHB 1061 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning on-site wastewater treatment systems designer licensing. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser and Morton.

Passed to Committee on Rules for second reading.

March 8, 2011

SHB 1571 Prime Sponsor, Committee on Technology, Energy & Communications: Limiting regulation of electric vehicle battery charging facilities. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 8, 2011

ESHB 1572 Prime Sponsor, Committee on Local Government: Authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 8, 2011

SHB 1710 Prime Sponsor, Committee on Education: Creating a strategic plan for career and technical education. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker; Kilmer and White.

Passed to Committee on Early Learning & K-12 Education.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

March 8, 2011

SGA 9148 FRANCES J YOUN, appointed on July 1, 2010, for the term ending June 30, 2011, as Member of the Board of Regents, University of Washington. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Baumgartner; Becker and Kilmer.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5870 by Senators Zarelli, Tom, Baumgartner, Swecker, Stevens, Ericksen, Morton, Honeyford, Parlette and King

AN ACT Relating to rejecting the request for funds necessary to implement state collective bargaining agreements for the 2011-2013 fiscal biennium; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1021 by Representatives Goodman, Rodne, Pedersen, Roberts, Kagi, Kenney, Appleton and Maxwell

FIFTY NINTH DAY, MARCH 9, 2011

2011 REGULAR SESSION

AN ACT Relating to persons appointed by the court to provide information in family law and adoption cases; amending RCW 26.33.070, 26.09.220, 26.12.175, and 26.12.177; and adding a new section to chapter 26.12 RCW.

Referred to Committee on Human Services & Corrections.

SHB 1053 by House Committee on Judiciary (originally sponsored by Representatives Moeller, Kenney, Ladenburg, Appleton, Roberts, Darneille and Upthegrove)

AN ACT Relating to the implementation of recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force; amending RCW 11.88.020, 11.88.030, 11.92.043, 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, 11.92.050, and 36.18.016; and adding a new section to chapter 11.88 RCW.

Referred to Committee on Judiciary.

HB 1166 by Representatives Liias, Goodman, Roberts, Appleton and Fitzgibbon

AN ACT Relating to prevention of alcohol poisoning deaths; amending RCW 66.44.270; and creating a new section.

Referred to Committee on Judiciary.

EHB 1223 by Representatives Fitzgibbon, Green, Darneille, Jinkins, Ladenburg and Takko

AN ACT Relating to hearings for street vacations; and amending RCW 35.79.030.

Referred to Committee on Government Operations, Tribal Relations & Elections.

EHB 1357 by Representatives Carlyle, Parker, Hunter, Dickerson, Roberts and Kenney

AN ACT Relating to providing the department of revenue with additional flexibility to achieve operational efficiencies through the expanded use of electronic means to remit and report taxes; amending RCW 82.32.085 and 82.32.090; reenacting and amending RCW 82.32.080; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 1367 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Moeller, Rolfes, Hasegawa, Pettigrew, Sells, Ryu, Appleton, Hunt, Seaquist, Miloscia, Ormsby and Roberts)

AN ACT Relating to for hire vehicles and for hire vehicle operators; adding new sections to chapter 51.12 RCW; adding a new section to chapter 51.16 RCW; adding a new section to chapter 46.72 RCW; adding a new section to chapter 46.72A RCW; adding new sections to chapter 81.72 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 1494 by House Committee on Health Care & Wellness (originally sponsored by Representative Moeller)

AN ACT Relating to elder placement referrals; adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Health & Long-Term Care.

E2SHB 1546 by House Committee on Ways & Means (originally sponsored by Representatives Hargrove, Hunt, Dammeier, Pettigrew, Liias, Smith, Anderson, Fagan, Kretz, Dahlquist, Angel, Zeiger, Jinkins and Finn)

AN ACT Relating to authorizing creation of innovation schools and innovation zones in school districts; amending RCW 28A.305.140 and 28A.655.180; adding new sections to chapter 28A.630 RCW; creating a new section; and providing an expiration date.

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

HB 1625 by Representatives Hunter, Bailey, Seaquist, Hinkle, Moeller and Carlyle

AN ACT Relating to changing the default investment option for new members of the defined contribution portion of the plan 3 retirement systems; and amending RCW 41.34.130, 41.34.060, and 41.34.140.

Referred to Committee on Ways & Means.

SHB 1663 by House Committee on Higher Education (originally sponsored by Representatives Parker, Ormsby, Probst, Billig, Schmick, Fagan, Angel and Ahern)

AN ACT Relating to the purchasing authority of institutions of higher education; and amending RCW 28B.10.029.

Referred to Committee on Higher Education & Workforce Development.

SHB 1689 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representative Hurst)

AN ACT Relating to allowing booking photographs and electronic images at jails to be open to the public; and amending RCW 70.48.100.

Referred to Committee on Government Operations, Tribal Relations & Elections.

E2SHB 1789 by House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Roberts and Miloscia)

AN ACT Relating to accountability for persons driving under the influence of alcohol or drugs; amending RCW 46.20.385, 46.61.502, 46.61.504, 46.61.500, 46.61.5249, 46.20.720, 46.61.5055, 10.05.140, and 9.94A.533; and prescribing penalties.

Referred to Committee on Transportation.

ESHB 1826 by House Committee on Ways & Means (originally sponsored by Representatives Orcutt, Sells, McCune, Rolfes, Angel and Hurst)

AN ACT Relating to providing taxpayers additional appeal protections for value changes; amending RCW 84.40.038; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 1846 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Eddy, Smith, Morris, Probst, Sells, Springer, Warnick, Lias, Stanford and Maxwell)

AN ACT Relating to the aerospace training student loan program; and adding a new chapter to Title 28B RCW.

Referred to Committee on Higher Education & Workforce Development.

SHB 1874 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Dickerson, Hurst, Klippert, Pearson, Parker, Shea, Kenney, Angel, Kristiansen, Stanford, McCune and Ormsby)

AN ACT Relating to police investigations of commercial sexual exploitation of children and human trafficking; amending RCW 9.73.230 and 9.73.210; reenacting and amending RCW 9.68A.110; creating a new section; and providing an effective date.

Referred to Committee on Human Services & Corrections.

EHB 2011 by Representatives Sells, Pearson and Reykdal

AN ACT Relating to enhancing the safety of employees working for the department of corrections through collective bargaining and binding interest arbitration; amending RCW 41.80.020; and adding new sections to chapter 41.56 RCW.

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Substitute House Bill No. 1494 which was referred to the Committee on Health & Long-Term Care.

MOTION

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

MOTION

On motion of Senator Eide, the motion by Senator Eide to advance to the sixth order of business was withdrawn.

MOTION

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

MOTION

Senator McAuliffe moved adoption of the following resolution:

SENATE RESOLUTION  
8617

By Senators McAuliffe, Becker, Pflug, Conway, King, Zarelli, Shin, Hobbs, Kastama, Ranker, Hill, Murray, Kohl-Welles, White, Haugen, Keiser, Fain, Chase, Eide, Fraser, Harper, Nelson, Tom, Litzow, Pridemore, Prentice, Kline, Regala, Hatfield, and Kilmer

WHEREAS, Catholic schools celebrate Catholic Schools Week 2011 with the theme: "Catholic Schools are A+ For America"; and WHEREAS, A quality education is the foundation of a child's future and this week recognizes one of the many types of education choices available to our children; and

WHEREAS, With an emphasis on academic excellence and moral values, Catholic schools and their students attain high achievement, including high school graduation rates of more than ninety-nine percent; and

WHEREAS, Catholic education is an integral part of the mission of the Catholic Church, and its strong commitment to students and educational excellence is of great value to Washington State; and

WHEREAS, The 7,800 Catholic schools in the United States, both elementary and secondary, save almost twenty billion dollars a year in public school expenses; and

WHEREAS, Washington State has 27,000 students of diverse backgrounds in ninety-three Catholic schools; and

WHEREAS, Catholic schools encourage and prepare students to obtain high levels of achievement through religious, academic, and cocurricular programs; and

WHEREAS, With a commitment to service, Catholic schools have produced many of our state's and our nation's finest leaders, including members of this legislature;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the Catholic schools of Washington State and honor their academic excellence and faith-based instruction during the celebration of Catholic Schools Week, January 30 through February 5, 2011; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the school departments at the Archdiocese of Seattle, the Diocese of Spokane, the Diocese of Yakima, and the Washington State Catholic Conference.

Senators McAuliffe and Baumgartner spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8617.

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

MOTION

At 10:15 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, March 10, 2011.

BRAD OWEN, President of the Senate

FIFTY NINTH DAY, MARCH 9, 2011

2011 REGULAR SESSION

THOMAS HOEMANN, Secretary of the Senate

SIXTIETH DAY

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NOON SESSION

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Senate Chamber, Olympia, Thursday, March 10, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 8, 2011

SB 5542 Prime Sponsor, Senator Delvin: Establishing special license endorsements for cigar lounges and retail tobacconist shops. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Ways & Means.

March 9, 2011

HB 1039 Prime Sponsor, Representative Bailey: Addressing the subpoena authority of the department of financial institutions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 9, 2011

HB 1191 Prime Sponsor, Representative Ryu: Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 9, 2011

SHB 1211 Prime Sponsor, Committee on Technology, Energy & Communications: Concerning utility donations to hunger programs. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Delvin; Fraser and Morton.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

March 8, 2011

HB 1227 Prime Sponsor, Representative Ross: Concerning the waiver of restaurant corkage fees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 9, 2011

HB 1391 Prime Sponsor, Representative Warnick: Regarding the use of water delivered from the federal Columbia basin project. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser and Morton.

Passed to Committee on Rules for second reading.

March 9, 2011

HB 1466 Prime Sponsor, Representative Kirby: Allowing trust companies to be organized as, or convert to, limited liability companies under certain conditions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 9, 2011

EHB 1490 Prime Sponsor, Representative Kenney: Concerning a business and occupation tax deduction for certified community development financial institutions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Ways & Means.

March 9, 2011

HB 1709 Prime Sponsor, Representative Kirby: Making certain lines of group disability insurance more available. Reported by Committee on Financial Institutions, Housing & Insurance

SIXTIETH DAY, MARCH 10, 2011

2011 REGULAR SESSION

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

March 9, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5763.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5763.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5871 by Senators Fraser, Carrell and Conway

AN ACT Relating to the future of McNeil Island report; creating a new section; and making an appropriation.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, March 11, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SIXTY FIRST DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, March 11, 2011

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 9, 2011

HB 1016 Prime Sponsor, Representative Blake: Changing restrictions on firearm noise suppressors. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove and Roach.

Passed to Committee on Rules for second reading.

March 10, 2011

HB 1181 Prime Sponsor, Representative Green: Creating the Washington state board of naturopathy. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Murray and Pridemore.

Passed to Committee on Rules for second reading.

March 9, 2011

SHB 1218 Prime Sponsor, Committee on Judiciary: Making technical corrections to the Revised Code of Washington. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 10, 2011

SHB 1304 Prime Sponsor, Committee on Health Care & Wellness: Concerning the administration of drugs by health care assistants. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Murray and Pridemore.

Passed to Committee on Rules for second reading.

March 9, 2011

HB 1345 Prime Sponsor, Representative Rivers: Regarding the uniform unsworn foreign declarations act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 10, 2011

HB 1454 Prime Sponsor, Representative Van De Wege: Regarding testing for bloodborne pathogens. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Murray and Pridemore.

Passed to Committee on Rules for second reading.

March 9, 2011

SHB 1615 Prime Sponsor, Committee on Judiciary: Concerning service members' civil relief. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 10, 2011

HJM 4004 Prime Sponsor, Representative Short: Requesting the designation of an "Honor and Remember Flag" as an official symbol to recognize Armed Forces members who have died in the line of duty. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Nelson and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Chase.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

MESSAGE FROM THE GOVERNOR

SIXTY FIRST DAY, MARCH 11, 2011

2011 REGULAR SESSION

GUBERNATORIAL APPOINTMENTS

SB 5874 by Senators White, Murray, Chase, Kline, Keiser, Conway, Nelson, Kohl-Welles, Harper, Prentice and Fraser

January 6, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

MIKE RAGAN, reappointed March 11, 2011, for the term ending at the governor's pleasure, as Member of the Investment Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

March 10, 2011

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5763,

SUBSTITUTE SENATE BILL NO. 5801.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 5872 by Senators Harper, Kohl-Welles, Nelson, Roach, Hargrove, Litzow, Regala, Kastama, Eide, White, Kline, Chase, Prentice, Conway and McAuliffe

AN ACT Relating to evaluating the impacts of budget decisions; amending RCW 43.88A.020; and creating a new section.

Referred to Committee on Ways & Means.

SB 5873 by Senators Prentice, Parlette, Hewitt, Murray, Harper, Holmquist Newbry, Chase, Zarelli, Hobbs, King, Fain, Honeyford, Tom, Kilmer and McAuliffe

AN ACT Relating to the sales and use tax exemption for qualifying businesses of eligible server equipment; amending RCW 82.08.986 and 82.12.986; providing an effective date; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

AN ACT Relating to local transit revenue; amending RCW 36.73.040; adding a new chapter to Title 82 RCW; creating a new section; prescribing penalties; and providing an effective date.

Referred to Committee on Transportation.

MOTION

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

MOTION

At 10:04 a.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Monday, March 14, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SIXTY FOURTH DAY

NOON SESSION

Senate Chamber, Olympia, Monday, March 14, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 10, 2011

HB 1178 Prime Sponsor, Representative Appleton: Addressing the office of regulatory assistance. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry and Kilmer.

Passed to Committee on Rules for second reading.

MOTION

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

MOTION

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

INTRODUCTION AND FIRST READING

SB 5875 by Senator Hargrove

AN ACT Relating to terms of supervision for offenders sentenced to a first time offender waiver; amending RCW 9.94A.650; and creating a new section.

Referred to Committee on Human Services & Corrections.

MOTION

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

MOTION

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

MOTION

Senator Haugen moved adoption of the following resolution:

SENATE RESOLUTION  
8633

By Senators Haugen, Ranker, Stevens, and Hatfield

WHEREAS, Every April the tulips are in bloom, celebrating the beginning of spring; and

WHEREAS, The beautiful Skagit Valley is the Northwest's tulip capital and the number one producer of tulip bulbs in North America; and

WHEREAS, The Skagit Valley Tulip Festival kicks off the festival season in Washington; and

WHEREAS, Nearly half a million people visited the Skagit Valley Tulip Festival last year, participating in the joy and excitement of the event and contributing to the economy of the Skagit Valley; and

WHEREAS, This year's 28th annual festival will run from April 1st through 30th, focusing on the communities of Sedro-Woolley, Burlington, Anacortes, La Conner, Mount Vernon, Concrete, and Conway; and

WHEREAS, Visitors will be greeted by more than 700 acres of tulips reflecting all the vibrant colors of the rainbow, by the fullness of life in the valley, and by its wonderful people; and

WHEREAS, This year's Tulip Festival Ambassadors, Abbi Beuckman and Michael Mantell, will ably and personably perform their responsibilities as representatives of the festival; and

WHEREAS, Highlights of the event include the Mount Vernon Street Fair, PACCAR Open House, Air Show and Fly-in, Skagit County wineries, RoozenGaarde, Tulip Town, art shows, bike rides, foot races, and much more;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate salute all the communities of the Skagit Valley, their Chambers of Commerce, the Skagit Valley Tulip Festival Ambassadors, and the Tulip Festival Committee; and

BE IT FURTHER RESOLVED, That the Senate commend the community leaders and corporate sponsors for the success of this important event and encourage citizens from across Washington to take the time to enjoy this spectacular display; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Skagit Valley Tulip Festival Executive Director, Cindy Verge, and the Tulip Festival Ambassadors.

Senator Haugen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8633.

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

MOTION

Senator Hargrove moved adoption of the following resolution:

SENATE RESOLUTION  
8635

By Senator Hargrove

WHEREAS, 100 years ago, the Washington State Legislature passed the Washington Public Port District Act; and

SIXTY FOURTH DAY, MARCH 14, 2011

2011 REGULAR SESSION

WHEREAS, Washington's Public Port Districts are local governments run by citizen-elected Port Commissioners and bring the benefits of seaports, airports, harbors, and marinas critical to our state's economy; and

WHEREAS, Public Port Districts are the economic engine for communities across Washington, annually providing hundreds of thousands of jobs; and

WHEREAS, Washington Public Ports Day is a public event cosponsored by all 75 Public Port Districts and the Washington Public Ports Association; and

WHEREAS, Governor Christine O. Gregoire, Governor of the state of Washington, proclaimed March 14, 2011, as Washington Public Ports Day;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate commend the Ports of the State of Washington for providing a means to export Washington Products worldwide, receiving goods, providing services, and creating jobs for thousands of Washingtonians.

Senator Hargrove spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8635.

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

MOTION

Senator Fraser moved adoption of the following resolution:

SENATE RESOLUTION  
8636

By Senators Fraser, Shin, Honeyford, and Haugen

WHEREAS, 30 years ago, in 1981, Olympia, Washington and Kato (formerly Yashiro), Hyogo Prefecture, Japan, became sister cities; and

WHEREAS, The friendship between the two cities has flourished, grown steadily, and deepened over these 30 years; and

WHEREAS, During these 30 years, there have been regular, annual adult exchanges and, for the last 20 years, annual student exchanges, resulting in approximately 600 adult exchange visits and approximately 400 student exchange visits; and

WHEREAS, Steady and enthusiastic leadership for these exchanges has been provided by the Kato (formerly Yashiro) International Association, and the Olympia-Kato (formerly Yashiro) Sister City Association; and

WHEREAS, Many peoples' individual lives, and many community activities, have been enriched greatly, and sometimes altered significantly in positive ways, from learning about and participating in each others' cultures, histories, languages, educational institutions, and governmental processes; and

WHEREAS, Kato City has honored the City of Olympia in the naming of a major arterial, and the City of Olympia has honored Kato City in the naming of a major bridge; and

WHEREAS, The City of Olympia hosts a beautiful Japanese garden, and Kato City hosts a beautiful western style garden, each in tribute to their great friendship; and

WHEREAS, Hundreds of citizens of each community have volunteered over the years to assist in the exchanges and in deepening the friendships between the two communities; and

WHEREAS, The Hyogo Business and Cultural Center, in Seattle, and the Washington State International Protocol Office have each steadily encouraged and supported the development of this

great friendship and other sister city relationships in Washington State and Washington's sister state, Hyogo Prefecture;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate congratulates Kato City and the City of Olympia for 30 years of sustained, active, enthusiastic sister city exchanges for both adults and students, and for the innumerable benefits it has created for each community and many individual citizens; and

BE IT FURTHER RESOLVED, That the Washington State Senate commends Kato City, the Kato International Association, the City of Olympia, the Olympia-Kato Sister Association, the Hyogo Business and Cultural Center, located in Seattle, and the Washington State International Protocol Office for their outstanding, sustained leadership in promoting strong ties of friendship and intercultural understanding and appreciation between the City of Olympia and Kato City, and between the State of Washington and Hyogo Prefecture, Japan; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to: The Mayor of Kato City; the Mayor of Olympia; the President of the Kato International Association; the President of the Olympia-Kato Sister City Association; the Hyogo Business and Cultural Center; and the Washington State International Protocol Office.

Senator Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8636.

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

PERSONAL PRIVILEGE

Senator Rockefeller: "Mr. President, I just want to acknowledge that today we have with us a former senator and a personal friend of mine, Senator Larry Faulk who served in this body for at least four years. It's a pleasure to welcome him back for today."

MOTION

At 12:09 p.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Tuesday, March 15, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SIXTY FIFTH DAY

NOON SESSION

Senate Chamber, Olympia, Tuesday, March 15, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 13, 2011  
SB 5557 Prime Sponsor, Senator Prentice: Creating the Washington state office of civil rights. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Ways & Means.

March 14, 2011  
HB 1012 Prime Sponsor, Representative Angel: Authorizing four-year terms for planning commissioners. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011  
EHB 1028 Prime Sponsor, Representative Schmick: Using state correctional facility populations to determine population thresholds for certain local government purposes. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011  
HB 1031 Prime Sponsor, Representative Armstrong: Requiring the county auditor to send voters a security envelope that conceals the ballot. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011  
ESHB 1055 Prime Sponsor, Committee on Labor & Workforce Development: Regarding the streamlining of contractor appeals. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 14, 2011  
SHB 1057 Prime Sponsor, Committee on Labor & Workforce Development: Creating the farm labor contractor account. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 14, 2011  
HB 1069 Prime Sponsor, Representative Alexander: Regarding the disposition of unclaimed remains. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011  
HB 1074 Prime Sponsor, Representative Takko: Changing qualifications for appointees to metropolitan water pollution abatement advisory committees. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011  
HB 1129 Prime Sponsor, Representative Klippert: Including a bicycle and pedestrian traffic safety curriculum in certain traffic schools and safety courses. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain;

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Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker and Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1150 Prime Sponsor, Representative Smith: Extending the time in which a small business may correct a violation without a penalty. Reported by Committee on Government Operations, Tribal Relations & Elections

ESHB 1332 Prime Sponsor, Committee on Local Government: Providing for the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1225 Prime Sponsor, Representative Angel: Clarifying the method for calculating port commissioner compensation. Reported by Committee on Government Operations, Tribal Relations & Elections

HB 1353 Prime Sponsor, Representative Rivers: Concerning continuing education for pharmacy technicians. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1229 Prime Sponsor, Representative Moscoso: Concerning the certification of commercial driver's license holders and applicants. Reported by Committee on Transportation

HB 1640 Prime Sponsor, Representative Green: Concerning respiratory care practitioners. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker and Swecker.

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray and Parlette.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 14, 2011

ESHB 1295 Prime Sponsor, Committee on Local Government: Concerning the installation of residential fire sprinkler systems. Reported by Committee on Government Operations, Tribal Relations & Elections

HB 1726 Prime Sponsor, Representative Sells: Addressing the recommendations of the vocational rehabilitation subcommittee for workers' compensation. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1306 Prime Sponsor, Representative Lytton: Removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements. Reported by Committee on Transportation

SHB 1728 Prime Sponsor, Committee on Judiciary: Requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker and Swecker.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 10, 2011

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2011 REGULAR SESSION

SHB 1997 Prime Sponsor, Committee on Ways & Means: Providing economic development by funding tourism promotion, workforce housing, art and heritage programs, and community development. Reported by Committee on Economic Development, Trade & Innovation

PAUL ISHII, appointed August 17, 2010, for the term ending June 30, 2012, as Member of the Higher Education Coordinating Board.

Sincerely,  
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield; Kilmer and Shin.

MOTION

MINORITY recommendation: Do not pass. Signed by Senators Baumgartner and Holmquist Newbry.

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

MOTION

Passed to Committee on Ways & Means.

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

MOTION

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

March 14, 2011

SGA 9025 LARRY DITTMAN, appointed on April 2, 2009, for the term ending June 17, 2011, as Member of the Board of Industrial Insurance Appeals. Reported by Committee on Labor, Commerce & Consumer Protection

Senator Stevens moved adoption of the following resolution:

SENATE RESOLUTION  
8630

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

By Senators Stevens, Litzow, Baxter, Baumgartner, Becker, Regala, Delvin, Benton, Zarelli, Carrell, McAuliffe, Roach, Hargrove, King, Swecker, Hewitt, Holmquist Newbry, Hill, Erickson, Honeyford, Morton, and Hobbs

Passed to Committee on Rules for second reading.

March 14, 2011

SGA 9114 DAVID THREEDY, appointed on April 8, 2010, for the term ending June 17, 2015, as Chair of the Board of Industrial Insurance Appeals. Reported by Committee on Labor, Commerce & Consumer Protection

WHEREAS, The state of Washington acknowledges the paramount significance and fundamental right of parents to proactively direct the education of their children; and

WHEREAS, The state of Washington appropriately recognizes, by law, the right to home education as a legitimate and viable alternative to other forms of education; and

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

WHEREAS, Homeschooling has grown from a handful of students in 1973 to more than two million students today in grades K-12; and

Passed to Committee on Rules for second reading.

WHEREAS, Five to ten percent of all school children have learning disabilities. The number of children with learning disabilities being taught at home could be as high as 50,000 nationally, not including children who may have severe special needs, such as those with cerebral palsy, Down Syndrome, or medical reasons for not being placed in a school setting; and

MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

WHEREAS, Children educated in the home receive sound academic instruction, this instruction is bolstered by the at-home educational process; and

MOTION

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

WHEREAS, The state of Washington is committed to excellence in scholarship and exemplary student achievement; and

WHEREAS, Studies affirm that children educated at home excel with distinction on nationally calibrated achievement tests, demonstrate healthy self-awareness and civic virtue, while being fully prepared to thrive in and contribute to society at large; and

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

September 8, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

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

WHEREAS, This exceptional academic achievement among homeschoolers is consistent regardless of family income; and

WHEREAS, In addition to outstanding academics, homeschool students participate in a variety of outside activities and opportunities for socialization including music and dance classes, volunteer work, church activities, field trips, group sports, dances, parties, and more; and

WHEREAS, The instruction of children in the home was the preeminent means of education for much of America's early years; and

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WHEREAS, The United States has produced many prominent and noteworthy home-schooled students including George and Martha Washington, Benjamin Franklin, Abigail Adams, John Quincy Adams, Thomas Edison, Helen Keller, Susan B. Anthony, Franklin Roosevelt, Patrick Henry, Abraham Lincoln, Booker T. Washington, and Woodrow Wilson; and

WHEREAS, Many parents of home-schooled students accept an additional financial responsibility to provide for their children's education, while also paying taxes that support Washington's public school system; and

WHEREAS, Some parent educators devote innumerable hours to assist children in their pursuit and acquisition of academic excellence, profound patriotism, and civic responsibility in order to become productive citizens; and

WHEREAS, It is appropriate that Washington's home education families be recognized for their sacrificial contribution to the quality of education in this great state;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington hereby honor, thank, and celebrate the home education families in the state.

Senators Stevens, Hargrove, Baxter and Rockefeller spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8630.

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

#### MOTION

At 12:10 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Wednesday, March 16, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SIXTY SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 16, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Eide, Kline and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Luke Davidson and Simon Giloi, presented the Colors. Pastor John Rosenberg of the Lutheran Church of the Good Shepherd of Olympia offered the prayer.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 14, 2011

SB 5182 Prime Sponsor, Senator White: Establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5182 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Brown; Fraser; Hatfield; Holmquist Newbry; Honeyford; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Kastama; Kohl-Welles and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

March 14, 2011

SB 5806 Prime Sponsor, Senator Conway: Authorizing a statewide raffle to benefit veterans and their families. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1014 Prime Sponsor, Representative Goodman: Modifying the authority of a watershed management partnership. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1078 Prime Sponsor, Committee on Judiciary: Requiring landlords to provide tenants with written receipts upon request under the manufactured/mobile home landlord-tenant act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1169 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding noxious weed lists. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1182 Prime Sponsor, Representative Goodman: Clarifying that each instance of an attempt to intimidate or tamper with a witness constitutes a separate violation for purposes of determining the unit of prosecution under tampering with or intimidating a witness statutes. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1184 Prime Sponsor, Representative Maxwell: Clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget

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Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1212 Prime Sponsor, Representative Lytton: Authorizing the department of agriculture to accept and expend gifts. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1263 Prime Sponsor, Representative Crouse: Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1266 Prime Sponsor, Committee on Judiciary: Modifying the landlord-tenant act and other related provisions. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 14, 2011

ESHB 1346 Prime Sponsor, Committee on Ways & Means: Making tax law changes that do not create any new or broaden any existing tax preferences as defined in RCW 43.136.021 or increase any person's tax burden. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Holmquist Newbry.

Passed to Committee on Rules for second reading.

HB 1347 Prime Sponsor, Representative Hunter: Concerning sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 14, 2011

EHB 1357 Prime Sponsor, Representative Carlyle: Providing the department of revenue with additional flexibility to achieve operational efficiencies through the expanded use of electronic means to remit and report taxes. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter and Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner and Holmquist Newbry.

Passed to Committee on Rules for second reading.

March 15, 2011

2SHB 1405 Prime Sponsor, Committee on General Government Appropriations & Oversight: Regulating loans made under the consumer loan act. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1467 Prime Sponsor, Committee on Agriculture & Natural Resources: Modifying the definition of a well for the purposes of chapter 18.104 RCW. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

March 15, 2011

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HB 1479 Prime Sponsor, Representative Goodman: Revising the publication requirements of the statute law committee. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1498 Prime Sponsor, Representative Pettigrew: Concerning the taxation of employee meals provided without specific charge. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1502 Prime Sponsor, Committee on Community Development & Housing: Clarifying the manufactured housing and mobile home program functions and account. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1538 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding animal health inspections. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1564 Prime Sponsor, Committee on Judiciary: Concerning the right to control the disposition of human remains. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 14, 2011

HB 1625 Prime Sponsor, Representative Hunter: Addressing the default investment option available to new members of the plan 3 retirement systems. Reported by Committee on Ways & Means

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MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1867 Prime Sponsor, Representative Kelley: Clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

ESHB 1886 Prime Sponsor, Committee on Local Government: Implementing recommendations of the Ruckelshaus Center process. Reported by Committee on Agriculture & Rural Economic Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Hatfield, Chair; Shin, Vice Chair; Delvin; Becker; Haugen; Hobbs; Honeyford and Schoesler.

Passed to Committee on Ways & Means.

## MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

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

## INTRODUCTION AND FIRST READING

SB 5876 by Senators Sheldon, Schoesler, Stevens, Honeyford, Carrell, Parlette, Benton, Hobbs, Shin, Zarelli, Kilmer and Hewitt

AN ACT Relating to analyzing alternative methods of facilities acquisition for state agencies; and amending RCW 43.82.010.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5877 by Senators Carrell and Zarelli

AN ACT Relating to the creation of the office of program integrity; amending RCW 49.60.210; adding a new section to chapter 43.09 RCW; adding a new chapter to Title 43 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SIXTY SIXTH DAY, MARCH 16, 2011

2011 REGULAR SESSION

MOTION

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

MOTION

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

MOTION

On motion of Senator Rockefeller, the following measures under consideration on the 2<sup>nd</sup> and 3<sup>rd</sup> reading calendar were referred to the Committee on Rules and placed in the Committee's "X"-file

Senate Bill No. 5003, Senate Bill No. 5028, Senate Bill No. 5037, Senate Bill No. 5043, Senate Bill No. 5047, Senate Bill No. 5049, Senate Bill No. 5063, Senate Bill No. 5078, Senate Bill No. 5079, Senate Bill No. 5082, Senate Bill No. 5101, Senate Bill No. 5102, Senate Bill No. 5112, Senate Bill No. 5133, Senate Bill No. 5150, Senate Bill No. 5159, Senate Bill No. 5164, Senate Bill No. 5165, Senate Bill No. 5166, Senate Bill No. 5173, Senate Bill No. 5183, Senate Bill No. 5188, Senate Bill No. 5189, Senate Bill No. 5191, Senate Bill No. 5197, Senate Bill No. 5211, Senate Bill No. 5215, Senate Bill No. 5217, Senate Bill No. 5221, Senate Bill No. 5223, Senate Bill No. 5225, Senate Bill No. 5228, Senate Bill No. 5231, Senate Bill No. 5234, Senate Bill No. 5235, Senate Bill No. 5248, Senate Bill No. 5261, Senate Bill No. 5275, Senate Bill No. 5291, Senate Bill No. 5292, Senate Bill No. 5293, Senate Bill No. 5294, Senate Bill No. 5297, Senate Bill No. 5302, Senate Bill No. 5303, Senate Bill No. 5325, Senate Bill No. 5332, Senate Bill No. 5351, Senate Bill No. 5355, Senate Bill No. 5360, Senate Bill No. 5369, Senate Bill No. 5373, Senate Bill No. 5397, Senate Bill No. 5401, Senate Bill No. 5407, Senate Bill No. 5410, Senate Bill No. 5412, Senate Bill No. 5430, Senate Bill No. 5438, Senate Bill No. 5440, Senate Bill No. 5448, Senate Bill No. 5464, Senate Bill No. 5478, Senate Bill No. 5483, Senate Bill No. 5488, Senate Bill No. 5508, Senate Bill No. 5509, Senate Bill No. 5517, Senate Bill No. 5547, Senate Bill No. 5550, Senate Bill No. 5558, Senate Bill No. 5572, Senate Bill No. 5582, Senate Bill No. 5586, Senate Bill No. 5597, Senate Bill No. 5599, Senate Bill No. 5600, Senate Bill No. 5607, Senate Bill No. 5616, Senate Bill No. 5620, Senate Bill No. 5627, Senate Bill No. 5634, Senate Bill No. 5661, Senate Bill No. 5673, Senate Bill No. 5677, Senate Bill No. 5682, Senate Bill No. 5685, Senate Bill No. 5686, Senate Bill No. 5687, Senate Bill No. 5689, Senate Bill No. 5690, Senate Bill No. 5693, Senate Bill No. 5696, Senate Bill No. 5709, Senate Bill No. 5711, Senate Bill No. 5715, Senate Bill No. 5723, Senate Bill No. 5726, Senate Bill No. 5755, Senate Bill No. 5766, Senate Bill No. 5771, Senate Bill No. 5790, Senate Bill No. 5795, Senate Bill No. 5803, Senate Bill No. 5837, Senate Bill No. 5838, Senate Joint Memorial No. 8006

MOTION

On motion of Senator Rockefeller, the following measures under consideration by the Committee on Rules were removed from the Committee's Green and White Sheets were placed in the Committee's "X" file:

Senate Bill No. 5015, Senate Bill No. 5017, Senate Bill No. 5024, Senate Bill No. 5026, Senate Bill No. 5027, Senate Bill No. 5038, Senate Bill No. 5051, Senate Bill No. 5064, Senate Bill No. 5066, Senate Bill No. 5074, Senate Bill No. 5084, Senate Bill No. 5085, Senate Bill No. 5086, Senate Bill No. 5087, Senate Bill No.

5090, Senate Bill No. 5110, Senate Bill No. 5113, Senate Bill No. 5121, Senate Bill No. 5123, Senate Bill No. 5131, Senate Bill No. 5136, Senate Bill No. 5137, Senate Bill No. 5160, Senate Bill No. 5163, , Senate Bill No. 5180, Senate Bill No. 5190, Senate Bill No. 5194, Senate Bill No. 5198, Senate Bill No. 5206, Senate Bill No. 5208, Senate Bill No. 5246, Senate Bill No. 5252, Senate Bill No. 5263, Senate Bill No. 5266, Senate Bill No. 5268, Senate Bill No. 5273, Senate Bill No. 5281, Senate Bill No. 5282, Senate Bill No. 5286, Senate Bill No. 5288, Senate Bill No. 5306, Senate Bill No. 5308, Senate Bill No. 5311, Senate Bill No. 5314, Senate Bill No. 5315, Senate Bill No. 5318, Senate Bill No. 5319, Senate Bill No. 5320, Senate Bill No. 5321, Senate Bill No. 5324, Senate Bill No. 5340, Senate Bill No. 5341, Senate Bill No. 5344, Senate Bill No. 5361, Senate Bill No. 5363, Senate Bill No. 5365, Senate Bill No. 5383, Senate Bill No. 5387, Senate Bill No. 5393, Senate Bill No. 5411, Senate Bill No. 5413, Senate Bill No. 5420, Senate Bill No. 5421, Senate Bill No. 5426, Senate Bill No. 5431, Senate Bill No. 5435, Senate Bill No. 5444, Senate Bill No. 5446, Senate Bill No. 5491, Senate Bill No. 5498, Senate Bill No. 5499, Senate Bill No. 5514, Senate Bill No. 5515, Senate Bill No. 5524, Senate Bill No. 5537, Senate Bill No. 5541, Senate Bill No. 5561, Senate Bill No. 5569, Senate Bill No. 5578, Senate Bill No. 5580, Senate Bill No. 5583, Senate Bill No. 5610, Senate Bill No. 5611, Senate Bill No. 5617, Senate Bill No. 5630, Senate Bill No. 5646, Senate Bill No. 5649, Senate Bill No. 5650, Senate Bill No. 5655, Senate Bill No. 5663, Senate Bill No. 5681, Senate Bill No. 5703, Senate Bill No. 5706, Senate Bill No. 5713, Senate Bill No. 5714, Senate Bill No. 5746, Senate Bill No. 5752, Senate Bill No. 5758, Senate Bill No. 5779, Senate Bill No. 5813, Senate Bill No. 5815, Senate Bill No. 5817, Senate Bill No. 5824, Senate Joint Memorial No. 8003, Senate Joint Memorial No. 8005, Senate Joint Memorial No. 8008

MOTION

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

MOTION

Senator Kohl-Welles moved adoption of the following resolution:

SENATE RESOLUTION  
8637

By Senators Kohl-Welles, Pridemore, Regala, Brown, Tom, Conway, Parlette, Hatfield, Keiser, Fraser, Kilmer, and Murray

WHEREAS, Participation in athletics is one of the most effective ways for girls and women in the United States to develop leadership skills, discipline, initiative, and self-confidence; and

WHEREAS, Sport and fitness activities contribute to girls' and women's psychological and physical well-being; and

WHEREAS, Early motor skills training and enjoyable experiences of physical activity strongly encourage enduring habits of physical fitness; and

WHEREAS, Girls and women who participate in sports tend to have higher levels of self-esteem, lower levels of depression, and a reduced risk for heart disease, breast cancer, and other illnesses; and

WHEREAS, High school girls who play sports have better grades and are more likely to graduate from high school; and

WHEREAS, 82% of executive businesswomen participated in organized sports; and

WHEREAS, University athletic departments offer valuable scholarships that help women pursue higher education, the UW

SIXTY SIXTH DAY, MARCH 16, 2011

awards a total of 130 athletic scholarships to female student-athletes, which is the maximum allowed by the NCAA; and

WHEREAS, The bonds built among girls and women through athletics help to break down the social barriers of prejudice and discrimination; and

WHEREAS, Tuesday March 8, 2011, was the 100th annual international women's day; and

WHEREAS, The National Girls and Women in Sports Coalition declared February 2, 2011, to be the 25th annual National Girls and Women in Sports Day; and

WHEREAS, When Title IX was enacted in 1972, 1 in 27 girls in high school participated in athletics and women participated in only 13 of the 24 events of the 1984 Olympic Games; and

WHEREAS, Today 1 in 3 girls participate in athletics in high school and female athletes competed in 28 of the 32 Olympic events in 2008; and

WHEREAS, Today nearly half of the student athletes in Washington state are girls; and

WHEREAS, High school girls' athletic teams in the state of Washington have achieved many accomplishments that, for young women, serve as an inspiration to promote the values of teamwork and cooperation; and

WHEREAS, Washington high schools foster outstanding achievements in girls' and women's sports, such as volleyball, soccer, tennis, softball, basketball, and wrestling. These include state volleyball champions: Mead, Bishop Blanchet, Pullman, King's, Colfax, St. John/Endicott; and state soccer champions: Skyline, Columbia River, Archbishop Murphy, Seattle Academy, Orcas Island; state tennis champions: Newport, Mercer Island, Clarkston, Overlake; and state softball champions: Kelso, Sedro-Woolley, Woodlands, Castle Rock, Pe Ell, Colton; and state basketball champions: Auburn Riverside, Cleveland, River Ridge, Freeman, Colfax, Colton; and state wrestling champions: Sedro-Woolley.

WHEREAS, The Seattle City Council has declared April 5th as Cleveland High School Day in honor of the team winning the Class 3A state girls basketball title in 2010; and

WHEREAS, Rockford Washington's Freeman High School girls basketball team won its second straight state championship; and

WHEREAS, Lakeside High School's lacrosse team won their fifth straight state Division I title in 2010; and

WHEREAS, Katrynia Todd became Auburn High School's first female wrestling champion in February; and

WHEREAS, Sedro-Woolley High School's Alysia Pohren claimed her third state wrestling championship title; and

WHEREAS, Northwest School's Maddie Meyers, a sophomore and Class 1A state champ in cross country, set two state records last march: The indoor mile and the 2,000-meter steeplechase; and

WHEREAS, Institutions of higher education continue to produce elite athletes competing with pride, commitment, and passion; and

WHEREAS, In 1972 girls and women made up less than fifteen percent of college athletes but today make up over 40 percent of college athletes; and

WHEREAS, The participation of Washington female collegiate athletes is among the highest in the country at 48 percent of total athletes. Currently, there are 169 female athletes at Whitworth College, 413 female athletes at the University of Washington, 280 female athletes at Washington State University, 55 female athletes at The Evergreen State College, 127 female athletes at Seattle University, 147 female athletes at Eastern Washington University, 160 female athletes at Western Washington University, 120 female athletes at Whitman College, and 225 female athletes at Pacific Lutheran University; and

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WHEREAS, Washington colleges and universities have fostered outstanding achievements by women in sports; and

WHEREAS, The University of Puget Sound's women's soccer team won its ninth straight Northwest Conference title, finishing the season undefeated; and

WHEREAS, The University of Washington's women's rowing team won its fourth consecutive Windermere Cup, and they won by a landslide; and

WHEREAS, The University of Washington's Softball team made its 10th Women's College World Series appearance and pitcher Danielle Lawrie was named the National Player of the Year for the second straight season; and

WHEREAS, The University of Washington's Ashlee Wall Eskelsen, from Walla Walla, was named to the women's Pac-10 All-Academic Cross Country first team for a third consecutive year with a 3.98 GPA; and

WHEREAS, Whitworth College women's swimming won its 3rd Northwest Conference Championship of the past 4 years, in February 2011; and the volleyball team won the Northwest conference; and the cross country team lead the country in team GPA for all of the over 420 NCAA division 3 schools, with an average GPA of 3.76; and

WHEREAS, Western Washington University's rowing team won its sixth straight NCAA Division II national title last spring; and

WHEREAS, Whitman College's swimmer Katie Chapman, of Redmond, won all of her individual matches at the Northwest Conference Championship last February; and

WHEREAS, Whitman College swim coach Jenn Blomme was named coach of the year by the Northwest Conference for her third year; and

WHEREAS, The Pacific Lutheran University's ultimate frisbee team is the Division III National Champion; and

WHEREAS, Washington is honored to host the WNBA 2004 and 2010 national champions, the Seattle Storm, the only women's professional basketball team in the Northwest and the only major professional sports team in Washington to bring home a national championship in more than 25 years; and

WHEREAS, Washington has many Roller Derby teams and Olympia's Oly Rollers are ranked first in the region and second in the nation;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor Washington girls and women in sports on March 16, 2011, and encourage support for our state's female athletes and athletic programs; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate and all of the aforementioned athletes and their respective institutions.

Senator Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8637.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Dawn Trudeau Seattle Storm owner, and Karen Bryant, President and CEO of The Seattle Storm, who were seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

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The President welcomed and introduced members of the Oly Rollers flat track roller derby league of Olympia, coached by E. C. team members include Sassy, Nerdy lil Secret, Mary Stoppins, Intended Anger and Heather Lewis-Lechner as Connie Pinko who were seated in the gallery.

MOTION

At 10:23 a.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Thursday, March 17, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTY SEVENTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Thursday, March 17, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 16, 2011

SHB 1003 Prime Sponsor, Committee on Technology, Energy & Communications: Establishing energy efficiency standards for consumer products. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1008 Prime Sponsor, Committee on State Government & Tribal Affairs: Changing provisions relating to membership on the Washington citizens' commission on salaries for elected officials. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1135 Prime Sponsor, Committee on Environment: Regarding refrigerants for motor vehicles. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Fraser; Holmquist Newbry and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1145 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Establishing mail theft provisions. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1168 Prime Sponsor, Representative Lias: Concerning career and technical education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1247 Prime Sponsor, Committee on Ways & Means: Concerning the staffing levels and staff training requirements for secure community transition facilities. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1249 Prime Sponsor, Committee on Ways & Means: Regarding medicaid nursing facility payments. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baumgartner; Baxter; Holmquist Newbry; Honeyford and Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1257 Prime Sponsor, Committee on Business & Financial Services: Adopting the investments of insurers model act. Reported by Committee on Financial Institutions, Housing & Insurance

SIXTY SEVENTH DAY, MARCH 17, 2011

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1303 Prime Sponsor, Representative Jinkins: Concerning the insurance commissioner's authority to review and disapprove rates for certain insurance products. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 16, 2011

2SHB 1362 Prime Sponsor, Committee on Ways & Means: Protecting and assisting homeowners from unnecessary foreclosures. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1401 Prime Sponsor, Committee on Local Government: Providing flexibility with respect to the foreclosure process for delinquent local improvement district assessments. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1407 Prime Sponsor, Representative Ryu: Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1486 Prime Sponsor, Representative Green: Authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states. Reported by Committee on Health & Long-Term Care

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MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

March 16, 2011

ESHB 1489 Prime Sponsor, Committee on Environment: Protecting water quality through restrictions on fertilizer containing phosphorus. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser; Holmquist Newbry and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Delvin and Morton.

Passed to Committee on Rules for second reading.

March 16, 2011

2SHB 1507 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning robberies of pharmacies. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles and Roach.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Harper, Vice Chair.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1524 Prime Sponsor, Committee on Education: Recognizing the international baccalaureate diploma. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1544 Prime Sponsor, Representative Hunter: Restricting the eligibility for the basic health plan to the basic health transition eligibles population under the medicaid waiver. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 15, 2011

HB 1618 Prime Sponsor, Representative Sells: Addressing public utility districts and deferred compensation and

SIXTY SEVENTH DAY, MARCH 17, 2011

supplemental savings plans. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

2SHB 1662 Prime Sponsor, Committee on General Government Appropriations & Oversight: Specifying circumstances under which work outside a shoreland area may commence in advance of the issuance of a shoreline permit. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove; Stevens and Swecker.

Passed to Committee on Rules for second reading.

March 15, 2011

SHB 1691 Prime Sponsor, Committee on Business & Financial Services: Concerning embalmers. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1694 Prime Sponsor, Representative Stanford: Regulating unauthorized insurance. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 15, 2011

EHB 1730 Prime Sponsor, Representative Jinkins: Concerning the authorization of bonds issued by Washington local governments. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 16, 2011

SHB 1761 Prime Sponsor, Committee on Capital Budget: Limiting private activity bond issues by out-of-state issuers. Reported by Committee on Financial Institutions, Housing & Insurance

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MAJORITY recommendation: Do pass. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

March 16, 2011

2SHB 1803 Prime Sponsor, Committee on Capital Budget: Modifying the Columbia river basin management program. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton and Ranker.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

March 16, 2011

SGA 9059 DENNIS KLOIDA, reappointed on September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 16, 2011

SGA 9100 FAOUZI SEFRIQUI, reappointed on September 14, 2009, for the term ending June 30, 2013, as Member of the Housing Finance Commission. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Keiser and Litzow.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

#### MOTION

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

#### MOTION

Senator McAuliffe moved adoption of the following resolution:

#### SENATE RESOLUTION

SIXTY SEVENTH DAY, MARCH 17, 2011

2011 REGULAR SESSION

8638

By Senators McAuliffe, Tom, Litzow, King, Harper, Chase, Hill, Nelson, Rockefeller, Hobbs, Fain, Baumgartner, and Fraser

WHEREAS, Christina "Tina" MacRae born Mary Paule Christina Perry from Regina, Saskatchewan, Canada passed away at the age of 41 on February 27, 2011, surrounded by family and friends, while on vacation in Hawaii; and

WHEREAS, Tina was a beloved wife, mother, daughter, and sister, survived by her husband, Keith MacRae; their daughter and son, Darian and Drake; her father, Peter Perry; and her brother, Anthony Perry; and

WHEREAS, Tina was a teacher at Inglemoor High School in Kenmore, Washington, where she taught math and served as the Associated Student Body (ASB) adviser, and previously taught at Interlake High School in Bellevue, Washington, and Michael A. Riffel High School in Regina, Saskatchewan, Canada; and

WHEREAS, Tina received a Bachelor of Education degree from the University of Regina in Saskatchewan, Canada in 1992, where her major emphasis was Mathematics Education with a minor in Chemistry Education; and

WHEREAS, Tina received a Masters of Education with a major in Curriculum and Instruction from City University in 2002; and

WHEREAS, Tina has been a dedicated educator to students worldwide for 19 years; and

WHEREAS, Tina touched many lives and will be missed by all who knew her; and

WHEREAS, In 2002, she was hired by Northshore School District as a math teacher at Inglemoor High School and in 2007, she became Activities Coordinator and taught Leadership skills in addition to teaching math; and

WHEREAS, Tina was more than a mother, teacher and friend, Tina was a laugher, a hugger, a football fan, a modern woman, an official Viking vixen, a back-massager, a joker, a best friend, a Ms. Fix-It, an Elvis impersonator, a cheerleader, an inspiration. She will never be matched or be replaced; and

WHEREAS, As a math teacher and Associated Student Body adviser, Tina knew everyone at Inglemoor High School and had a hand in almost everything that went on. One would never know just how hard she worked because she always had everything under control. Tina was relentless and dynamic; and

WHEREAS, Tina held everyone and everything at Inglemoor together. Whether she was remembering someone's birthday, planning homecoming, making posters or going to the latest sporting event, Tina always had others in mind and something up her sleeve; and

WHEREAS, Tina went to the ends of the earth and back for her students and colleagues -- she was always there for them, no matter what they needed; and

WHEREAS, Tina pushed all to achieve more and to try new things. She saved the day by remembering what others forgot or inventing a solution for the toughest situations; and

WHEREAS, Tina had a great sense of humor, saucy attitude, and a can-do approach to life -- she was always 100 percent herself; and

WHEREAS, Not for one moment did Tina waver from who she truly was. Tina was inspiring, especially to unsure high school students, to see a woman be so powerful, so unapologetic about who she was and so genuinely content with herself;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and remember Tina MacRae and encourage others to be inspired by her and the way she lived her life: "Be kind. Be selfless. Be humble. Be caring. Be passionate. Be yourself"; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate immediately transmit copies of this resolution to the family of Tina MacRae.

Senator McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8638.

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

#### MOTION

At 12:07 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Friday, March 18, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTY EIGHTH DAY****MORNING SESSION**

Senate Chamber, Olympia, Friday, March 18, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Delvin, Eide, Ericksen, Fain, Harper Hewitt, Holmquist Newbry, Kastama, Litzow, Morton, Nelson, Pflug, Prentice, Pridemore, Ranker, Roach, Stevens, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Sophia DeBuschere and Emma Hollar, presented the colors. The Most Reverend Joseph Tyson, Bishop of the Roman Catholic Archdiocese of Seattle offered the prayer.

**MOTION**

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

**MOTION**

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

**REPORTS OF STANDING COMMITTEES**

March 17, 2011

SHB 1048 Prime Sponsor, Committee on State Government & Tribal Affairs: Making technical corrections needed as a result of the recodification of campaign finance provisions. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 17, 2011

EHB 1234 Prime Sponsor, Representative Moscoso: Addressing law enforcement crime prevention efforts regarding security alarm systems and crime watch programs for residential and commercial locations. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1290 Prime Sponsor, Representative Green: Concerning mandatory overtime for certain health care employees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Ways & Means.

March 17, 2011

SHB 1315 Prime Sponsor, Committee on Health Care & Wellness: Concerning the employment of physicians by nursing homes. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette and Pridemore.

Passed to Committee on Rules for second reading.

March 17, 2011

ESHB 1406 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Establishing the intrastate building safety mutual aid system. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1488 Prime Sponsor, Representative Jinkins: Updating the authority of the state board of health. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Parlette and Pridemore.

Passed to Committee on Rules for second reading.

March 17, 2011

SHB 1495 Prime Sponsor, Committee on Judiciary: Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King and Keiser.

MINORITY recommendation: Do not pass. Signed by Senator Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Ways & Means.

March 17, 2011

SHB 1585 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Establishing the intrastate mutual aid

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system. Reported by Committee on Government Operations, Tribal Relations & Elections

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and King.

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 17, 2011

SHB 1596 Prime Sponsor, Committee on Local Government: Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility. Reported by Committee on Government Operations, Tribal Relations & Elections

March 17, 2011  
ESHB 1731 Prime Sponsor, Committee on Local Government: Concerning the formation, operation, and governance of regional fire protection service authorities. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1770 Prime Sponsor, Representative Hasegawa: Enhancing small business participation in state purchasing. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 17, 2011

EHB 1674 Prime Sponsor, Representative Kenney: Providing that the manufacturing innovation and modernization extension service program is not to sunset. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Hatfield; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1916 Prime Sponsor, Representative Ryu: Concerning business services delivered by associate development organizations. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass as amended. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: Do not pass. Signed by Senators Ericksen and Hatfield.

Passed to Committee on Rules for second reading.

March 17, 2011

ESHB 1701 Prime Sponsor, Committee on Labor & Workforce Development: Concerning the misclassification of contractors as independent contractors in the construction industry. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1926 Prime Sponsor, Representative Kenney: Using a web-based business services system. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 17, 2011

ESHB 1725 Prime Sponsor, Committee on Labor & Workforce Development: Addressing administrative efficiencies for the workers' compensation program. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

March 17, 2011

HB 1937 Prime Sponsor, Representative Ryu: Authorizing local improvement district funding to benefit

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innovation partnership zones for the purposes of economic development. Reported by Committee on Economic Development, Trade & Innovation

MAJORITY recommendation: Do pass. Signed by Senators Kastama, Chair; Chase, Vice Chair; Baumgartner; Hatfield; Holmquist Newbry; Kilmer and Shin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1939 Prime Sponsor, Representative Appleton: Defining federally recognized tribes as agencies for purposes of agency-affiliated counselors. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

March 17, 2011

SGA 9117 PAUL TRAUSE, appointed on October 1, 2010, for the term ending at the governors pleasure, as Commissioner of the Employment Security Department. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 17, 2011

SGA 9147 ALFRED HALLOWELL, reappointed on February 3, 2011, for the term ending January 17, 2017, as Member of the Horse Racing Commission. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated with the exception of Substitute House Bill No. 1495 which was referred to the Committee on Rules.

#### MOTION

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

#### INTRODUCTION AND FIRST READING

SB 5878 by Senators Chase, King and Hargrove

AN ACT Relating to studying the privatization of residential habilitation centers; amending RCW 71A.20.020; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

#### MOTION

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

#### MOTION

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

#### PERSONAL PRIVILEGE

Senator Kohl-Welles: "Thank you Mr. President. Well, as we all know with recent world events, particularly all that's transpiring in Japan, it can be very difficult to find something to celebrate but today I would like to bring up something that we can indeed celebrate and that is the fiftieth anniversary of the Seattle Center. You may all have seen the film with Elvis Presley. It happened at the World's Fair. You have certainly ridden the Monorail. I imagined everybody here has visited the Seattle Center many, many times. It did begin fifty years ago with the actions of the Legislature at that time in creating the exhibition area in the center of Seattle for the celebration of the World's Fair in 1962. Today, that seventy-four acre area in the middle of Seattle, called the Seattle Center often referred to as the living room or the family room of the city of Seattle, is still operating. It's functioning well. It adds new attractions almost yearly and it's an enormous draw to bring tourists to the City of Seattle, to the State of Washington, to the Pacific Northwest and it's one which happens to be in my district and I go there very frequently, walking to it. The Seattle Center actually is very important for many reasons; including bringing revenue to the city of Seattle and to our State of Washington. It annually welcomes twelve million visitors to nearly five hundred free public programs with over five thousand shows and events which bring in one point fifteen billion dollars in business activity and three hundred eighty-seven million in labor income for King County. It's a true treasure for the State of Washington, as well as being a state wide asset. Children, families attend the ballet. They attend performances at McCaw Hall, operas. We have countless numbers of people visiting the Pacific Science Center, the Children's Museum, the Seattle Center House, attending the Bumper Shoot, Folk Life festivals. Taste of Seattle and we could go on and on and on. We are here to celebrate the fiftieth anniversary today and everybody is welcome including legislative staff to attend a luncheon in the Columbia Room which will be going on between 11:30 this morning and 1:00 p.m. Hope to see you there and we hope that you will celebrate the fiftieth anniversary of the Seattle Center with many activities that are going to be taken place. The actual fiftieth anniversary, of course, is next year in 2012 but the events are starting up this year, so I welcome the Seattle Center staff and many of the staff from different exhibitions and programs at the Seattle Center and I hope you all will join me. Thank you."

SIXTY EIGHTH DAY, MARCH 18, 2011

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PERSONAL PRIVILEGE

Senator Chase: “Mr. President. Some fifty years ago today I was a young woman watching what the legislature did and decided I wanted to work at the Seattle World’s Fair and I did. I worked in the Public Relations in Publicity Division. Today I wore my Seattle World’s Fair pin in honor of fifty years. For me, I watched Elvis play football with his boys, I watched a Canadian tattoo for the first time in my life, I had no idea, because I was eighteen years old, I had no idea, you know, what a Canadian tattoo was like or the Ballet Folklorico, or the Seattle Opera House. We watched it being built and the opening event. I can’t remember the opera but I remember they would let us in to watch the rehearsals, the Seattle Repertory Theatre, these were all new buildings. It was amazing. Pavilions were there from around the world, from all of the major countries. There was a, from a young woman growing up from Eastern Washington, my eyes, I have to tell you were really astounded to see ‘Gracie’s Paradise.’ There were naked women there. It was really quite surprising. It was a glorious time and I do hope that we can duplicate that again. I worked for Jay Rockey and it was, he ran the Public Relations Department. So they would have people come in, important people and we would get to take them on tours and it was quite a time. I hope that we’re able to duplicate those exciting days again and that other people in this state, young people in this state, can realize our position in the world. It is quite astounding. So, I salute the Seattle World’s Fair, I salute, if you’re with the World’s Fair Commission, I salute you and all your work and I hope I worked with some of you at the fair. Thank you for being here.”

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Seattle Center, Robert Nellams, Director, Seattle Center; Tracy Robinson, Executive Director, Seattle Center Foundation; Michal Anderson, Chief Financial & Operating Officer, Pacific Science Center; D. David Brown, President and Board Member, WA State Arts Alliance Commission and Executive Director, Pacific Northwest Ballet; Jon Stone, Executive Director, One Reel; Robert Townsend E. D. of Northwest Folk life; Dori Willard, Development Associate, The Children’s Museum, Seattle; Louse Miller, Seattle Opera Trustee, Seattle Opera; and Deborah Person, Managing Director, Seattle International Film Festival who were seated in the gallery.

MOTION

Senator Kilmer moved adoption of the following resolution:

SENATE RESOLUTION  
8641

By Senators Kilmer, Holmquist Newbry, Baxter, Kastama, Harper, Hatfield, Haugen, Tom, Honeyford, Kohl-Welles, Keiser, Pflug, Schoesler, Pridemore, Conway, Swecker, and Baumgartner

WHEREAS, Traumatic brain injuries can seriously affect every aspect of a patient’s life, including personality and mental abilities; and

WHEREAS, Traumatic brain injuries now affect over 5.3 million American citizens, who now live with resulting disabilities; and

WHEREAS, Out of the 1.7 million people annually who sustain traumatic brain injuries, 52,000 of them will die, while 275,000 will be hospitalized as a result of their brain injury; and

WHEREAS, In Washington state, 1,300 residents die of traumatic brain injuries every year; and

WHEREAS, The costs of traumatic brain injuries in the United States are estimated to be 48.3 billion dollars annually; and

WHEREAS, There is no cure for traumatic brain injuries, only prevention; and

WHEREAS, Traumatic brain injury patients are tirelessly cared for and supported by their family members and advocacy groups; and

WHEREAS, The Brain Injury Association of America has created a partnership with the Centers for Disease Control and Prevention, the Health Resources and Services Administration in the United States Department of Health and Human Services, the Defense Brain and Spinal Cord Injury Program for veterans and military personnel, the Washington Protection and Advocacy System, and the Brain Injury Association of Washington that strives to provide a better future for traumatic brain injury patients through prevention, research, education, and advocacy; and

WHEREAS, The traumatic brain injury advocacy groups already mentioned have recognized and declared the month of March 2011, National Brain Injury Awareness Month;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize and honor the work of these organizations in their efforts to combat traumatic brain injuries; and

BE IT FURTHER RESOLVED, That the Washington State Senate honor these advocacy groups, the family members of patients, and the victims of traumatic brain injuries during the month of March 2011, National Brain Injury Awareness Month.

Senators Kilmer and King spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8641.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the traumatic brain injury awareness effort , Suzanne Griffin, traumatic brain injury survivor from Bremerton; Gregg Cordova, from Bremerton; and Richard Hedrick, from Bremerton who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced participants of Olympia Community College’s Leadership Development Program led by Dr. Jeffrey D. Yergler who were seated in the gallery.

MOTION

On motion of Senator Rockefeller, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR’S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

Senator Fraser moved adoption of the following resolution:

SENATE RESOLUTION  
8642

By Senators Fraser, Parlette, Brown, Kohl-Welles, Hobbs, Hatfield, Conway, Regala, Schoesler, White, Shin, Kline, Harper, Hargrove, Chase, Murray, Tom, Prentice, Kastama, McAuliffe, Keiser, Pridemore, Haugen, Baumgartner, and Becker

WHEREAS, On March 11, 2011, Japan experienced the magnitude 9.0 Tohoku Earthquake, off the northeast coast of Honshu, which was the 4th largest earthquake in the world since 1900 and the largest in Japan since modern instrumental recording began 130 years ago, with the region continuing to experience significant aftershocks; and

WHEREAS, This extraordinarily powerful earthquake triggered devastating tsunami waves, which rapidly and forcefully traveled up to six miles inland in Japan; and

WHEREAS, Together, this historic earthquake and tsunami resulted in a monumental and continuing disaster of staggering personal, life-threatening, and economic proportions; and

WHEREAS, The lives of people in Washington State and Japan are deeply interconnected, with many families in Washington having members in Japan, and many families in Japan having members in Washington; and

WHEREAS, There are innumerable personal friendship ties between Washington and Japan through Washington's long standing Sister State relationship with Hyogo Prefecture established in 1963 (the oldest Sister State relationship in the U.S.), 36 Sister City relationships, Sister Port relationships between Seattle and Kobe, numerous college and university exchange relationships, strong trade relationships with Japan being Washington's third largest export market, and innumerable cultural exchanges that include trees and gardens, music and visual arts, and language and cultural studies; and

WHEREAS, Washington State is honored by Japan locating in Seattle one of its sixteen U.S. consulates, and by our Sister State, Hyogo Prefecture, locating a Business and Cultural Center in Seattle; and

WHEREAS, People throughout Washington admire the strength and resiliency of the survivors, grieve for the tragedies being experienced, and are participating in opportunities to be of assistance;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate express its heartfelt condolences to the people of Japan, especially to those in the immediately affected region; and

BE IT FURTHER RESOLVED, That the Washington State Senate express its admiration for the strength and resiliency of the survivors and the determination of the Japanese people to recover as quickly as possible; and

BE IT FURTHER RESOLVED, That the Washington State Senate express its profound appreciation to the many organizations and individuals in Washington State who, from their strong sense of affection and friendship, are contributing many forms of assistance for the very substantial rescue and recovery efforts; and

BE IT FURTHER RESOLVED, That copies of this resolution be sent to: The Japan Consul General Kiyokazu Ota in Seattle; the Hyogo Prefecture Governor Toshizo Ido in Kobe; and Mr. Takanori (Ginn) Kitaoka, Director, Hyogo Business and Cultural Center in Seattle.

Senators Fraser, Hobbs and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8642.

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

MOTION

On motion of Senator Fraser and without objection, the rules were suspended and the usual time allowed for members to add their names to Senate Resolution No. 8642 was extended until 12:20 p.m., Tuesday, March 22, 2011.

MOMENT OF SILENCE

The President led the Senate in observing a moment of silence in remembrance of and sympathy for the victims and survivors of the earthquake and tsunami which occurred in Japan on Friday, March 11, 2011.

MOTION

At 10:37 p.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Monday, March 21, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SEVENTY FIRST DAY

NOON SESSION

Senate Chamber, Olympia, Monday, March 21, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

MOTION

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

MOTION

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

REPORTS OF STANDING COMMITTEES

March 18, 2011

SB 5868 Prime Sponsor, Senator Tom: Regarding tuition fees for students with excess credits or prior degrees. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Ericksen and Kastama.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and White.

Passed to Committee on Ways & Means.

March 18, 2011

SHB 1089 Prime Sponsor, Committee on Higher Education: Regarding instructional materials provided in a specialized format. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1106 Prime Sponsor, Representative Takko: Authorizing disposal of property within the Seashore Conservation Area to resolve boundary disputes. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1176 Prime Sponsor, Representative Green: Providing licensed midwives online access to health care resources through the University of Washington health sciences

library. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1221 Prime Sponsor, Representative Finn: Regarding the rights of certain higher education students involved in military service. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1231 Prime Sponsor, Representative Takko: Limiting liability for making certain land and water areas available for recreational use under a hydroelectric license. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 17, 2011

SHB 1254 Prime Sponsor, Committee on Agriculture & Natural Resources: Regarding the institute of forest resources. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 17, 2011

SHB 1294 Prime Sponsor, Committee on Environment: Establishing the Puget Sound corps. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1395 Prime Sponsor, Representative Dunshee: Eliminating expiration dates for the derelict vessel and invasive species removal fee. Reported by Committee on Natural Resources & Marine Waters

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MAJORITY recommendation: Do pass as amended.  
Signed by Senators Ranker, Chair; Regala, Vice Chair;  
Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 17, 2011

HB 1413 Prime Sponsor, Representative Blake:  
Extending the expiration date of the invasive species council and  
the invasive species council account from December 31, 2011, to  
June 30, 2017. Reported by Committee on Natural Resources &  
Marine Waters

MAJORITY recommendation: Do pass. Signed by  
Senators Ranker, Chair; Regala, Vice Chair; Fraser;  
Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1424 Prime Sponsor, Representative Jacks:  
Regarding administrative consistency in student financial aid  
programs. Reported by Committee on Higher Education &  
Workforce Development

MAJORITY recommendation: Do pass. Signed by  
Senators Tom, Chair; Shin, Vice Chair; Hill; Becker;  
Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1425 Prime Sponsor, Representative Haler:  
Concerning the higher education coordinating board's  
responsibilities with regard to health sciences and services  
authorities. Reported by Committee on Higher Education &  
Workforce Development

MAJORITY recommendation: Do pass. Signed by  
Senators Tom, Chair; Shin, Vice Chair; Hill; Becker;  
Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 17, 2011

SHB 1453 Prime Sponsor, Committee on Agriculture &  
Natural Resources: Regarding commercial shellfish enforcement.  
Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by  
Senators Ranker, Chair; Regala, Vice Chair; Fraser;  
Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1477 Prime Sponsor, Representative Schmick:  
Authorizing the board of trustees at Eastern Washington  
University to offer educational specialist degrees. Reported by  
Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by  
Senators Tom, Chair; Shin, Vice Chair; Hill; Becker;  
Ericksen; Kastama; Kilmer and White.

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Passed to Committee on Rules for second reading.

March 17, 2011

HB 1582 Prime Sponsor, Representative Lytton:  
Concerning forest practices applications leading to conversion of  
land for development purposes. Reported by Committee on  
Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Ranker, Chair; Regala, Vice Chair;  
Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1586 Prime Sponsor, Representative Seaquist:  
Regarding the provision of doctorate programs at the research  
university branch campuses in Washington. Reported by  
Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by  
Senators Tom, Chair; Shin, Vice Chair; Hill; Becker;  
Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1631 Prime Sponsor, Representative Reykdal:  
Providing for academic employee salary increments for  
community and technical colleges. Reported by Committee on  
Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Tom, Chair; Shin, Vice Chair; Kastama;  
Kilmer and White.

MINORITY recommendation: Do not pass. Signed by  
Senators Hill; Becker and Ericksen.

Passed to Committee on Ways & Means.

March 18, 2011

SHB 1650 Prime Sponsor, Committee on Education  
Appropriations & Oversight: Changing state need grant  
eligibility provisions. Reported by Committee on Higher  
Education & Workforce Development

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Tom, Chair; Shin, Vice Chair; Hill;  
Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Ways & Means.

March 18, 2011

SHB 1663 Prime Sponsor, Committee on Higher  
Education: Removing the requirement that institutions of higher  
education purchase from correctional industries. Reported by  
Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Tom, Chair; Shin, Vice Chair; Hill;  
Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

SEVENTY FIRST DAY, MARCH 21, 2011

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March 17, 2011

HB 1698 Prime Sponsor, Representative Lytton: Improving recreational fishing opportunities in Puget Sound and Lake Washington. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 18, 2011

SHB 1822 Prime Sponsor, Committee on Higher Education: Establishing the first nonprofit online university. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama and Kilmer.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator White.

Passed to Committee on Rules for second reading.

March 18, 2011

ESHB 1846 Prime Sponsor, Committee on Labor & Workforce Development: Creating the aerospace training student loan program. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Rules for second reading.

March 18, 2011

2SHB 1909 Prime Sponsor, Committee on Ways & Means: Promoting innovation at community and technology colleges. Reported by Committee on Higher Education & Workforce Development

MAJORITY recommendation: Do pass. Signed by Senators Tom, Chair; Shin, Vice Chair; Hill; Becker; Ericksen; Kastama; Kilmer and White.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

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

INTRODUCTION AND FIRST READING

SB 5879 and Conway

by Senators Chase, King, Schoesler, Hargrove

AN ACT Relating to studying alternatives to the operation of residential habilitation centers; amending RCW 71A.20.020; and declaring an emergency.

Referred to Committee on Health & Long-Term Care.

MOTION

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

MOTION

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

MOTION

Senator Litzow moved adoption of the following resolution:

SENATE RESOLUTION

8634

By Senators Litzow, Kastama, Conway, Honeyford, Fain, Baumgartner, Hill, Becker, and Parlette

WHEREAS, Washington State's communities benefit from cultural diversity, cross-cultural dialogue, and the sharing of universal values of love, faith, respect, and equality; and

WHEREAS, It is the custom of the State of Washington to welcome all who come to our state, especially those who come in the interest of friendship and commerce; and

WHEREAS, The Washington State and Turkish Constitutions are rooted in the shared principles of democracy, equality, and religious freedom; and

WHEREAS, The Republic of Turkey is the world's fifteenth largest economy and a valued trading partner with the State of Washington, with over three hundred fifty million dollars in products exported to that nation in 2009; and

WHEREAS, Immigrants from the Republic of Turkey and other Turkic nations have contributed to the cultural fabric and economic progress of Washington State, sharing successes in business, science, education, arts, and civic engagement; and

WHEREAS, Turkish citizens and Turkish-Americans take pride in their achievements, and cultural heritage;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize the unique and invaluable contributions made by Turkish people living in the State of Washington; and

BE IT FURTHER RESOLVED, That the Senate celebrate the time honored friendships, cultural, educational, and economic relations between Washingtonians, Turkish-Americans, and the citizens of the Republic of Turkey; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted by the Secretary of the Senate to the West America Turkic Council and the Acacia Foundation.

Senators Litzow and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8634.

The motion by Senator Litzow carried and the resolution was adopted by voice vote.

THOMAS HOEMANN, Secretary of the Senate

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Turkish-American Chamber of Commerce in Redmond, Aziz Kurt, President, Northwest and Huseyin Smithchi, President of Acacia Foundation in Kent who were seated in the gallery.

#### MOTION

Senator Fraser moved adoption of the following resolution:

#### SENATE RESOLUTION 8640

By Senator Fraser

WHEREAS, In this time of economic uncertainty, a safe and secure environment in which to live, work, and raise a family has become an even greater priority; and

WHEREAS, The Farmers Insurance Group of Companies annually ranks communities on the basis of which are the most secure places to live; and

WHEREAS, The rankings took into consideration crime statistics, extreme weather, risk of natural disasters, housing depreciation, foreclosures, air quality, terrorist threats, environmental hazards, life expectancy, and job loss numbers in 379 municipalities; and

WHEREAS, The Olympia area has claimed its distinction as the top city with a population between 150,000 and 500,000 for the third time in four years as the most secure midsize city in America; and

WHEREAS, Olympia's residents and businesses have established Washington's capital city as a major cultural center of the Puget Sound region and as a hub for artists and musicians, with a vibrant downtown, access to outdoor activities, and many employment opportunities; and

WHEREAS, Olympia's top ranking, joining nine other Washington areas with top secure rankings, helps establish Washington State as one of the most safe and secure states in the union for residents to live, raise families, find jobs, and lead long, interesting, and fulfilling lives;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate, on behalf of the people of the State of Washington, recognize the residents, businesses, local government, law enforcement, and public protection agencies of the greater Olympia area for the tremendous achievement of being named the Most Secure Midsize City in the United States of America; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the City of Olympia.

Senator Fraser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8640.

The motion by Senator Fraser carried and the resolution was adopted by voice vote.

#### MOTION

At 12:09 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Tuesday, March 22, 2011.

BRAD OWEN, President of the Senate

SEVENTY SECOND DAY

NOON SESSION

Senate Chamber, Olympia, Tuesday, March 22, 2011

The Senate was called to order at 12:00 noon by the President Pro Tempore. No roll call was taken.

MOTION

On motion of Senator Rockefeller, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 21, 2011

SHB 1024 Prime Sponsor, Committee on Transportation: Adding to the scenic and recreational highway system. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1103 Prime Sponsor, Committee on Transportation: Modifying the use of television viewers in motor vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

2SHB 1163 Prime Sponsor, Committee on Education Appropriations & Oversight: Creating a work group on preventing bullying, intimidation, and harassment and increasing student knowledge on mental health and youth suicide. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

March 21, 2011

EHB 1177 Prime Sponsor, Representative Hunt: Regarding field investigations on privately owned lands. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1179 Prime Sponsor, Representative Hunt: Clarifying that public employees may attend informational or educational meetings regarding legislative issues. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase and Nelson.

Passed to Committee on Rules for second reading.

March 21, 2011

ESHB 1183 Prime Sponsor, Committee on Health Care & Wellness: Regarding institutions of higher education prohibiting hospitals or physicians from entering into agreements to provide clinical rotations or residencies to certain medical students. (REVISED FOR ENGROSSED: Regarding certain osteopathic or allopathic medical schools prohibiting hospitals or physicians from entering into agreements to provide clinical rotations to qualified osteopathic or allopathic medical students. ) Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 18, 2011

SHB 1188 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Concerning suffocation and other domestic violence offenses. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 21, 2011

ESHB 1220 Prime Sponsor, Committee on Health Care & Wellness: Regulating insurance rates. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senators Becker; Carrell and Pflug.

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MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

March 21, 2011

EHB 1223 Prime Sponsor, Representative Fitzgibbon: Authorizing use of hearing officers for street vacation hearings. (REVISED FOR ENGROSSED: Authorizing use of hearing examiners for street vacation hearings. ) Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase and Nelson.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1328 Prime Sponsor, Committee on Transportation: Temporarily suspending certain motorcycle rules when operating in parades or public demonstrations. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

EHB 1409 Prime Sponsor, Representative Appleton: Authorizing the sale, exchange, transfer, or lease of public property. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase and Nelson.

Passed to Committee on Rules for second reading.

March 18, 2011

HB 1455 Prime Sponsor, Representative McCune: Concerning where an individual may petition to restore firearm possession rights. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove and Kohl-Welles.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1470 Prime Sponsor, Committee on Education: Regarding access to K-12 campuses for occupational or educational information. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; King; Rockefeller and Tom.

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MINORITY recommendation: Do not pass. Signed by Senator Nelson.

Passed to Committee on Rules for second reading.

March 21, 2011

EHB 1517 Prime Sponsor, Representative Jinkins: Requiring comparable coverage for patients who require orally administered anticancer medication. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1518 Prime Sponsor, Committee on State Government & Tribal Affairs: Authorizing pretax payroll deductions for qualified transit and parking benefits. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase and Nelson.

Passed to Committee on Rules for second reading.

March 21, 2011

2SHB 1519 Prime Sponsor, Committee on Education Appropriations & Oversight: Regarding school assessments for students with cognitive disabilities. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1520 Prime Sponsor, Representative Moscoso: Modifying state route number 527. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1543 Prime Sponsor, Committee on Transportation: Limiting the issuance of motorcycle instruction permits. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain;

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Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1560 Prime Sponsor, Committee on Health Care & Wellness: Concerning the health insurance partnership. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: Do not pass. Signed by Senators Becker; Parlette and Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1575 Prime Sponsor, Committee on Health Care & Wellness: Clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1595 Prime Sponsor, Committee on Health Care & Wellness: Regarding graduates of foreign medical schools. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

March 18, 2011

SHB 1652 Prime Sponsor, Committee on Judiciary: Regarding electronic impersonation. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1669 Prime Sponsor, Representative Santos: Regarding the educational opportunity gap. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Tom.

Passed to Committee on Rules for second reading.

March 18, 2011

SHB 1719 Prime Sponsor, Committee on Judiciary: Limiting liability for unauthorized passengers in a vehicle. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 21, 2011

ESHB 1740 Prime Sponsor, Committee on Health Care & Wellness: Establishing a health benefit exchange. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Carrell; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 21, 2011

HB 1833 Prime Sponsor, Representative Finn: Modifying the frequency of meetings of the motorcycle safety education advisory board. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1861 Prime Sponsor, Committee on Transportation: Concerning the sale or lease of surplus state-owned railroad properties. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1899 Prime Sponsor, Committee on State Government & Tribal Affairs: Changing penalty amounts for public records violations. Reported by Committee on Government Operations, Tribal Relations & Elections

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MAJORITY recommendation: Do pass as amended.  
Signed by Senators Pridemore, Chair; Prentice, Vice Chair;  
Swecker; Benton; Chase and Nelson.

Passed to Committee on Rules for second reading.

March 21, 2011

SHB 1933 Prime Sponsor, Committee on Transportation:  
Addressing license plate fraud and law enforcement safety for  
collector vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Haugen, Chair; White, Vice Chair; King;  
Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson;  
Shin and Swecker.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Rockefeller, all measures listed on the  
Standing Committee report were referred to the committees as  
designated.

## MOTION

On motion of Senator Rockefeller, the Senate advanced to the  
eighth order of business.

## MOTION

Senator Hatfield moved adoption of the following resolution:

SENATE RESOLUTION  
8624

By Senators Hatfield, Schoesler, Hobbs, Haugen, Becker, Delvin,  
Honeyford, Shin, Stevens, King, Parlette, Regala, Roach,  
Kohl-Welles, Fraser, and Rockefeller

WHEREAS, The 4-H Youth Development Program of  
Washington State University Extension has assisted the young  
people in Washington to develop essential "life skills" since the  
program was established in 1902; and

WHEREAS, The program centers on teaching young people to  
become productive members of society by fostering citizenship,  
science, engineering, math and technology literacy, health and  
wellness, communication, and decision-making skills; and

WHEREAS, Over 87,000 young people and 6,500 adult  
volunteers throughout Washington participated in 4-H youth  
development programs in 2010; and

WHEREAS, These programs help participants learn about a  
wide variety of subjects including science, family living, applied  
arts, and government activism; and

WHEREAS, These programs work with traditional community  
clubs and reach youth through urban groups, special interest groups,  
nutrition programs, after-school programs, camping, and  
interagency learning experiences; and

WHEREAS, 4-H remains relevant by responding to societal  
changes affecting youth by creating clubs such as 4-H Military  
Clubs which now serve more than six thousand youth in counties  
across the state; and

WHEREAS, More than 350 4-H members from around the  
state are currently visiting the State Capitol as part of an annual

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statewide educational program titled, "4-H Know Your  
Government"; and

WHEREAS, The 4-H Know Your Government program  
focused this year on politics and the media and how both affect our  
views of democracy; and

WHEREAS, 4-H will continue its dedication to empower  
young people to become active global citizens and realize the value,  
significance, and responsibility of taking part in local, regional,  
state, national, and international community issues;

NOW, THEREFORE, BE IT RESOLVED, That the  
Washington State Senate recognize the 4-H Youth Development  
Program for its many contributions to the youth of Washington and  
the betterment of our communities; and

BE IT FURTHER RESOLVED, That copies of this resolution  
be immediately transmitted by the Secretary of the Senate to Pat  
Boys, the State 4-H Director for the Washington State University  
Extension 4-H Youth Development Program.

Senator Hatfield spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the  
Senate to be the adoption of Senate Resolution No. 8624.

The motion by Senator Hatfield carried and the resolution  
was adopted by voice vote.

## MOTION

At 12:03 p.m., on motion of Senator Rockefeller, the Senate  
adjourned until 10:00 a.m. Wednesday, March 23, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SEVENTY THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 23, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Sheldon and Stevens.

The Sergeant at Arms Color Guard consisting of Pages Chad Anderson and Conner Anderson, presented the Colors.

REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen in the past, and on occasion, the President has allowed for alternatives to the opening prayer to provide for other methods of contemplation and inspiration. This morning, in lieu of prayer, we are honored to have with us the Ugandan Orphans Choir, a ministry of Childcare Worldwide, under the leadership of Tino Quiroga."

The Ugandan Orphans Choir performed a song.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Pastor Tim Heffer, Hidden Creek Community Church and wife Meg; Hidden Creek Community Church Administrative Assistant Joan Benson and Brad Pouts Ministry Intern; the choir host family Dan and Andrea Padden and daughter Mattie and Danny McQueen Choir Coordinator, Hidden Creek Community Church who accompanied the choir and were seated in the gallery.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 22, 2011

E2SHB 1267 Prime Sponsor, Committee on General Government Appropriations & Oversight: Clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Swecker and Benton.

Passed to Committee on Rules for second reading.

March 22, 2011

ESHB 1309 Prime Sponsor, Committee on Judiciary: Concerning reserve accounts and studies for condominium and homeowners' associations. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton; Fain; Haugen; Keiser and Litzow.

Passed to Committee on Rules for second reading.

March 22, 2011

EHB 1398 Prime Sponsor, Representative Fitzgibbon: Creating an exemption from impact fees for low-income housing. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain; Haugen; Keiser and Litzow.

MINORITY recommendation: Do not pass. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

March 22, 2011

SHB 1570 Prime Sponsor, Committee on Technology, Energy & Communications: Providing notice to the department of defense before siting energy facility projects. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Fraser; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 22, 2011

HB 1649 Prime Sponsor, Representative Jinkins: Concerning reciprocity and statutory construction with regard to domestic partnerships. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

March 22, 2011

EHB 1702 Prime Sponsor, Representative Lias: Establishing a process for the payment of impact fees through provisions stipulated in recorded covenants. Reported by Committee on Financial Institutions, Housing & Insurance

MAJORITY recommendation: Do pass as amended. Signed by Senators Hobbs, Chair; Fain; Haugen; Keiser and Litzow.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Benton.

Passed to Committee on Rules for second reading.

March 22, 2011

SHB 1712 Prime Sponsor, Committee on Environment: Regarding null power. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Fraser and Morton.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Delvin and Holmquist Newbry.

Passed to Committee on Rules for second reading.

March 21, 2011

ESHCR 4404 Prime Sponsor, Committee on Health Care & Wellness: Continuing the work of the joint select committee on health reform implementation. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Kline; Murray; Parlette; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Carrell.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5880 by Senators Stevens, Regala and Harper

AN ACT Relating to collections on legal financial obligations; and amending RCW 9.94A.010 and 9.94A.760.

Referred to Committee on Human Services & Corrections.

SB 5881 by Senators Kilmer and Parlette

AN ACT Relating to the deposit of the additional cigarette tax; amending RCW 82.24.026; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5882 by Senators Schoesler, Fraser and Conway

AN ACT Relating to determining average salary for the pension purposes of local government employees as certified by their employer; amending RCW 41.26.030; reenacting and amending RCW 41.37.010 and 41.40.010; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Kastama moved adoption of the following resolution:

SENATE RESOLUTION  
8643

By Senators Kastama, Becker, Regala, Carrell, Conway, Kilmer, Honeyford, Nelson, Shin, Fraser, White, Hobbs, Murray, Harper, Hargrove, Hatfield, Brown, Rockefeller, Kline, Chase, Prentice, McAuliffe, Tom, Pridemore, Keiser, Sheldon, Kohl-Welles, and Haugen

WHEREAS, The annual Daffodil Festival is a cherished tradition for the people of Pierce County and the Northwest; and

WHEREAS, 2011 marks the seventy-eighth annual Daffodil Festival; and

WHEREAS, The mission of the Daffodil Festival is to focus national and regional attention on our local area as a place to live and visit, to give citizens of Pierce County a civic endeavor where the "Spirit of Adventure" comes alive, fostering civic pride, to give young people and organizations of the local area an opportunity to display their talents and abilities, to give vent to citizens' enthusiasm in parades, pageantry, and events, and to stimulate the business economy through expenditures by and for the Festival and by visitors attracted during Festival Week; and

WHEREAS, The Festival began in 1926 as a modest garden party in Sumner and grew steadily each year until 1934, when flowers, which previously had been largely discarded in favor of daffodil bulbs, were used to decorate cars and bicycles for a short parade through Tacoma; and

WHEREAS, The Festival's 2011 events are ongoing with the 50th Annual Junior Parade on April 2, 2011, the 78th Annual Grand Floral Street Parade on April 9, 2011--winding its way from downtown Tacoma through the communities of Puyallup, Sumner, and Orting and consisting of approximately 40 float entries and over 80 other entries, including bands, marching and mounted units, and floats that are decorated with fresh-cut Daffodils, numbering in the thousands--and will culminate with the 59th Annual Marine parade on April 17, 2011; and

WHEREAS, This year's Festival royalty includes Queen Claire Flemming, Curtis High School, and Princesses Marissa Jay, Bethel High School; Payton Jensen, Bonney Lake High School; Kelsey Carder, Cascade Christian High School; Wynonna Swift, Chief Leschi High School; Shawnice Davis, Clover Park High School; Jordan Davis, Eatonville High School; Alexandra Schuster,

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Emerald Ridge High School; Whitney Franks, Fife High School; Erin Mathews, Franklin Pierce High School; Kori Hinkle, Graham-Kapowsin High School; Bianca Gonzaga, Henry Foss High School; Rio Marquez-Hammit, Lakes High School; Katie Smith, Lincoln High School; Charly Williams, Mt. Tahoma High School; Krista Nunnally, Orting High School; Monica Gallucci, Puyallup High School; Sarah Piek, Rogers High School; Sarah Brauneis, Spanaway Lake High School; Sophia Williams, Stadium High School; Makel Ortiz, Sumner High School; Nichele Bunch, Washington High School; and Chelsea Kem, Wilson High School;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize and honor the many contributions made to our state by the Daffodil Festival and its organizers for the past seventy-eight years; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the 2011 Daffodil Festival Officers and to the members of the Festival Royalty.

Senators Kastama, Becker, Regala and Conway spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8643.

The motion by Senator Kastama carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Miss. Claire Flemming, 2011 Daffodil Queen, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Queen Claire Flemming to address the Senate.

REMARKS BY QUEEN FLEMMING

Claire Flemming: "Good morning, on behalf of all the Princesses and the Daffodil Festival I would like to thank you so much for allowing us to be here today. The Princesses travel to the Capitol every year for the last eleven years, we've had the opportunity to come and it's something that we all truly look forward to and we are really excited for the rest of the day today. So, again thank you for this opportunity. It's wonderful. The Princesses this year have been very busy doing many community service projects throughout Pierce County. We've not only worked in our regular programs such as the Tacoma Kiwanis Clubs, Puyallup, Orting as well as Rotary Clubs but this year we've also taking a special interest in children working not only with the Boys and Girls Clubs of Pierce County but also doing Pierce County Library readings twice a month every Saturday. It's been absolutely wonderful. We have a lot of things as well to look forward to this year for Daffodil, the Parade, the Grand Floral, is coming up on April 9. It will be in Tacoma, Puyallup, Sumner and Orting and I hope you guys have the opportunity to come. It's a wonderful tradition and it's something that we are all looking forward to so thank you again very much for this opportunity to be here today. It's very wonderful and we're looking forward to it. Thank you."

INTRODUCTION OF SPECIAL GUESTS

The President introduced and welcomed representatives of the 2011 Daffodil Festival: President Karen Baskett; Vice-President of Royalty Kathi Baldwin; Queen Mother Kimberly James; and the other Festival and Royalty officer and chaperones who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President introduced and welcomed former Senator Bill Finkbeiner chaperoning his daughter Anna's Fifth-grade class from St. Thomas School in Medina who were seated in the gallery and guests of Senator Andy Hill.

MOTION

At 10:26 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:28 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Eddy, Smith, Morris, Probst, Sells, Springer, Warnick, Liias, Stanford and Maxwell)

Creating the aerospace training student loan program.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Substitute House Bill No. 1846 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Eide spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Sheldon was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1846.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1846 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Absent: Senator Stevens

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

I anticipated being excused from all Senate floor and committee activity from March 21 through March 25, 2011 because my father recently passed away and I have been making arrangements for his memorial service and related matters.

I expect to be formally excused during this time period, and this statement should further serve to explain my absence and reason for missing any votes during this time period.

Because of a delay in being excused on March 23, I was marked as being "absent" instead of "excused" for the vote on House Bill No. 1846. Had I been present, I would have voted on this bill, and should have been listed as "excused" for this particular vote as I am for the remainder of business for this week.

SENATOR STEVENS, 39<sup>th</sup> LEGISLATIVE DISTRICT

#### MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

#### SECOND READING

HOUSE BILL NO. 1347, by Representatives Hunter and Orcutt

Concerning sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1347 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1347.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1347 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Excused: Senators Sheldon and Stevens

HOUSE BILL NO. 1347, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

Providing the department of revenue with additional flexibility to achieve operational efficiencies through the expanded use of electronic means to remit and report taxes.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed House Bill No. 1357 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1357.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1357 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Holmquist Newbry, Honeyford, Morton, Parlette and Roach

Excused: Senators Sheldon and Stevens

ENGROSSED HOUSE BILL NO. 1357, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8008, by Senators Brown, Hewitt, Kohl-Welles, Holmquist Newbry, Conway, Parlette, Fraser, Kilmer, White and Hatfield

Requesting that the United States Department of Labor provide Washington with unemployment tax relief equal to any benefit provided to other states.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Senate Joint Memorial No. 8008 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Brown, Conway and Kohl-Welles spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8008.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8008 and the memorial passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yeas: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Excused: Senators Sheldon and Stevens

SENATE JOINT MEMORIAL NO. 8008, having received the constitutional majority, was declared passed.

SECOND READING

HOUSE BILL NO. 1544, by Representatives Hunter and Anderson

Restricting the eligibility for the basic health plan to the basic health transition eligibles population under the medicaid waiver.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.47.020 and 2009 c 568 s 2 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(2) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(3) "Health coverage tax credit program" means the program created by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

(4) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(5) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets

eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; (e) who chooses to obtain basic health care coverage from a particular managed health care system; and (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(6) "Premium" means a periodic payment, which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

(7) "Rate" means the amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees in the plan and in that system.

(8) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(9) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

(i) Who is not eligible for medicare;

(ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator;

(iii) Who is not a full-time student who has received a temporary visa to study in the United States;

(iv) Who resides in an area of the state served by a managed health care system participating in the plan;

(v) Until March 1, 2011, whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan; ~~((and))~~

(vii) Who is not receiving medical assistance administered by the department of social and health services; and

(viii) After February 28, 2011, who is in the basic health transition eligibles population under 1115 medicaid demonstration project number 11-W-00254/10;

(b) An individual who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and who is a foster parent licensed under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

(c) To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, an individual, or an individual's spouse or dependent children, who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and

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determined annually by the federal department of health and human services.

(10) "Washington basic health plan" or "plan" means the system of enrollment and payment for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

**NEW SECTION. Sec. 2.** The legislature intends to define eligibility for the basic health plan for periods subsequent to expiration of the 1115 medicaid demonstration project based upon recommendations from its joint select committee on health reform regarding whether the basic health plan should be offered as an enrollment option for persons who qualify for federal premium subsidies under the federal patient protection and affordable care act of 2010.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1544.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "waiver;" strike the remainder of the title and insert "reenacting and amending RCW 70.47.020; creating a new section; and declaring an emergency."

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1544 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1544 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1544 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Hill and Litzow

Excused: Senators Sheldon and Stevens

HOUSE BILL NO. 1544 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1129, by Representatives Klippert, Liias, Billig, Rolfes, Fitzgibbon, Reykdal, Ryu, Finn and Moscoso

Including a bicycle and pedestrian traffic safety curriculum in certain traffic schools and safety courses.

The measure was read the second time.

#### MOTION

On motion of Senator King, the rules were suspended, House Bill No. 1129 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1129.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1129 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Sheldon and Stevens

HOUSE BILL NO. 1129, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5167, by Senators Schoesler, Murray, Honeyford, Pridemore, Kilmer and Tom

Concerning tax statute clarifications and technical corrections. Revised for 1st Substitute: Concerning tax statute clarifications and technical corrections, including for the purposes of local rental car taxes.

#### MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 5167 was substituted for Senate Bill No. 5167 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 5167 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5167.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute Senate Bill No. 5167 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senators Sheldon and Stevens

SUBSTITUTE SENATE BILL NO. 5167, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 3:02 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 23, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1846.

#### MOTION

At 3:04 p.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Thursday, March 24, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## SEVENTY FOURTH DAY

## NOON SESSION

Senate Chamber, Olympia, Thursday, March 24, 2011

The Senate was called to order at 12:00 noon by President Owen. No roll call was taken.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

There being no objection, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

March 22, 2011

SB 5119 Prime Sponsor, Senator Pridemore: Canceling the 2012 presidential primary. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner; Baxter and Holmquist Newbry.

Passed to Committee on Rules for second reading.

March 22, 2011

SB 5148 Prime Sponsor, Senator Keiser: Regarding statutory changes needed to implement a waiver to receive federal assistance for certain state purchased public health care programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5148 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1081 Prime Sponsor, Committee on Technology, Energy & Communications: Regarding the siting of small alternative energy resource facilities. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1084 Prime Sponsor, Committee on State Government & Tribal Affairs: Creating the board on geographic names. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1133 Prime Sponsor, Committee on Health Care & Wellness: Requiring massage practitioners to include their license numbers on advertising and display a copy of their license or make it available upon request. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

March 23, 2011

E2SHB 1144 Prime Sponsor, Committee on Ways & Means: Concerning renewable energy investment cost recovery program. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Fraser; Holmquist Newbry and Ranker.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Delvin.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Ways & Means.

March 22, 2011

SHB 1172 Prime Sponsor, Committee on State Government & Tribal Affairs: Concerning beer and wine tasting at farmers markets. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1190 Prime Sponsor, Representative Hinkle: Concerning billing for anatomic pathology services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

March 22, 2011

ESHB 1202 Prime Sponsor, Committee on State Government & Tribal Affairs: Creating a pilot project to allow spirits sampling in state liquor stores and contract stores. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1215 Prime Sponsor, Representative Liias: Clarifying the application of the fifteen-day storage limit on liens for impounded vehicles. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Delvin; Eide; Hobbs; Nelson; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 22, 2011

HB 1244 Prime Sponsor, Representative Condotta: Modifying liquor permit and licensing provisions. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1311 Prime Sponsor, Committee on Health Care & Wellness: Improving health care in the state using evidence-based care. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1340 Prime Sponsor, Representative Kretz: Regarding the unlawful hunting of big game. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1365 Prime Sponsor, Committee on Environment: Modifying the definition of "distributed generation" for the purposes of chapter 19.285 RCW, the energy independence act. (REVISED FOR ENGROSSED: Concerning distributed generation. ) Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford; Chase; Delvin; Holmquist Newbry and Morton.

Passed to Committee on Rules for second reading.

March 22, 2011

ESHB 1367 Prime Sponsor, Committee on Labor & Workforce Development: Concerning for hire vehicles and for hire vehicle operators. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King; Keiser and Kline.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Holmquist Newbry and Hewitt.

Passed to Committee on Rules for second reading.

March 22, 2011

SHB 1402 Prime Sponsor, Committee on State Government & Tribal Affairs: Concerning certain social card games in an area annexed by a city or town. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 16, 2011

HB 1412 Prime Sponsor, Representative Santos: Regarding mathematics end-of-course assessments. Reported by Committee on Early Learning & K-12 Education

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MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 22, 2011

HB 1418 Prime Sponsor, Representative Rolfes: Concerning evaluating military training and experience toward meeting certain professional licensing requirements. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1421 Prime Sponsor, Committee on Agriculture & Natural Resources: Providing authority to create a community forest trust. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Fraser; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Ways & Means.

March 23, 2011

SHB 1431 Prime Sponsor, Committee on Education: Addressing financial insolvency of school districts. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

March 22, 2011

HB 1432 Prime Sponsor, Representative Rodne: Permitting private employers to exercise a voluntary veterans' preference in employment. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 22, 2011

HB 1440 Prime Sponsor, Representative Kenney: Regarding the building communities fund program competitive process. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist

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Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 22, 2011

HB 1465 Prime Sponsor, Representative Hunt: Modifying conditions and restrictions for liquor licenses. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1494 Prime Sponsor, Committee on Health Care & Wellness: Concerning vulnerable adult referral agencies. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell and Parlette.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1509 Prime Sponsor, Committee on Agriculture & Natural Resources: Concerning the forestry riparian easement program. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Ways & Means.

March 23, 2011

HB 1521 Prime Sponsor, Representative Maxwell: Recognizing Washington innovation schools. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 23, 2011

E2SHB 1593 Prime Sponsor, Committee on Education Appropriations & Oversight: Establishing a residency provisional principal certification. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Rockefeller.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

March 23, 2011

HB 1594 Prime Sponsor, Representative Santos: Concerning the membership and work of the financial education public-private partnership. Reported by Committee on Early Learning & K-12 Education

E2SHB 1634 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning underground utilities. Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson and Rockefeller.

MAJORITY recommendation: Do pass as amended. Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Chase; Delvin; Fraser; Morton and Ranker.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 23, 2011

March 22, 2011

E2SHB 1599 Prime Sponsor, Committee on Ways & Means: Establishing the pay for actual student success dropout prevention program. Reported by Committee on Early Learning & K-12 Education

ESHB 1636 Prime Sponsor, Committee on Labor & Workforce Development: Concerning services performed by amateur sports officials. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Fain; Hill; Hobbs; Nelson and Tom.

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators King and Rockefeller.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

March 22, 2011

March 23, 2011

SHB 1600 Prime Sponsor, Committee on Education: Concerning elementary math specialists. Reported by Committee on Early Learning & K-12 Education

SHB 1699 Prime Sponsor, Committee on Capital Budget: Concerning housing trust fund administrative costs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

March 23, 2011

March 22, 2011

SHB 1614 Prime Sponsor, Committee on Early Learning & Human Services: Concerning the traumatic brain injury strategic partnership. Reported by Committee on Health & Long-Term Care

EHB 1703 Prime Sponsor, Representative Dammeier: Addressing fiscal notes for legislation that uniquely affects school districts. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 22, 2011

March 23, 2011

SHB 1626 Prime Sponsor, Committee on Judiciary: Modifying harassment provisions. Reported by Committee on Judiciary

SHB 1710 Prime Sponsor, Committee on Education: Creating a strategic plan for career and technical education. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles and Regala.

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MAJORITY recommendation: Do pass as amended.  
Signed by Senators McAuliffe, Chair; Harper, Vice Chair;  
Eide; Fain; Hill; Hobbs; King; Nelson and Rockefeller.

MINORITY recommendation: That it be referred without  
recommendation. Signed by Senators Litzow and Tom.

Passed to Committee on Rules for second reading.

March 22, 2011

ESHB 1716 Prime Sponsor, Committee on Public Safety &  
Emergency Preparedness: Regulating secondhand dealers who  
deal with precious metal property. Reported by Committee on  
Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Kohl-Welles, Chair; Conway, Vice  
Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1721 Prime Sponsor, Committee on Environment:  
Preventing storm water pollution from coal tar sealants.  
Reported by Committee on Environment, Water & Energy

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Rockefeller, Chair; Nelson, Vice Chair;  
Chase; Fraser and Ranker.

MINORITY recommendation: Do not pass. Signed by  
Senators Honeyford and Delvin.

MINORITY recommendation: That it be referred without  
recommendation. Signed by Senators Holmquist Newbry  
and Morton.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1737 Prime Sponsor, Committee on Health Care &  
Wellness: Concerning the department of social and health  
services' audit program for pharmacy payments. Reported by  
Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Keiser, Chair; Conway, Vice Chair;  
Becker; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without  
recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1783 Prime Sponsor, Committee on Local  
Government: Amending the consideration of houseboats and  
houseboat moorages for the purposes of aquatic lands and  
shoreline management. Reported by Committee on Natural  
Resources & Marine Waters

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Ranker, Chair; Regala, Vice Chair;  
Morton; Fraser; Hargrove and Swecker.

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Passed to Committee on Rules for second reading.

March 22, 2011

SHB 1815 Prime Sponsor, Committee on Education  
Appropriations & Oversight: Preserving the school district levy  
base. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Murray, Chair; Kilmer, Vice Chair,  
Capital Budget Chair; Brown; Conway; Fraser; Hatfield;  
Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala;  
Rockefeller and Tom.

MINORITY recommendation: That it be referred without  
recommendation. Signed by Senators Zarelli; Parlette;  
Baumgartner; Baxter; Hewitt; Holmquist Newbry;  
Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1829 Prime Sponsor, Committee on Education:  
Creating an office of Native education within the office of the  
superintendent of public instruction. Reported by Committee on  
Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended.  
Signed by Senators McAuliffe, Chair; Harper, Vice Chair;  
Litzow; Eide; Fain; Hill; Hobbs; Nelson and Rockefeller.

MINORITY recommendation: Do not pass. Signed by  
Senator King.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1885 Prime Sponsor, Committee on Environment:  
Providing streamlining improvements in the administration of  
programs affecting the natural environment. Reported by  
Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Ranker, Chair; Regala, Vice Chair;  
Morton; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1897 Prime Sponsor, Committee on Transportation:  
Establishing a rural mobility grant program. Reported by  
Committee on Transportation

MAJORITY recommendation: Do pass. Signed by  
Senators Haugen, Chair; White, Vice Chair; King; Delvin;  
Eide; Hobbs; Nelson; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 22, 2011

SHB 1923 Prime Sponsor, Committee on Judiciary:  
Requiring the denial of a concealed pistol license application  
when the applicant is ineligible to possess a firearm under federal  
law. Reported by Committee on Judiciary

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MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove and Regala.

with the exception of Substitute House Bill No. 1600 which was referred to the Committee on Rules.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

March 23, 2011

SHB 1966 Prime Sponsor, Committee on Transportation: Clarifying that animal manure is an agricultural product for the purposes of commercial drivers' licenses. Reported by Committee on Transportation

INTRODUCTION AND FIRST READING

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Delvin; Eide; Hobbs; Nelson; Ranker; Shin and Swecker.

SB 5883 by Senator Murray

AN ACT Relating to fiscal matters.

Passed to Committee on Rules for second reading.

Referred to Committee on Ways & Means.

REPORTS OF STANDING COMMITTEES  
GUBERNATORIAL APPOINTMENTS

SB 5884 by Senator Murray

AN ACT Relating to fiscal matters.

March 22, 2011

SGA 9040 HAROLD W HANSON, appointed on May 16, 2010, for the term ending at the governors pleasure, as Director of the Washington State Lottery Commission. Reported by Committee on Labor, Commerce & Consumer Protection

Referred to Committee on Ways & Means.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

SB 5885 by Senator Murray

AN ACT Relating to state government.

Passed to Committee on Rules for second reading.

Referred to Committee on Ways & Means.

March 22, 2011

SGA 9075 THOMAS W MCLANE, reappointed on September 9, 2009, for the term ending September 8, 2014, as Member of the Public Employment Relations Commission. Reported by Committee on Labor, Commerce & Consumer Protection

SB 5886 by Senator Murray

AN ACT Relating to state government.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

Referred to Committee on Ways & Means.

Passed to Committee on Rules for second reading.

SB 5887 by Senator Murray

AN ACT Relating to the human services act of 2011.

March 22, 2011

SGA 9096 ANN E RYHERD, appointed on August 23, 2010, for the term ending August 2, 2016, as Member of the Lottery Commission. Reported by Committee on Labor, Commerce & Consumer Protection

Referred to Committee on Ways & Means.

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

SB 5888 by Senator Murray

AN ACT Relating to the human services act of 2011.

Passed to Committee on Rules for second reading.

Referred to Committee on Ways & Means.

MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated

SB 5889 by Senator Murray

AN ACT Relating to the human services act of 2011.

Referred to Committee on Ways & Means.

SB 5890 by Senator Murray

AN ACT Relating to the human services act of 2011.

Referred to Committee on Ways & Means.

SB 5891 by Senator Murray

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 5892 by Senator Murray

AN ACT Relating to criminal justice.

Referred to Committee on Ways & Means.

SB 5893 by Senator Murray

AN ACT Relating to natural resources.

Referred to Committee on Ways & Means.

SB 5894 by Senator Murray

AN ACT Relating to natural resources.

Referred to Committee on Ways & Means.

SB 5895 by Senator Murray

AN ACT Relating to education.

Referred to Committee on Ways & Means.

SB 5896 by Senator Murray

AN ACT Relating to education.

Referred to Committee on Ways & Means.

SB 5897 by Senator Murray

AN ACT Relating to higher education.

Referred to Committee on Ways & Means.

SB 5898 by Senator Murray

AN ACT Relating to higher education.

Referred to Committee on Ways & Means.

SB 5899 by Senator Murray

AN ACT Relating to public employment.

Referred to Committee on Ways & Means.

SB 5900 by Senator Murray

AN ACT Relating to public employment.

Referred to Committee on Ways & Means.

SB 5901 by Senator Murray

AN ACT Relating to creating the revenue and taxation act of 2011.

Referred to Committee on Ways & Means.

SB 5902 by Senator Murray

AN ACT Relating to creating the revenue and taxation act of 2011.

Referred to Committee on Ways & Means.

SB 5903 by Senator Murray

AN ACT Relating to creating the revenue act of 2011.

Referred to Committee on Ways & Means.

SB 5904 by Senator Murray

AN ACT Relating to creating the revenue act of 2011.

Referred to Committee on Ways & Means.

SB 5905 by Senators Baxter, Roach and Benton

AN ACT Relating to professional certificated teachers; and amending RCW 28A.410.210.

Referred to Committee on Early Learning & K-12 Education.

SB 5906 by Senators Baxter, Roach and Benton

AN ACT Relating to certificated classroom teachers, including career and technical education teachers; and amending RCW 28A.410.050, 28A.410.080, and 28A.410.210.

Referred to Committee on Early Learning & K-12 Education.

ESB 5907 by Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove

AN ACT Relating to implementing the policy recommendations resulting from the national institute of corrections review of prison safety; adding new sections to chapter 72.09 RCW; and creating a new section.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Ranker moved adoption of the following resolution:

SENATE RESOLUTION  
8639

By Senator Ranker

WHEREAS, British Columbia and Washington State share a border, many natural resources, and geological and geographic similarities; and

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WHEREAS, British Columbia and Washington State often work together to achieve mutual goals, including British Columbia working together with Whatcom County officials to secure and streamline the border crossing and transportation throughout the region; and

WHEREAS, The primary purpose of the Washington State Constitution is the education of our youth in order to prepare them to lead us into the future; and

WHEREAS, British Columbia recognizes the importance and value of quality civic education; and

WHEREAS, Washington State and British Columbia sponsor nationally renowned legislative internship programs; and

WHEREAS, Washington State undergraduate interns spend their winter quarter or spring semester working in Olympia with staff and members of the Washington State House of Representatives or Senate; and

WHEREAS, In addition to their office work, interns participate in weekly academic seminars and workshops learning about the process of a representative democracy with a bicameral legislature; and

WHEREAS, The British Columbia parliamentary internship offers an opportunity to university graduates to supplement their academic training by observing the daily workings of the legislature firsthand; and

WHEREAS, Interns acquire skills and knowledge they can apply in the chosen careers and future life experiences that will further contribute to a greater public understanding and appreciation of parliamentary government; and

WHEREAS, For the eighth year, British Columbia and Washington State legislative interns have participated in an exchange program to explore and learn about each other's history and government processes; and

WHEREAS, We welcome the British Columbia parliamentary interns to the Washington State legislature and commend their numerous academic achievements;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the hardworking and dedicated British Columbia parliamentary intern program facilitators: Karen Aitken, Jacqueline Quesnel, as well as the British Columbia parliamentary interns: Matt Dell, Anabel Rixen, Elise Palmer, Gordon Omand, Gordon Robinson, Graeme Scott, Caroline Lee, Heather Doi, Katie Comley, Christine Fritze, and extend our deepest gratitude to our own legislative intern coordinators, Judi Best and Annmarie Huppert for putting together such excellent programs; and

BE IT FURTHER RESOLVED, That the Senate of the State of Washington hereby honor, thank, and celebrate the British Columbia parliamentary internship participants here today.

Senator Ranker spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8639.

The motion by Senator Ranker carried and the resolution was adopted by voice vote.

#### MOTION

At 12:03 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, March 25, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## SEVENTY FIFTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Friday, March 25, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Stevens.

The Sergeant at Arms Color Guard consisting of Pages Devon Eslick and Gene Shin, presented the Colors.

## REMARKS BY THE PRESIDENT

President Owen: "Ladies and gentlemen of the senate, as part of the proceedings it has been the practice of the President to bring diverse voices from different faith communities to the senate to offer the opening prayer. Over the past few years the President has had the honor of attending several charitable events held by members of the Ismaili Muslim community in Washington to benefit those of lesser means. It is the President's understanding that, in the Ismaili Muslim community, any member of the community may offer the prayers so the President is greatly honored and privileged to be able to ask his friend, Sheliza Adatia, to give the opening prayer this morning. Sheliza is joined at the rostrum by her mother, Shiada."

After a brief statement on Islam, Miss Sheliza Adatia recited from the Qur'an and followed with a translation of the reading.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

There being no objection, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

March 24, 2011

HB 1000 Prime Sponsor, Representative Hurst: Concerning overseas and service voters. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1040 Prime Sponsor, Representative Pedersen: Regarding the use of electronic signatures and notices. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1046 Prime Sponsor, Committee on Transportation: Concerning vehicle and vessel quick title. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Delvin; Eide; Hobbs; Nelson; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1052 Prime Sponsor, Representative Pedersen: Addressing the authority of shareholders and boards of directors to take certain actions under the corporation act. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

HB 1166 Prime Sponsor, Representative Lias: Preventing alcohol poisoning deaths. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Kohl-Welles and Regala.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter; Carrell and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1194 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Concerning bail for the release of a person arrested and detained for a class A or B felony offense. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

E2SHB 1206 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning harassment against criminal justice participants. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

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HB 1207 Prime Sponsor, Representative Overstreet: Complying with the constitutional requirement to set a starting time for regular legislative sessions. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1265 Prime Sponsor, Committee on Local Government: Limiting residential densities of certain unincorporated portions of urban growth areas. (REVISED FOR ENGROSSED: Addressing land use planning in qualifying unincorporated portions of urban growth areas.) Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

E2SHB 1443 Prime Sponsor, Committee on Education Appropriations & Oversight: Concerning continuing education reforms, including implementing recommendations of the quality education council. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King; Nelson and Rockefeller.

Passed to Committee on Ways & Means.

March 24, 2011

ESHB 1469 Prime Sponsor, Committee on Local Government: Concerning landscape conservation and local infrastructure. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker and Nelson.

MINORITY recommendation: Do not pass. Signed by Senators Benton; Chase and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1478 Prime Sponsor, Committee on Local Government: Delaying or modifying certain regulatory and statutory requirements affecting cities and counties. Reported

by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass as amended. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

HB 1491 Prime Sponsor, Representative Goodman: Regarding membership of the early learning advisory council. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 23, 2011

SHB 1493 Prime Sponsor, Committee on Health Care & Wellness: Providing greater transparency to the health professions disciplinary process. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker; Carrell; Parlette and Pflug.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1506 Prime Sponsor, Committee on Judiciary: Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

E2SHB 1546 Prime Sponsor, Committee on Ways & Means: Authorizing creation of innovation schools and innovation zones in school districts. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass as amended. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1621 Prime Sponsor, Committee on Early Learning & Human Services: Making technical corrections to department of

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early learning statutes. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

March 23, 2011

E2SHB 1789 Prime Sponsor, Committee on Transportation: Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

E2SHB 1808 Prime Sponsor, Committee on Education Appropriations & Oversight: Creating the launch year program. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: Do pass. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Ways & Means.

March 24, 2011

SHB 1854 Prime Sponsor, Committee on Ways & Means: Concerning the annexation of territory by regional fire protection service authorities. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

ESHB 1864 Prime Sponsor, Committee on Business & Financial Services: Concerning the business practices of collection agencies. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 23, 2011

E2SHB 1901 Prime Sponsor, Committee on Health & Human Services Appropriations & Oversight: Creating flexibility in the delivery of long-term care services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair;

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Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Rules for second reading.

March 24, 2011

HB 1953 Prime Sponsor, Representative Springer: Concerning county and city real estate excise taxes. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Chase and Nelson.

MINORITY recommendation: Do not pass. Signed by Senator Benton.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

EHB 1969 Prime Sponsor, Representative Hasegawa: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Swecker; Benton; Chase; Nelson and Roach.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

March 24, 2011

SGA 9150 VAL OGDEN, appointed on January 20, 2011, for the term ending July 1, 2015, as Member of the State School for the Deaf Board of Trustees. Reported by Committee on Early Learning & K-12 Education

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators McAuliffe, Chair; Harper, Vice Chair; Litzow; Eide; Fain; Hill; Hobbs; King; Nelson; Rockefeller and Tom.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Eide, all measures listed on the Standing Committee report were referred to the committees as designated with the exceptions of Engrossed House Bill No. 1969 which was referred to the Committee on Ways & Means; Engrossed Second Substitute House Bill No. 1808 which was referred to the Committee on Rules; and Engrossed Second Substitute House Bill No. 1789 which was referred to the Committee on Transportation.

#### MOTION

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On motion of Senator Eide, the Senate advanced to the fifth order of business.

constitutional compulsory state workers' compensation law to go into effect in the United States; and

INTRODUCTION AND FIRST READING

SB 5908 by Senators Zarelli, Baumgartner, Holmquist Newbry and Parlette

WHEREAS, Over the 100 years since the Washington "Workmen's Compensation Act" was enacted, hundreds of thousands of Washington workers who have become injured or ill as a result of their work and the families of workers who have died as a result of workplace accidents or diseases have received relief in the form of sure and certain medical, disability, rehabilitation, or survivor benefits; and

AN ACT Relating to public employee pension reform; amending RCW 41.04.440, 41.04.445, 41.04.450, 41.50.030, 41.50.110, and 43.33A.190; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.37 RCW; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.04 RCW; adding a new chapter to Title 41 RCW; creating new sections; and providing an effective date.

WHEREAS, Hundreds of thousands of Washington businesses have been relieved of the uncertainty of a negligence-based litigation system; and

Referred to Committee on Ways & Means.

WHEREAS, We recognize that our Workers' Compensation system will continue to evolve as we work collaboratively to refine and update it to maintain its historical value to both employers and workers as was intended by the original sponsors of the Workmen's Compensation Act of 1911;

MOTION

NOW, THEREFORE, BE IT RESOLVED, That the Senate commemorate the 100th anniversary of Washington's Workers' Compensation system.

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

Senators Conway, Holmquist Newbry, Keiser, Kohl-Welles and King spoke in favor of adoption of the resolution.

MOTION

Senator Honeyford spoke on adoption of the resolution.

On motion of Senator Ericksen, Senator Stevens was excused.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8645.

The motion by Senator Conway carried and the resolution was adopted by voice vote.

MOTION

INTRODUCTION OF SPECIAL GUESTS

On motion of Senator Eide, the Senate advanced to the eighth order of business.

The President welcomed and introduced members of the Judy Schurke Director of the Department of Labor & Industries and Vickie Kennedy, Deputy Assistant Director, who were seated in the gallery.

MOTION

MOTION

Senator Conway moved adoption of the following resolution:

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SENATE RESOLUTION  
8645

SECOND READING

By Senators Conway, Holmquist Newbry, Kohl-Welles, King, Keiser, and Kline

SUBSTITUTE HOUSE BILL NO. 1247, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Hunter, Darneille and Kenney)

WHEREAS, 100 years ago the industrial revolution in the United States and the State of Washington resulted in an increasing number of hazardous workplaces, where serious workplace injuries and deaths were common and often resulted in destitution to injured workers and their families; and

Concerning the staffing levels and staff training requirements for secure community transition facilities.

The measure was read the second time.

WHEREAS, The uncertainty of lawsuits was a heavy burden to Washington businesses creating strife between employers and employees, with questions of fault and negligence burdening the courts; and

MOTION

WHEREAS, Public opinion rapidly crystallized and demanded that the current system be replaced, prompting Governor M.E. Hay to appoint a commission that resulted in a bill introduced in the 12th Washington State Legislative Session as "The Workmen's Compensation Act"; and

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 1247 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

Senator Carrell spoke against passage of the bill.

WHEREAS, House Bill 14, introduced by Representative Teats, a republican, was passed by the Senate with bipartisan support on March 7, 1911, and signed by the Speaker of the House and the President of the Senate on March 9, 1911, and signed into law by Governor Hay on March 14, 1911, and became the first state workers' compensation law enacted in the nation, and the first

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1247.

ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 1247 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton and Carrell

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1247, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5128, by Senators Haugen, King, White, Swecker, Hobbs and Shin

Concerning statewide transportation planning.

#### MOTIONS

On motion of Senator Haugen, Substitute Senate Bill No. 5128 was substituted for Senate Bill No. 5128 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Haugen, the rules were suspended, Substitute Senate Bill No. 5128 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

Senators Roach and Carrell spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5128.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5128 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Delvin, Ericksen, Honeyford and Roach

Excused: Senator Stevens

SUBSTITUTE SENATE BILL NO. 5128, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489, by House Committee on Environment (originally sponsored by

Representatives Billig, Morris, Frockt, Carlyle, Crouse, Ryu, Finn, Jinkins, Fitzgibbon, Tharinger, Rolfes, Liias, Moscoso, Stanford, Dunshee, Pettigrew, Ladenburg, Ormsby, Van De Wege, Moeller, Hunt, Pedersen, Maxwell, Roberts, Reykdal, Kagi, Darneille, Clibborn, Jacks and Kenney)

Limiting the use of fertilizer containing phosphorus. Revised for 1st Substitute: Protecting water quality through restrictions on fertilizer containing phosphorus.

The measure was read the second time.

#### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Phosphorus loading of surface waters can stimulate the growth of weeds and algae and that this growth can have adverse environmental, health, and aesthetic effects;

(b) Turf fertilizer contributes to phosphorus loading. Limits on turf fertilizer labeled as containing phosphorus can significantly reduce the discharge of phosphorus into the state's ground and surface waters;

(c) Turf fertilizer containing no or very low amounts of phosphorus is readily available and maintaining established turf in a healthy and green condition is not dependent upon the addition of turf fertilizer labeled as containing phosphorus; and

(d) While significant reductions of phosphorus from laundry detergent and dishwashing detergent have been achieved, similar progress in reducing phosphorus contributions from turf fertilizer has not been accomplished.

(2) It is the intent of the legislature to significantly limit the use of turf fertilizers labeled as containing phosphorus.

**Sec. 2.** RCW 15.54.270 and 1998 c 36 s 2 are each amended to read as follows:

~~((Terms used in))~~ The definitions in this section apply throughout this chapter ((have the meaning given to them in this chapter)) unless the context clearly ~~((indicates))~~ requires otherwise.

(1) "Brand" means a term, design, or trademark used in connection with the distribution and sale of one or more grades of commercial fertilizers.

(2) "Bulk fertilizer" means commercial fertilizer distributed in a nonpackaged form such as, but not limited to, tote bags, tote tanks, bins, tanks, trailers, spreader trucks, and railcars.

(3) "Calcium carbonate equivalent" means the acid-neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.

(4) "Commercial fertilizer" means a substance containing one or more recognized plant nutrients and that is used for its plant nutrient content or that is designated for use or claimed to have value in promoting plant growth, and shall include limes, gypsum, and manipulated animal and vegetable manures. It does not include unmanipulated animal and vegetable manures, organic waste-derived material, and other products exempted by the department by rule.

(5) "Composting" means the controlled aerobic degradation of organic waste materials. Natural decay of organic waste under uncontrolled conditions is not composting.

(6) "Customer-formula fertilizer" means a mixture of commercial fertilizer or materials of which each batch is mixed according to the specifications of the final purchaser.

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- (7) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.
- (8) "Director" means the director of the department of agriculture.
- (9) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial fertilizer, or to offer for sale, sell, barter, exchange, or otherwise supply commercial fertilizer in this state.
- (10) "Distributor" means a person who distributes.
- (11) "Fertilizer material" means a commercial fertilizer that either:
  - (a) Contains important quantities of no more than one of the primary plant nutrients: Nitrogen, phosphate, and potash;
  - (b) Has eighty-five percent or more of its plant nutrient content present in the form of a single chemical compound; or
  - (c) Is derived from a plant or animal residue or by-product or natural material deposit that has been processed in such a way that its content of plant nutrients has not been materially changed except by purification and concentration.
- (12) "Grade" means the percentage of total nitrogen, available phosphoric acid, and soluble potash stated in whole numbers in the same terms, order, and percentages as in the "guaranteed analysis," unless otherwise allowed by a rule adopted by the department. Specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or potash. Fertilizer materials, bone meal, manures, and similar materials may be guaranteed in fractional units.
- (13) "Guaranteed analysis."
  - (a) Until the director prescribes an alternative form of "guaranteed analysis" by rule the term "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:

|  |       |         |
|--|-------|---------|
| Total nitrogen (N)   | ..... | percent |
| Available phosphoric acid (P <sub>2</sub> O <sub>5</sub> ) | ..... | percent |
| Soluble potash (K <sub>2</sub> O)                          | ..... | percent |

- The percentage shall be stated in whole numbers unless otherwise allowed by the department by rule.
- The "guaranteed analysis" may also include elemental guarantees for phosphorus (P) and potassium (K).
- (b) For unacidulated mineral phosphatic material and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness may also be guaranteed.
- (c) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium shall be as allowed or required by rule of the department. The guarantees for such other nutrients shall be expressed in the form of the element.
- (d) The guaranteed analysis for limes shall include the percentage of calcium or magnesium expressed as their carbonate; the calcium carbonate equivalent as determined by methods prescribed by the association of official analytical chemists; and the minimum percentage of material that will pass respectively a one hundred mesh, sixty mesh, and ten mesh sieve. The mesh size declaration may also include the percentage of material that will pass additional mesh sizes.
- (e) In commercial fertilizer, the principal constituent of which is calcium sulfate (gypsum), the percentage of calcium sulfate (CaSO<sub>4</sub>·2H<sub>2</sub>O) shall be given along with the percentage of total sulfur.
- (14) "Imported fertilizer" means any fertilizer distributed into Washington from any other state, province, or country.

- (15) "Label" means the display of all written, printed, or graphic matter, upon the immediate container, or a statement accompanying a fertilizer.
- (16) "Labeling" includes all written, printed, or graphic matter, upon or accompanying a commercial fertilizer, or advertisement, brochures, posters, television, and radio announcements used in promoting the sale of such fertilizer.
- (17) "Licensee" means the person who receives a license to distribute a commercial fertilizer under the provisions of this chapter.
- (18) "Lime" means a substance or a mixture of substances, the principal constituent of which is calcium or magnesium carbonate, hydroxide, or oxide, singly or combined.
- (19) "Manipulation" means processed or treated in any manner, including drying to a moisture content less than thirty percent.
- (20) "Manufacture" means to compound, produce, granulate, mix, blend, repackage, or otherwise alter the composition of fertilizer materials.
- (21) "Micronutrients" are: Boron; chlorine; cobalt; copper; iron; manganese; molybdenum; sodium; and zinc.
- (22) "Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorus, potash, calcium, magnesium, or sulfur.
- (23) "Official sample" means a sample of commercial fertilizer taken by the department and designated as "official" by the department.
- (24) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that include biosolids.
- (25) "Packaged fertilizer" means commercial fertilizers, either agricultural or specialty, distributed in nonbulk form.
- (26) "Person" means an individual, firm, brokerage, partnership, corporation, company, society, or association.
- (27) "Percent" or "percentage" means the percentage by weight.
- (28) "Produce" means to compound or fabricate a commercial fertilizer through a physical or chemical process, or through mining. "Produce" does not include mixing, blending, or repackaging commercial fertilizer products.
- (29) "Registrant" means the person who registers commercial fertilizer under the provisions of this chapter.
- (30) "Specialty fertilizer" means a commercial fertilizer distributed primarily for nonfarm use, such as, but not limited to, use on home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.
- (31) "Ton" means the net weight of two thousand pounds avoirdupois.
- (32) "Total nutrients" means the sum of the percentages of total nitrogen, available phosphoric acid, and soluble potash as guaranteed and as determined by analysis.
- (33) "Washington application rate" is calculated by using an averaging period of up to four consecutive years that incorporates agronomic rates that are representative of soil, crop rotation, and climatic conditions in Washington state.
- (34) "Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

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(35)(a) "Turf" means land, including residential property, commercial property, and publicly owned land, which is planted in closely mowed, managed grass.

(b) "Turf" does not include pasture land, land used to grow grass for sod, or any other land used for agricultural production or residential vegetable or flower gardening.

(36)(a) "Turf fertilizer" means a commercial fertilizer that is labeled for use on turf.

(b) "Turf fertilizer" does not include commercial fertilizers derived solely from organic materials, biosolids, or biosolid products.

**NEW SECTION. Sec. 3.** A new section is added to chapter 15.54 RCW to read as follows:

(1) A person may not:

(a) Except as otherwise provided in this section, apply turf fertilizer that is labeled as containing phosphorus to turf;

(b) Apply turf fertilizer labeled as containing phosphorus to turf when the ground is frozen;

(c) Intentionally apply turf fertilizer labeled as containing phosphorus to an impervious surface;

(d) Except as otherwise provided in this section, sell turf fertilizer that is labeled as containing phosphorus; or

(e) Display turf fertilizer that is labeled as containing phosphorus in a retail store unless the turf fertilizer is also clearly labeled for a use permitted by this section.

(2) The prohibitions in this section on the application, sale, and retail display of turf fertilizer that is labeled as containing phosphorus, other than the prohibitions in subsection (1)(b) and (c) of this section, do not apply in the following instances:

(a) Application for the purpose of establishing grass or repairing damaged grass, using either seeds or sod, during the growing season in which the grass is established;

(b) Application to an area if the soil in the area is deficient in plant available phosphorus, as shown by a soil test performed no more than thirty-six months before the application; or

(c) Application to pasture, interior house plants, flower and vegetable gardens located on either public or private property, land used to grow grass for sod, or any land used for agricultural or silvicultural production.

(3) If a retailer can show proof that a product prohibited for sale under subsection (1)(d) and (e) of this section was in stock and physically in the retail location before January 1, 2012, that retail location may sell that product until it is sold out.

(4)(a) Nothing in this section:

(i) Requires the enforcement or monitoring of compliance with this section by local governments; or

(ii) Requires local governments to participate in the administration of this section, including the verification of soil tests under subsection (2)(b) of this section.

(b) A city or county may not adopt a local ordinance regarding the application or sale of turf fertilizer that is labeled as containing phosphorus that is less restrictive than this section.

**Sec. 4.** RCW 15.54.470 and 1998 c 36 s 11 are each amended to read as follows:

(1) Except for violations of section 3 of this act, any person who violates any provision of this chapter shall be guilty of a misdemeanor, and the fines collected shall be disposed of as provided under RCW 15.54.480.

(2) Nothing in this chapter shall be considered as requiring the department to report for prosecution or to cancel the registration of a commercial fertilizer product or to stop the sale of fertilizers for violations of this chapter, when violations are of a minor character, and/or when the department believes that the public interest will be served and protected by a suitable notice of the violation in writing.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation of this chapter for such prosecution, an opportunity shall be given the distributor to present his or her view in writing or orally to the department.

(4) The department is hereby authorized to apply for, and the court authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule adopted under this chapter, notwithstanding the existence of any other remedy at law. Any such injunction shall be issued without bond.

**Sec. 5.** RCW 15.54.474 and 1998 c 36 s 12 are each amended to read as follows:

Except for violations of section 3 of this act, every person who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person, who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section.

**NEW SECTION. Sec. 6.** This act takes effect January 1, 2013."

#### MOTION

Senator Rockefeller moved that the following committee amendment by the Committee on Environment, Water & Energy to the committee striking amendment be adopted:

On page 6, line 2 of the amendment, after "materials," insert "organic-based products where the phosphorus component is derived solely from organic materials,"

Senator Rockefeller spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Environment, Water & Energy to the committee striking amendment to Engrossed Substitute House Bill No. 1489

The motion by Senator Rockefeller carried and the committee amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Hatfield moved that the following amendment by Senators Hatfield and Schoesler to the committee striking amendment be adopted:

On page 1, beginning on line 3 of the amendment, strike all of section 1

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators Hatfield, Schoesler and Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hatfield and Schoesler on page 1, line 3 to the committee striking amendment to Engrossed Substitute House Bill No. 1489.

The motion by Senator Hatfield carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

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Senator Hatfield moved that the following amendment by Senators Hatfield and Schoesler to the committee striking amendment be adopted:

On page 5, line 36 of the amendment, after "(36)" strike "(a)"

On page 6, beginning on line 1 of the amendment, strike all of subsection "(b)"

Senator Hatfield spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Nelson spoke against adoption of the amendment to the committee striking amendment.

Senators Carrell and Kline spoke on adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hatfield and Schoesler on page 5, line 36 to the committee striking amendment to Engrossed Substitute House Bill No. 1489.

The motion by Senator Hatfield carried and the amendment to the committee striking amendment was adopted by a rising vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 6, line 26 of the amendment, after "application;" strike "or"

On page 6, line 30 of the amendment, after "production" insert "; or

(d) Application by a professional turf manager trained in the proper use of fertilizer."

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Nelson spoke against adoption of the amendment to the committee striking amendment.

#### POINT OF INQUIRY

Senator Brown: "Would Senator Honeyford yield to a question? Is there a definition in statute of professional turf manager?"

Senator Honeyford: "I'd have to do some research, I'm not sure."

Senator Brown: "I would be surprised if there is Senator so I think this is a little vague to be putting into law. I could stand up and call myself a professional turf manager. I think it actually looks like a fairly big loop hole in the bill."

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 6, line 26 to the committee striking amendment to Engrossed Substitute House Bill No. 1489.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 8, after line 7 of the amendment, insert the following:

"NEW SECTION. **Sec. 7.** By January 1, 2015, the Washington State University agricultural research center, within existing resources, shall deliver to the governor and the appropriate committees of the house of representatives and the senate, a formal report that outlines the correlation between the implementation of limitations on turf fertilizer containing phosphorus and improvements in water body phosphorus levels.

NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act expire June 30, 2015."

On page 8, beginning on line 10 of the title amendment, after "creating" strike the remainder of the title amendment and insert "new sections; providing an effective date; and providing an expiration date."

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Honeyford, the amendment by Senator Honeyford on page 8, line 7 to the committee striking amendment to Engrossed Substitute House Bill No. 1489 was withdrawn.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 1489

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "phosphorus;" strike the remainder of the title and insert "amending RCW 15.54.270, 15.54.470, and 15.54.474; adding a new section to chapter 15.54 RCW; creating a new section; and providing an effective date."

On page 8, beginning on line 10 of the title amendment, after "RCW;" strike "creating a new section;"

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 1489 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Nelson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1489 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1489 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hewitt, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Hatfield, Haugen, Hill, Holmquist Newbry, Honeyford, King, Morton, Roach, Schoesler, Sheldon and Zarelli

Excused: Senator Stevens

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5251, by Senators Haugen, Swecker, Sheldon, Hobbs and White

Imposing an additional vehicle license fee on electric vehicles. Revised for 1st Substitute: Concerning electric vehicle license fees.

## MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5251 was substituted for Senate Bill No. 5251 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

On page 2, line 28, after "of" strike "transportation" and insert "licensing"

Senator Benton spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 2, line 28 to Substitute Senate Bill No. 5251.

The motion by Senator Benton carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Nelson, King and Rockefeller spoke in favor of passage of the bill.

Senator Carrell spoke against passage of the bill.

## POINT OF ORDER

Senator Ericksen: "Thank you Mr. President. The underlying bill being discussed today contains a one hundred dollar fee at the time of purchase of an automobile and a yearly fees one hundred dollars, upon re-registration of the car, commonly referred to by many people as their car tabs. Under Initiative 1053, the people of Washington State asked for two-thirds vote for all tax increases in Washington State. So, the question I have Mr. President, is the underlying bill, is it a fee increase or a tax increase with a one hundred dollar yearly tab fee being placed on the cars at renewal time?"

## REPLY BY THE PRESIDENT

President Owen: "The President believes you're raising to a Point of Order as to the number of votes necessary to pass the bill based on whether or not is it a tax or a fee."

Senator Haugen spoke against the point of order.

## MOTION

## MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5251 was deferred and the bill held its place on the third reading calendar.

At 11:17 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

## AFTERNOON SESSION

The Senate was called to order at 4:02 p.m. by President Owen.

## MOTION

On motion of Senator Fraser, the Senate reverted to the first order of business.

## SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

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SB 5176 Prime Sponsor, Senator Haugen: Making 2011-13 transportation appropriations. Reported by Committee on Transportation

MAJORITY recommendation: That Substitute Senate Bill No. 5176 be substituted therefor, and the substitute bill do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 24, 2011

SB 5289 Prime Sponsor, Senator Murray: Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 24, 2011

SB 5539 Prime Sponsor, Senator Kohl-Welles: Concerning Washington's motion picture competitiveness. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5539 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Keiser; Kohl-Welles and Pridemore.

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MINORITY recommendation: Do not pass. Signed by Senators Hewitt; Honeyford; Kastama; Pflug; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and Parlette.

Passed to Committee on Rules for second reading.

March 24, 2011

SB 5844 Prime Sponsor, Senator Kilmer: Concerning financing local government infrastructure. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5844 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 24, 2011

SB 5875 Prime Sponsor, Senator Hargrove: Addressing the terms of supervision for offenders sentenced to a first time offender waiver. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: That Substitute Senate Bill No. 5875 be substituted therefor, and the substitute bill do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SB 5877 Prime Sponsor, Senator Carrell: Creating the office of program integrity. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Ways & Means.

March 25, 2011

SB 5907 Prime Sponsor, Senator Kohl-Welles: Implementing the policy recommendations resulting from the national institute of corrections review of prison safety. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That Substitute Senate Bill No. 5907 be substituted therefor, and the substitute bill do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Hewitt; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry and King.

Passed to Committee on Ways & Means.

March 24, 2011

SJR 8215 Prime Sponsor, Senator Kilmer: Concerning the debt reduction act of 2011. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Joint Resolution No. 8215 be substituted therefor, and the substitute joint resolution do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 25, 2011

ESHB 1009 Prime Sponsor, Committee on Agriculture & Natural Resources: Concerning the authority of certain state agencies to enter into agreements with the federal government under the endangered species act. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1019 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Constraining the department of corrections' authority to transfer offenders out of state. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

HB 1021 Prime Sponsor, Representative Goodman: Concerning persons appointed by the court to provide information in family law and adoption cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 25, 2011

ESHB 1026 Prime Sponsor, Committee on Judiciary: Changing provisions relating to adverse possession claims. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

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SHB 1037 Prime Sponsor, Committee on Judiciary: Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1041 Prime Sponsor, Committee on Judiciary: Including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions. (REVISED FOR PASSED LEGISLATURE: Including certain correctional employees and community corrections officers who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions. ) Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

EHB 1050 Prime Sponsor, Representative McCoy: Regarding residential provisions for children of parents with military duties. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1051 Prime Sponsor, Committee on Judiciary: Amending trusts and estates statutes. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 25, 2011

SHB 1053 Prime Sponsor, Committee on Judiciary: Implementing recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Hargrove; Kohl-Welles and Regala.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter; Carrell and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1105 Prime Sponsor, Committee on Early Learning & Human Services: Addressing child fatality review in child welfare cases. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1127 Prime Sponsor, Committee on Labor & Workforce Development: Addressing bargaining with certified exclusive bargaining representatives. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 24, 2011

2SHB 1128 Prime Sponsor, Committee on Ways & Means: Providing support for eligible foster youth up to age twenty-one. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1148 Prime Sponsor, Committee on Agriculture & Natural Resources: Concerning the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: Do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Hargrove and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Fraser.

Passed to Committee on Rules for second reading.

March 24, 2011

2SHB 1153 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning costs for the collection of DNA samples. Reported by Committee on Judiciary

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MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1167 Prime Sponsor, Committee on Judiciary: Expanding provisions relating to driving or being in physical control of a motor vehicle while under the influence of alcohol or drugs. Reported by Committee on Judiciary

SHB 1253 Prime Sponsor, Committee on Judiciary: Revising the uniform interstate family support act. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Harper and McAuliffe.

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

MINORITY recommendation: Do not pass. Signed by Senators Baxter and Carrell.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

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SHB 1170 Prime Sponsor, Committee on Judiciary: Concerning triage facilities. Reported by Committee on Human Services & Corrections

HB 1298 Prime Sponsor, Representative Kelley: Concerning child support order summary report forms. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

Passed to Committee on Rules for second reading.

March 24, 2011

March 24, 2011

E2SHB 1186 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning requirements under the state's oil spill program. Reported by Committee on Natural Resources & Marine Waters

HB 1334 Prime Sponsor, Representative Nealey: Authorizing civil judgments for assault. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser and Hargrove.

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Swecker.

Passed to Committee on Rules for second reading.

Passed to Committee on Ways & Means.

HB 1419 Prime Sponsor, Representative Kagi: Allowing the department of early learning and the department of social and health services to share background check information. Reported by Committee on Human Services & Corrections

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SHB 1205 Prime Sponsor, Committee on Judiciary: Licensing court reporters. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell and Harper.

MAJORITY recommendation: Do pass as amended. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Carrell; Hargrove; Kohl-Welles and Regala.

Passed to Committee on Rules for second reading.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

SHB 1422 Prime Sponsor, Committee on Technology, Energy & Communications: Authorizing a forest biomass to aviation fuel demonstration project. Reported by Committee on Natural Resources & Marine Waters

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1243 Prime Sponsor, Committee on Judiciary: Concerning crimes against animals belonging to another person. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala and Roach.

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SHB 1438 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Concerning the interstate compact for adult offender supervision. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1485 Prime Sponsor, Committee on Judiciary: Regarding charitable solicitations. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Hewitt; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 24, 2011

EHB 1490 Prime Sponsor, Representative Kenney: Concerning a business and occupation tax deduction for certified community development financial institutions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1492 Prime Sponsor, Committee on Judiciary: Concerning the Uniform Commercial Code Article 9A on secured transactions. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug; Baxter; Carrell; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1547 Prime Sponsor, Committee on Ways & Means: Concerning the deportation of criminal alien offenders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter and Carrell.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Harper.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1565 Prime Sponsor, Committee on Judiciary: Concerning the modification and termination of domestic

violence protection orders. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1567 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Requiring background investigations for peace officers and reserve officers as a condition of employment. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1697 Prime Sponsor, Committee on Early Learning & Human Services: Providing for unannounced visits to homes with dependent children. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1708 Prime Sponsor, Committee on Labor & Workforce Development: Concerning mechanics' and materialmen's claims of liens. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry; King; Keiser and Kline.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1718 Prime Sponsor, Committee on Ways & Means: Concerning offenders with developmental disabilities or traumatic brain injuries. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended. Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1756 Prime Sponsor, Committee on Early Learning & Human Services: Authorizing implementation of a nonexpiring license for early learning providers. Reported by Committee on Human Services & Corrections

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MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

ESHB 1774 Prime Sponsor, Committee on Early Learning & Human Services: Recognizing adopted siblings and half siblings as relatives and adoptive parents of siblings or half siblings as suitable persons in adoption and dependency proceedings. (REVISED FOR PASSED LEGISLATURE: Concerning dependency matters. ) Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

March 24, 2011

EHB 1775 Prime Sponsor, Representative Goodman: Encouraging juvenile restorative justice programs. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

E2SHB 1776 Prime Sponsor, Committee on Education Appropriations & Oversight: Regarding licensing requirements for child care centers located in publicly owned or operated buildings. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1793 Prime Sponsor, Committee on Early Learning & Human Services: Restricting access to juvenile records. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Carrell; Harper and McAuliffe.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

March 24, 2011

HB 1794 Prime Sponsor, Representative Ladenburg: Adding court-related employees to the assault in the third degree statute. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Senators Harper, Vice Chair; Pflug; Baxter; Hargrove; Kohl-Welles; Regala and Roach.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1811 Prime Sponsor, Committee on Community Development & Housing: Allowing for informed telephonic consent for access to housing or homelessness services. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1858 Prime Sponsor, Committee on Early Learning & Human Services: Concerning the department of social and health services' authority with regard to semi-secure and secure crisis residential centers and HOPE centers. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

SHB 1874 Prime Sponsor, Committee on Public Safety & Emergency Preparedness: Addressing police investigations of commercial sexual exploitation of children and human trafficking. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Baxter; Carrell; Harper and McAuliffe.

Passed to Committee on Rules for second reading.

March 24, 2011

2SHB 1903 Prime Sponsor, Committee on Education Appropriations & Oversight: Requiring background checks for all child care licensees and employees. Reported by Committee on Human Services & Corrections

MAJORITY recommendation: Do pass as amended.  
Signed by Senators Hargrove, Chair; Regala, Vice Chair;  
Carrell; Harper and McAuliffe.

MINORITY recommendation: Do not pass. Signed by Senator Baxter.

Passed to Committee on Ways & Means.

March 24, 2011

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ESHB 2002 Prime Sponsor, Committee on Labor & Workforce Development: Concerning industrial insurance employer wage subsidies and reimbursements for light duty or transitional work. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: Do pass as amended. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Keiser and Kline.

MINORITY recommendation: Do not pass. Signed by Senators Holmquist Newbry; King and Hewitt.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

March 24, 2011

SGA 9000 HAROLD J ABBE, appointed on September 4, 2008, for the term ending June 12, 2012, as Member of the Columbia River Gorge Commission. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9006 HARRY BARBER, reappointed on February 15, 2010, for the term ending July 15, 2013, as Member of the Salmon Recovery Funding Board. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9017 SONDRAL CLARK, appointed on March 29, 2010, for the term ending June 11, 2013, as Member of the Columbia River Gorge Commission. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9060 MARTHA KONGSGAARD, reappointed on July 27, 2010, for the term ending June 25, 2014, as Chair of the Puget Sound Partnership. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011  
SGA 9099 ROLLAND A SCHMITTEN, appointed on June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9106 BRADLEY F SMITH, appointed on June 18, 2009, for the term ending December 31, 2014, as Member of the Fish and Wildlife Commission. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9140 ELIZABETH W BLOOMFIELD, appointed on January 13, 2011, for the term ending December 31, 2013, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9145 WILLIAM H CHAPMAN, reappointed on February 1, 2011, for the term ending December 31, 2013, as Chair of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

March 24, 2011

SGA 9146 PETER M MAYER, appointed on January 13, 2011, for the term ending December 31, 2013, as Member of the Recreation and Conservation Funding Board. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton; Fraser; Hargrove and Swecker.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Fraser, all measures listed on the Supplemental Standing Committee report were referred to the committees as

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designated with the exception of Substitute House Bill No. 1167  
which was referred to the Committee on Transportation.

MOTION

At 4:03 p.m., on motion of Senator Fraser, the Senate  
adjourned until 10:00 a.m. Monday, March 28, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SEVENTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, March 28, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Conway, Delvin, Kohl-Welles, McAuliffe, Pflug and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Virginia Pohl and Kaylene Stocking, presented the Colors. Reverend Dennis Magnuson of Redmond United Methodist Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

July 30, 2010

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

DAVID TROUTT, reappointed July 30, 2010, for the term ending July 15, 2014, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5124,

SUBSTITUTE SENATE BILL NO. 5157,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5747.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5909 by Senators Holmquist Newbry, Honeyford, Schoesler and Hatfield

AN ACT Relating to granting the authority to make final water right decisions to conservancy boards; amending RCW 90.80.055, 90.80.070, 90.80.080, 90.80.090, and 90.80.120; reenacting and amending RCW 43.21B.110 and 43.21B.110; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5910 by Senators White, Murray, Nelson, Kohl-Welles and Kline

AN ACT Relating to local government parking taxes; and adding a new section to chapter 82.80 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9015, Elizabeth Chen, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senator Shin spoke in favor of the motion.

MOTION

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2011 REGULAR SESSION

On motion of Senator White, Senators Kohl-Welles, McAuliffe and Sheldon were excused.

## MOTION

On motion of Senator Ericksen, Senators Benton, Delvin and Pflug were excused.

Senator Keiser spoke in favor of the motion.

## APPOINTMENT OF ELIZABETH CHEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9015, Elizabeth Chen as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9015, Elizabeth Chen as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Conway

Excused: Senators Benton, Delvin, Kohl-Welles, McAuliffe, Pflug and Sheldon

Gubernatorial Appointment No. 9015, Elizabeth Chen, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family of Senator Holmquist Newbry who were seated in the gallery.

## REMARKS BY THE PRESIDENT

President Owen: "It is the President's pleasure to introduce a distinguished guest visiting us from Oregon, retired State Senator Lynn Newbry.

Senator Newbry is a man of accomplishment. He served our country in the Air Force. At age 24, he ran his family's pear orchard while his father served in the Oregon State Senate. Our guest today also served as either the Chair or Co-Chair of the Oregon State Senate's Ways & Means Committee for most of his 14 year tenure. He served as the first chairman of the Oregon State Accident Insurance Fund, chaired boards on the Valley of the Rogue Bank, the Southern Oregon Timber Industries Association, and the Oregon Forest Industries Council. He also served on the State Board of Forestry and State Parks Commission. He was named the First Citizen of Medford in 1992.

A good friend of Senator Irv Newhouse, Senator Newhouse admired a tie tac that Lynn wore in the shape of a pear. As a token of friendship, Senator Newbry presented a duplicate tic-tac to Senator Newhouse so that both farmers could proudly wear the emblem of their profession in the legislature.

At a young age of 87, Senator Newbry's legacy continues as he is the new grandfather-in-law of our very own State Senator Janea Holmquist Newbry. He is here to see the third Senator Newbry in action.

Also, accompanying him is his wife of sixty-eight years, Charlotte, son Ron and daughter-in-law Sandi and grandson Matt Newbry, Senator Holmquist Newbry's husband."

## MOTION

On motion of Senator Eide, Senator Conway was excused.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Senator Baxter's family who were seated in the gallery.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the British Columbia Legislative Intern program from Victoria who were seated in the gallery.

## PERSONAL PRIVILEGE

Senator Holmquist Newbry: "Thank you Mr. President. First I would like to thank you for the wonderful introduction of my family joining us here today and I'm just so honored to have my husband Matt, my father-in-law, mother-in-law, Ron and Sandi and then Ron's parents, Lynn and Charlotte. I have been so blessed to get to know these two great individuals through the last little over a year now and as you've already mentioned I just been trying to soak in as much advice and wisdom and they're almost eighty-eight years of life and, Lynn and Charlotte, you continue to amaze me. Lynn, of course, not only serving our country in the Air Force where he ended up marrying Charlotte in a church full of strangers basically and there's a story to that. They have been on many travels around the world and it's really particularly interesting for me to hear about Senator Lynn Newbry's experience in the Oregon Legislature as they face a lot of the same trials and tribulations that we're facing here today in Washington. It was fun for me to hear and I think a lot of us can relate but he was known for his humility and candor and for his ability to build and form bipartisan coalitions and as the chair and co-chair of the Ways and Means Committee, I got a lot a little laugh out of this, all of the members of the Ways and Means Committee while he served, both Democrats and Republicans, wore meat cleaver tie tacs to symbolize what they had to do to their then-bloated budgets so I thought maybe he could send that on so we could send it to Chair Murray for the rest of this session. He also was able to speak, for example, at functions with Paul Harvey where it occurred to him, a theory occurred to him, which became known as Newbry's Law and that was an 'undisciplined individual is dustin to lose his or her freedoms in an undisciplined society will ultimately lose its freedoms.' He, when he served, he for the privilege of serving earned six hundred dollars a year and their offices were actually their floor desks. Right out here on the floor was their office. That's all they had to work with and to make ends meet many of the Senators hired their wives as their administrative assistants. So, as we know, behind every strong man is a strong woman. Charlotte served right next to Lynn out on the Senate. You know, dictating and doing letters and pasting then amendments on bills. Charlotte, I sure loved hearing that many of your words of wisdom, for example, how you helped remember many names for your husband and yourself even

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though you went through a lot of purses and there's a story there too. When I first met Lynn and Charlotte I was dating their grandson Matt, and I can remember at the end of the visit that Lynn kind of nudged his grandson Matt and basically said if you play your cards right we may have a Senator, a third Senator Newbry in the family. So, I stand proudly before you as the third Senator Newbry wearing a name tag that is older than I as he served his last term in '74 which, coincidentally, was the year I was born and as a good reminder to try to embody all those wonderful characteristics that you currently have. That you Charlotte not only being states man as a wonderful husband, father and grandfather and I think most proudly, Mr. President, I'm just so pleased to call them family. So, Grandpa and Grandma Newby I wish you the best of luck and many more adventures and a lot more happiness. Thank you Mr. President."

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9135, Denny Heck, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senators Fraser and Benton spoke in favor of passage of the motion.

## APPOINTMENT OF DENNY HECK

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9135, Denny Heck as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9135, Denny Heck as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senators Conway, Delvin, Kohl-Welles, McAuliffe and Sheldon

Gubernatorial Appointment No. 9135, Denny Heck, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Brown moved that Gubernatorial Appointment No. 9056, Jo Ann Kauffman, as a member of the Board of Trustees, Eastern Washington University, be confirmed.

Senator Brown spoke in favor of the motion.

## APPOINTMENT OF JO ANN KAUFFMAN

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9056, Jo Ann Kauffman as a member of the Board of Trustees, Eastern Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9056, Jo Ann Kauffman as a member of the Board of Trustees, Eastern Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Sheldon

Gubernatorial Appointment No. 9056, Jo Ann Kauffman, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Eastern Washington University.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Hudgins, Green, McCoy, Eddy, Kenney and Reykdal)

Regarding the streamlining of contractor appeals.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1055 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1055.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1055 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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 SECOND READING

HOUSE BILL NO. 1345, by Representatives Rivers, Pedersen and Rodne

Regarding the uniform unsworn foreign declarations act.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1345 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1345.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1345 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Baumgartner

Excused: Senators Delvin, McAuliffe and Sheldon

HOUSE BILL NO. 1345, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1424, by Representatives Jacks, Haler and Upthegrove

Regarding administrative consistency in student financial aid programs.

The measure was read the second time.

MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 1424 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1424.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1424 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs,

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Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Sheldon

HOUSE BILL NO. 1424, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1479, by Representatives Goodman and Rodne

Revising the publication requirements of the statute law committee.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee amendment by the Committee on Judiciary be adopted:

On page 3, line 9, after "charge a" strike "reasonable fee for" and insert "minimal fee sufficient to cover costs of"

On page 6, line 6, after "charge a" strike "reasonable fee for" and insert "minimal fee sufficient to cover costs of"

Senator Kline spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Judiciary to House Bill No. 1479.

The motion by Senator Kline carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1479 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1479 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1479 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Becker, Holmquist Newbry and Stevens

Excused: Senators Delvin and McAuliffe

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HOUSE BILL NO. 1479 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1488, by Representatives Jinkins, Schmick, Cody, Hinkle, Moeller and Roberts

Updating the authority of the state board of health.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1488 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1488.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1488 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1488, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1571, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, McCoy, Crouse, Frockt, Kelley, Short, Jacks, Fitzgibbon and Billig)

Limiting regulation of electric vehicle battery charging facilities.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1571 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1571.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1571 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1571, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1694, by Representatives Stanford and Kirby

Regulating unauthorized insurance.

The measure was read the second time.

## MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1694 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1694.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1694 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

HOUSE BILL NO. 1694, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 11:07 a.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, March 29, 2011.

BRAD OWEN, President of the Senate



SEVENTY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 29, 2011

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Jess Sargent and Sean Wilkinson, presented the Colors. Senator Kline offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 28, 2011

ESHB 1071 Prime Sponsor, Committee on Transportation: Creating a complete streets grant program. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Ericksen.

Passed to Committee on Rules for second reading.

March 28, 2011

SHB 1384 Prime Sponsor, Committee on Transportation: Concerning public improvement contracts involving certain federally funded transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Prentice; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 28, 2011

ESHB 1922 Prime Sponsor, Committee on Transportation: Requiring certain vehicles to submit to inspection and weight measurement upon entering the state. (REVISED FOR ENGROSSED: Requiring certain vehicles to stop at a port of entry upon entering the state. ) Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King;

Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5911 by Senators Murray and Zarelli

AN ACT Relating to the master license service program; amending RCW 19.02.020, 19.02.030, 19.02.050, 19.02.070, 19.02.075, 19.02.100, 19.02.800, 19.02.900, 19.80.005, 19.80.010, 19.80.025, 19.80.045, 19.80.075, 19.80.900, 19.94.015, 34.05.310, 34.05.328, 35.21.392, 35A.21.340, 43.07.200, 46.68.060, 46.72.110, 46.72A.110, 59.30.010, 59.30.020, 59.30.050, 59.30.060, 76.48.121, 79A.60.485, 82.01.060, 82.02.010, 82.32.030, 90.76.010, and 90.76.020; reenacting and amending RCW 43.24.150; adding a new section to chapter 19.02 RCW; adding a new section to chapter 59.30 RCW; creating new sections; decodifying RCW 19.02.901 and 19.02.910; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1175 by House Committee on Transportation (originally sponsored by Representatives Clibborn, Armstrong, Liias and Billig)

AN ACT Relating to transportation funding and appropriations; amending RCW 47.29.170, 46.63.170, 46.63.160, 43.19.642, 43.19.534, 47.01.380, 47.56.403, 43.105.330, 47.64.170, 47.64.270, 47.64.280, 46.68.170, 46.68.370, 47.12.244, 46.68.060, 46.68.220, 47.56.876, and 46.68.---; reenacting and amending RCW 46.18.060 and 47.28.030; amending 2010 c 247 ss 205, 207, 208, 209, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 301, 302, 303, 304, 305, 307, 308, 401, 402, and 403 (uncodified); amending 2009 c 470 ss 301 and 305 (uncodified); amending 2010 c 283 s 19 (uncodified); amending 2010 1st sp.s. c 37 s 804 (uncodified); adding a new section to 2010 c 247 (uncodified); creating new sections; repealing 2010 c 161 s 1126; making appropriations and authorizing expenditures for capital improvements; providing an effective date; providing a contingent effective date; and declaring an emergency.

MOTION

SEVENTY NINTH DAY, MARCH 29, 2011

2011 REGULAR SESSION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Substitute House Bill No. 1175 which was placed on the second reading calendar under suspension of the rules.

MOTION

At 9:38 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:28 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1362, by House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Rolfes, Moeller, Lias, Probst, Green, Darneille, Frockt, Kirby, Miloscia, Roberts, Hunt, Dickerson, Upthegrove, Fitzgibbon, Kagi, Eddy, Hasegawa, Pettigrew, Ormsby, Sells, Kenney, Cody, Hudgins, Lytton, Moscoso, Ryu, Appleton, Reykdal, Van De Wege, Carlyle, Dunshee, Santos, McCoy, Tharinger, Haigh, Goodman, Jinkins, Jacks, Takko, Sullivan, Blake, Seaquist, Billig, Stanford, Ladenburg, Finn and Pedersen)

Addressing homeowner foreclosures. Revised for 2nd Substitute: Protecting and assisting homeowners from unnecessary foreclosures.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds and declares that:

(a) The rate of home foreclosures continues to rise to unprecedented levels, both for prime and subprime loans, and a new wave of foreclosures has occurred due to rising unemployment, job loss, and higher adjustable loan payments;

(b) Prolonged foreclosures contribute to the decline in the state's housing market, loss of property values, and other loss of revenue to the state;

(c) In recent years, the legislature has enacted procedures to help encourage and strengthen the communication between homeowners and lenders and to assist homeowners in navigating through the foreclosure process; however, Washington's nonjudicial foreclosure process does not have a mechanism for homeowners to readily access a neutral third party to assist them in a fair and timely way; and

(d) Several jurisdictions across the nation have foreclosure mediation programs that provide a cost-effective process for the homeowner and lender, with the assistance of a trained mediator, to reach a mutually acceptable resolution that avoids foreclosure.

(2) Therefore, the legislature intends to:

(a) Encourage homeowners to utilize the skills and professional judgment of housing counselors as early as possible in the foreclosure process;

(b) Create a framework for homeowners and beneficiaries to communicate with each other to reach a resolution and avoid foreclosure whenever possible; and

(c) Provide a process for foreclosure mediation when a housing counselor or attorney determines that mediation is appropriate. For mediation to be effective, the parties should attend the mediation (in person, telephonically, through an agent, or otherwise), provide the necessary documentation in a timely manner, willingly share information, actively present, discuss, and explore options to avoid foreclosure, negotiate willingly and cooperatively, maintain a professional and cooperative demeanor, cooperate with the mediator, and keep any agreements made in mediation.

**NEW SECTION. Sec. 2.** This act may be known and cited as the foreclosure fairness act.

**Sec. 3.** RCW 61.24.005 and 2009 c 292 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate of beneficiary" means any entity which controls, is controlled by, or is under common control with a beneficiary.

(2) "Beneficiary" means the holder of the instrument or document evidencing the obligations secured by the deed of trust, excluding persons holding the same as security for a different obligation.

(3) "Borrower" means a person or a general partner in a partnership, including a joint venture, that is liable for all or part of the obligations secured by the deed of trust under the instrument or other document that is the principal evidence of such obligations, or the person's successors if they are liable for those obligations under a written agreement with the beneficiary.

(4) "Commercial loan" means a loan that is not made primarily for personal, family, or household purposes.

(5) "Department" means the department of commerce or its designee.

~~(6)~~ (6) "Fair value" means the value of the property encumbered by a deed of trust that is sold pursuant to a trustee's sale. This value shall be determined by the court or other appropriate adjudicator by reference to the most probable price, as of the date of the trustee's sale, which would be paid in cash or other immediately available funds, after deduction of prior liens and encumbrances with interest to the date of the trustee's sale, for which the property would sell on such date after reasonable exposure in the market under conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

~~((6))~~ (7) "Grantor" means a person, or its successors, who executes a deed of trust to encumber the person's interest in property as security for the performance of all or part of the borrower's obligations.

~~((7))~~ (8) "Guarantor" means any person and its successors who is not a borrower and who guarantees any of the obligations secured by a deed of trust in any written agreement other than the deed of trust.

~~((8))~~ (9) "Housing counselor" means a housing counselor that has been approved by the United States department of housing and urban development or approved by the Washington state housing finance commission.

(10) "Owner-occupied" means property that is the principal residence of the borrower.

~~((9))~~ (11) "Person" means any natural person, or legal or governmental entity.

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~~((10))~~ (12) "Record" and "recorded" includes the appropriate registration proceedings, in the instance of registered land.

~~((11))~~ (13) "Residential real property" means property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit.

~~((12))~~ (14) "Tenant-occupied property" means property consisting solely of residential real property that is the principal residence of a tenant subject to chapter 59.18 RCW or other building with four or fewer residential units that is the principal residence of a tenant subject to chapter 59.18 RCW.

~~((13))~~ (15) "Trustee" means the person designated as the trustee in the deed of trust or appointed under RCW 61.24.010(2).

~~((14))~~ (16) "Trustee's sale" means a nonjudicial sale under a deed of trust undertaken pursuant to this chapter.

**Sec. 4.** RCW 61.24.030 and 2009 c 292 s 8 are each amended to read as follows:

It shall be requisite to a trustee's sale:

- (1) That the deed of trust contains a power of sale;
- (2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;
- (3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;
- (4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;
- (5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;
- (6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address;
- (7)(a) That, for residential real property, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the owner of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the actual holder of the promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.
  - (b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.
  - (c) This subsection (7) does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW; ~~(and)~~
  - (8) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered

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or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

- (a) A description of the property which is then subject to the deed of trust;
- (b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;
- (c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;
- (d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;
- (e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;
- (f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;
- (g) A statement that failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;
- (h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;
- (i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;
- (j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground;
- (k) In the event the property secured by the deed of trust is owner-occupied residential real property, a statement, prominently set out at the beginning of the notice, which shall state as follows:
 

"You should take care to protect your interest in your home. This notice of default (your failure to pay) is the first step in a process that could result in you losing your home. You should carefully review your options. For example:

  - Can you pay and stop the foreclosure process?
  - Do you dispute the failure to pay?
  - Can you sell your property to preserve your equity?
  - Are you able to refinance this loan or obligation with a new loan or obligation from another lender with payments, terms, and fees that are more affordable?
  - Do you qualify for any government or private homeowner assistance programs?
  - Do you know if filing for bankruptcy is an option? What are the pros and cons of doing so?

Do not ignore this notice; because if you do nothing, you could lose your home at a foreclosure sale. (No foreclosure sale can be held any sooner than ninety days after a notice of sale is issued and a notice of sale cannot be issued until thirty days after this notice.) Also, if you do nothing to pay what you owe, be careful of people who claim they can help you. There are many individuals and businesses that watch for the notices of sale in order to unfairly profit as a result of borrowers' distress.

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You may feel you need help understanding what to do. There are a number of professional resources available, including home loan counselors and attorneys, who may assist you. Many legal services are lower-cost or even free, depending on your ability to pay. If you desire legal help in understanding your options or handling this default, you may obtain a referral (at no charge) by contacting the county bar association in the county where your home is located. These legal referral services also provide information about lower-cost or free legal services for those who qualify. You may contact the Department of Financial Institutions or the statewide civil legal aid hotline for possible assistance or referrals"; and

(l) In the event the property secured by the deed of trust is residential real property, the name and address of the owner of any promissory notes or other obligations secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust((,"); and

(9) That, for owner-occupied residential real property, before the notice of the trustee's sale is recorded, transmitted, or served, the beneficiary has complied with RCW 61.24.031 and, if applicable, section 7 of this act.

**Sec. 5.** RCW 61.24.031 and 2009 c 292 s 2 are each amended to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(8) until: (i) Thirty days after initial contact with the borrower ~~((is made))~~ was initiated as required under (b) of this subsection or thirty days after satisfying the due diligence requirements as described in subsection (5) of this section and the borrower has not responded; or (ii) if the borrower responds to the initial contact, ninety days after the initial contact with the borrower was initiated.

(b) A beneficiary or authorized agent shall make initial contact with the borrower by letter to provide the borrower with information required under (c) of this subsection and by telephone ~~((in order to assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure))~~ as required under subsection (5) of this section. The letter required under this subsection must be mailed in accordance with subsection (5)(a) of this section and must include the information described in (c) of this subsection and subsection (5)((a) and)) (e) (i) through (iv) of this section.

(c) ((During the initial contact, the beneficiary or authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or authorized agent shall schedule the meeting to occur within fourteen days of the request. The)) The letter required under this subsection, developed by the department pursuant to section 16 of this act, at a minimum shall include:

(i) A paragraph printed in no less than twelve point font and bolded that reads:

"You must respond within thirty days of the date of this letter. IF YOU DO NOT RESPOND within thirty days, a notice of default may be issued and you may lose your home in foreclosure.

IF YOU DO RESPOND within thirty days of the date of this letter, you will have an additional sixty days to meet with your lender before a notice of default may be issued.

You should contact a housing counselor or attorney as soon as possible. Failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party. A housing counselor or attorney can help you work with your lender to avoid foreclosure."

(ii) The toll-free telephone number from the United States department of housing and urban development to find a department-approved housing counseling agency, the toll-free

numbers for the statewide foreclosure hotline recommended by the housing finance commission, and the statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys;

(iii) A paragraph stating that a housing counselor may be available at little or no cost to the borrower and that whether or not the borrower contacts a housing counselor or attorney, the borrower has the right to request a meeting with the beneficiary; and

(iv) A paragraph explaining how the borrower may respond to the letter and stating that after responding the borrower will have an opportunity to meet with his or her beneficiary in an attempt to resolve and try to work out an alternative to the foreclosure and that, after ninety days from the date of the letter, a notice of default may be issued, which starts the foreclosure process.

(d) If the beneficiary has exercised due diligence as required under subsection (5) of this section and the borrower does not respond by contacting the beneficiary within thirty days of the initial contact, the notice of default may be issued. "Initial contact" with the borrower is considered made three days after the date the letter required in (b) of this subsection is sent.

(e) If a meeting is requested by the borrower or the borrower's housing counselor or attorney, the beneficiary or authorized agent shall schedule the meeting to occur before the notice of default is issued. An assessment of the borrower's financial ability to ((repay the debt)) modify or restructure the loan obligation and a discussion of options ((may)) must occur during the ((initial contact or at a subsequent)) meeting scheduled for that purpose. ((At the initial contact, the borrower must be provided the toll-free telephone number made available by the department to find a department-certified housing counseling agency and the toll-free numbers for the department of financial institutions and the statewide civil legal aid hotline for possible assistance and referrals.

(d) Any meeting under this section may occur telephonically.)

(f) The meeting scheduled to assess the borrower's financial ability to modify or restructure the loan obligation and discuss options to avoid foreclosure must be in person, unless the requirement to meet in person is waived in writing by the borrower or the borrower's representative. A person who is authorized to modify the loan obligation or reach an alternative resolution to foreclosure on behalf of the beneficiary may participate by telephone or video conference, so long as a representative of the beneficiary is at the meeting in person.

(2) A notice of default issued under RCW 61.24.030(8) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1)((4)) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the declaration as evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) ((A beneficiary's or authorized agent's loss mitigation personnel may participate by telephone during any contact required under this section.

(4) Within fourteen days)) If, after the initial contact under subsection (1) of this section, ((if) a borrower has designated a ((department-certified)) housing counseling agency, housing counselor, or attorney((, or other advisor)) to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information to the beneficiary or authorized agent. The beneficiary or

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authorized agent shall contact the designated representative for the borrower ((for the discussion within fourteen days after the representative is designated by the borrower)) to meet.

(4) The beneficiary or authorized agent and the borrower or the borrower's representative shall attempt to reach a resolution for the borrower within the ninety days from the time the initial contact is sent and the notice of default is issued. A resolution may include, but is not limited to, a loan modification, an agreement to conduct a short sale, or a deed in lieu of foreclosure transaction, or some other workout plan. Any ~~((deed of trust))~~ modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

(5) A notice of default may be issued under RCW 61.24.030(8) if a beneficiary or authorized agent has ~~((not contacted a))~~ initiated contact with the borrower as required under subsection (1)(b) of this section and the failure to ~~((contact))~~ meet with the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending a first-class letter to the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must ~~((include the toll-free telephone number made available by the department to find a department-certified housing counseling agency, and the following information:~~

~~—"You may contact the Department of Financial Institutions, the Washington State Bar Association, or the statewide civil legal aid hotline for possible assistance or referrals.")~~ be the letter described in subsection (1)(c) of this section.

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary and secondary telephone numbers on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the information described in (e)(i) through (iv) of this subsection. The letter must also include a paragraph stating: "Your failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party."

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will provide access to a live representative during business hours.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet web site, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-~~((certified))~~ approved housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if any of the following occurs:

(a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent; or

(b) The borrower has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing enforcement of the deed of trust.

(7)(a) This section applies only to deeds of trust ~~((made from January 1, 2003, to December 31, 2007, inclusive;))~~ that are recorded against owner-occupied residential real property. This section does not apply to deeds of trust: (i) Securing a commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(8) As used in this section:

(a) "Department" means the United States department of housing and urban development.

(b) "Seller-financed sale" means a residential real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject residential real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

#### "FORECLOSURE LOSS MITIGATION FORM

Please select applicable option(s) below.

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, RCW 61.24.031 (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of trust and explore options for the borrower to avoid foreclosure") and the borrower did not request a meeting.

(2) [ ] The beneficiary or beneficiary's authorized agent has contacted the borrower as required under RCW 61.24.031 and the borrower or the borrower's designated representative requested a meeting. A meeting was held in compliance with RCW 61.24.031.

(3) [ ] The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in RCW 61.24.031(5) ~~((and, after waiting fourteen days after the~~

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~~requirements in RCW 61.24.031 were satisfied, the beneficiary or the beneficiary's authorized agent sent to the borrower(s), by certified mail, return receipt requested, the letter required under RCW 61.24.031).~~

~~((3)) (4) [ ]~~ The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

~~((4)) (5) [ ]~~ Under RCW 61.24.031, the beneficiary or the beneficiary's authorized agent has verified information that, on or before the date of this declaration, the borrower(s) has filed for bankruptcy, and the bankruptcy stay remains in place, or the borrower has filed for bankruptcy and the bankruptcy court has granted relief from the bankruptcy stay allowing the enforcement of the deed of trust."

**NEW SECTION. Sec. 6.** A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) A housing counselor who is contacted by a borrower under RCW 61.24.031 has a duty to act in good faith to attempt to reach a resolution with the beneficiary on behalf of the borrower within the ninety days provided from the date the beneficiary initiates contact with the borrower and the date the notice of default is issued. A resolution may include, but is not limited to, modification of the loan, an agreement to conduct a short sale, a deed in lieu of foreclosure transaction, or some other workout plan.

(b) Nothing in RCW 61.24.031 or this section precludes a meeting or negotiations between the housing counselor, borrower, and beneficiary at any time, including after the issuance of the notice of default.

(c) A borrower who is contacted under RCW 61.24.031 may seek the assistance of a housing counselor or attorney at any time.

(2) Housing counselors have a duty to act in good faith to assist borrowers by:

- (a) Preparing the borrower for meetings with the beneficiary;
- (b) Advising the borrower about what documents the borrower must have to seek a loan modification or other resolution;
- (c) Informing the borrower about the alternatives to foreclosure, including loan modifications or other possible resolutions; and
- (d) Providing other guidance, advice, and education as the housing counselor considers necessary.

(3) A housing counselor or attorney assisting a borrower may refer the borrower to a mediation program, pursuant to section 7 of this act, if:

- (a) The housing counselor or attorney determines that mediation is appropriate based on the individual circumstances; and
  - (b) A notice of sale on the deed of trust has not been recorded.
- (4) A referral to mediation by a housing counselor or attorney does not preclude a trustee issuing a notice of default if the requirements of RCW 61.24.031 have been met.

(5) Housing counselors providing assistance to borrowers under RCW 61.24.031 are not liable for civil damages resulting from any acts or omissions in providing assistance, unless the acts or omissions constitute gross negligence or willful or wanton misconduct.

(6) Housing counselors shall provide information to the department to assist the department in its annual report to the legislature as required under section 7(15) of this act. The information provided to the department by the housing counselors should include outcomes of foreclosures and be similar to the information requested in the national foreclosure mortgage counseling client level foreclosure outcomes report form.

**NEW SECTION. Sec. 7.** A new section is added to chapter 61.24 RCW to read as follows:

(1) The foreclosure mediation program established in this section applies only to borrowers who have been referred to

mediation by a housing counselor or attorney. The mediation program under this section is not governed by chapter 7.07 RCW and does not preclude mediation required by a court or other provision of law.

(2) A housing counselor or attorney referring a borrower to mediation shall send a notice to the borrower and the department, stating that mediation is appropriate.

(3) Within ten days of receiving the notice, the department shall:

(a) Send a notice to the beneficiary, the borrower, the housing counselor or attorney who referred the borrower, and the trustee stating that the parties have been referred to mediation. The notice must include the statements and list of documents and information described in subsection (5)(b)(i) through (iv) of this section; and

(b) Select a mediator and notify the parties of the selection.

(4)(a) Within forty-five days of receiving the referral from the department, the mediator shall convene a mediation session in the county where the borrower resides, unless the parties agree on another location. The parties may agree in writing to extend the time in which to schedule the mediation session. If the parties agree to extend the time, the beneficiary shall notify the trustee of the extension and the date the mediator is expected to issue the mediator's certification.

(b) Prior to scheduling a mediation session, the mediator shall require that both parties sign a waiver stating that neither party may call the mediator as a live witness in any litigation pertaining to a foreclosure action between the parties. However, the mediator's certification may be deemed admissible evidence, subject to court rules, in any litigation pertaining to a foreclosure action between the parties.

(5)(a) The mediator may schedule phone conferences, consultations with the parties individually, and other communications to ensure that the parties have all the necessary information to engage in a productive mediation.

(b) The mediator must send written notice of the time, date, and location of the mediation session to the borrower, the beneficiary, and the department at least fifteen days prior to the mediation session. At a minimum, the notice must contain:

- (i) A statement that the borrower may be represented in the mediation session by an attorney or other advocate;
- (ii) A statement that a person with authority to agree to a resolution, including a proposed settlement, loan modification, or dismissal or continuation of the foreclosure proceeding, must be present either in person or on the telephone or video conference during the mediation session;
- (iii) A complete list of documents and information required by this section that the parties must provide to the mediator and the deadlines for providing the documents and information; and
- (iv) A statement that the parties have a duty to mediate in good faith and that failure to mediate in good faith may impair the beneficiary's ability to foreclose on the property or the borrower's ability to modify the loan or take advantage of other alternatives to foreclosure.

(6) The borrower, the beneficiary or authorized agent, and the mediator must meet in person for the mediation session. However, a person with authority to agree to a resolution on behalf of the beneficiary may be present over the telephone or video conference during the mediation session.

(7) The participants in mediation must address the issues of foreclosure that may enable the borrower and the beneficiary to reach a resolution, including but not limited to reinstatement, modification of the loan, restructuring of the debt, or some other workout plan. To assist the parties in addressing issues of foreclosure, the mediator must require the participants to consider the following:

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(a) The borrower's current and future economic circumstances, including the borrower's current and future income, debts, and obligations for the previous sixty days or greater time period as determined by the mediator;

(b) The net present value of receiving payments pursuant to a modified mortgage loan as compared to the anticipated net recovery following foreclosure;

(c) Any affordable loan modification calculation and net present value calculation when required under any federal mortgage relief program, including the home affordable modification program (HAMP) as applicable to government-sponsored enterprise and nongovernment-sponsored enterprise loans and any HAMP-related modification program applicable to loans insured by the federal housing administration, the veterans administration, and the rural housing service. If such a calculation is not required, then the beneficiary must use the current calculations, assumptions, and forms that are established by the federal deposit insurance corporation and published in the federal deposit insurance corporation loan modification program guide; and

(d) Any other loss mitigation guidelines to loans insured by the federal housing administration, the veterans administration, and the rural housing service, if applicable.

(8) A violation of the duty to mediate in good faith as required under this section may include:

(a) Failure to timely participate in mediation without good cause;

(b) Failure of the beneficiary to provide the following documentation to the borrower and mediator at least ten days before the mediation or pursuant to the mediator's instructions:

(i) An accurate statement containing the balance of the loan as of the first day of the month in which the mediation occurs;

(ii) Copies of the note and deed of trust;

(iii) Proof that the entity claiming to be the beneficiary is the owner of any promissory note or obligation secured by the deed of trust. Sufficient proof may be a copy of the declaration described in RCW 61.24.030(7)(a);

(iv) The best estimate of any arrearage and an itemized statement of the arrearages;

(v) An itemized list of the best estimate of fees and charges outstanding;

(vi) The payment history and schedule for the preceding twelve months, or since default, whichever is longer, including a breakdown of all fees and charges claimed;

(vii) All borrower-related and mortgage-related input data used in any net present value analysis;

(viii) An explanation regarding any denial for a loan modification, forbearance, or other alternative to foreclosure in sufficient detail for a reasonable person to understand why the decision was made;

(ix) The most recently available appraisal or other broker price opinion most recently relied upon by the beneficiary; and

(x) The portion or excerpt of the pooling and servicing agreement that prohibits the beneficiary from implementing a modification, if the beneficiary claims it cannot implement a modification due solely to limitations in a pooling and servicing agreement, and documentation or a statement detailing the efforts of the beneficiary to obtain a waiver of the pooling and servicing agreement provisions;

(c) Failure of the borrower to provide documentation to the beneficiary and mediator, at least ten days before the mediation or pursuant to the mediator's instruction, showing the borrower's current and future income, debts and obligations, and tax returns for the past two years;

(d) Failure of either party to pay the respective portion of the mediation fee in advance of the mediation as required under this section;

(e) Failure of a party to designate representatives with adequate authority to fully settle, compromise, or otherwise reach resolution with the borrower in mediation; and

(f) A request by a beneficiary that the borrower waive future claims he or she may have in connection with the deed of trust, as a condition of agreeing to a modification, except for rescission claims under the federal truth in lending act. Nothing in this section precludes a beneficiary from requesting that a borrower dismiss with prejudice any pending claims against the beneficiary, its agents, loan servicer, or trustee, arising from the underlying deed of trust, as a condition of modification.

(9) Within seven business days after the conclusion of the mediation session, the mediator must send a written certification to the department and the trustee and send copies to the parties of:

(a) The date, time, and location of the mediation session;

(b) The names of all persons attending in person and by telephone or video conference, at the mediation session;

(c) Whether a resolution was reached by the parties, including whether the default was cured by reinstatement, modification, or restructuring of the debt, or some other alternative to foreclosure was agreed upon by the parties;

(d) Whether the parties participated in the mediation in good faith; and

(e) A description of the net present value test used, along with a copy of the inputs, including the result of the net present value test expressed in a dollar amount.

(10) If the parties are unable to reach any agreement and the mediator certifies that the parties acted in good faith, the beneficiary may proceed with the foreclosure.

(11)(a) The mediator's certification that the beneficiary failed to act in good faith in mediation constitutes a defense to the nonjudicial foreclosure action that was the basis for initiating the mediation. In any action to enjoin the foreclosure, the beneficiary shall be entitled to rebut the allegation that it failed to act in good faith.

(b) The mediator's certification that the beneficiary failed to act in good faith during mediation does not constitute a defense to a judicial foreclosure or a future nonjudicial foreclosure action if a modification of the loan is agreed upon and the borrower subsequently defaults.

(c) If an agreement was not reached and the mediator's certification shows that the net present value of the modified loan exceeds the anticipated net recovery at foreclosure, that showing in the certification shall constitute a basis for the borrower to enjoin the foreclosure.

(12) The mediator's certification that the borrower failed to act in good faith in mediation authorizes the beneficiary to proceed with the foreclosure.

(13)(a) A trustee may not record the notice of sale until the trustee receives the mediator's certification stating that the mediation has been completed.

(b) If the trustee does not receive the mediator's certification, the trustee may record the notice of sale after ten days from the date the certification to the trustee was due. If the notice of sale is recorded under this subsection (13)(b) and the mediator subsequently issues a certification alleging the beneficiary violated the duty of good faith, the trustee may not proceed with the sale.

(14) A mediator may charge reasonable fees as authorized by this subsection and by the department. Unless the fee is waived or the parties agree otherwise, a foreclosure mediator's fee may not exceed four hundred dollars for a mediation session lasting between one hour and three hours. For a mediation session exceeding three hours, the foreclosure mediator may charge a reasonable fee, as

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authorized by the department. The mediator must provide an estimated fee before the mediation, and payment of the mediator's fee must be divided equally between the beneficiary and the borrower. The beneficiary and the borrower must tender the loan mediator's fee seven calendar days before the commencement of the mediation or pursuant to the mediator's instructions.

(15) Beginning December 1, 2012, and every year thereafter, the department shall report annually to the legislature on:

(a) The performance of the program, including the numbers of borrowers who are referred to mediation by a housing counselor or attorney;

(b) The results of the mediation program, including the number of mediations requested by housing counselors and attorneys, the number of certifications of good faith issued, the number of borrowers and beneficiaries who failed to mediate in good faith, and the reasons for the failure to mediate in good faith, if known, the numbers of loans restructured or modified, the change in the borrower's monthly payment for principal and interest and the number of principal write-downs and interest rate reductions, and, to the extent practical, the number of borrowers who report a default within a year of restructuring or modification;

(c) The information received by housing counselors regarding outcomes of foreclosures; and

(d) Any recommendations for changes to the statutes regarding the mediation program.

**NEW SECTION. Sec. 8.** A new section is added to chapter 61.24 RCW to read as follows:

(1) Section 7 of this act applies only to deeds of trust that are recorded against owner-occupied residential real property. The property must have been owner-occupied as of the date of the initial contact under RCW 61.24.031 was made.

(2) A borrower under a deed of trust on owner-occupied residential real property who has received a notice of default on or before the effective date this section may be referred to mediation under section 7 of this act by a housing counselor or attorney.

(3) Section 7 of this act does not apply to deeds of trust:

(a) Securing a commercial loan;

(b) Securing obligations of a grantor who is not the borrower or a guarantor; or

(c) Securing a purchaser's obligations under a seller-financed sale.

(4) Section 7 of this act does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 61.24 RCW to read as follows:

The provisions of section 7 of this act do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than two hundred fifty trustee sales of owner-occupied residential real property that occurred in this state during the preceding calendar year. A federally insured depository institution certifying that section 7 of this act does not apply must do so annually, beginning no later than thirty days after the effective date of this section, and no later than January 31st of each year thereafter.

**NEW SECTION. Sec. 10.** A new section is added to chapter 61.24 RCW to read as follows:

(1) For the purposes of section 7 of this act, the department must maintain a list of approved foreclosure mediators. The department may approve the following persons to serve as foreclosure mediators under this section:

(a) Attorneys who are active members of the Washington state bar association;

(b) Employees of United States department of housing and urban development-approved housing counseling agencies or approved by the Washington state housing finance commission;

(c) Employees or volunteers of dispute resolution centers under chapter 7.75 RCW; and

(d) Retired judges of Washington courts.

(2) The department may establish a required training program for foreclosure mediators and may require mediators to acquire training before being approved. The mediators must be familiar with relevant aspects of the law, have knowledge of community-based resources and mortgage assistance programs, and refer borrowers to these programs where appropriate.

(3) The department may remove any mediator from the approved list of mediators.

**NEW SECTION. Sec. 11.** A new section is added to chapter 61.24 RCW to read as follows:

The foreclosure fairness account is created in the custody of the state treasurer. All receipts received under section 12 of this act must be deposited into the account. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account must be used as follows: (1) No less than eighty percent must be used for the purposes of providing housing counselors for borrowers, except that this amount may be less than eighty percent only if necessary to meet the funding level specified for the office of the attorney general under subsection (2) of this section and the department under subsection (4) of this section; (2) up to six percent, or six hundred fifty-five thousand dollars per biennium, whichever amount is greater, to the office of the attorney general to be used by the consumer protection division to enforce this chapter; (3) up to two percent to the office of civil legal aid to be used for the purpose of contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure. Funds provided under this subsection (3) must be used to supplement, not supplant, other federal, state, and local funds; (4) up to nine percent, or four hundred fifty-one thousand dollars per biennium, whichever amount is greater, to the department to be used for implementation and operation of the foreclosure fairness act; and (5) up to three percent to the department of financial institutions to conduct homeowner prepurchase and postpurchase outreach and education programs as defined in RCW 43.320.150.

The department shall enter into interagency agreements to contract with the Washington state housing finance commission and other appropriate entities to implement the foreclosure fairness act.

**NEW SECTION. Sec. 12.** A new section is added to chapter 61.24 RCW to read as follows:

(1) Except as provided in subsection (4) of this section, beginning October 1, 2011, and every quarter thereafter, every beneficiary issuing notices of default, or directing that a trustee or authorized agent issue the notice of default, on owner-occupied residential real property under this chapter must:

(a) Report to the department the number of owner-occupied residential real properties for which the beneficiary has issued a notice of default during the previous quarter; and

(b) Remit the amount required under subsection (2) of this section.

(2) For each owner-occupied residential real property for which a notice of default has been issued, the beneficiary issuing the notice of default, or directing that a trustee or authorized agent issue the notice of default, shall remit two hundred fifty dollars to the department to be deposited, as provided under section 11 of this act, into the foreclosure fairness account. The two hundred fifty dollar payment is required per property and not per notice of default. The

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beneficiary shall remit the total amount required in a lump sum each quarter.

(3) No later than thirty days after the effective date of this section, the beneficiaries required to report and remit to the department under this section shall determine the number of owner-occupied residential real properties for which notices of default were issued during the three months prior to the effective date of this section. The beneficiary shall remit to the department a one-time sum of two hundred fifty dollars multiplied by the number of properties. The department shall deposit the funds into the foreclosure fairness account as provided under section 11 of this act.

(4) This section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that it has issued, or has directed a trustee or authorized agent to issue, fewer than two hundred fifty notices of default in the preceding year.

(5) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

**NEW SECTION. Sec. 13.** A new section is added to chapter 61.24 RCW to read as follows:

Any duty that servicers may have to maximize net present value under their pooling and servicing agreements is owed to all parties in a deed of trust pool, not to any particular parties, and a servicer acts in the best interests of all parties if it agrees to or implements a modification or workout plan when both of the following apply:

(1) The deed of trust is in payment default, or payment default is reasonably imminent; and

(2) Anticipated recovery under a modification or workout plan exceeds the anticipated recovery through foreclosure on a net present value basis.

**Sec. 14.** RCW 61.24.135 and 2008 c 153 s 6 are each amended to read as follows:

(1) It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder.

(2) It is an unfair or deceptive act in trade or commerce and an unfair method of competition in violation of the consumer protection act, chapter 19.86 RCW, for any person or entity to: (a) Violate the duty of good faith under section 7 of this act; (b) fail to comply with the requirements of section 12 of this act; or (c) fail to initiate contact with a borrower and exercise due diligence as required under RCW 61.24.031.

**Sec. 15.** RCW 82.45.030 and 1993 sp.s. c 25 s 503 are each amended to read as follows:

(1) As used in this chapter, the term "selling price" means the true and fair value of the property conveyed. If property has been conveyed in an arm's length transaction between unrelated persons for a valuable consideration, a rebuttable presumption exists that the selling price is equal to the total consideration paid or contracted to be paid to the transferor, or to another for the transferor's benefit.

(2) If the sale is a transfer of a controlling interest in an entity with an interest in real property located in this state, the selling price

shall be the true and fair value of the real property owned by the entity and located in this state. If the true and fair value of the real property located in this state cannot reasonably be determined, the selling price shall be determined according to subsection (4) of this section.

(3) As used in this section, "total consideration paid or contracted to be paid" includes money or anything of value, paid or delivered or contracted to be paid or delivered in return for the sale, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

Total consideration shall not include the amount of any outstanding lien or incumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements.

When a transfer or conveyance is made by deed in lieu of foreclosure to satisfy a deed of trust, total consideration shall not include the amount of any relocation assistance provided to the transferor.

(4) If the total consideration for the sale cannot be ascertained or the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price.

**NEW SECTION. Sec. 16.** A new section is added to chapter 61.24 RCW to read as follows:

(1)(a) The department must develop model language for the initial contact letter to be used by beneficiaries as required under RCW 61.24.031. The model language must explain how the borrower may respond to the letter. The department must develop the model language in both English and Spanish and both versions must be contained in the same letter.

(b) No later than thirty days after the effective date of this section, the department must create the following forms:

(i) The notice form to be used by housing counselors and attorneys to refer borrowers to mediation under section 7 of this act;

(ii) The notice form stating that the parties have been referred to mediation along with the required information under section 7(3)(a) of this act;

(iii) The waiver form as required in section 7(4)(b) of this act;

(iv) The scheduling form notice in section 7(5)(b) of this act; and

(v) The form for the mediator's written certification of mediation.

(2) The department may create rules to implement the mediation program under section 7 of this act and to administer the funds as required under section 11 of this act.

**NEW SECTION. Sec. 17.** 2009 c 292 s 13 (uncodified) is repealed.

**NEW SECTION. Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 19.** Sections 11, 12, and 16 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Second Substitute House Bill No. 1362.

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The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "foreclosures;" strike the remainder of the title and insert "amending RCW 61.24.030, 61.24.031, 61.24.135, and 82.45.030; reenacting and amending RCW 61.24.005; adding new sections to chapter 61.24 RCW; creating new sections; repealing 2009 c 292 s 13 (uncodified); and declaring an emergency."

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 1362 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1362 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1362 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 2; Excused, 0.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Delvin, Ericksen, Holmquist Newbry, Honeyford, Morton, Parlette, Schoesler and Stevens

Absent: Senators Sheldon and Zarelli

SECOND SUBSTITUTE HOUSE BILL NO. 1362 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, Senator Sheldon was excused.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Asay, Hurst, Klippert, Pearson and Miloscia)

Regulating secondhand dealers who deal with precious metal property.

The measure was read the second time.

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds:

(1) The market price of gold has increased significantly in recent years and there has been a proliferation of secondhand dealers, including temporary, transient secondhand businesses, engaging in "cash for gold" type precious metal transactions. Frequently, these "cash for gold" type operations are operated by persons desiring to exploit unsuspecting consumers based on current market conditions;

(2) The increasing number of "cash for gold" type transactions in communities and neighborhoods throughout Washington has been linked to increased crimes involving the theft of gold and other precious metal objects, including home burglaries, robberies, and other crimes, resulting in depressed home values and other threats to the health, safety, and welfare of Washington state residents; and

(3) With the growing number of precious metal transactions, there is a corresponding significant increase in the number of "cash for gold" type storefront businesses, including temporary, transient secondhand businesses, in Washington state which may not be consistent with the quality of life and personal security sought by communities and neighborhoods and the state as a whole.

Therefore, to better protect legitimate owners, consumers, and secondhand dealers, the legislature intends to establish and implement stricter standards relating to transactions involving property consisting of gold and other precious metals.

**Sec. 2.** RCW 19.60.010 and 1995 c 133 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Melted metals" means metals derived from metal junk or precious metals that have been reduced to a melted state from other than ore or ingots which are produced from ore that has not previously been processed.

(2) "Metal junk" means any metal that has previously been milled, shaped, stamped, or forged and that is no longer useful in its original form, except precious metals.

(3) "Nonmetal junk" means any nonmetal, commonly discarded item that is worn out, or has outlasted its usefulness as intended in its original form except nonmetal junk does not include an item made in a former period which has enhanced value because of its age.

(4) "Pawnbroker" means every person engaged, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Secondhand dealer" means every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, secondhand property including metal junk, melted metals, precious metals, whether or not the person maintains a fixed place of business within the state. Secondhand dealer also includes persons or entities conducting business, more than three times per year, at flea markets or swap meets (~~(, more than three times per year)~~).

(7) "Secondhand precious metal dealer" means any person or entity engaged in whole or in part in the commercial activity or business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, more than three times per year, secondhand property that is a precious metal, whether or not the

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person or entity maintains a permanent or fixed place of business within the state, or engages in the business at flea markets or swap meets. The terms "precious metal" and "secondhand property," for purposes of transactions by a secondhand precious metal dealer, do not include: (a) Gold, silver, or platinum coins, or other precious metal coins, that are legal tender, or precious metal coins that have numismatic or precious metal value, (b) gold, silver, platinum, or other precious metal bullion, or (c) gold, silver, platinum, or other precious metal dust, flakes, or nuggets.

(8) "Secondhand property" means any item of personal property offered for sale which is not new, including metals in any form, except postage stamps, coins that are legal tender, bullion in the form of fabricated hallmarked bars, used books, and clothing of a resale value of seventy-five dollars or less, except furs.

~~((8))~~ (9) "Transaction" means a pledge, or the purchase of, or consignment of, or the trade of any item of personal property by a pawnbroker or a secondhand dealer from a member of the general public.

~~((9))~~ (10) "Loan period" means the period of time from the date the loan is made until the date the loan is paid off, the loan is in default, or the loan is refinanced and new loan documents are issued, including all grace or extension periods.

**NEW SECTION. Sec. 3.** (1) For any transaction involving property consisting of a precious metal bought or received from an individual, every secondhand precious metal dealer doing business in this state shall maintain wherever that business is conducted a record in which shall be legibly written in the English language, at the time of each transaction, the following information:

(a) The signature of the person with whom the transaction is made;

(b) The time and date of the transaction;

(c) The name of the person or employee or the identification number of the person or employee conducting the transaction;

(d) The name, date of birth, sex, height, weight, race, and residential address and telephone number of the person with whom the transaction is made;

(e) A complete description of the precious metal property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones;

(f) The price paid;

(g) The type and identifying number of identification used by the person with whom the transaction was made, which shall consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency, one of which shall be descriptive of the person identified, and a full copy of both sides of each piece of identification used by the person with whom the transaction was made. At all times, one piece of current government issued picture identification will be required; and

(h) The nature of the transaction, a number identifying the transaction, the store identification as designated by the applicable law enforcement agency, or the name and address of the business or location, including the street address, and room number if appropriate, and the name of the person or employee conducting the transaction, and the location of the property.

(2) The records required in subsection (1) of this section shall at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, be open to the inspection by any commissioned law enforcement officer of the state or any of its political subdivisions, and shall be maintained wherever that business is conducted for three years following the date of the transaction.

**NEW SECTION. Sec. 4.** (1) Property consisting of a precious metal bought or received from an individual on consignment by any secondhand precious metal dealer with a

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permanent place of business in the state may not be removed from that place of business except consigned property returned to the owner, for a total of thirty days after the receipt of the property. Property shall at all times during the ordinary hours of business be open to inspection to any commissioned law enforcement officer of the state or any of its political subdivisions.

(2) Property consisting of a precious metal bought or received from an individual on consignment by any secondhand precious metal dealer without a permanent place of business in the state must be stored and held within the city or county in which the property was received, except consigned property returned to the owner, for a total of thirty days after receipt of the property. The property shall be available within the appropriate jurisdiction for inspection at reasonable times by any commissioned law enforcement officer of the state or any of its political subdivisions.

(3) Subsections (1) and (2) of this section do not apply when the property consisting of a precious metal was bought or received from a pawn shop, jeweler, secondhand dealer, or secondhand precious metal dealer who must provide a signed declaration showing the property is not stolen. The declaration may be included as part of the transactional record required under this subsection, or on a receipt for the transaction. The declaration must state substantially the following: "I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

**NEW SECTION. Sec. 5.** If the applicable chief of police or the county's chief law enforcement officer has compiled and published a list of persons who have been convicted of any crime involving theft, then a secondhand precious metal dealer shall utilize such a list for any transaction involving property other than property consisting of a precious metal as required by the applicable chief of police or the county's chief law enforcement officer.

**NEW SECTION. Sec. 6.** No secondhand precious metal dealer doing business in this state may operate a business without first obtaining a business license from the local government in which the business is situated.

**NEW SECTION. Sec. 7.** (1) It is a gross misdemeanor for:

(a) A secondhand precious metal dealer to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under sections 3 through 6 and 9 of this act involving property consisting of precious metal;

(b) A secondhand precious metal dealer to receive any precious metal property from any person known to the secondhand precious metal dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in his or her own behalf or as the agent of another; or

(c) A secondhand precious metal dealer to knowingly violate any other provision relating to precious metals under sections 3 through 6 and 9 of this act.

(2) It is a class C felony for a secondhand precious metal dealer to commit a second or subsequent violation of subsection (1) of this section involving property consisting of a precious metal.

**Sec. 8.** RCW 19.60.085 and 2000 c 171 s 56 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Vehicle wreckers ~~((or))~~, hulk haulers, and scrap processors licensed under chapter 46.79 or 46.80 RCW;

(3) Persons giving an allowance for the trade-in or exchange of secondhand property on the purchase of other merchandise of the same kind of greater value; and

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(4) Persons in the business of buying or selling empty food and beverage containers or metal or nonmetal junk, in compliance with chapter 19.290 RCW.

**NEW SECTION. Sec. 9.** (1) For purposes of this section, "hosted home party" means a gathering of persons at a private residence where a host or hostess has invited friends or other guests into his or her residence where individual person-to-person sales of precious metals occur.

(2) A host or hostess must be the owner, renter, or lessee of the private residence where the hosted home party takes place.

(3) A secondhand precious metal dealer who attends a hosted home party and purchases or sells precious metals from the invited guests must issue a receipt for each item sold or purchased at the hosted home party.

(4) The secondhand precious metal dealer must include on every receipt the following: (a) The name, residential address, telephone number, and driver's license number of the person hosting the home party; (b) The name, residential address, telephone number, and driver's license number of the person selling the item; (c) the name, residential address, telephone number, and driver's license number of the person purchasing the item; (d) a complete description of the item being sold, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones; (e) time and date of the transaction; and (f) the amount and form of any consideration paid for the item.

(5) The secondhand precious metal dealer must make four copies of each transaction receipt: One for the seller, one for the host or hostess, one for the purchaser, and one for local authorities, if they should ask. The secondhand precious metal dealer and the host shall maintain copies of all transaction receipts and records for three years following the date of the precious metal transaction.

(6) A secondhand precious metal dealer of a hosted home party who purchases precious metals at a hosted home party and complies with this section is otherwise exempt from sections 3, 4, and 5 of this act.

**NEW SECTION. Sec. 10.** Sections 3 through 7 and 9 of this act are each added to chapter 19.60 RCW."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1716.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "dealers;" strike the remainder of the title and insert "amending RCW 19.60.010 and 19.60.085; adding new sections to chapter 19.60 RCW; creating a new section; and prescribing penalties."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1716 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Holmquist Newbry and Eide spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1716 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1716 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner and Ericksen

Excused: Senators Sheldon and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1016, by Representatives Blake, Condotta, Armstrong, Shea, Kretz, Klippert, McCune, Takko, Van De Wege, Dunshee, Probst, Lias, Miloscia, Finn, Hurst, Springer, Goodman, Rodne, Orcutt, Haigh, Dickerson, Taylor, Warnick, Hope, Dammeier, Kristiansen, Chandler, Ross, Sells and Upthegrove

Changing restrictions on firearm noise suppressors.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1016 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1016.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1016 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Excused: Senators Sheldon and Zarelli

HOUSE BILL NO. 1016, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1412, by Representatives Santos, Dammeier, Probst, Lias, Kelley, Kenney and Van De Wege

Regarding mathematics end-of-course assessments.

The measure was read the second time.

## MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1412 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1412.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1412 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Excused: Senators Sheldon and Zarelli

HOUSE BILL NO. 1412, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1229, by Representatives Moscoso, Armstrong and Kenney

Concerning the certification of commercial driver's license holders and applicants.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.25.010 and 2009 c 181 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to ~~((the CMVSA))~~ 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); or

(b) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any

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quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on the effective date of this section, or

such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

~~((23))~~ (24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 2.** RCW 46.25.080 and 2004 c 249 s 8 and 2004 c 187 s 5 are each reenacted and amended to read as follows:

(1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

(a) The name and residence address of the person;

(b) The person's color photograph;

(c) A physical description of the person including sex, height, weight, and eye color;

(d) Date of birth;

(e) The person's social security number or any number or identifier deemed appropriate by the department;

(f) The person's signature;

(g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;

(h) The name of the state; and

(i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all

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lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(i) Class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver; or

(B) Vehicles used in the transportation of hazardous materials.

(b) The following endorsements and restrictions may be placed on a license:

(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P1" authorizes driving all vehicles, other than school buses, carrying passengers.

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds, other than school buses, carrying sixteen or more passengers, including the driver.

(vi) "N" authorizes driving tank vehicles.

(vii) "X" represents a combination of hazardous materials and tank vehicle endorsements.

(viii) "S" authorizes driving school buses.

(ix) "V" means that the driver has been issued a medical variance.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) All school bus drivers must have either a "P1" or "P2" endorsement depending on the GVWR of the school bus being driven.

(4) Before issuing a commercial driver's license, the department shall obtain driving record information:

(a) Through the commercial driver's license information system;

(b) Through the national driver register;

(c) From the current state of record; and

(d) From all states where the applicant was previously licensed over the last ten years to drive any type of motor vehicle.

A check under (d) of this subsection need be done only once, either at the time of application for a new commercial driver's license, or upon application for a renewal of a commercial driver's license for the first time after July 1, 2005, provided a notation is made on the driver's record confirming that the driving record check has been made and noting the date it was completed.

(5) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of ~~(that fact)~~ the information required under 49 C.F.R. Sec. 383.73 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section and provide all information required to ensure identification of the person.

(6) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(7) When applying for renewal of a commercial driver's license, the applicant shall:

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(a) Complete the application form required by RCW 46.25.070(1), providing updated information and required certifications;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

NEW SECTION. Sec. 3. A new section is added to chapter 46.25 RCW to read as follows:

(1)(a) Any person applying for a CDL must certify that he or she is or expects to be engaged in one of the following types of driving:

(i) Nonexcepted interstate;

(ii) Excepted interstate;

(iii) Nonexcepted intrastate; or

(iv) Excepted intrastate.

(b) From January 30, 2012, to January 30, 2014, the department may require that any person holding a CDL prior to the effective date of this section must provide the department with the certification required under (a) of this subsection. The CDL of a person failing to submit the required certification is subject to downgrade under subsection (4) of this section.

(2) A CDL applicant or holder who certifies under subsection (1)(a)(i) of this section that he or she is or expects to be engaged in nonexcepted interstate commerce must provide a copy of a medical examiner's certificate prepared by a medical examiner, as defined in 49 C.F.R. Sec. 390.5 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. Upon submission, a copy of the medical examiner's certificate must be date-stamped by the department. A CDL holder who certifies under subsection (1)(a)(i) of this section must submit a copy of each subsequently issued medical examiner's certificate.

(3) For each operator of a commercial motor vehicle required to have a commercial driver's license, the department must meet the following requirements:

(a)(i) The driver's self-certification of type of driving under subsection (1) of this section must be maintained on the driver's record and the CDLIS driver record;

(ii) The copy of a medical examiner's certificate, when submitted under subsection (2) of this section, must be retained for three years beyond the date the certificate was issued; and

(iii) When a medical examiner's certificate is submitted under subsection (2) of this section, the information required under 49 C.F.R. Sec. 383.73(j)(1)(iii) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section must be posted to the CDLIS driver record within ten calendar days from the date submitted. The indicator of medical certification status, such as "certified" or "not-certified," must be maintained on the driver's record.

(b) Within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, the medical certification status of the driver must be updated to "not-certified."

(c) Within ten calendar days of receiving information from the federal motor carrier safety administration regarding issuance or renewal of a medical variance for a driver, the department must update the CDLIS driver record to include the medical variance information.

(4)(a) If a driver's medical certification or medical variance expires, or the federal motor carrier safety administration notifies the department that a medical variance was removed or rescinded, the department must:

(i) Notify the driver of his or her "not-certified" medical certification status and that the CDL privilege will be removed from

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the driver's license unless the driver submits a current medical certificate or medical variance, or changes his or her self-certification to driving only in excepted or intrastate commerce; and

(ii) Initiate procedures for downgrading the license. The CDL downgrade must be completed and recorded within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) Beginning January 30, 2014, if a driver fails to provide the department with the certification required in subsection (1) of this section, or a current medical examiner's certificate if the driver self-certifies under subsection (1)(a)(i) of this section that he or she is operating in nonexcepted interstate commerce as required in subsection (2) of this section, the department must mark the CDLIS driver record as "not-certified" and initiate a CDL downgrade in accordance with (a)(ii) of this subsection.

(c) A driver whose CDL has been downgraded under this subsection may restore the CDL privilege by providing the necessary certifications or medical variance information to the department.

**Sec. 4.** RCW 46.25.090 and 2006 c 327 s 4 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or

possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than one hundred twenty days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ~~(ninety)~~ one hundred eighty days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than ~~(one)~~ two years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

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(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

**Sec. 5.** RCW 46.32.100 and 2010 c 161 s 1116 are each amended to read as follows:

(1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who ~~((violates))~~ is convicted of violating an out-of-service order is liable for a penalty of at least ~~((one))~~ two thousand ~~((one))~~ five hundred dollars ~~((but not~~

~~more than two thousand seven hundred fifty dollars for each))~~ for a first violation, and not less than five thousand dollars for second or subsequent violation.

(iii) An employer who allows ~~((a driver to operate))~~ the operation of a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than ~~((eleven))~~ twenty-five thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW 46.16A.010, and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16A.010, for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.550. Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

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(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

**Sec. 6.** RCW 46.20.049 and 2005 c 314 s 309 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall be ~~((thirty))~~ seventy-five dollars for the original commercial driver's license or subsequent renewals. If the commercial driver's license is renewed or extended for a period other than five years, the fee for each class shall be ~~((six))~~ fifteen dollars for each year that the commercial driver's license is renewed or extended. The fee shall be deposited in the highway safety fund.

**NEW SECTION. Sec. 7.** Sections 1 through 3 of this act take effect January 30, 2012."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 1229.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

**MOTION**

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "certain commercial motor vehicle provisions; amending RCW 46.25.010, 46.25.090, 46.32.100, and 46.20.049; reenacting and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW; prescribing penalties; and providing an effective date."

**MOTION**

On motion of Senator Haugen, the rules were suspended, House Bill No. 1229 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1229 as amended by the Senate.

**ROLL CALL**

The Secretary called the roll on the final passage of House Bill No. 1229 as amended by the Senate and the bill passed the

Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Voting nay: Senator Morton

Excused: Senators Sheldon and Zarelli

HOUSE BILL NO. 1229 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**STATEMENT FOR THE JOURNAL**

"Today, we voted on House Bill No. 1229 concerning the certification of commercial driver's license holders and applicants.

I inadvertently voted in favor of the measure. I want the record to reflect that I would have been a "No." My consistent voting record against bills that represent an increased burden on tax payers through taxes and fees demonstrates that I would have voted against the measure.

Due to the distraction of negotiations with my colleagues, I believed we were voting on a different bill."

**SENATOR HOLMQUIST NEWBRY, 13<sup>TH</sup> LEGISLATIVE DISTRICT**

**SECOND READING**

HOUSE BILL NO. 1069, by Representatives Alexander and Moeller

Regarding the disposition of unclaimed remains.

The measure was read the second time.

**MOTION**

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1069.

**ROLL CALL**

The Secretary called the roll on the final passage of House Bill No. 1069 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Excused: Senators Sheldon and Zarelli

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HOUSE BILL NO. 1069, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1294, by House Committee on Environment (originally sponsored by Representatives Tharinger, Warnick, Seaquist, Finn, Smith, Upthegrove, Springer, Dunshee, Orcutt, Hudgins, Reykdal, Rolfes, Hunt, Moscoso, Green, McCoy, Morris, Frockt, Ryu, Jinkins, Fitzgibbon, Sells, Blake, Appleton, Liias, Maxwell, Kenney, Carlyle, Hope and Billig)

Establishing the Puget Sound corps.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1294 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1294.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1294 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baxter, Benton, Carrell, Delvin, Hatfield, Holmquist Newbry, Honeyford, King and Schoesler

Excused: Senators Sheldon and Zarelli

SUBSTITUTE HOUSE BILL NO. 1294, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5124,  
SUBSTITUTE SENATE BILL NO. 5157,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5747.

## RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Ericksen as to the application of Initiative Number 1053 to Substitute Senate Bill 5251, the President finds and rules as follows:

Because the language with respect to revenue increases found in Initiative Number 1053 is essentially the same as that found in Initiative Number 960, the President believes that his past rulings

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differentiating a 'tax' from a 'fee' are useful precedent in making similar rulings for I-1053.

The President believes that almost every user of an electric vehicle can expect to drive that vehicle upon public roads. The fees to be paid on electric vehicles pursuant to this measure must be used only for highway purposes, and every account into which the proceeds are deposited is similarly limited to expenditure for road purposes. The President believes this direct connection between those paying the fee and the purpose for which the proceeds can be used satisfies the nexus test, and the revenue is properly viewed as a fee.

For these reasons, the President believes this measure will take only a simple majority vote on final passage, and Senator Ericksen's point is not well-taken."

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, Sheldon, Hobbs and White).

Imposing an additional vehicle license fee on electric vehicles. Revised for 1st Substitute: Concerning electric vehicle license fees.

The bill was read on Third Reading.

Senator Haugen spoke in favor of passage of the bill.

The Presiding declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5251.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5251 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Delvin, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Keiser, King, Kline, Kohl-Welles, McAuliffe, Morton, Nelson, Parlette, Pflug, Prentice, Regala, Roach, Rockefeller, Schoesler, Shin and Swecker

Voting nay: Senators Baumgartner, Baxter, Eide, Ericksen, Fain, Hill, Holmquist Newbry, Kastama, Kilmer, Litzow, Murray, Pridemore, Ranker, Stevens, Tom and White

Absent: Senator Carrell

Excused: Senators Sheldon and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 12:16 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, March 30, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, March 30, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Regala, Roach, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Clayton Avery and Atikah Samal, presented the Colors. Retired Pastor Marvin Eckfeldt of First Christian Church of Kent offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 29, 2011

EHB 1171 Prime Sponsor, Representative Rolfes: Concerning high capacity transportation system plan components and review. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 29, 2011

HB 1358 Prime Sponsor, Representative Klippert: Modifying combination of vehicle provisions. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 29, 2011

HB 1473 Prime Sponsor, Representative Parker: Concerning the use of existing fees collected for the cost of traffic schools. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 29, 2011

SHB 1483 Prime Sponsor, Committee on Transportation: Modifying the form for a notice of traffic infraction. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Nelson; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 29, 2011

ESHB 1967 Prime Sponsor, Committee on Transportation: Concerning public transportation systems. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Ericksen; Hill; Hobbs; Prentice; Ranker; Shin and Swecker.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 30, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ELLEN TAUSSIG, reappointed March 27, 2011, for the term ending March 26, 2015, as Member of the Higher Education Facilities Authority.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

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On motion of Senator White, Senator Regala was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9137, George Masten, as a member of the Investment Board, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Benton, Roach and Zarelli were excused.

APPOINTMENT OF GEORGE MASTEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9137, George Masten as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9137, George Masten as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and White

Excused: Senators Regala, Roach and Zarelli

Absent: Senator Swecker

Gubernatorial Appointment No. 9137, George Masten, having received the constitutional majority was declared confirmed as a member of the Investment Board.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Conway moved that Gubernatorial Appointment No. 9074, Patrick McElligot, as a member of the Investment Board, be confirmed.

Senator Conway spoke in favor of the motion.

MOTION

On motion of Senator Ranker, Senator Brown was excused.

APPOINTMENT OF PATRICK MCELLIGOT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9074, Patrick McElligot as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9074, Patrick McElligot as a member of the Investment Board and the appointment was

confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown and Regala

Gubernatorial Appointment No. 9074, Patrick McElligot, having received the constitutional majority was declared confirmed as a member of the Investment Board.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9116, Jim Tiffany, as a member of the Board of Trustees, Wenatchee Valley Community College District No. 15, be confirmed.

Senator Prentice spoke in favor of the motion.

APPOINTMENT OF JIM TIFFANY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9116, Jim Tiffany as a member of the Board of Trustees, Wenatchee Valley Community College District No. 15.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9116, Jim Tiffany as a member of the Board of Trustees, Wenatchee Valley Community College District No. 15 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown and Regala

Gubernatorial Appointment No. 9116, Jim Tiffany, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Wenatchee Valley Community College District No. 15.

PERSONAL PRIVILEGE

Senator White: "Well, Mr. President, I see sitting up next to you that we have a very distinguished gentleman, retired Senator Ken Jacobsen who is here and would like the opportunity to say a few words honoring him given that somehow he ended up sitting next to you at the rostrum. Mr. President, it is truly an honor to serve and represent the citizens of the Forty-Sixth District. I've only been on the job for two months but I do know that I have big shoes to fill, shoes that served this state with honor for over twenty-eight years. Senator Ken Jacobsen served in the House of Representatives from 1983 to 1997 and then in Senate from '98 to this past January. I can't say enough about Jake, he is such a fixture in the community. As I go out and I engage with my

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community and community groups, everyone knows who Ken Jacobsen is. Everyone is so appreciative for the work that he has done over the years for the citizens of North Seattle and for the people of the State of Washington. Mr. President, we have a proclamation that we will be delivering to Senator Jacobsen later today. I'd like, with permission, to read just a couple of points that will be included in that proclamation. Thank you very much. A few points that you may not know that are local to Ken. First of all, Ken is the founder of the Raoul Wallenberg Dinner and is an active member of a very civic community organizations including the Seattle Audubon Society, he is an active birder; American Indian Endowment Committee; Ravenna and Thorton Creek Alliances; and the Nordic Heritage Museum; and is a lifelong member of the Disabled American Veterans and the Society for the American Baseball Research. So, those are just a few. One other thing that you do know. Ken is a prolific historian who instinctively incorporates such accounts into his speeches on the Senate floor, is dedicated to celebrating Washington's state heritage and beauty in all corners of the state. Now, I was not a member of the senate but I have heard stories of some of his anecdotes on the floor. I hope some of you would be willing to share a few of those. I'd also note that Senator Jacobsen is co-author of the Jacobsen-Metcalf Rules of Parliamentary Democracy which begins with quote, not my words, his, 'Democracy requires a cast iron butt.' Importantly I would note that Ken has been married to Rachel Jacobsen, a teacher from New Zealand for thirty-eight years and has two daughters of whom he is most proud, Sonja and Kiri and it does end up, 'Now therefore be it resolved that the Washington State Senate recognize and honor Ken Jacobsen for his outstanding service in numerous and lasting contributions that he has made to the legislature and the people of the state of Washington.' Mr. President, again, I just can't say enough about what a tremendous fixture in our community Mr. Jacobsen is. I've certainly learned so much from him working with him on a variety of projects. This body is going to miss him tremendously. Jake, it has been an honor to work with you in the House and most importantly the citizens of North Seattle. They love you Jake. I'm proud and honored to call you my friend. Thanks for being here today."

## PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. Well, it truly is a privilege to stand up and follow the good Senator from Seattle and talk about my friend Ken Jacobsen. Ken and I are probably as different as you can get in some ways. He represented downtown Seattle and I represent rural Lewis County. He's a city boy, I'm an ex-farmer. My favorite thing to do is drive my Kubota tractor. Our world views in theory could be diametrically opposed to each other but in fact there's one characteristic of Senator Jacobsen that I always admired and was able to reach across that divide and that is his intellectual honesty. He would look at anything and discuss anything constructively and try to understand where this crazy hick from Lewis County was coming from and try to help me achieve the things that I felt were important for my constituents and because of that I consider him one of my very best friends in this body and I truly admire him and I wish he hadn't left. Never the less, given the opportunity to honor him as an incredible honor for me and I truly wish you the very best, Senator."

## PERSONAL PRIVILEGE

Senator Eide: "Thank you Mr. President. Well, I too would like to stand up and honor the good Senator Jacobsen. I tell you

what, there's not a bird he can't name and there's not a beer he doesn't know and I can appreciate it. I can remember being on a bus with him in Eastern Washington, on an Environmental Committee and he could name every single bird along the way and I learned a lot from that, not only the parliamentary procedure because every time he got up he was good for a great quote. Entertaining as heck, I loved it. We all turned around and listened to him when he got up because he always had a good story. You talk about a historian; he caught every one of us, just trapped us into what he was saying and probably took us hook, line and sinker by the way. I have to thank him very much because he has come to my district I can't even count how many times and door belled with me and I think he knows my district just as well as I do. I would like to personally thank you for all the help that you've given me throughout the years. I truly do miss you Jake, we truly do miss you."

## POINT OF ORDER

Senator Honeyford: "Well, I noticed that we have a person in the senate chamber that is not wearing a tie and I'd ask you take appropriate action."

## REPLY BY THE PRESIDENT

President Owen: "This is a New Zealand tie there I think. The President does allow some discretion on occasion especially for people as distinguished and honorable as our good friend Senator Jacobsen."

## PERSONAL PRIVILEGE

Senator Haugen: "Well, I'm honored to stand up and say, Jake, I really miss you. I'm the one person left on the floor that was part of our class and we were a huge class. In fact if we knew how powerful we could have been if we'd gotten our act together, we could have really made a change. I think there were forty-four of us and that was a lot of freshman, when you think, in the house. You only needed to gather up a few more. But you know, what I want to say about Ken is Ken is a man of Washington. You know he came from Seattle and I think all of us come from our districts and some of us stay very provincial. Ken is a man who has taken the whole state into his heart and you know my farmers appreciated Ken Jacobsen as much as his Seattle folks did. Here's a man who, although he represented a very urban area, understood the rest of the state and I think that a real lesson we could all learn from. Some of can ever get away from being just very provincial but Ken was more than willing to take a tough vote for something he truly believed in and that's important part too. Gee Ken, I hate being the senior but I know I'm not the oldest but I do miss you. It's amazing; he and I use to say all of our friends went on to do great things, Governor Locke and many others. We were the only ones left, but truly we're the servants of the people and you are a real epitome of that. I wish you luck in your life, but I miss you."

## PERSONAL PRIVILEGE

Senator Schoesler: "Well, Mr. President. Senator Jacobsen almost outlasted four different legislators from the Ninth District. He served with the late Senator Gene Prince, they shared a passion for higher education in this state. While they didn't agree on the course to get there, they shared a passion for higher education and the access to it. One of the great Jacobsen stories that we heard in committee several times and on the floor was how the first time he mentioned organic farming to the late

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Senator Tubb Hanson. It was looked upon as kinky sex or something and now it's sort of a main stream part of agriculture and not the kinky counter-culture of agriculture. Last night I was visiting a local establishment in Olympia and as I sat there enjoying a cold barley pop I looked out at the car with my dog Ruger and I said, 'Jacobsen's work isn't done yet.' Last but not least Ken, in your retirement and your love for agriculture and birding and I hope you will become a part of our Sandhill Crane Festival in Othello. Thank you again."

## PERSONAL PRIVILEGE

Senator Murray: "Thank you Mr. President. Well, there are so many things we could talk about when we talk about Senator Jacobsen. You know when I came to the House he was one of those senior House members who was willing to be a mentor, not just to me but to many of us over the years. Our districts are next to each other and ten years ago I got a chunk of his district and nobody door bells as much as Ken Jacobsen. Ten years later they still think you are their senator. So I have a little bit of a challenge there. One of the things, several years ago, I went to, that I fully didn't understand Senator Jacobsen's role is the Dinner that Senator White just mentioned. Honoring a gentleman from Scandinavia who attempted to sneak Jews from Eastern Europe away from the Nazis during the Second World War. This is, I hate to be serious, but the people who come there year after year to that Dinner at the Nordic Heritage Museum are Jews who survived the Holocaust and their hero is Ken Jacobsen. It's so incredible to set next to women who were in Auschwitz and hear them talk about the role Ken has played in bringing their stories forward by creating that Dinner and by bringing speakers in. So, he has been a leader here but he's been a leader to a group of people who needed their stories told and he found a way to bring that story forward. So, we all miss you and I know that you will continue to do great things in your retirement."

## PERSONAL PRIVILEGE

Senator Holmquist Newbry: "Yes, I do just wanted to, I could not say anything about Senator Jacobsen. I have had the honor of serving with you and you've always amazed me and I one thing I can say, this year we have so many fewer bills in the legislature and I knew of course that my easy answer on that was, well, Senator Jacobsen retired. Seriously Senator Jacobsen, there was no issue that your constituents brought to you that you did not make sure was important, that was important to that constituent you made sure and took it and you held your flag high for that constituent and of all the bills that you were able to juggle was usually about one hundred a session. You kept your eye on them all, all those balls in the air and I always liked how some of the issues brought a little humor to us. My favorite, will always be a memory for me, is the one I like to call, 'the hooch for the pooch' and so many others, you know what I'm talking about but I just wish you the best of luck in your retirement and feel free to come and visit us in Eastern Washington. Good hunting there and look forward in keeping in touch. Thank you."

## PERSONAL PRIVILEGE

Senator Shin: "Thank you Mr. President. 1993 when I first came to the House I was a freshman, I didn't know anything about government, politics and here you are Ken Jacobsen come shake hands with me. I want you to be my Higher Education Committee. He was my chair there for two years. He taught me about higher education and here I was in a college for thirty-one

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years, he was teaching all the lessons I need to know. Coming to the senate he even became my teacher in history. We talked about Iwo Jima, he even talked about Russo-Japanese in 1905. I was baffled by that. I said, 'How did you get all this?' He said 'I read a lot'. So a man who always reads and admiration and Ken, I want you to know because I heard a little phrase. 'Behind every successful man there is a woman with tenderness and devotion.' So, I went to wife's mother land, New Zealand last year, so I see why you're so good at it. And again welcome, we miss you in Olympia and we wish all the luck and the best in the future."

## PERSONAL PRIVILEGE

Senator Fraser: "Thank you Mr. President. It's my privilege to express appreciation to Senator Jacobsen. He has been very important person in my legislative life. We've served together over twenty years and he is certainly a person who has expressed with an inquiring mind and a real dedication to education including the education of legislators. I've learned so much from him. I've served on his Higher Education Committee in the House. I still think back to the various charts and etc. that he made sure we learned from and then I served on his Natural Resources Committee here in the Senate and learned just a huge array of interesting things that, maybe all his bills didn't move, but they served a very important educational role and they will have a long term impact on the thinking on a lot of people as they move forward. But, I remember our great times scheming around the capitol budget in the House and his including me and others in a lot of his activities away from the legislature, for example; such Senator Murray and Senator White mentioned that you learn and grow from. So, I thank the good Senator for his dedication and service and our wonderful working relationship."

## PERSONAL PRIVILEGE

Senator Honeyford: "I'll be somewhat serious now Mr. President. Ken, I served with you in the House and in the Senate and I want to tell you what I remember and will remember about you; your ethics, your honesty. I believe you always tried to understand both sides of the issues and I particularly remember when Senator West was very ill, you voted for him which was not to your detriment, probably to your detriment but because your position to be directly opposite. And I also appreciated the history you always provided us, wealth of knowledge there, and I will never forget 'dogs in bars.' Thank you."

## PERSONAL PRIVILEGE

Senator Hargrove: "Thank you Mr. President. The first thing is that Senator Jacobsen, it should be very clear to you that you are way more important than House bills because we're spending so much time honoring you today, so wanted to point that out. I think the entire senate would agree with me on that. We also, we had some incredible fun times in Natural Resources Committee. I can remember laughing so hard that I got sick on a couple of times on some of the things that we were working in that committee. I appreciate the way you ran the committee and let us all basically put our imprint on whatever the bills were, by a majority of what was going on in the committee. The other thing is that I remember well, is that all of the times that you would bring some knowledge from your extensive reading you remind me very much of Senator Hochstatter who use to be here also and he would come up with some interesting nuggets of information that we would all wonder if they were really true or where they came from and you would do the same and appreciate it. You also

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referred me to several good books that I enjoyed thoroughly particularly the one, I think it was the British Navy at the end of the 1800s, and I enjoyed that thoroughly but it just, we're going to miss you a lot. You continue to make me smile when you send me a random text about rooting for Oregon State instead of USC in the football game this last fall. So even though you're gone if he has your phone number you're going to get some little, some others are laughing around here because you keep in contact with us all and we appreciate it. It brings a smile to our face and you certainly are a part of the rich culture that became the senate. The last thing I'd like to say, is that it took you quite a while to get over here from the House, it took you more time to be house-trained than most the rest of us that came over but anyway. We appreciate you."

PERSONAL PRIVILEGE

Senator McAuliffe: "Thank you Mr. President. Well, it is my honor to recognize Senator Jacobsen. We all know that he loved birds, agriculture, history but most of all I think he enjoyed door belling. He loved meeting people at their doors and he respected all of that they had to say and he always listened to them. Sometimes when he was doorbelling with me I would have to go find him because he was in deep conversation with someone who liked birds or someone who liked dogs or someone who wanted to know more about the history of the state. So, he was always so, I think he enjoyed that so much, meeting the people at their doors. I am here for eighteen years in the State Senate because of your support Senator Jacobsen and I want you to know how much I appreciated you and miss you. I do want to also recognize that Senator Jacobsen cared passionately about the children in our public schools and whenever there was an education issue he was always there for those kids, those teachers and to support the children in our schools. So, I want to recognize his contributions to education and to this Senate. Thank you."

PERSONAL PRIVILEGE

Senator Morton: "Thank you. Jake, it was great to serve with you as Ranking Member and I benefited greatly from your historical perspective and I want to say thank you for the privilege has been mine to share with you. Have a great retirement."

PERSONAL PRIVILEGE

Senator Keiser: "Thank you Mr. President. I would like to give my personal thanks to Senator Jacobsen. He was a teacher. He was a mentor. He was a guide. He guided me through my first doorbelling experience as well and many, many other campaign seasons beyond and many other campaign meetings as well, but I remember your work here in this chamber most of all Jake. You were a renaissance man, you know. You had a voracious appetite for information and for deliberation and that's really what sets the Senate apart from that other body. And finally I have to say you have really created a legacy here. Many, many times during these last terribly difficult weeks we have referred to Senator Jacobsen. Yesterday in our tough talks we referred to, 'let's give it the full Jake.' We'll talk later. Thank you."

PERSONAL PRIVILEGE

Senator Benton: "Thank you Mr. President. I would like to talk this morning about this strange fellow that I met on the Education Committee in the house in 1995 as a freshman. The House had been controlled by the Democrat Party for twelve

years. Thirty-one Republicans came in that year and we were in control and Jake was the ranking member for the first time in a long time. I was a new freshman on that committee and you know when you're new and you come down here and you really don't know exactly other than there's democrats and republicans. Jake kind of helped me, took me under his wing, taught me a few things and some of those things have stuck Jake-ethics, character, having respect for other people even though you may disagree with their philosophical position on things. Jake, as you well know, you and I have gone round and round on the initiative process a number of times but he respects my opinion and I certainly respect his. The one thing that I remember most, there's really two things, and I would like to share those things with you today Jake. I suggested once that we maybe consolidate some things in higher education like the council of Presidents and a couple of other ideas like that. He liked those ideas and he'd been around a long time. He was for efficiency too and pushed for it in many ways. The other thing that I really appreciated is the personal relationship. He's got a mind like a steal trap. He never forgets anything and he remembered me talking at some time, I don't even remember about my trip to England and how enamored I had been with Winston Churchill. A few years after that, I had forgotten that I'd even told him about it, I get a card on my desk in my office and it's from Jake with a little note on it and a little coin with a picture of Winston Churchill on the coin and a little note about a memento to remember Winston Churchill by after he'd taken a trip and he brought that back for me. I remembered that. It's the little personal things, you know that you remember around here that you develop a personal relationship with someone and while you may be opposed on some issues you're certainly allies on other issues. That's one thing that you learn in the Senate is that you're arch enemy today could be your best friend tomorrow, just depends on the issue doesn't it? So, I really appreciated that about you Jake, I appreciated our friendship, I have missed you, I've thought about you often since you've been gone. I wish you the very best in anything that you choose to do now. God bless you."

PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. Well, Jake I'm glad you came back to visit us although I have to say it feels like you haven't left because you still call me all the time and I'm happy about that. When I first became, we served together in the house and the senate, when I first became the leader of this caucus I was as green as this notebook and you and Mary Margaret and Harriet all let me know that and I learned a lot from you. I remember at one point and time because we had our ups and downs, we were pretty frustrated with me, you said 'You are just like my daughter' and I realized that as time went on that was a compliment because you love your daughter so much and then as time went on you said, 'You're my second boss. My wife is my first.' We grew over time to really appreciate each other and it sort of ironic that right as we were in our best partnership with each other you decided to retire but I miss you. We still work together and that's great. Thank you so much for being here today."

PERSONAL PRIVILEGE

Senator Ranker: "It's my honor to rise to respect and honor Senator Jacobsen, Jake. The first time I got to know Jake was long before I was here. I was still County Commissioner and Jake was working with me on an issue for the Straits of Juan De Fuca and the open ocean coast in the Senate moving forward a bill that

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had nothing to do with his district so this goes back to the comments of the great Senator from the Tenth. He really was a man of Washington and he really respected all of our different views and he really worked for different areas of the state not just his district. Jake, you were a great mentor to me; I really miss your dry, very dry sense of humor. I miss your history lessons although the timing of those history lessons was a little awkward sometimes. In full honor of Senator Jacobsen I'd like to point out if there were an emergency right now the emergency exits are on our right and on our left you would exit through these doors and out the back. Thank you very much."

## PERSONAL PRIVILEGE

Senator Kohl-Welles: "Thank you Mr. President. Well I got to know Ken in the late 1980s when I was working on gender equity and athletics issues and talked a lot with him. I think helped a little bit with bills that he introduced and from that I was feeling very encouraged to run for the legislature. He really helped spark that interest in me. I think of Ken many times in many different ways. I'm very fortunate that I do get together with him occasionally, not enough but with and former Senator Pat Thibaudeau. We have a good time talking about what's gone on here and what is going on here too. I also had fully appreciated his really inspiring the Scandinavian Caucus which many of us have participated in and still do. One of the best things I will always cherish is an occasion that I had that was a little different when Senator Jacobsen and his wife Rachel and I crashed Fenway Park in Boston. We sneaked in and we did it a very unusual way. We were attending the Democratic National Convention in Boston in 2004 as delegates and the first night Boston was playing New York Yankees. There was not a ticket to be had but that did not discourage us and walked around Fenway Park trying desperately to get a ticket and we could not, but then we saw a sign that said Senate Democrats Fundraiser and so we brazenly walked in the door, an exterior door to Fenway Park, showed our Senate Democratic, well, our ID's for the State Senate and went in where Tom Daschle was hosting a fundraiser for the U. S. Senate Democrats and from there we were able to go right into the park, into the standing room only and watch this fabulous game without having bought a ticket. Now, I know, that may not be proper to be talking about here in the State Senate but it really was a memory that I will always cherish. Senator Jacobsen, as you know I always loved your 'dogs in bars' bill even had a hearing on it and what we did with that bill which I still think we need to do at some point is we amended it to have dogs be able to go to coffee bars outside and sit with us at our tables which people do all over the state but someday we'll let you know if we get that through Ken and thanks for being here."

## PERSONAL PRIVILEGE

Senator Stevens: "Ken, I can see by your rosy cheeks that retirement has very much benefited you. We all look so white and un-sun shined here in this chamber and I just so thrilled you are able to enjoy that retirement. We miss you. I very much miss you as the chairman of the committee, no offense to the present chairman. However, you were always more than fair, even though we did not always agree, seldom did we agree. You were always willing to listen and allow me to have my say when I asked questions of folks that were sometimes embarrassing questions. You never hesitated to call on me in committee. You were always very fair. You are an act to follow and I just want to wish you the very best in your retirement."

PERSONAL PRIVILEGE

Senator Parlette: "So, Senator Jacobsen, I remember first working with you my first year in the Senate in the Higher Education Committee and it was such a marvelous experience to realize that this committee, it was not a partisan issue, people all over the place had different ideas about higher education and that was good for me to experience my very first year in the senate. Secondly, I will remember going to your office and asking you to sign on second on my salmon stamp bill and saying to you, 'Guess what, this is a Republican coming to you with a fee bill' and you quickly signed on and helped me get through the process and I think that was very successful and that same type of legislation may be copied in the future because it is working out. But lastly and most importantly I will remember the story you telling me about the Wenatchee Chiefs and every time I go into that establishment in Wenatchee called McGlends and I see all those mitts that are attached to the wall from that famous baseball team I think of you. We miss you. Charge on, I'm glad that retirement is fitting you well."

## REMARKS BY THE PRESIDENT

President Owen: "The President believes that it would only be appropriate at this time to let the most honorable and distinguished Ken Jacobsen say a few words before the Senate. I'm sure you'll be in for a history lesson. It was stated earlier that Senator Jacobsen listens to all constituents. The President is very proud to have in his office, the Legislative Youth Advisory Committee which was established by the Legislature at the request of a twelve-year-old constituent of Senator Jacobsen who then followed through with a bill and got it passed into law. Ladies and gentleman, it's the President's great honor to present to you, Senator Ken Jacobsen."

## REMARKS BY KEN JACOBSEN

Ken Jacobsen: "Well, thanks a lot for all those kind words and Scott, he never told me. Yeah, I was coming down on another issue and he said, 'Could you be here at ten thirty?' So I'm really flattered. Then, I look over here. I wish Senator McCaslin was still here. He'd probably skewered me pretty good but I certainly enjoyed everything. He had a delightful sense of humor and added a lot to the body. And then the other person that recently died was Mike Layton and I know Karen and I knew him very well. He was a reporter for the Seattle P. I. and I said about Mike, he was the kind of reporter, that my dad was an Archie Bunker Democrat, and Mike wrote about Olympia from an Archie Bunker angle where the average person could understand the issues as he got done explaining them. So, I do miss Mike. And then the other thing is we were talking about and some of my daughters one day as were running for office while my older daughter, the strappy one, said to me, 'Well, dad, it's either you or the cat. You're the only two I know with buns of steel' so I guess it was me. I started in 1982, I got elected in '82 and started in '83 and I'm going to, before I finish I do have a history lesson here. Retired in 2003 but before I go to the history lesson just one other thing that I love talking about birds when I'm out doorbelling constituents. So, anyway one day I was out doorbelling and it was a hot afternoon and you get a little bit woozy afternoon and I was on the east side of the street and sun's beating off the house and I was talking to this woman over eighty and she's got a bird bath down here right by the house, tap water, well birds aren't going to use that, I know that. So, anyway I'm looking at her and I'm thinking and I said to her and I think I pointed at the bird bath but

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I must of pointed at her, I said, 'Do you know what you need?' You need a mister.' and she said to me, 'Young man, I've outlived two misters. I don't need another mister to take care of?' and then she slammed the door on me and I thought well, down one vote. It took me six months before I thought out how I would answer the question, 'Lady I am trying to improve your bird life, not your sex life.'

And after that for years I use to say a fling that puts on a fine little spray and never use that word again. The one observation that I like to really make and getting serious here for a moment and Don's on one side of the issue and I'm on the other but these are evolutionary bodies so things gradually change and it's, so you don't notice what it was like a while ago and stuff, but I want to leave this little seed with you for food for thought. I got elected in 1983, I'm not saying what is right or wrong what I did then but anyway we had a bad recession when I got elected and the Republicans controlled the legislature for two years and they got killed with the budget dropping off, about what you're going through, and they had session after session. In fact I was so confused I didn't know if they were ever out of session and I'd never been to Olympia before I got elected so. I think by the month of February we voted for a penny sales tax increase. And I'm not saying is was right or wrong what we did but I think we got to think about this; in 19...for better or worse and I was considered the most marginal member in the House on the Democrat side, first Democrat elected in forty years from a Republican district, but I was going to face the electorate. There wasn't any paid signature gatherers in those days. So, for better or worse I had to justify my actions to the voters. And then the Supreme Court made that decision saying that you could pay signature gatherers. I argue that that has mutated the initiative and referendum system from being a mild fever to a virulent virus. I mean in my, my day, the pop tax the size of it was laughable and if you had to collect volunteer signatures to repeal I don't think it would of ever come up. But now that you can pay signature gatherers it's a whole new world, whether you like Tim Eyman or not, that's your business but. What we've really done we've turned the legislature into an enabler. A lot of the decisions are being made outside of the body but then nobody else is planning on balancing the accounts. As far as I'm concerned, it's like being in a dysfunctional family. You guys are being very dutiful, trying to hold the show together but you don't, you can't make a decision that stands. No matter what you do, and its unending series of campaigns, I think, I'm going to stop right there on that, I don't want. It's something to think about. It's an evolutionary process, we're here, at least understand the process is and then we can handle it better. Last thing I want to say, when I was a little boy in Nebraska I had a great aunt that use to point at me all the time and tell my mom, 'Empty wagons rattle the most.' It was twenty years before I figured out that wasn't a compliment. So anyway, thanks for letting this wagon rattle a little bit and I would just want to close with I miss you and I miss a lot of other people, some in the gallery and the lobbyist. It really is a great institution. It's one of the finest places to serve and you really have been blessed. Thank you very much for the honor."

SECOND READING

HOUSE BILL NO. 1582, by Representatives Lytton, Morris, Chandler, Blake, Wilcox, Orcutt, Tharinger, Hinkle, McCune, Pearson and Van De Wege

Concerning forest practices applications leading to conversion of land for development purposes.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.09.050 and 2010 c 210 s 20 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource and that may be conducted without submitting an application or a notification except that when the regulating authority is transferred to a local governmental entity, those Class I forest practices that involve timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, are processed as Class IV forest practices, but are not subject to environmental review under chapter 43.21C RCW;

Class II: Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On ((lands platted after January 1, 1960, as provided in chapter 58.17 RCW or on lands that have or are being converted to another use)) forest lands that are being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 77.55.021;

(c) Within "shorelines of the state" as defined in RCW 90.58.030;

(d) Excluded from Class II by the board; or

(e) Including timber harvesting or road construction within "urban growth areas," designated pursuant to chapter 36.70A RCW, which are Class IV;

Class III: Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

Class IV: Forest practices other than those contained in Class I or II:

(a) On ((lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b) on lands that have or are being converted to another use, (c))) forest lands that are being converted to another use;

(b) On lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development((,));

((d) involving) (c) That involve timber harvesting or road construction on forest lands that are contained within "urban growth areas," designated pursuant to chapter 36.70A RCW, except where the forest landowner provides:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest product operations for ten years, accompanied by either a written forest

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management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 or 84.34 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application; and/or

~~((e))~~ (d) Which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, no Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended. However, in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, if a notification or application is delivered in person to the department by the operator or the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) Except for those forest practices being regulated by local governmental entities as provided elsewhere in this chapter, the department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section,

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if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology and fish and wildlife, and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) For those forest practices regulated by the board and the department, if the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) For those forest practices regulated by the board and the department, the department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to ((lands either:

(i) Platted after January 1, 1960, as provided in chapter 58.17 RCW; or

(ii) On)) forest lands that ((have or)) are being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to ~~((subparagraphs)) (b)((i) and (ii))~~ of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) For those forest practices regulated by the board and the department, in addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) For those forest practices regulated by the board and the department, appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.205. In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) For those forest practices regulated by the board and the department, the department shall, within four business days notify

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the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.

(11) For those forest practices regulated by the board and the department, a county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

(12) Notwithstanding subsections (2) through (5) of this section, forest practices applications or notifications are not required for exotic insect and disease control operations conducted in accordance with RCW 76.09.060(8) where eradication can reasonably be expected.

**Sec. 2.** RCW 76.09.240 and 2010 c 219 s 1 are each amended to read as follows:

(1)(a) Counties planning under RCW 36.70A.040 with a population greater than one hundred thousand, and the cities and towns within those counties, where more than a total of twenty-five Class IV forest practices applications, as defined in RCW 76.09.050(1) Class IV (a) through (d), have been filed with the department between January 1, 2003, and December 31, 2005, shall adopt and enforce ordinances or regulations as provided in subsection (2) of this section for the following:

(i) Forest practices classified as Class I, II, III, and IV that are within urban growth areas designated under RCW 36.70A.110, except for forest practices on ownerships of contiguous forest land equal to or greater than twenty acres where the forest landowner provides, to the department and the county, city, or town, a written statement of intent, signed by the forest landowner, not to convert to a use other than growing commercial timber for ten years. This statement must be accompanied by either:

(A) A written forest management plan acceptable to the department; or

(B) Documentation that the land is enrolled as forest land of long-term commercial significance under the provisions of chapter 84.33 RCW; and

(ii) Forest practices classified as Class IV, outside urban growth areas designated under RCW 36.70A.110, involving either timber harvest or road construction, or both on:

(A) ((Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(B))) Forest lands that ((have or)) are being converted to another use; or

((~~C~~)) (B) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development;

(b) Counties planning under RCW 36.70A.040, and the cities and towns within those counties, not included in (a) of this subsection, may adopt and enforce ordinances or regulations as provided in (a) of this subsection; and

(c) Counties not planning under RCW 36.70A.040, and the cities and towns within those counties, may adopt and enforce ordinances or regulations as provided in subsection (2) of this section for forest practices classified as Class IV involving either timber harvest or road construction, or both on:

(i) ((Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(ii))) Forest lands that ((have or)) are being converted to another use; or

((~~iii~~)) (ii) Lands which, under RCW 76.09.070, are not to be reforested because of the likelihood of future conversion to urban development.

(2) Before a county, city, or town may regulate forest practices under subsection (1) of this section, it shall ensure that its critical areas and development regulations are in compliance with RCW

36.70A.130 and, if applicable, RCW 36.70A.215. The county, city, or town shall notify the department and the department of ecology in writing sixty days prior to adoption of the development regulations required in this section. The transfer of jurisdiction shall not occur until the county, city, or town has notified the department, the department of revenue, and the department of ecology in writing of the effective date of the regulations. Ordinances and regulations adopted under subsection (1) of this section and this subsection must be consistent with or supplement development regulations that protect critical areas pursuant to RCW 36.70A.060, and shall at a minimum include:

(a) Provisions that require appropriate approvals for all phases of the conversion of forest lands, including land clearing and grading; and

(b) Procedures for the collection and administration of permit and recording fees.

(3) Activities regulated by counties, cities, or towns as provided in subsections (1) and (2) of this section shall be administered and enforced by those counties, cities, or towns. The department shall not regulate these activities under this chapter.

(4) The board shall continue to adopt rules and the department shall continue to administer and enforce those rules in each county, city, or town for all forest practices as provided in this chapter until such a time as the county, city, or town has updated its development regulations as required by RCW 36.70A.130 and, if applicable, RCW 36.70A.215, and has adopted ordinances or regulations under subsections (1) and (2) of this section. However, counties, cities, and towns that have adopted ordinances or regulations regarding forest practices prior to ((July 22, 2007,)) the effective date of this section are not required to readopt their ordinances or regulations in order to satisfy the requirements of this section except as necessary to ensure consistency with Class IV forest practices as defined in RCW 76.09.050.

(5) Upon request, the department shall provide technical assistance to all counties, cities, and towns while they are in the process of adopting the regulations required by this section, and after the regulations become effective.

(6) For those forest practices over which the board and the department maintain regulatory authority no county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(a) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only((~~if~~)) where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands ((have been or will be)) are being converted to a use other than commercial forest product production((; or (ii) on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW)): PROVIDED, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(b) Taxing powers;

(c) Regulatory authority with respect to public health; and

(d) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971."

(7) All counties and cities adopting or enforcing regulations or ordinances under this section shall include in the regulation or ordinance a requirement that a verification accompany every permit issued for forest land by that county or city associated with the conversion to a use other than commercial timber operation, as that term is defined in RCW 76.09.020, that verifies that the land in

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question is not or has not been subject to a notice of conversion to nonforestry uses under RCW 76.09.060 during the six-year period prior to the submission of a permit application.

(8) To improve the administration of the forest excise tax created in chapter 84.33 RCW, a county, city, or town that regulates forest practices under this section shall report permit information to the department of revenue for all approved forest practices permits. The permit information shall be reported to the department of revenue no later than sixty days after the date the permit was approved and shall be in a form and manner agreed to by the county, city, or town and the department of revenue. Permit information includes the landowner's legal name, address, telephone number, and parcel number.

**Sec. 3.** RCW 43.21C.037 and 1997 c 173 s 6 are each amended to read as follows:

(1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices:

(a) ~~((on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, (b)))~~ On forest lands that ~~((have or))~~ are being converted to another use~~((;))~~; or

~~((=))~~ (b) On lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to House Bill No. 1582.

The motion by Senator Ranker carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "purposes;" strike the remainder of the title and insert "and amending RCW 76.09.050, 76.09.240, and 43.21C.037."

#### MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1582 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1582 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1582 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Regala

HOUSE BILL NO. 1582 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Taylor and Moscoso)

Creating a pilot project to allow spirits sampling in state liquor stores and contract stores.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The liquor control board shall establish a pilot project to allow spirits sampling in state liquor stores as defined in RCW 66.16.010 and contract stores as defined in RCW 66.04.010(11) for the purpose of promoting the sponsor's products. For purposes of this section, "sponsors" means: A domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310.

(a) The pilot project shall consist of thirty locations with at least six samplings to be conducted at each location between September 1, 2011, and September 1, 2012. However, no state liquor store or contract store may hold more than one spirits sampling per week during the project period.

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(b) The pilot project locations shall be determined by the board. Before the board determines which state liquor stores or contract stores will be eligible to participate in the sampling pilot, it shall give:

(i) Due consideration to the location of the state liquor store or contract store with respect to the proximity of places of worship, schools, and public institutions;

(ii) Due consideration to motor vehicle accident data in the proximity of the state liquor store or contract store; and

(iii) Written notice by certified mail of the proposed spirits sampling to places of worship, schools, and public institutions within five hundred feet of the liquor store proposed to offer spirits sampling.

(c) Sampling must be conducted under the following conditions:

(i) Sampling may take place only in an area of a state liquor store or contract store in which access to persons under twenty-one years of age is prohibited;

(ii) Samples may be provided free of charge;

(iii) Only persons twenty-one years of age or over may sample spirits;

(iv) Each sample must be one-quarter ounce or less, with no more than one ounce of samples provided per person per day;

(v) Only sponsors may serve samples;

(vi) Any person involved in the serving of such samples must have completed a mandatory alcohol server training program;

(vii) No person who is apparently intoxicated may sample spirits;

(viii) The product provided for sampling must be available for sale at the state liquor store or contract store where the sampling occurs at the time of the sampling; and

(ix) Customers must remain on the state liquor store or contract store premise while consuming samples.

(d) The liquor control board may prohibit sampling at a pilot project location that is within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the sampling activities at the location are having an adverse effect on the reduction of chronic public inebriation in the area.

(e) All other criteria needed to establish and monitor the pilot project shall be determined by the board.

(f) The board shall report on the pilot project to the appropriate committees of the legislature by December 1, 2012. The board's report shall include the results of a survey of liquor store managers and contract liquor store managers.

(2) The liquor control board may adopt rules to implement this section.

**Sec. 2.** RCW 66.08.050 and 2005 c 151 s 3 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, shall:

(1) Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require. Sampling on contract store premises is permitted under this act;

(3) Establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business; and for remodeling the same, and the procuring of their furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects shall be subject to the direction of the board;

(5) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(6) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(7) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board;

(8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(10) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(11) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor: **PROVIDED**, That the board shall have no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

**Sec. 3.** RCW 66.16.070 and 1933 ex.s. c 62 s 10 are each amended to read as follows:

No employee in a state liquor store shall open or consume, or allow to be opened or consumed any liquor on the store premises, except for the purposes of conducting on-premise spirits sampling pursuant to the provisions of this act.

**Sec. 4.** RCW 66.28.040 and 2009 c 373 s 8 are each amended to read as follows:

Except as permitted by the board under RCW 66.20.010, no domestic brewery, microbrewery, distributor, distiller, domestic winery, importer, rectifier, certificate of approval holder, or other manufacturer of liquor shall, within the state of Washington, give to any person any liquor; but nothing in this section nor in RCW 66.28.010 shall prevent a domestic brewery, microbrewery, distributor, domestic winery, distiller, certificate of approval holder, or importer from furnishing samples of beer, wine, or spirituous liquor to authorized licensees for the purpose of negotiating a sale, in accordance with regulations adopted by the liquor control board, provided that the samples are subject to taxes imposed by RCW 66.24.290 and 66.24.210, and in the case of spirituous liquor, any product used for samples must be purchased at retail from the board; nothing in this section shall prevent the furnishing of samples of liquor to the board for the purpose of negotiating the sale of liquor to the state liquor control board; nothing in this section shall prevent a domestic brewery, microbrewery, domestic winery, distillery,

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certificate of approval holder, or distributor from furnishing beer, wine, or spirituous liquor for instructional purposes under RCW 66.28.150; nothing in this section shall prevent a domestic winery, certificate of approval holder, or distributor from furnishing wine without charge, subject to the taxes imposed by RCW 66.24.210, to a not-for-profit group organized and operated solely for the purpose of enology or the study of viticulture which has been in existence for at least six months and that uses wine so furnished solely for such educational purposes or a domestic winery, or an out-of-state certificate of approval holder, from furnishing wine without charge or a domestic brewery, or an out-of-state certificate of approval holder, from furnishing beer without charge, subject to the taxes imposed by RCW 66.24.210 or 66.24.290, or a domestic distiller licensed under RCW 66.24.140 or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310, from furnishing spirits without charge, to a nonprofit charitable corporation or association exempt from taxation under section 501(c)(3) or (6) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3) or (6)) for use consistent with the purpose or purposes entitling it to such exemption; nothing in this section shall prevent a domestic brewery or microbrewery from serving beer without charge, on the brewery premises; nothing in this section shall prevent donations of wine for the purposes of RCW 66.12.180; nothing in this section shall prevent a domestic winery from serving wine without charge, on the winery premises; ~~(and)~~ nothing in this section shall prevent a craft distillery from serving spirits without charge, on the distillery premises subject to RCW 66.24.145; and nothing in this section prohibits spirits sampling under this act.

NEW SECTION. **Sec. 5.** This act expires December 1, 2012."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1202.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "sampling;" strike the remainder of the title and insert "amending RCW 66.08.050, 66.16.070, and 66.28.040; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1202 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.  
Senator Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1202 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1202 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Pridemore, Ranker, Schoesler, Tom and White

Voting nay: Senators Becker, Benton, Ericksen, Hargrove, Haugen, Honeyford, Kastama, Morton, Parlette, Prentice, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senator Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1649, by Representatives Jinkins, Pedersen, Kenney, Pettigrew, Ladenburg, Lytton, Stanford, Billig, Ryu, Liias, Seaquist, Darneille, Dickerson, Dunshee, Fitzgibbon, Upthegrove, Reykdal, Finn, Moscoso, Takko, Rolfes, Clibborn, Jacks, Morris, Cody, Roberts, Orwall, Green, Van De Wege, Ormsby, Hudgins, Sells, Kelley, Blake, Appleton, Kagi, Santos, Hurst, Kirby, Eddy, Probst, Springer, Miloscia, Maxwell, Sullivan, Goodman, Frockt, Carlyle, Haigh, Moeller, Hunter, Tharinger, Hunt, McCoy and Hasegawa

Concerning reciprocity and statutory construction with regard to domestic partnerships.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1649 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Swecker and Ranker spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

#### MOTION

On motion of Senator Fraser, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1649.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1649 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 19; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Pridemore, Ranker, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hargrove, Hewitt, Holmquist Newbry,

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Honeyford, King, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Prentice and Regala

HOUSE BILL NO. 1649, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1150, by Representatives Smith, Probst, Schmick, Warnick, Dahlquist, Hunt, Ross, Pearson, Dammeier, Kenney, Rodne, Kagi, Hargrove, Harris, Nealey, Short, Liias, Orcutt, Finn, Kelley, Takko, Taylor, Maxwell, Bailey, Reykdal, Upthegrove, Billig, Kristiansen, Frockt, Carlyle, Blake, Springer, Angel, Hurst, McCune, Rolfes, Condotta and Klippert

Extending the time in which a small business may correct a violation without a penalty.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1150 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1150.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1150 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Prentice and Regala

HOUSE BILL NO. 1150, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1467, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Pearson, Fagan, Overstreet, Harris, Wilcox, Johnson, Haler, Warnick, McCune and Kelley)

Modifying the definition of a well for the purposes of chapter 18.104 RCW.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.104.020 and 2005 c 84 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abandoned well" means a well that is unmaintained or is in such disrepair that it is unusable or is a risk to public health and welfare.

(2) "Constructing a well" or "construct a well" means:

- (a) Boring, digging, drilling, or excavating a well;
- (b) Installing casing, sheeting, lining, or well screens, in a well;
- (c) Drilling a geotechnical soil boring; or
- (d) Installing an environmental investigation well.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(3) "Decommission" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifers.

(4) "Department" means the department of ecology.

(5) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert groundwater for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

(6) "Director" means the director of the department of ecology.

(7) "Environmental investigation well" means a cased hole intended or used to extract a sample or samples of groundwater, vapor, or soil from an underground formation and which is decommissioned immediately after the sample or samples are obtained. An environmental investigation well is typically installed using direct push technology or auger boring and uses the probe, stem, auger, or rod as casing. An environmental investigation well is not a geotechnical soil boring.

(8) "Geotechnical soil boring" or "boring" means a well drilled for the purpose of obtaining soil samples or information to ascertain structural properties of the subsurface.

(9) "Ground source heat pump boring" means a vertical boring constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump.

(10) "Groundwater" means and includes groundwaters as defined in RCW 90.44.035.

(11) "Grounding well" means a grounding electrode installed in the earth by the use of drilling equipment to prevent buildup of voltages that may result in undue hazards to persons or equipment. Examples are anode and cathode protection wells.

(12) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes borehole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(13) "Monitoring well" means a well designed to obtain a representative groundwater sample or designed to measure the water level elevation in either clean or contaminated water or soil.

(14) "Observation well" means a well designed to measure the depth to the water level elevation in either clean or contaminated water or soil.

(15) "Operator" means a person who (a) is employed by a well contractor; (b) is licensed under this chapter; or (c) who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

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(16) "Owner" or "well owner" means the person, firm, partnership, copartnership, corporation, association, other entity, or any combination of these, who owns the property on which the well is or will be constructed or has the right to the well by means of an easement, covenant, or other enforceable legal instrument for the purpose of benefiting from the well.

(17) "Pollution" and "contamination" have the meanings provided in RCW 90.48.020.

(18) "Remediation well" means a well intended or used to withdraw groundwater or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual groundwater contamination.

(19) "Resource protection well" means a cased boring intended or used to collect subsurface information or to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, remediation wells, environmental investigation wells, vapor extraction wells, ground source heat pump boring, grounding wells, and instrumentation wells.

(20) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(21) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of groundwater. "Water wells" include ground source heat pump borings and grounding wells.

(22) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(23)(a) "Well" means water wells, resource protection wells, dewatering wells, and geotechnical soil borings.

(b) Well does not mean an excavation made for the purpose of:

(i) Obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products;

(ii) Siting and constructing an on-site sewage disposal system as defined in RCW 70.118.020 or a large on-site sewage system as defined in RCW 70.118B.010; or

(iii) Inserting any device or instrument less than ten feet in depth into the soil for the sole purpose of performing soil or water testing or analysis or establishing soil moisture content as long as there is no withdrawal of water in any quantity other than as necessary to perform the intended testing or analysis.

(24) "Well contractor" means a resource protection well contractor and a water well contractor licensed and bonded under chapter 18.27 RCW."

Senator Rockefeller spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 1467.

The motion by Senator Rockefeller carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "well;" strike the remainder of the title and insert "and amending RCW 18.104.020."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1467 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1467 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1467 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Prentice and Regala

SUBSTITUTE HOUSE BILL NO. 1467 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1502, by House Committee on Community Development & Housing (originally sponsored by Representatives Ormsby, Kenney, Smith, Moeller, Sells, Condotta, Ryu, Billig and Roberts)

Clarifying the manufactured housing and mobile home program functions and account.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee amendment by the Committee on Financial Institutions, Housing & Insurance be adopted:

On page 7, after line 10, insert the following:

"Sec. 9. RCW 35.63.161 and 2004 c 210 s 1 are each amended to read as follows:

(1) After June 10, 2004, a city may designate a new manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

(2) A city may not prohibit the entry or require the removal of a manufactured/mobile home, park model, or recreational vehicle authorized in a manufactured housing community under chapter

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59.20 RCW on the basis of the community's status as a nonconforming use.

**Sec. 10.** RCW 35A.63.146 and 2004 c 210 s 2 are each amended to read as follows:

(1) After June 10, 2004, a code city may designate a manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

(2) A code city may not prohibit the entry or require the removal of a manufactured/mobile home, park model, or recreational vehicle authorized in a manufactured housing community under chapter 59.20 RCW on the basis of the community's status as a nonconforming use.

**Sec. 11.** RCW 36.70.493 and 2004 c 210 s 3 are each amended to read as follows:

(1) After June 10, 2004, a county may designate a manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.

(2) A county may not prohibit the entry or require the removal of a manufactured/mobile home, park model, or recreational vehicle authorized in a manufactured housing community under chapter 59.20 RCW on the basis of the community's status as a nonconforming use."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Hobbs spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Financial Institutions, Housing & Insurance to Substitute House Bill No. 1502.

The motion by Senator Hobbs carried and the committee amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "manufactured housing and mobile homes; amending RCW 59.22.010, 59.22.050, 43.22A.100, 46.17.150, 59.20.300, 59.22.020, 59.21.050, 35.63.161, 35A.63.146, and 36.70.493; reenacting and amending RCW 43.15.020; creating a new section; and repealing RCW 59.22.070 and 59.22.090."

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1502 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1502 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1502 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Prentice and Regala

SUBSTITUTE HOUSE BILL NO. 1502 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572, by House Committee on Local Government (originally sponsored by Representatives Pettigrew, Kagi, Reykdal, Haigh, Takko, Kenney, Moscoso, Hasegawa, Moeller and Frockt)

Authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 1572 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1572.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1572 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1298, by Representative Kelley

Concerning child support order summary report forms.

The measure was read the second time.

#### MOTION

On motion of Senator Delvin, the rules were suspended, House Bill No. 1298 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1298.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1298 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Regala

HOUSE BILL NO. 1298, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:01 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, March 31, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTY FIRST DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, March 31, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Kastama, Pflug, Regala, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Gabrielle Schmidt and Matthew Straume, presented the Colors. The Most Reverend J. Peter Sartain Archbishop of the Archdiocese of Seattle offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

March 29, 2011

SB 5092 Prime Sponsor, Senator Keiser: Concerning oversight of licensed or certified long-term care settings for vulnerable adults. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5092 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hatfield; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 29, 2011

SB 5882 Prime Sponsor, Senator Schoesler: Determining average salary for the pension purposes of local government employees as certified by their employer. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Holmquist Newbry; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baxter; Honeyford; Pflug and Tom.

Passed to Committee on Rules for second reading.

March 29, 2011

2SHB 1163 Prime Sponsor, Committee on Education Appropriations & Oversight: Creating a work group on preventing bullying, intimidation, and harassment and increasing student knowledge on mental health and youth suicide. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 29, 2011

HB 1239 Prime Sponsor, Representative Orcutt: Allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 29, 2011

HB 1290 Prime Sponsor, Representative Green: Concerning mandatory overtime for certain health care employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Keiser; Kohl-Welles; Pflug; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 29, 2011

SHB 1650 Prime Sponsor, Committee on Education Appropriations & Oversight: Changing state need grant eligibility provisions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baumgartner; Brown; Conway; Fraser;

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Hatfield; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Honeyford; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli and Parlette.

Passed to Committee on Rules for second reading.

March 29, 2011

ESHB 1826 Prime Sponsor, Committee on Ways & Means: Providing taxpayers additional appeal protections for value changes. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

March 29, 2011

ESHB 1902 Prime Sponsor, Committee on Ways & Means: Concerning a business and occupation tax deduction for amounts received with respect to child welfare services. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Pflug; Pridemore; Regala and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Conway; Honeyford; Keiser; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 29, 2011

2SHB 1909 Prime Sponsor, Committee on Ways & Means: Promoting innovation at community and technology colleges. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Baxter; Holmquist Newbry and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baumgartner; Honeyford and Pflug.

Passed to Committee on Rules for second reading.

MOTION

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On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

STEVEN DRURY, reappointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5912 by Senators Keiser, Pflug, Kohl-Welles and Kline

AN ACT Relating to the expansion of family planning services to two hundred fifty percent of the federal poverty level; amending RCW 74.09.659; adding a new section to chapter 74.09 RCW; and creating a new section.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Ericksen, Senators Benton, Fain, Pflug and Swecker were excused.

MOTION

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On motion of Senator White, Senators Brown, Kastama and Regala were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Eide moved that Gubernatorial Appointment No. 9132, Robert Roegner, as a member of the Board of Trustees, Highline Community College District No. 9, be confirmed.

Senator Eide spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senator Zarelli was excused.

APPOINTMENT OF ROBERT ROEGNER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9132, Robert Roegner as a member of the Board of Trustees, Highline Community College District No. 9.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9132, Robert Roegner as a member of the Board of Trustees, Highline Community College District No. 9 and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and White

Excused: Senators Benton, Brown, Kastama, Pflug, Regala, Swecker and Zarelli

Gubernatorial Appointment No. 9132, Robert Roegner, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Highline Community College District No. 9.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9054, Allie Joiner, as a member of the Board of Trustees, State School for the Deaf, be confirmed.

Senator Pridemore spoke in favor of the motion.

APPOINTMENT OF ALLIE JOINER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9054, Allie Joiner as a member of the Board of Trustees, State School for the Deaf.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9054, Allie Joiner as a member of the Board of Trustees, State School for the Deaf and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom and White

Excused: Senators Benton, Brown, Kastama, Pflug, Regala, Swecker and Zarelli

Gubernatorial Appointment No. 9054, Allie Joiner, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, State School for the Deaf.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9127, Cindy Zehnder, as Chair of the Work Force Training and Education Coordinating Board, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF CINDY ZEHNDER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9127, Cindy Zehnder as Chair of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9127, Cindy Zehnder as Chair of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senators Benton, Brown, Kastama, Pflug, Regala and Swecker

Gubernatorial Appointment No. 9127, Cindy Zehnder, having received the constitutional majority was declared confirmed as Chair of the Work Force Training and Education Coordinating Board.

SECOND READING

HOUSE BILL NO. 1618, by Representatives Sells, Crouse, Dunshee, McCoy, Liias, Kristiansen and Pearson

Addressing public utility districts and deferred compensation and supplemental savings plans.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1618 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of House Bill No. 1618.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1618 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senators Brown, Kastama, Pflug, Regala and Swecker

HOUSE BILL NO. 1618, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5289, by Senators Murray and Zarelli

Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Senate Bill No. 5289 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5289.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5289 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senators Brown, Kastama, Pflug, Regala and Swecker

SENATE BILL NO. 5289, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183, by House Committee on Health Care & Wellness (originally

sponsored by Representatives Johnson, Cody, Ross, Kenney, Warnick, Maxwell, Schmick, Taylor, Hope, Haler, Goodman, Hinkle, Dickerson, McCune, Rodne, Armstrong, Ryu, Seaquist, Pedersen, Lias, Eddy, Appleton, Klippert, Kretz, Hasegawa, Fagan, Asay, Chandler, Angel, Ahern and Stanford)

Regarding institutions of higher education prohibiting hospitals or physicians from entering into agreements to provide clinical rotations or residencies to certain medical students. Revised for 1st Substitute: Regarding institutions of higher education prohibiting hospitals or physicians from entering into agreements to provide clinical rotations or residencies to certain medical students. (REVISED FOR ENGROSSED: Regarding certain osteopathic or allopathic medical schools prohibiting hospitals or physicians from entering into agreements to provide clinical rotations to qualified osteopathic or allopathic medical students.)

The measure was read the second time.

## MOTION

Senator King moved that the following amendment by Senators King and Keiser be adopted:

On page 2, after line 4, insert the following:

"**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.115 RCW to read as follows:

A foreign osteopathic or allopathic medical school may not prohibit a hospital or physician from entering into an agreement to provide student clinical rotations to qualified osteopathic or allopathic medical students."

Senator King spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators King and Keiser on page 2, after line 4 to Engrossed Substitute House Bill No. 1183.

The motion by Senator King carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "adding" strike "a new section" and insert "new sections"

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1183 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1183 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1183 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

objection, the title of the bill was ordered to stand as the title of the act.

Voting nay: Senator Holmquist Newbry

Excused: Senators Kastama, Pflug, Regala and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1028, by Representatives Schmick, Takko, Fagan, Springer, Kretz, Shea, Blake and McCune

Using state correctional facility populations to determine population thresholds for certain local government purposes.

The measure was read the second time.

STATEMENT FOR THE JOURNAL

MOTION

On March 31st, we voted on Engrossed Substitute House Bill No. 1183 regarding certain osteopathic or allopathic medical schools prohibiting hospitals or physicians from entering into agreements of provide clinical rotations to qualified osteopathic or allopathic medical students.

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1028 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Having mistakenly voted the wrong way on the bill, a colleague alerted me to the fact. Since I was in the middle of negotiations, I was not able to return to the floor in time to change my vote. I am writing to enter into the record that I would have been a 'Yes.'

Senators Pridemore and Schoesler spoke in favor of passage of the bill.

SENATOR HOLMQUIST NEWBRY, 13<sup>th</sup> LEGISLATIVE DISTRICT

NOTICE OF RECONSIDERATION

SECOND READING

Senator Roach gave notice of her intent to move to reconsider the vote by which Engrossed House Bill No. 1177 passed the Senate.

ENGROSSED HOUSE BILL NO. 1177, by Representatives Hunt and McCoy

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1028.

Regarding field investigations on privately owned lands.

ROLL CALL

The measure was read the second time.

The Secretary called the roll on the final passage of Engrossed House Bill No. 1028 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

MOTION

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1177 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Excused: Senators Regala and Swecker

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1177.

ENGROSSED HOUSE BILL NO. 1028, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ROLL CALL

MOTION

The Secretary called the roll on the final passage of Engrossed House Bill No. 1177 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

At 10:54 a.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 1, 2011.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Shin, Tom and White

BRAD OWEN, President of the Senate

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Schoesler, Sheldon, Stevens and Zarelli

THOMAS HOEMANN, Secretary of the Senate

Excused: Senators Kastama, Regala and Swecker

ENGROSSED HOUSE BILL NO. 1177, having received the constitutional majority, was declared passed. There being no

**EIGHTY SECOND DAY****MORNING SESSION**

Senate Chamber, Olympia, Friday, April 1, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Roach and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Marcos Campos and Nathaniel Campos, presented the Colors. Senator Morton offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the sixth order of business.

**PERSONAL PRIVILEGE**

Senator Sheldon: "Thank you Madam President. I just noted on our desk today the notification of the passing of former Representative Peggy Johnson. Representative Johnson and I served for three terms in the House of Representative, a wonderful person, very hard worker. She had a great sense of humor and I will always remember her for her bipartisanship. We had town hall meetings together for many years and I think they were very much appreciated by the constituents to have both the Republican and Democrat there. One thing that maybe you don't remember about Peggy, she was a very strong Republican and chair of her party in Mason County and her husband Wes ran for the legislature twice and with no success and Peggy said, 'You know, it's my turn. I think I can do that.' She was a fantastic campaigner, a person that could go into a room and just meet everyone and connect with them so well. She did a wonderful job for the Thirty-Fifth District, we will all miss her and her services are this Saturday, tomorrow at 2 p.m. Thank you."

**SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS****MOTION**

Senator Regala moved that Gubernatorial Appointment No. 9150, Val Ogden, as a member of the State School for the Deaf, Board of Trustees, be confirmed.

Senator Regala spoke in favor of the motion.

**MOTION**

On motion of Senator Ericksen, Senator Swecker was excused.

**APPOINTMENT OF VAL OGDEN**

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9150, Val Ogden as a member of the State School for the Deaf, Board of Trustees.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9150, Val Ogden as a member of the State School for the Deaf, Board of Trustees and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Absent: Senator Roach

Excused: Senator Swecker

Gubernatorial Appointment No. 9150, Val Ogden, having received the constitutional majority was declared confirmed as a member of the State School for the Deaf, Board of Trustees.

**MOTION**

On motion of Senator Ericksen, Senator Roach was excused.

**SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS****MOTION**

Senator White moved that Gubernatorial Appointment No. 9141, Richard Thompson, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator White spoke in favor of the motion.

**APPOINTMENT OF RICHARD THOMPSON**

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9141, Richard Thompson as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9141, Richard Thompson as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senator Swecker

Gubernatorial Appointment No. 9141, Richard Thompson, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

**SECOND READING**

EIGHTY SECOND DAY, APRIL 1, 2011

2011 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 1575, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Van De Wege, Moeller and Jinkins)

Clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1575 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1575.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1575 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baxter, Holmquist Newbry and Stevens  
Excused: Senator Swecker

SUBSTITUTE HOUSE BILL NO. 1575, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1181, by Representatives Green, Hinkle, Santos and Dickerson

Creating the Washington state board of naturopathy.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1181 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1181.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1181 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senator Honeyford  
Excused: Senator Swecker

HOUSE BILL NO. 1181, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

POINT OF ORDER

Senator Delvin: "Do the senate rules allow for pages to sit at the members desk during business, senate business being conducted?"

REPLY BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "The President had already expressed some concern but I was assured that that is a Senator, as difficult as it is to believe."

PERSONAL PRIVILEGE

Senator Fain: "Like to wish everyone a happy April Fool's day first of all. I also think that it is important at least one day a year take an opportunity to acknowledge our Page Program and the individuals that are able to take a part of that. Bonnie Henderson has twenty-six years as a page mother and Elwanda Bryant has twenty-three years as a page mother running this program. I don't believe they are in the chamber today but I imagine they are able to watch this on TVW. This is a great program. It's one of a kind in the nation and I think it is something that we all need take a moment to honor including the pages that were able to participate today and I'm doing my part by donning the burgundy jacket. I am disappointed that so many people still did not recognize me as Senator Fain but I would be happy to pass you any green notes that you need during session today. And again, I would like to give, with your permission Madam President, a round of applause to our Page Program."

PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Madam President. I just want to say that Senator Fain, you look better as a page than you do as a Senator."

REMARKS BY THE PRESIDENT PRO TEMPORE

President Pro Tempore: "The President also recollects that there was at one point in history Senator Fain was scheduled to be my page. His mother reminded him of it but it didn't happen. I'd have whipped you into shape."

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026, by House Committee on Judiciary (originally sponsored by

EIGHTY SECOND DAY, APRIL 1, 2011

Representatives Rolfes, Orcutt, Carlyle, Blake, Angel and McCune)

Specifying procedures for adverse possession actions. Revised for 1st Substitute: Changing provisions relating to adverse possession claims.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 7.28 RCW to read as follows:

(1) A party who prevails against the holder of record title at the time an action asserting title to real property by adverse possession was filed, or against a subsequent purchaser from such holder, may be required to:

(a) Reimburse such holder or purchaser for part or all of any taxes or assessments levied on the real property during the period the prevailing party was in possession of the real property in question and which are proven by competent evidence to have been paid by such holder or purchaser; and

(b) Pay to the treasurer of the county in which the real property is located part or all of any taxes or assessments levied on the real property after the filing of the adverse possession claim and which are due and remain unpaid at the time judgment on the claim is entered.

(2) If the court orders reimbursement for taxes or assessments paid or payment of taxes or assessments due under subsection (1) of this section, the court shall determine how to allocate taxes or assessments between the property acquired by adverse possession and the property retained by the title holder. In making its determination, the court shall consider all the facts and shall order such reimbursement or payment as appears equitable and just.

NEW SECTION. **Sec. 2.** This act applies to actions filed on or after July 1, 2012."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1026.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "possession;" strike the remainder of the title and insert "adding a new section to chapter 7.28 RCW; and creating a new section."

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1026 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

2011 REGULAR SESSION

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1026 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1026 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senator Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1353, by Representatives Rivers, Cody, Schmick, Moeller, Orcutt, Ladenburg, Dahlquist, Harris, Moscoso, Green and Kenney

Concerning continuing education for pharmacy technicians.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1353 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1353.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1353 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senator Swecker

HOUSE BILL NO. 1353, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

EIGHTY SECOND DAY, APRIL 1, 2011

2011 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 1585, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Eddy, Springer and Ryu)

Establishing the intrastate mutual aid system.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1585 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1585.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1585 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Tom, White and Zarelli

Excused: Senators Stevens and Swecker

SUBSTITUTE HOUSE BILL NO. 1585, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1081, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Frockt and Moeller)

Regarding the siting of small alternative energy resource facilities.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds a growing interest in small scale renewable energy systems for the provision of electricity to homes and farms.

(2) While many local governments are interested in helping homeowners and farmers achieve energy self-sufficiency, the legislature finds that most local governments have little or no experience in siting and permitting these small scale renewable energy systems.

(3) The legislature finds that some small scale renewable energy systems may not be appropriate for certain locations and may at times face opposition from neighbors and the community.

(4) Therefore, the legislature finds a need for cities and counties to have technical assistance, model ordinances, and development regulations to assist them with the siting and permitting of small scale renewable energy systems.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70A RCW to read as follows:

(1) The department, in consultation with the Washington State University extension energy program and statewide county and city organizations, must recommend a range of model ordinances, all of which are to assist cities and counties in siting and permitting small scale renewable energy systems. The recommendations must take into consideration the size of an energy system, its generating capacity, and its appropriateness for small urban, large urban, suburban, and rural communities.

(2) Counties or cities without ordinances to site small scale renewable energy systems, must adopt the ordinances based upon recommendations developed by the department. However, any recommended ordinance may be tailored to meet local circumstances as long as the generating capacity threshold is met. An ordinance adopted under this subsection may be done concurrently with the scheduled updates provided in RCW 36.70A.130.

(a) A county is not required to adopt ordinances under this section for any facilities with a generating capacity greater than three and one-half kilowatts within residential areas.

(b) A county is required to adopt ordinances under this section for wind facilities with a generating capacity greater than three and one-half kilowatts and not more than five megawatts on agricultural and forest lands.

(c) A city is not required to adopt ordinances under this section for any facilities with a generating capacity greater than three and one-half kilowatts.

(3) For the purposes of this section, "small scale renewable energy systems" means: (a) A wind facility with a generating capacity of not more than five megawatts; and (b) any facility that meets the definition of a "net metering system" under RCW 80.60.010, except facilities that use biomass as a fuel.

NEW SECTION. **Sec. 3.** By December 31, 2012, the department of commerce must do the following with its recommendations developed under section 2 of this act: (1) Report the recommendations to the appropriate committees of the legislature; and (2) make the recommendations available for counties, cities, and statewide city and county organizations."

MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller to the committee striking amendment be adopted:

On page 1, line 28 of the amendment, after "adopt" strike "the ordinances based upon" and insert "an ordinance, considering the"

Senators Rockefeller and Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 1, line 28 to the committee striking amendment to Substitute House Bill No. 1081.

The motion by Senator Rockefeller carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Holmquist Newbry moved that the following amendment by Senators Holmquist Newbry, Honeyford and Rockefeller to the committee striking amendment be adopted:

On page 2, after line 14 of the amendment, insert the following:

"(d) No petition alleging noncompliance with this section may be heard under RCW 36.70A.280."

Senators Holmquist Newbry and Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Holmquist Newbry, Honeyford and Rockefeller on page 2, after line 14 to the committee striking amendment to Substitute House Bill No. 1081.

The motion by Senator Holmquist Newbry carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 2, after line 25, insert the following:

"NEW SECTION. **Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senators Schoesler and Rockefeller spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 2, after line 25 to the committee striking amendment to Substitute House Bill No. 1081.

The motion by Senator Schoesler carried and the amendment to the committee striking amendment was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Substitute House Bill No. 1081.

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "siting;" strike the remainder of the title and insert "adding a new section to chapter 36.70A RCW; and creating new sections."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1081 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1081 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1081 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senator Swecker

SUBSTITUTE HOUSE BILL NO. 1081 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1012, by Representatives Angel, Haler, Klippert, Fagan, Rolfes and Fitzgibbon

Authorizing four-year terms for planning commissioners.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1012 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1012.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1012 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

EIGHTY SECOND DAY, APRIL 1, 2011

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Excused: Senator Swecker

HOUSE BILL NO. 1012, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

At 11:18 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1103, by House Committee on Transportation (originally sponsored by Representatives Kristiansen, Morris and Armstrong)

Modifying the use of television viewers in motor vehicles.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee amendment by the Committee on Transportation be adopted:

On page 1, line 11, after "road" insert ", except for live video of the motor vehicle backing up"

Senators Haugen and King spoke in favor of adoption of the committee amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Substitute House Bill No. 1103.

The motion by Senator Haugen carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1103 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1103 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1103 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Excused: Senator Swecker

SUBSTITUTE HOUSE BILL NO. 1103 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

The Senate was called to order at 6:59 p.m. by Senator Fraser.

MOTION

On motion of Senator Rockefeller, the Senate reverted to the first order of business.

REPORTS OF STANDING COMMITTEES

March 31, 2011

SB 5465 Prime Sponsor, Senator Keiser: Creating the safety net assessment to fund services for people with developmental disabilities. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5465 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Holmquist Newbry; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Baumgartner and Honeyford.

Passed to Committee on Rules for second reading.

April 1, 2011

SB 5581 Prime Sponsor, Senator Keiser: Creating a nursing home safety net assessment. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5581 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Brown; Conway; Fraser; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

April 1, 2011

SB 5907 Prime Sponsor, Senator Kohl-Welles: Implementing the policy recommendations resulting from the national institute of corrections review of prison safety. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5907 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

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MINORITY recommendation: Do not pass. Signed by Senators Parlette; Holmquist Newbry and Honeyford.

Passed to Committee on Rules for second reading.

April 1, 2011

SB 5911 Prime Sponsor, Senator Murray: Concerning the master license service program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5911 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

March 31, 2011

SHB 1136 Prime Sponsor, Committee on Transportation: Creating volunteer firefighter special license plates. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

April 1, 2011

E2SHB 1186 Prime Sponsor, Committee on General Government Appropriations & Oversight: Concerning requirements under the state's oil spill program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baumgartner; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Baxter and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Holmquist Newbry and Pflug.

Passed to Committee on Rules for second reading.

April 1, 2011

ESHB 1224 Prime Sponsor, Committee on Ways & Means: Concerning a business and occupation tax deduction for amounts received with respect to mental health services. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown;

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Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 31, 2011

SHB 1237 Prime Sponsor, Committee on Transportation: Concerning federal selective service registration upon application for an instruction permit, intermediate license, driver's license, or identicaid. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 31, 2011

SHB 1329 Prime Sponsor, Committee on Transportation: Creating "Music Matters" special license plates. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 31, 2011

EHB 1382 Prime Sponsor, Representative Clibborn: Concerning the use of express toll lanes in the eastside corridor. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Shin and Swecker.

MINORITY recommendation: Do not pass. Signed by Senators Ericksen and Sheldon.

Passed to Committee on Rules for second reading.

April 1, 2011

ESHB 1421 Prime Sponsor, Committee on Agriculture & Natural Resources: Providing authority to create a community forest trust. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hewitt; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Baxter and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Honeyford and Pflug.

Passed to Committee on Rules for second reading.

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April 1, 2011

SHB 1431 Prime Sponsor, Committee on Education: Addressing financial insolvency of school districts. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

April 1, 2011

E2SHB 1443 Prime Sponsor, Committee on Education Appropriations & Oversight: Concerning continuing education reforms, including implementing recommendations of the quality education council. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

April 1, 2011

ESHB 1509 Prime Sponsor, Committee on Agriculture & Natural Resources: Concerning the forestry riparian easement program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended by Committee on Natural Resources & Marine Waters. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Honeyford; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 31, 2011

SHB 1516 Prime Sponsor, Committee on Transportation: Concerning the performance of state ferry system management. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; King; Fain; Delvin; Eide; Hill; Hobbs; Litzow; Prentice; Sheldon; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Nelson and Ranker.

Passed to Committee on Rules for second reading.

April 1, 2011

E2SHB 1599 Prime Sponsor, Committee on Ways & Means: Establishing the pay for actual student success dropout prevention program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair,

Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

March 31, 2011

ESHB 1635 Prime Sponsor, Committee on Transportation: Concerning the administration of exams for and issuance and renewal of certain drivers' licenses and identicards. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 31, 2011

SHB 1700 Prime Sponsor, Committee on Transportation: Modifying the requirements related to designing various transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; Fain; Delvin; Eide; Ericksen; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators King and Hill.

Passed to Committee on Rules for second reading.

March 31, 2011

E2SHB 1789 Prime Sponsor, Committee on Transportation: Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended. Signed by Senators Haugen, Chair; White, Vice Chair; King; Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Nelson; Prentice; Ranker; Sheldon; Shin and Swecker.

Passed to Committee on Rules for second reading.

March 31, 2011

ESHB 1790 Prime Sponsor, Committee on Ways & Means: Addressing school district contracts with direct practice health providers. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

EIGHTY SECOND DAY, APRIL 1, 2011

2011 REGULAR SESSION

At 7:01 p.m., on motion of Senator Rockefeller, the Senate adjourned until 12:00 noon, Monday, April 4, 2011.

March 31, 2011

ESHB 1886 Prime Sponsor, Committee on Local Government: Implementing recommendations of the Ruckelshaus Center process. Reported by Committee on Ways & Means

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Schoesler.

Passed to Committee on Rules for second reading.

April 1, 2011

2SHB 1903 Prime Sponsor, Committee on Education Appropriations & Oversight: Requiring background checks for all child care licensees and employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

March 31, 2011

EHB 1969 Prime Sponsor, Representative Hasegawa: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baxter and Pflug.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Rockefeller, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

**EIGHTY FIFTH DAY**

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NOON SESSION

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Senate Chamber, Olympia, Monday, April 4, 2011

The Senate was called to order at 12:00 noon by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Hargrove.

The Sergeant at Arms Color Guard consisting of Pages Abishai Thomas and Evan Haugen, presented the Colors. Reverend Jim Erlandson of Community of Christ Church of Olympia offered the prayer.

MOTION

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STANLEY M. SORSCHER, appointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ROBYN J. TODD, appointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SENATE BILL NO. 5058,  
SUBSTITUTE SENATE BILL NO. 5115,  
SENATE BILL NO. 5116,  
SENATE BILL NO. 5149,  
SENATE BILL NO. 5170,  
SENATE BILL NO. 5213,  
SENATE BILL NO. 5295,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5307.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5071,  
SENATE BILL NO. 5224,  
ENGROSSED SENATE BILL NO. 5242,  
SENATE BILL NO. 5375,  
SENATE BILL NO. 5388,  
SENATE BILL NO. 5492,  
SUBSTITUTE SENATE BILL NO. 5495,  
SENATE BILL NO. 5501,  
SUBSTITUTE SENATE BILL NO. 5538,  
SUBSTITUTE SENATE BILL NO. 5574,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SECOND SUBSTITUTE HOUSE BILL NO. 1362,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5124,  
SUBSTITUTE SENATE BILL NO. 5157,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5747.

EIGHTY FIFTH DAY, APRIL 4, 2011  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE BILL NO. NO. 1016.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED HOUSE BILL NO. 1028,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,  
HOUSE BILL NO. 1069,  
HOUSE BILL NO. 1150,  
SUBSTITUTE HOUSE BILL NO. 1294,  
HOUSE BILL NO. 1298,  
HOUSE BILL NO. 1412,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572,  
HOUSE BILL NO. 1618,  
HOUSE BILL NO. 1649.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE BILL NO. 1129,  
SUBSTITUTE HOUSE BILL NO. 1247,  
HOUSE BILL NO. 1345,  
HOUSE BILL NO. 1347,  
ENGROSSED HOUSE BILL NO. 1357,  
HOUSE BILL NO. 1424,  
HOUSE BILL NO. 1488,  
SUBSTITUTE HOUSE BILL NO. 1571,  
HOUSE BILL NO. 1694.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Stevens moved adoption of the following resolution:

SENATE RESOLUTION  
8648

By Senator Stevens

WHEREAS, The practice of engineering is a challenging intellectual field; and

WHEREAS, The study of fuel efficiency is gaining increased public and scientific attention due to concerns with climate change and foreign energy dependence; and

WHEREAS, Women are traditionally underrepresented in scientific fields, including engineering; and

WHEREAS, The Granite Falls ShopGirls team designed a diesel-powered vehicle that got a staggering 470 miles to the gallon; and

WHEREAS, The Granite Falls ShopGirls team triumphantly won first place in the diesel fuel design category in the Shell Eco-marathon competition; and

WHEREAS, The Granite Falls ShopGirls team was awarded one of three awards for compliance with Shell's Eco-marathon safety regulations; and

WHEREAS, The Granite Falls ShopGirls team is composed of dedicated and diligent students who have worked tirelessly for months to build an energy efficient car from scratch; and

WHEREAS, The key to the Granite Falls ShopGirls' success was the result of hard work and perseverance; and

WHEREAS, The outstanding students honorably recognized this day are Maia Hanson, Katherine Jackson, Erica Jensen, Semira Kern, Rita Mae-Hatch, Sara Rood, Pooja Sethi, Shanté Stowell, and Sarah Turner; and

WHEREAS, The strong leadership and encouragement from Michael Werner, the industrial arts teacher who worked with the ShopGirls team, is recognized;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Granite Falls ShopGirls team for their first place finish in the diesel fuel design competition and their top three finish for safety compliance; and

BE IT FURTHER RESOLVED, That Michael Werner, the industrial arts teacher who worked with the Granite Falls ShopGirls team, be applauded for his dedication and expertise in preparing students for the Shell Eco-marathon competition; and

BE IT FURTHER RESOLVED, That the families of the Granite Falls ShopGirls team be commended for their support of their daughters as they pursue their interests in alternative energy and engineering; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, Granite Falls High School, the Daily Herald, the Monroe Monitor, and the Skagit Valley Herald.

Senators Stevens and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8648.

The motion by Senator Stevens carried and the resolution was adopted by voice vote.

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Granite Falls ShopGirls who were seated in the gallery.

MOTION

At 12:17 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EIGHTY FIFTH DAY, APRIL 4, 2011

2011 REGULAR SESSION

AFTERNOON SESSION

The Senate was called to order at 2:16 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

HOUSE BILL NO. 1407, by Representatives Ryu, Hope, Dunshee, Angel and Kagi

Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities.

The measure was read the second time.

## MOTION

Senator Pridemore moved that the following committee amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Beginning on page 3, line 36, strike all of section 2

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Government Operations, Tribal Relations & Elections to House Bill No. 1407.

The motion by Senator Pridemore carried and the committee amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "54.16.180" strike "and 35.92.070"

## MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1407 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

## MOTION

On motion of Senator Ericksen, Senator Parlette was excused.

## MOTION

On motion of Senator White, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1407 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1407 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 2; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hewitt and Holmquist Newbry

Absent: Senators Hargrove and Prentice

Excused: Senator Kline

HOUSE BILL NO. 1407 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1391, by Representatives Warnick, Haler, Fagan, Schmick, Chandler, McCune, Armstrong, Condotta, Johnson, Hinkle and Parker

Regarding the use of water delivered from the federal Columbia basin project.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 1391 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1391.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1391 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senator Prentice

HOUSE BILL NO. 1391, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

HOUSE BILL NO. 1263, by Representatives Crouse, Bailey and Seaquist

Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1263 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1263.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1263 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senator Prentice

HOUSE BILL NO. 1263, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Hargrove was excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1422, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Stanford, Orcutt, Chandler, Warnick, Van De Wege, Green, Smith, Jacks, Blake, Sullivan, McCoy, Kretz, Tharinger, Ryu, Short, Sells, Lytton, Liias, Frockt, Moscoso, Billig, Probst, Rolfes, Dunshee, Maxwell, Upthegrove and Kenney)

Authorizing a forest biomass to aviation fuel demonstration project.

The measure was read the second time.

#### MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the work that is already underway in exploring the potential of linking Washington's forest products and aeronautics industries in producing a sustainable aviation biofuel with feedstock from the state's public and private forest lands is important to this state's economy and its sustainable energy policies. The sustainable aviation fuel Northwest initiative has set the stage by beginning the process and initiating stakeholder involvement in assessing the options for developing the biofuel industry in the Northwest. The legislature further finds that the work that is being done by the department of natural resources and our state research universities in exploring opportunities to develop aviation biofuel in Washington will provide the scientific and technological analyses needed to determine a pathway for the sustainable use of forest biomass to produce biofuels.

NEW SECTION. Sec. 2. (1) The departments of natural resources and commerce are authorized to cooperate and consult with the University of Washington and Washington State University in their development of forest biomass to aviation fuel by:

- (a) Identifying opportunities for state lands to generate trust income for beneficiaries;
  - (b) Identifying how to manage trust lands with potential for contributing to biomass to aviation fuel projects in a manner consistent with any findings by the University of Washington concerning operationally and ecologically sustainable feedstock supply;
  - (c) Identifying the most cost-effective, efficient, and ecologically sound techniques to deliver forest biomass from the forest to the production site;
  - (d) Addressing and planning to ensure sustainability of forest biomass supply;
  - (e) Exploring linkages with other biofuel efforts;
  - (f) Identifying any barriers to developing aviation biofuel in Washington;
  - (g) Entering into partnerships with research universities and the private sector to conduct a pilot project;
  - (h) Collaborating with the federal government, other states, and Canadian provinces; and
  - (i) Identifying and applying for funding sources.
- (2) The department of natural resources must provide a report to the governor and the appropriate committees of the legislature:

- (a) By December 1, 2011, regarding all of its activities pertaining to forest biomass to aviation fuel, including expenditures and revenue sources;
- (b) By December 1, 2011, and December 1, 2012, with a summary of research activities, scientific reports, and pilot projects pertaining to forest biomass to aviation fuel by state research institutions, including the status of ongoing activities and summaries of the findings with their implications for management of forest trust lands;
- (c) By December 1, 2011, and December 1, 2012, on the progress of the forest practices board's forest biomass policy work group's consideration of the science, policy, available technologies, and best management practices related to forest biomass harvest, including final recommendations to the forest practices board.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.10 RCW to read as follows:

If a state university or foundation derives income from the commercialization of patents, copyrights, proprietary processes, or licenses developed by the forest biomass to aviation fuel demonstration project in section 2 of this act, a percentage of that income, proportionate to the percent of state resources used to

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develop and commercialize the patent, copyright, proprietary process, or license must be deposited in the state general fund."

reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1422.

The President declared the question before the Senate to be the final passage of House Bill No. 1709.

The motion by Senator Ranker carried and the committee striking amendment was adopted by voice vote.

ROLL CALL

MOTION

The Secretary called the roll on the final passage of House Bill No. 1709 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

There being no objection, the following title amendment was adopted:

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

On page 1, line 4 of the title, after "production;" strike the remainder of the title and insert "adding a new section to chapter 28B.10 RCW; and creating new sections."

Excused: Senators Hargrove and Prentice

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1422 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

HOUSE BILL NO. 1709, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senators Ranker and Morton spoke in favor of passage of the bill.

SIGNED BY THE PRESIDENT

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1422 as amended by the Senate.

The President signed:

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1422 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

- HOUSE BILL NO. 1016,
- ENGROSSED HOUSE BILL NO. 1028,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1055,
- HOUSE BILL NO. 1069,
- HOUSE BILL NO. 1129,
- HOUSE BILL NO. 1150,
- SUBSTITUTE HOUSE BILL NO. 1247,
- SUBSTITUTE HOUSE BILL NO. 1294,
- HOUSE BILL NO. 1298,
- HOUSE BILL NO. 1345,
- HOUSE BILL NO. 1347,
- ENGROSSED HOUSE BILL NO. 1357,
- HOUSE BILL NO. 1412,
- HOUSE BILL NO. 1424,
- HOUSE BILL NO. 1488,
- SUBSTITUTE HOUSE BILL NO. 1571,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1572,
- HOUSE BILL NO. 1618,
- HOUSE BILL NO. 1649,
- HOUSE BILL NO. 1694.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hargrove and Prentice

SUBSTITUTE HOUSE BILL NO. 1422 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND READING

HOUSE BILL NO. 1709, by Representatives Kirby and Bailey

SECOND SUBSTITUTE HOUSE BILL NO. 1803, by House Committee on Capital Budget (originally sponsored by Representatives Chandler, Van De Wege, Blake, Kretz and Warnick)

Making certain lines of group disability insurance more available.

Modifying the Columbia river basin management program.

The measure was read the second time.

The measure was read the second time.

MOTION

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1709 was advanced to third reading, the second

reading, the second reading considered the third and the bill was placed on final passage.

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Senators Rockefeller and Honeyford spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1803.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1803 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Hargrove and Prentice

SECOND SUBSTITUTE HOUSE BILL NO. 1803, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SENATE BILL NO. 5058,  
 SUBSTITUTE SENATE BILL NO. 5071,  
 SUBSTITUTE SENATE BILL NO. 5115,  
 SENATE BILL NO. 5116,  
 SENATE BILL NO. 5149,  
 SENATE BILL NO. 5170,  
 SENATE BILL NO. 5213,  
 SENATE BILL NO. 5224,  
 ENGROSSED SENATE BILL NO. 5242,  
 SENATE BILL NO. 5295,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5307,  
 SENATE BILL NO. 5375,  
 SENATE BILL NO. 5388,  
 SENATE BILL NO. 5492,  
 SUBSTITUTE SENATE BILL NO. 5495,  
 SENATE BILL NO. 5501,  
 SUBSTITUTE SENATE BILL NO. 5538,  
 SUBSTITUTE SENATE BILL NO. 5574,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt and Schmick)

Making harassment against criminal justice participants a crime under certain circumstances. Revised for 2nd Substitute: Concerning harassment against criminal justice participants.

The measure was read the second time.

## MOTION

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On motion of Senator Kline, the rules were suspended, Engrossed Second Substitute House Bill No. 1206 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1206.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1206 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1473, by Representatives Parker, Hurst, Ormsby and Billig

Concerning the use of existing fees collected for the cost of traffic schools.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following committee amendment by the Committee on Transportation be adopted:

On page 2, line 7, after "46.63.110." insert "For the purposes of this section, the penalty includes the base penalty and all assessments and other costs that are required by statute or rule to be added to the base penalty."

Senators Haugen and King spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to House Bill No. 1473.

The motion by Senator Haugen carried and the committee amendment was adopted by voice vote.

## MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1473 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of House Bill No. 1473 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1473 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Benton, Carrell, Holmquist Newbry, Honeyford, Stevens and Zarelli

Excused: Senator Prentice

HOUSE BILL NO. 1473 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071, by House Committee on Transportation (originally sponsored by Representatives Moeller, Fitzgibbon and Frockt)

Creating a complete streets grant program.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Urban main streets should be designed to provide safe access to all users, including bicyclists, pedestrians, motorists, and public transportation users. Context sensitive design and engineering principles allow for flexible solutions depending on a community's needs, and result in many positive outcomes for cities and towns, including improving the health and safety of a community. It is the intent of the legislature to encourage street designs that safely meet the needs of all users and also protect and preserve a community's environment and character.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.04 RCW to read as follows:

(1) The department shall establish a complete streets grant program within the department's highways and local programs division, or its successor. During program development, the department shall include, at a minimum, the department of archaeology and historic preservation, local governments, and other organizations or groups that are interested in the complete streets grant program. The purpose of the grant program is to encourage local governments to adopt urban arterial retrofit street ordinances designed to provide safe access to all users, including bicyclists, pedestrians, motorists, and public transportation users, with the goals of:

(a) Promoting healthy communities by encouraging walking, bicycling, and using public transportation;

(b) Improving safety by designing major arterials to include features such as wider sidewalks, dedicated bicycle facilities, medians, and pedestrian streetscape features, including trees where appropriate.

(c) Protecting the environment and reducing congestion by providing safe alternatives to single-occupancy driving; and

(d) Preserving community character by involving local citizens and stakeholders to participate in planning and design decisions.

(2) For purposes of this section:

(a) "Eligible project" means (i) a local government street retrofit project that includes the addition of, or significant repair to, facilities that provide street access with all users in mind, including pedestrians, bicyclists, and public transportation users; or (ii) a retrofit project on city streets that are part of a state highway that include the addition of, or significant repair to, facilities that provide street access with all users in mind, including pedestrians, bicyclists, and public transportation users.

(b) "Local government" means incorporated cities and towns that have adopted a jurisdiction-wide complete streets ordinance that plans for the needs of all users and is consistent with sound engineering principles.

(c) "Sound engineering principles" means peer-reviewed, context sensitive solutions guides, reports, and publications, consistent with the purposes of this section.

(3) In carrying out the purposes of this section, the department may award funding, subject to the availability of amounts appropriated for this specific purpose, only to eligible projects that are designed consistent with sound engineering principles.

(4) The department must report annually to the transportation committees of the legislature on the status of any grant projects funded by the program created under this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 47.04 RCW to read as follows:

(1) The complete streets grant program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Only the department may authorize expenditures from the account. The department may use complete streets grant program funds for city streets, and city streets that are part of a state highway. Expenditures from the account may be used solely for the grants provided under section 2 of this act.

(2) The department may solicit and receive gifts, grants, or endowments from private and other sources that are made, in trust or otherwise, for the use and benefit of the purposes of the complete streets grant program as provided in section 2 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.04 RCW to read as follows:

When constructing, reconstructing, or making major improvements to streets described in RCW 47.24.010, the department must, for street projects initially planned or scoped after July 1, 2011:

(1) Consult with local jurisdictions in the design and planning phases. Consultation with local jurisdictions must include public outreach and meetings with interested stakeholders in the pre-design phase for the purpose of clarifying community goals and priorities through community design exercises prior to developing any designs or visualizations; and

(2) Consider the needs of all users by applying context sensitive design solutions consistent with peer-reviewed, context sensitive solutions guides, reports, and publications, consistent with the purposes of this section."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1071.

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The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 2 of the title, strike the remainder of the title and insert "adding new sections to chapter 47.04 RCW; and creating a new section."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 1071 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and White spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

Senators Ericksen and Baxter spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1071 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1071 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1521, by Representatives Maxwell, Haigh, Sullivan, Pettigrew, Santos, Kenney, Lias, Frockt, Jacks, Clibborn, Probst, Sells, Lytton, Goodman, Orwall, Van De Wege, Green, Hunt, McCoy, Ladenburg, Billig, Seaquist, Fitzgibbon, Carlyle and Jinkins

Recognizing Washington innovation schools.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington has a long history of providing legal, financial, and political support for a wide range of innovative programs and initiatives and that these can and do operate successfully in public schools through the currently authorized governance structure of locally elected boards of directors of school districts.

(2) Examples of innovation schools can be found all across the state including, but not limited to:

(a) The Vancouver school of arts and academics that offers students beginning in sixth grade the opportunity to immerse themselves in the full range of the arts, including dance, music, theater, literary arts, visual arts, and moving image arts, as well as all levels of core academic courses;

(b) Thornton Creek elementary school in Seattle, an award-winning parent-initiated learning option based on the expeditionary learning outward bound model;

(c) The technology access foundation academy, a unique public-private partnership with the Federal Way school district that offers a rigorous and relevant curriculum through project-based learning, full integration of technology, and a small learning community intended to provide middle and high school students the opportunity for success in school and college;

(d) Talbot Hill elementary school in Renton, where students participate in a micro-society program that includes selecting a government, conducting business and encouraging entrepreneurialism, and providing community services such as banking, newspaper, post office, and courts;

(e) The Tacoma school of the arts, where sophomores through seniors form a cohesive, full-time learning community to study the full range of humanities, mathematics, science, and language as well as build a broad foundation in all forms of the arts, culminating with an in-depth senior arts project that showcases each student's talent and interest;

(f) The SPRINT program at Shaw middle school in Spokane, an alternative learning community for students in seventh and eighth grade proposed and created by a group of parents who wish to be very actively involved in their students' education;

(g) Puesta del sol elementary school in Bellevue, offering a diverse multicultural program and Spanish language immersion beginning in kindergarten;

(h) The Washington national guard youth challenge program operated in collaboration with the Bremerton school district that offers high-risk youth a rigorous and structured residential program that builds students' academic, social, and emotional skills, and physical fitness while providing up to one year of high school credits toward graduation;

(i) The Lincoln center program at Lincoln high school in Tacoma, an extended day program that has virtually eliminated the academic achievement gap and significantly boosted attendance and test scores for racially diverse, low-income, and highly mobile students;

(j) Delta high school, a science, technology, engineering, and math-focused school option for students in the Tri-Cities operating in cooperation with three school districts, the regional skill center, local colleges and universities, and the business community; and

(k) Aviation high school in the Highline school district, offering a project-based curriculum and learning environment centered on an aviation and aeronautics theme with strong business and community support.

(3) Therefore, the legislature intends to encourage additional innovation schools by disseminating information about current models and recognizing the effort and commitment that goes into their creation and operation.

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**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The legislature finds that innovation schools accomplish the following objectives:

- (a) Provide students and parents with a diverse array of educational options;
- (b) Promote active and meaningful parent and community involvement and partnership with local schools;
- (c) Serve as laboratories for educational experimentation and innovation;
- (d) Respond and adapt to different styles, approaches, and objectives of learning;
- (e) Hold students and educators to high expectations and standards; and
- (f) Encourage and facilitate bold, creative, and innovative educational ideas.

(2) The office of the superintendent of public instruction shall develop basic criteria and a streamlined review process for identifying Washington innovation schools. Any public school, including those with institution of higher education partners, may be nominated by a community, organization, school district, institution of higher education, or through self-nomination to be designated as a Washington innovation school. If the office of the superintendent of public instruction finds that the school meets the criteria, the school shall receive a designation as a Washington innovation school. Within available funds, the office shall develop a logo, certificate, and other recognition strategies to encourage and highlight the accomplishments of innovation schools.

(3) The office of the superintendent of public instruction shall:

- (a) Create a page on the office web site to highlight examples of Washington innovation schools, including those with institution of higher education partners, that includes links to research literature and national best practices, as well as summary information and links to the web sites of Washington innovation schools. The office is encouraged to offer an educational administrator intern the opportunity to create the web page as a project toward completion of his or her administrator certificate; and
- (b) Publicize the Washington innovation school designation and encourage schools, communities, institutions of higher education, and school districts to access the web site and create additional models of innovation."

Senators McAuliffe and Litzow spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to House Bill No. 1521.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

**MOTION**

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "schools;" strike the remainder of the title and insert "adding a new section to chapter 28A.300 RCW; and creating a new section."

**MOTION**

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1521 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1521 as amended by the Senate.

**ROLL CALL**

The Secretary called the roll on the final passage of House Bill No. 1521 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senator Prentice

HOUSE BILL NO. 1521 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

**SECOND READING**

SUBSTITUTE HOUSE BILL NO. 1495, by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Kirby, Armstrong, Hunter, Hinkle, Chandler, Pettigrew, Carlyle, Springer, Maxwell, Anderson, Clibborn, Kelley and Kenney)

Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state.

The measure was read the second time.

**MOTION**

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Article or product" means any tangible article or product, but excludes: (a) Any services sold, offered for sale, or made available in this state, including free services and online services; (b) any product subject to regulation by the United States food and drug administration and that is primarily used for medical or medicinal purposes; (c) food and beverages; and (d) restaurant services.

(2) "Copyrightable end product" means a work within the subject matter of copyright as specified in section 102 of Title 17, United States Code, and which for the purposes of this chapter includes mask works protection as specified in section 902 of Title 17, United States Code.

(3) "Essential component" means a component of an article or product provided or to be provided to a third party pursuant to a contract, including a purchase order, without which the article or

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product will not perform as intended and for which there is no substitute component available that offers a comparable range and quality of functionalities and is available in comparable quantities and at a comparable price.

(4) "Manufacture" means to directly manufacture, produce, or assemble an article or product subject to section 2 of this act, in whole or substantial part, but does not include contracting with or otherwise engaging another person, or that person engaging another person, to develop, manufacture, produce, or assemble an article or product subject to section 2 of this act.

(5) "Material competitive injury" means at least a three percent retail price difference between the article or product made in violation of section 2 of this act designed to harm competition and a directly competing article or product that was manufactured without the use of stolen or misappropriated information technology, with such a price difference occurring over a four-month period of time.

(6) "Retail price" means the retail price of stolen or misappropriated information technology charged at the time of, and in the jurisdiction where, the alleged theft or misappropriation occurred, multiplied by the number of stolen or misappropriated items used in the business operations of the person alleged to have violated section 2 of this act.

(7)(a) "Stolen or misappropriated information technology" means hardware or software that the person referred to in section 2 of this act acquired, appropriated, or used without the authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law, but does not include situations in which the hardware or software alleged to have been stolen or misappropriated was not available for retail purchase on a stand-alone basis at or before the time it was acquired, appropriated, or used by such a person.

(b) Information technology is considered to be used in a person's business operations if the person uses the technology in the manufacture, distribution, marketing, or sales of the articles or products subject to section 2 of this act.

**NEW SECTION. Sec. 2.** Any person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5 of this act and, with respect to remedies sought under section 6(6) or 7 of this act, causes a material competitive injury as a result of such use of stolen or misappropriated information technology, is deemed to engage in an unfair act where such an article or product is sold or offered for sale in this state, either separately or as a component of another article or product, and in competition with an article or product sold or offered for sale in this state that was manufactured without violating this section. A person who engages in such an unfair act, and any articles or products manufactured by the person in violation of this section, is subject to the liabilities and remedial provisions of this chapter in an action by the attorney general or any person described in section 6(5) of this act, except as provided in sections 3 through 9 of this act.

**NEW SECTION. Sec. 3.** No action may be brought under this chapter, and no liability results, where:

(1) The end article or end product sold or offered for sale in this state and alleged to violate section 2 of this act is:

(a) A copyrightable end product;

(b) Merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright owner and which displays or embodies a name, character, artwork, or other indicia of or from a work that falls within (a) of this subsection, or merchandise manufactured by or on behalf of, or pursuant to a license from, a copyright or trademark owner and that displays or embodies a name, character, artwork, or other indicia of or from a theme park, theme park attraction, or other facility associated with a theme park; or

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(c) Packaging, carrier media, or promotional or advertising materials for any end article, end product, or merchandise that falls within (a) or (b) of this subsection;

(2) The allegation that the information technology is stolen or misappropriated is based on a claim that the information technology or its use infringes a patent or misappropriates a trade secret under applicable law or that could be brought under any provision of Title 35 of the United States Code;

(3) The allegation that the information technology is stolen or misappropriated is based on a claim that the defendant's use of the information technology violates the terms of a license that allows users to modify and redistribute any source code associated with the technology free of charge; or

(4) The allegation is based on a claim that the person violated section 2 of this act by aiding, abetting, facilitating, or assisting someone else to acquire, appropriate, use, sell, or offer to sell, or by providing someone else with access to, information technology without authorization of the owner of the information technology or the owner's authorized licensee in violation of applicable law.

**NEW SECTION. Sec. 4.** No injunction may issue against a person other than the person adjudicated to have violated section 2 of this act, and no attachment order may issue against articles or products other than articles or products in which the person alleged to violate section 2 of this act holds title. A person other than the person alleged to violate section 2 of this act includes any person other than the actual manufacturer who contracts with or otherwise engages another person to develop, manufacture, produce, market, distribute, advertise, or assemble an article or product alleged to violate section 2 of this act.

**NEW SECTION. Sec. 5.** (1) No action may be brought under section 2 of this act unless the person subject to section 2 of this act received written notice of the alleged use of the stolen or misappropriated information technology from the owner or exclusive licensee of the information technology or the owner's agent and the person: (a) Failed to establish that its use of the information technology in question did not violate section 2 of this act; or (b) failed, within ninety days after receiving such a notice, to cease use of the owner's stolen or misappropriated information technology. However, if the person commences and thereafter proceeds diligently to replace the information technology with information technology whose use would not violate section 2 of this act, such a period must be extended for an additional period of ninety days, not to exceed one hundred eighty days total. The information technology owner or the owner's agent may extend any period described in this section.

(2) To satisfy the requirements of this section, written notice must, under penalty of perjury: (a) Identify the stolen or misappropriated information technology; (b) identify the lawful owner or exclusive licensee of the information technology; (c) identify the applicable law the person is alleged to be violating and state that the notifier has a reasonable belief that the person has acquired, appropriated, or used the information technology in question without authorization of the owner of the information technology or the owner's authorized licensee in violation of such applicable law; (d) to the extent known by the notifier, state the manner in which the information technology is being used by the defendant; (e) state the articles or products to which the information technology relates; and (f) specify the basis and the particular evidence upon which the notifier bases such an allegation.

(3) The written notification must state, under penalty of perjury, that, after a reasonable and good-faith investigation, the information in the notice is accurate based on the notifier's reasonable knowledge, information, and belief.

**NEW SECTION. Sec. 6.** (1) No earlier than ninety days after the provision of notice in accordance with section 5 of this act,

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the attorney general, or any person described in subsection (5) of this section, may bring an action against any person that is subject to section 2 of this act:

(a) To enjoin violation of section 2 of this act, including by enjoining the person from selling or offering to sell in this state articles or products that are subject to section 2 of this act, except as provided in subsection (6) of this section. However, such an injunction does not encompass articles or products to be provided to a third party that establishes that such a third party has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act;

(b) Only after a determination by the court that the person has violated section 2 of this act, to recover the greater of:

(i) Actual direct damages, which may be imposed only against the person who violated section 2 of this act; or

(ii) Statutory damages of no more than the retail price of the stolen or misappropriated information technology, which may be imposed only against the person who violated section 2 of this act; or

(c) In the event the person alleged to have violated section 2 of this act has been subject to a final judgment or has entered into a final settlement, or any products manufactured by such a person and alleged to violate section 2 of this act have been the subject of an injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall dismiss the action with prejudice. If such a person is a defendant in an ongoing action, or any products manufactured by such a person and alleged to violate section 2 of this act are the subject of an ongoing injunction or attachment order, in any federal or state court in this state or any other state, arising out of the same theft or misappropriation of information technology, the court shall stay the action against such a person pending resolution of the other action. In the event the other action results in a final judgment or final settlement, the court shall dismiss the action with prejudice against the person. Dismissals under this subsection are res judicata to actions filed against the person alleged to have violated section 2 of this act arising out of the same theft or misappropriation of information technology.

(2) After determination by the court that a person has violated section 2 of this act and entry of a judgment against the person for violating section 2 of this act, the attorney general, or a person described in subsection (5) of this section, may add to the action a claim for actual direct damages against a third party who sells or offers to sell in this state products made by that person in violation of section 2 of this act, subject to the provisions of section 8 of this act. However, damages may be imposed against a third party only if:

(a) The third party's agent for service of process was properly served with a copy of a written notice sent to the person alleged to have violated section 2 of this act that satisfies the requirements of section 5 of this act at least ninety days prior to the entry of the judgment;

(b) The person who violated section 2 of this act did not make an appearance or does not have sufficient attachable assets to satisfy a judgment against the person;

(c) Such a person either manufactured the final product or produced a component equal to thirty percent or more of the value of the final product;

(d) Such a person has a direct contractual relationship with the third party respecting the manufacture of the final product or component; and

(e) The third party has not been subject to a final judgment or entered into a final settlement in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology. However, in the event the third party is a party to an ongoing suit for damages, or has

entered an appearance as an interested third party in proceedings in rem, in any federal or state court in this state or any other state arising out of the same theft or misappropriation of information technology, the court shall stay the action against the third party pending resolution of the other action. In the event the other action results in a final judgment, the court shall dismiss the action with prejudice against the third party and dismiss any in rem action as to any articles or products manufactured for such a third party or that have been or are to be supplied to such a third party. Dismissals under this subsection are res judicata to actions filed against the person alleged to have violated section 2 of this act arising out of the same theft or misappropriation of information technology.

(3) An award of damages against such a third party pursuant to subsection (2) of this section must be the lesser of the retail price of the stolen or misappropriated information technology at issue or two hundred fifty thousand dollars, less any amounts recovered from the person adjudicated to have violated section 2 of this act, and subsection (4)(a) of this section does not apply to such an award or recovery against the third party.

(4) In an action under this chapter, a court may:

(a) Against the person adjudicated to have violated section 2 of this act, increase the damages up to three times the damages authorized by subsection (1)(b) of this section where the court finds that the person's use of the stolen or misappropriated information technology was willful;

(b) With respect to an award under subsection (1) of this section only, award costs and reasonable attorneys' fees to: (i) A prevailing plaintiff in actions brought by an injured person under section 2 of this act; or (ii) a prevailing defendant in actions brought by an allegedly injured person; and

(c) With respect to an action under subsection (2) of this section brought by a private plaintiff only, award costs and reasonable attorneys' fees to a third party for all litigation expenses (including, without limitation, discovery expenses) incurred by that party if it prevails on the requirement set forth in subsection (2)(c) of this section or who qualifies for an affirmative defense under section 8 of this act. However, in a case in which the third party received a copy of the notification described in subsection (2)(a) of this section at least ninety days before the filing of the action under subsection (2) of this section, with respect to a third party's reliance on the affirmative defenses set forth in section 8(1) (c) and (d) of this act, the court may award costs and reasonable attorneys' fees only if all of the conduct on which the affirmative defense is based was undertaken by the third party, and the third party notified the plaintiff of the conduct, prior to the end of the ninety- day period.

(5) A person is deemed to have been injured by the sale or offer for sale of a directly competing article or product subject to section 2 of this act if the person establishes by a preponderance of the evidence that:

(a) The person manufactures articles or products that are sold or offered for sale in this state in direct competition with articles or products that are subject to section 2 of this act;

(b) The person's articles or products were not manufactured using stolen or misappropriated information technology of the owner of the information technology;

(c) The person suffered economic harm, which may be shown by evidence that the retail price of the stolen or misappropriated information technology was twenty thousand dollars or more; and

(d) If the person is proceeding in rem or seeks injunctive relief, that the person suffered material competitive injury as a result of the violation of section 2 of this act.

(6)(a) If the court determines that a person found to have violated section 2 of this act lacks sufficient attachable assets in this state to satisfy a judgment rendered against it, the court may enjoin the sale

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or offering for sale in this state of any articles or products subject to section 2 of this act, except as provided in section 4 of this act.

(b) To the extent that an article or product subject to section 2 of this act is an essential component of a third party's article or product, the court shall deny injunctive relief as to such an essential component, provided that the third party has undertaken good faith efforts within the third party's rights under its applicable contract with the manufacturer to direct the manufacturer of the essential component to cease the theft or misappropriation of information technology in violation of section 2 of this act, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease the theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue.

(7) The court shall determine whether a cure period longer than the period reflected in section 5 of this act would be reasonable given the nature of the use of the information technology that is the subject of the action and the time reasonably necessary either to bring such use into compliance with applicable law or to replace the information technology with information technology that would not violate section 2 of this act. If the court deems that a longer cure period would be reasonable, then the action shall be stayed until the end of that longer cure period. If by the end of that longer cure period, the defendant has established that its use of the information technology in question did not violate section 2 of this act, or the defendant ceased use of the stolen or misappropriated information technology, then the action must be dismissed.

**NEW SECTION. Sec. 7.** (1) In a case in which the court is unable to obtain personal jurisdiction over a person subject to section 2 of this act, the court may proceed in rem against any articles or products subject to section 2 of this act sold or offered for sale in this state in which the person alleged to have violated section 2 of this act holds title. Except as provided in section 4 of this act and subsection (2) through (4) of this section, all such articles or products are subject to attachment at or after the time of filing a complaint, regardless of the availability or amount of any monetary judgment.

(2) At least ninety days prior to the enforcement of an attachment order against articles or products pursuant to subsection (1) of this section, the court shall notify any person in possession of the articles or products of the pending attachment order. Prior to the expiration of the ninety day period, any person for whom the articles or products were manufactured, or to whom the articles or products have been or are to be supplied, pursuant to an existing contract or purchase order, may:

(a) Establish that the person has satisfied one or more of the affirmative defenses set forth in section 8(1) of this act with respect to the manufacturer alleged to have violated section 2 of this act, in which case the attachment order must be dissolved only with respect to those articles or products that were manufactured for such a person, or have been or are to be supplied to such a person, pursuant to an existing contract or purchase order; or

(b) Post a bond with the court equal to the retail price of the allegedly stolen or misappropriated information technology or twenty-five thousand dollars, whichever is less, in which case the court shall stay enforcement of the attachment order against the articles or products and shall proceed on the basis of its jurisdiction over the bond. The person posting the bond shall recover the full amount of such bond, plus interest, after the issuance of a final judgment.

(3) In the event the person posting the bond pursuant to subsection (2)(b) of this section is entitled to claim an affirmative defense in section 8 of this act, and that person establishes with the court that the person is entitled to any affirmative defense, the court shall

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award costs and reasonable attorneys' fees to the person posting the bond and against the plaintiff in the event the plaintiff proceeds with an action pursuant to section 6(2) of this act against the person posting the bond.

(4) In the event that the court does not provide notification as described in subsection (2) of this section, the court, upon motion of any third party, shall stay the enforcement of the attachment order for ninety days as to articles or products manufactured for the third party, or that have been or are to be supplied to the third party, pursuant to an existing contract or purchase order, during which ninety day period the third party may avail itself of the options set forth in subsection (2)(a) and (b) of this section.

**NEW SECTION. Sec. 8.** (1) A court may not award damages against any third party pursuant to section 6(2) of this act where that party, after having been afforded reasonable notice of at least ninety days by proper service upon such a party's agent for service of process and opportunity to plead any of the affirmative defenses set forth in this subsection, establishes by a preponderance of the evidence any of the following:

(a) Such a person is the end consumer or end user of an article or product subject to section 2 of this act, or acquired the article or product after its sale to an end consumer or end user;

(b) Such a person is a business with annual revenues not in excess of fifty million dollars;

(c) The person acquired the articles or products:

(i) And had either: A code of conduct or other written document governing the person's commercial relationships with the manufacturer adjudicated to have violated section 2 of this act and which includes commitments, such as general commitments to comply with applicable laws, that prohibit use of the stolen or misappropriated information technology by such manufacturer; or written assurances from the manufacturer of the articles or products that the articles or products, to the manufacturer's reasonable knowledge, were manufactured without the use of stolen or misappropriated information technology in the manufacturer's business operations. However, with respect to this subsection (c)(i), within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Exchange written correspondence confirming that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; and for purposes of clarification, the third party need take no additional action to fully avail itself of this affirmative defense; or

(C) In a case in which the manufacturer has failed to cease such a theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(i)(A) of this subsection or option (c)(i)(B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of an agreement between the person

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and the manufacturer for the manufacture of the articles or products in question that was entered into on or before one hundred eighty days after the effective date of this section; or

(ii) Pursuant to an agreement between the person and a manufacturer for the manufacture of the articles or products in question that was entered into before one hundred eighty days after the effective date of this section. However, within one hundred eighty days of receiving written notice of the judgment against the manufacturer for a violation of section 2 of this act and a copy of a written notice that satisfies the requirements of section 5 of this act, the person must undertake commercially reasonable efforts to do any of the following:

(A) Obtain from the manufacturer written assurances that such a manufacturer is not using the stolen or misappropriated information technology in violation of section 2 of this act, which may be satisfied, without limitation, by obtaining written assurances from the manufacturer accompanied by copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue;

(B) Direct the manufacturer to cease the theft or misappropriation, which may be satisfied, without limitation, by the third party issuing a written directive to the manufacturer demanding that it cease such theft or misappropriation and demanding that the manufacturer provide the third party with copies of invoices, purchase orders, licenses, or other verification of lawful use of the information technology at issue; and for purposes of clarification, the third party need take no additional action to fully avail itself of this affirmative defense; or

(C) In a case in which the manufacturer has failed to cease the theft or misappropriation within the one hundred eighty-day period, and the third party has not fulfilled either option (c)(ii)(A) of this subsection or option (c)(ii)(B) of this subsection, cease the future acquisition of the articles or products from the manufacturer during the period that the manufacturer continues to engage in the theft or misappropriation subject to section 2 of this act where doing so would not constitute a breach of such agreement;

(d) The person has made commercially reasonable efforts to implement practices and procedures to require its direct manufacturers, in manufacturing articles or products for such person, not to use stolen or misappropriated information technology in violation of section 2 of this act. A person may satisfy this subsection (1)(d) by:

(i) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit the use of stolen or misappropriated information technology by such a manufacturer, subject to a right of audit, and the person either: (A) Has a practice of auditing its direct manufacturers on a periodic basis in accordance with generally accepted industry standards; or (B) requires in its agreements with its direct manufacturers that they submit to audits by a third party, which may include a third-party association of businesses representing the owner of the stolen or misappropriated intellectual property, and further provides that a failure to remedy any deficiencies found in such an audit that constitute a violation of the applicable law of the jurisdiction where the deficiency occurred constitutes a breach of the contract, subject to cure within a reasonable period of time; or

(ii) Adopting and undertaking commercially reasonable efforts to implement a code of conduct or similar written requirements, which are applicable to the person's direct manufacturers, that prohibit use of stolen or misappropriated information technology by such a manufacturer, and the person undertakes practices and procedures to address compliance with the prohibition against the use of the stolen or misappropriated information technology in accordance with the applicable code of conduct or written requirements; or

(e) The person does not have a contractual relationship with the person alleged to have violated section 2 of this act respecting the manufacture of the articles or products alleged to have been manufactured in violation of section 2 of this act.

(2) A third party must have the opportunity to be heard regarding whether an article or product is an essential component provided or to be provided to a third party, and must have the right to file a motion to dismiss any action brought against it under section 6(2) of this act.

(3) The court may not enforce any award for damages against such a third party until after the court has ruled on that party's claim of eligibility for any of the affirmative defenses set out in this section, and prior to such a ruling may allow discovery, in an action under section 6(2) of this act, only on the particular defenses raised by the third party.

(4) The court shall allow discovery against a third party on an issue only after all discovery on that issue between the parties has been completed and only if the evidence produced as a result of the discovery does not resolve an issue of material dispute between the parties.

(5) Any confidential or otherwise sensitive information submitted by a party pursuant to this section is subject to a protective order.

NEW SECTION. Sec. 9. A court may not enforce an award of damages against a third party pursuant to section 6(2) of this act for a period of eighteen months from the effective date of this section.

NEW SECTION. Sec. 10. A violation of this chapter may not be considered a violation of the state consumer protection act, and chapter 19.86 RCW does not apply to this chapter. The remedies provided under this chapter are the exclusive remedies for the parties.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. Sections 1 through 10 of this act constitute a new chapter in Title 19 RCW."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 1, line 24 of the amendment, after "product" strike all material through "act"

On page 1, line 28 of the amendment, after "product" strike all material through "act"

Beginning on page 1, line 30 of the amendment, after "product" strike all material through "act" on page 2, line 1

On page 2, beginning of line 9 of the amendment, after "person" strike all material through "act" on line 10

On page 2, beginning of line 12 of the amendment, after "person" strike all material through "act" on line 13

On page 2, line 23 of the amendment, after "products" strike all material through "act"

Beginning on page 2, line 24 of the amendment, strike all of sections 2 through 11 and insert the following:

"NEW SECTION. Sec. 2. (1) The legislature recognizes that:

(a) Manufacturers are a vital source of jobs and economic growth in the state;

(b) Manufacturers in this state might suffer a loss of sales, market share, and jobs if they are forced to compete against

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companies that use stolen or misappropriated information technology because such illegal use can unfairly lower production costs and could result in that manufacturer gaining an unfair competitive edge;

(c) The theft of American information technology is particularly rampant in foreign markets, with software piracy rates reaching as high as ninety percent in some countries, costing the United States economy jobs and economic growth; and

(d) Manufacturers that use significant amounts of stolen or misappropriated information technology to reduce their costs should not be allowed to benefit from their illegal acts.

(2) The legislature therefore directs the joint legislative audit and review committee to study the impacts of stolen or misappropriated information technology in this state. The joint legislative audit and review committee must analyze:

(a) How existing state and federal laws relating to unfair trade practices currently address the harm that occurs when manufacturers use stolen or misappropriated information technology to gain an unfair competitive advantage over companies that play by the rules;

(b) The impact restricting the use of stolen information technology would have on retailers, importers, manufacturers, and wholesalers, and the state's economy;

(c) The piracy rate of information technology in the state;

(d) The impact piracy has on manufactured goods in this state; and

(e) Whether a state-by-state restriction versus a uniform federal restriction would have different impacts on the use of stolen information technology and the advantages and disadvantages to both approaches.

(3) In conducting its study, the joint legislative audit and review committee must consult with manufacturers, retailers, technology companies, phone companies, car manufacturers, copyright attorneys, and other appropriate entities.

(4) A report containing the joint legislative audit and review committee's findings and recommendations must be delivered to the legislature by December 1, 2012."

Remember the remaining section consecutively and correct any internal references accordingly.

On page 15, line 2 of the title amendment, after "RCW;" insert "creating a new section;"

Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

#### MOTION

On motion of Senator Hatfield, Senator Pridemore was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 24 to the committee striking amendment to Substitute House Bill No. 1495.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Substitute House Bill No. 1495.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "adding a new chapter to Title 19 RCW; and prescribing penalties."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1495 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

#### POINT OF INQUIRY

Senator Brown: "Would Senator Kohl-Welles yield to a question? Senator Kohl-Welles, retailers have expressed concerns about their culpability under this bill for unwittingly selling products that have been manufactured using pirated information technology. To address these concerns this bill allows Washington companies to offer an affirmative defense against the claim that their supply chains contains stolen IT. How does the affirmative defense safe harbor work?"

Senator Kohl-Welles: "Thank you for the question. The bill asks retailers to take reasonable steps to ensure that their supply chains are clean and free of stolen technology but it also protects them from assuming responsibility for the illegal action of others. It does this in two ways; first, a company can enter into a code of conduct agreement with the manufacturer expressly forbidding their use of stolen information technology. This agreement would be subject to audit by a third party representing the interest of the IT owner. If that the audit reveals that stolen information technology is being used by manufacturer, the manufacturer is liable and not the retailer. Another way this can happen is with the company that has an existing code of conduct agreement with the manufacturer but is silent on the issue of pirated information technology. This agreement can be grandfathered under the bill and the company could then protect itself from the liability when a claim arises against the manufacturer by requiring that the manufacturer seize the theft and secondly not continue to purchase from the manufacturer until the manufacturer can provide invoices or other documentation to prove that it's no longer in violation. And I think it's really important to note that retailers perhaps more than any other business group understand the threat that poses to their economic liability. Both of these safe harbor options allow retailers the opportunity to be partners with IT owners in ridding stolen information technology from Washington supply chain."

Senator Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1495 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1495 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

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Voting yea: Senators Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Carrell, Ericksen, Holmquist Newbry, Honeyford, Morton, Sheldon and Stevens

Excused: Senators Prentice and Pridemore

SUBSTITUTE HOUSE BILL NO. 1495 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Lytton, Dammeier, Maxwell, Dahlquist, Sullivan, Reykdal, Liias, Finn, Sells, Orwall, Rolfes and Kenney)

Creating the launch year program.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1808 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Nelson was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1808.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1808 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry, Honeyford and Stevens

Excused: Senators Nelson and Pridemore

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1808, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1163, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Liias, Johnson, Maxwell, Santos, Sullivan, Walsh, Orwall, Moeller, Van De Wege, Pedersen, McCoy, Ladenburg, Goodman, Hunt, Jinkins, Reykdal, Ormsby, Sells, Frockt, Upthegrove, Kagi, Blake, Fitzgibbon, Kenney, Stanford, Ryu, Miloscia, Carlyle, Pettigrew, Moscoso, Probst, Seaquist, Finn, Roberts, Appleton, Billig, Hasegawa, Clibborn, Hurst, Hudgins, Jacks, Dunshee, Green, Tharinger, Darneille and Rolfes)

Concerning harassment, intimidation, and bullying prevention. Revised for 2nd Substitute: Creating a work group on preventing bullying, intimidation, and harassment and increasing student knowledge on mental health and youth suicide.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that having updated school district policies and procedures is a step in the right direction for preventing bullying, intimidation, and harassment, but more steps are needed. A work group could help to maintain focus and attention on antibullying and antiharassment, as well as monitor progress. In addition, students' knowledge and understanding of two key correlates of bullying and harassment, depression and youth suicide, could be enhanced through instruction and assessments that address mental health and suicide prevention.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The office of the superintendent of public instruction and the office of the education ombudsman shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

- (a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;
- (b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;
- (c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;
- (d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;
- (e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under RCW 28A.300.285 and involving parents in improving school climate;
- (f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

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(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

**NEW SECTION. Sec. 3.** The office of the superintendent of public instruction shall work with state agency and community partners to develop pilot projects to assist schools in implementing youth suicide prevention activities.

**NEW SECTION. Sec. 4.** (1) The state board for community and technical colleges shall compile and analyze policies and procedures adopted by community and technical colleges regarding harassment, intimidation, and bullying prevention.

(2) The higher education coordinating board shall compile and analyze policies and procedures adopted by four-year institutions of higher education regarding harassment, intimidation, and bullying prevention.

(3) Each board under this section shall submit a report with recommendations for improvements in the policies and procedures to the education and higher education committees of the legislature by December 1, 2011, to include:

(a) Whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions;

(b) Recommendations as to training for institutional personnel who are designated as the primary contact regarding the policy and procedure; and

(c) An examination of and recommendations for policies for disciplining students and staff who harass, intimidate, or bully.

**Sec. 5.** RCW 28A.230.095 and 2009 c 556 s 8 are each amended to read as follows:

(1) By the end of the 2008-09 school year, school districts shall have in place in elementary schools, middle schools, and high schools assessments or other strategies chosen by the district to assure that students have an opportunity to learn the essential academic learning requirements in social studies, the arts, and health and fitness. Social studies includes history, geography, civics, economics, and social studies skills. Health and fitness includes, but is not limited to, mental health and suicide prevention education. Beginning with the 2008-09 school year, school districts shall annually submit an implementation verification report to the office of the superintendent of public instruction. The office of the superintendent of public instruction may not require school districts to use a classroom-based assessment in social studies, the arts, and health and fitness to meet the requirements of this section and shall clearly communicate to districts their option to use other strategies chosen by the district.

(2) Beginning with the 2008-09 school year, school districts shall require students in the seventh or eighth grade, and the eleventh or

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twelfth grade to each complete at least one classroom-based assessment in civics. Beginning with the 2010-11 school year, school districts shall require students in the fourth or fifth grade to complete at least one classroom-based assessment in civics. The civics assessment may be selected from a list of classroom-based assessments approved by the office of the superintendent of public instruction. Beginning with the 2008-09 school year, school districts shall annually submit implementation verification reports to the office of the superintendent of public instruction documenting the use of the classroom-based assessments in civics.

(3) Verification reports shall require school districts to report only the information necessary to comply with this section.

**NEW SECTION. Sec. 6.** Section 5 of this act takes effect July 1, 2012."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

## MOTION

On motion of Senator White, Senator Conway was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1163.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "prevention;" strike the remainder of the title and insert "amending RCW 28A.230.095; adding a new section to chapter 28A.300 RCW; creating new sections; and providing an effective date."

## MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1163 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1163 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1163 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baxter, Honeyford, Morton, Schoesler, Stevens and Swecker

Excused: Senators Conway and Nelson

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SECOND SUBSTITUTE HOUSE BILL NO. 1163 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546, by House Committee on Ways & Means (originally sponsored by Representatives Hargrove, Hunt, Dammeier, Pettigrew, Liias, Smith, Anderson, Fagan, Kretz, Dahlquist, Angel, Zeiger, Jinkins and Finn)

Authorizing creation of innovation schools and innovation zones in school districts.

The measure was read the second time.

### MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) School district boards of directors are encouraged to support the expansion of innovative K-12 school or K-12 program models focused on science, technology, engineering, and mathematics (STEM) that partner with business, industry, and higher education to increase STEM pathways that use project-based or hands-on learning for elementary, middle, and high school students; and  
 (b) Particularly in schools and communities that are struggling to improve student academic outcomes and close the educational opportunity gap, there is a critical need for innovative models of public education that are tailored to STEM-related programs that implement interdisciplinary instructional delivery methods that are engaging, rigorous, and culturally relevant at each grade level.

(2) Therefore, the legislature intends to create a framework for change that includes:

(a) Leveraging community assets;  
 (b) Improving staff capacity and effectiveness;  
 (c) Developing family, school, business, industry, STEM professionals, and higher education partnerships in STEM education at all grade levels that can lead to industry certification or dual high school and college credit;  
 (d) Implementing evidence-based practices proven to be effective in reducing demographic disparities in student achievement; and  
 (e) Enabling educators and parents of selected schools and school districts to restructure school operations and develop model STEM programs that will improve student performance and close the educational opportunity gap.

**NEW SECTION. Sec. 2.** (1) The office of the superintendent of public instruction shall develop a process for school districts to apply to have one or more schools within the district designated as an innovation school focused on science, technology, engineering, and mathematics that actively partners with the community, business, industry, and higher education, and uses project-based or hands-on learning. A group of schools that share common interests, such as geographical location, or that sequentially serve classes of students as they progress through elementary and secondary grades may be designated as an innovation zone. An innovation zone may include all schools within a school district. Consortia of multiple districts may also

apply for designation as an innovation zone, to include all schools within the participating districts.

(2) Applications requesting designation of innovation schools or innovation zones must be developed by the school district in collaboration with educators, parents, businesses, industries, and the communities of participating schools. School districts must ensure that each school has substantial opportunity to participate in the development of the innovation plan under section 4 of this act.

(3) The office of the superintendent of public instruction shall develop common criteria for reviewing applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 5 of this act.

**NEW SECTION. Sec. 3.** (1) Applications to designate innovation schools and innovation zones must be submitted by school district boards of directors to their respective educational service districts by January 6, 2012, to be implemented beginning in the 2012-13 school year. Innovation plans must be able to be implemented without supplemental state funds.

(2) Each educational service district boards of directors shall review applications from within the district using the common criteria developed by the office of the superintendent of public instruction. Each educational service district shall recommend approval by the office of the superintendent of public instruction of no more than three applications from within each educational service district, except that any educational service district with over three hundred fifty thousand full-time equivalent students may recommend approval of no more than ten applications from within the educational service district. At least one of the recommended applications in each educational service district must propose an innovation zone, as long as the application meets the review criteria.

(3) The office of the superintendent of public instruction shall approve the innovation plans of the applicants recommended by the educational service districts. School districts that have applied shall be notified by March 1, 2012, whether they were selected.

(4) Designation of innovation schools and innovation zones under this section shall be for a six-year period, beginning in the 2012-13 school year, unless the designation is revoked in accordance with section 7 of this act.

**NEW SECTION. Sec. 4.** (1) Each application for designation of an innovation school or innovation zone must include a proposed plan that:

(a) Defines the scope of the innovation school or innovation zone and describes why designation would enhance the ability of the school or schools to improvement student achievement and close the educational opportunity gap by implementing a program focused on science, technology, engineering, and mathematics themes that partner with the community, business, industry, and higher education and use project-based or hands-on learning;

(b) Enumerates specific, research-based activities and innovations to be carried out under the designation;

(c) Justifies each request for waiver of state statutes or administrative rules as provided under section 5 of this act;

(d) Justifies any requests for waiver of state statutes or administrative rules that are in addition to the waivers authorized under section 5 of this act that are necessary to carry out the proposed innovations;

(e) Identifies the improvements in student achievement and the educational opportunity gap that are expected to be accomplished through the innovations;

(f) Includes budget plans and anticipated sources of funding, including private grants and contributions, if any;

(g) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, businesses, industries, or consultants available to provide such services;

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(h) Identifies the multiple measures for evaluation and accountability to be used to measure improvement in student achievement, closure in the educational opportunity gap, and the overall performance of the innovation school or innovation zone, including but not limited to assessment scores, graduation rates, and dropout rates;

(i) Includes a written statement that school directors and administrators are willing to exempt the designated school or schools from specifically identified local rules, as needed;

(j) Includes a written statement that school directors and local bargaining agents will modify those portions of their local agreements as applicable for the designated school or schools;

(k) Includes written statements of support from the district's board of directors, the superintendent, the principal and staff of schools seeking designation, each local employee association affected by the proposal, the local parent organization, and statements of support, willingness to participate, or concerns from any interested parent, business, institution of higher education, or community organization; and

(l) Commits all parties to work cooperatively during the term of the pilot project.

(2) A plan to designate an innovation school or innovation zone must be approved by a majority of the staff assigned to the school or schools participating in the plan.

**NEW SECTION. Sec. 5.** (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for designated innovation schools and innovation zones as follows:

(i) Waivers may be granted under RCW 28A.655.180 and 28A.305.140;

(ii) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and

(iii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived to implement an innovation school or innovation zone.

(b) State administrative rules dealing with public health, safety, and civil rights, including accessibility for individuals with disabilities, may not be waived.

(2) At the request of a school district, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement an innovation school or innovation zone.

(3) The state board of education may grant waivers for innovation schools or innovation zones of administrative rules pertaining to calculation of course credits for high school courses.

(4) Waivers may be granted under this section for a period not to exceed the duration of the designation of the innovation school or innovation zone.

(5) The superintendent of public instruction and the state board of education shall provide an expedited review of requests for waivers for designated innovation schools and innovation zones. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement in the innovation school or innovation zone;

(b) Would jeopardize the receipt of state or federal funds that a school district would otherwise be eligible to receive, unless the school district submits a written authorization for the waiver acknowledging that receipt of these funds could be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

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**NEW SECTION. Sec. 6.** (1) The office of the superintendent of public instruction shall report to the education committees of the legislature on the progress of the designated innovation schools and innovation zones by January 15, 2013, and January 15th of each odd-numbered year thereafter. The report must include recommendations for waiver of state laws and administrative rules in addition to the waivers authorized under section 5 of this act, as identified in innovation plans submitted by school districts.

(2) Each innovation school and innovation zone must submit an annual report to the office of the superintendent of public instruction on their progress.

(3) The office of the superintendent of public instruction, through the center for the improvement of student learning, must collect and disseminate to all school districts and other interested parties information about the innovation schools and innovation zones.

**NEW SECTION. Sec. 7.** After reviewing the annual reports of each innovation school and zone, if the office of the superintendent of public instruction determines that the school or zone is not increasing progress over time as determined by the multiple measures for evaluation and accountability provided in the school or zone plan in accordance with section 4 of this act then the superintendent shall revoke the designation.

**Sec. 8.** RCW 28A.305.140 and 1990 c 33 s 267 are each amended to read as follows:

(1) The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to:

(a) Implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program; or

(b) Implement an innovation school or innovation zone designated under section 3 of this act.

(2) The state board shall adopt criteria to evaluate the need for the waiver or waivers.

**Sec. 9.** RCW 28A.655.180 and 2009 c 543 s 3 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district or to implement an innovation school or innovation zone designated under section 3 of this act.

(2) School districts may use the application process in RCW 28A.305.140 to apply for the waivers under this section.

**NEW SECTION. Sec. 10.** Sections 2 through 7 of this act are each added to chapter 28A.630 RCW.

**NEW SECTION. Sec. 11.** This act expires June 30, 2019."

Senators McAuliffe and Litzow spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Engrossed Second Substitute House Bill No. 1546.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

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MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "to" strike the remainder of the title and insert "authorizing creation of innovation schools and innovation zones focused on science, technology, engineering, and mathematics in school districts; amending RCW 28A.305.140 and 28A.655.180; adding new sections to chapter 28A.630 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1546 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1546 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1546 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senators Conway and Nelson

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:49 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:02 p.m. by President Owen.

SECOND READING

HOUSE BILL NO. 1303, by Representatives Jinkins, Kelley, Van De Wege, Lias and Reykdal

Concerning the insurance commissioner's authority to review and disapprove rates for certain insurance products.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1303 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1303.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1303 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 1; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Ericksen, Hewitt, Holmquist Newbry, Honeyford, Parlette, Pflug, Schoesler and Sheldon

Absent: Senator Shin

Excused: Senators Conway and Nelson

HOUSE BILL NO. 1303, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1937, by Representatives Ryu, Kenney, Moscoso, Ladenburg and Roberts

Authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development.

The measure was read the second time.

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1937 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1937.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1937 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Conway and Nelson

HOUSE BILL NO. 1937, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1215, by Representatives Liias, Rodne, Goodman and Kenney

Clarifying the application of the fifteen-day storage limit on liens for impounded vehicles.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1215 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1215.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1215 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1215, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1037, by House Committee on Judiciary (originally sponsored by Representatives Ross, Johnson, Bailey, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Angel, Warnick, Schmick, Short, Klippert, Dammeier, McCune, Fagan, Nealey, Blake, Ladenburg, Kristiansen, Pearson, Tharinger and Moeller)

Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

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Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 4.24 RCW to read as follows:

If a person serving a criminal sentence in a federal, state, local, or privately operated correctional facility seeks leave to proceed in state court without payment of filing fees in any civil action or appeal against the state, a state or local governmental agency or entity, or a state or local official, employee, or volunteer acting in such capacity, except an action that, if successful, would affect the duration of the person's confinement, the court shall deny the request for waiver of the court filing fees if the person has, on three or more occasions while incarcerated or detained in any such facility, brought an action or appeal that was dismissed by a state or federal court on grounds that it was frivolous or malicious. One of the three previous dismissals must have involved an action or appeal commenced after the effective date of this section. A court may permit the person to commence the action or appeal without payment of filing fees if the court determines the person is in imminent danger of serious physical or psychological injury."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1037.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "and adding a new section to chapter 4.24 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1037 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1037 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1037 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1037 as amended by the Senate, having received the constitutional majority, was declared

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passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1105, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Kenney, Maxwell and Roberts)

Addressing child fatality review in child welfare cases.

The measure was read the second time.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1105 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1105.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1105 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1105, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1334, by Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick and Smith

Authorizing civil judgments for assault.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 72.09.015 and 2010 c 181 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or department employee caused by the inmate while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

~~((4))~~ (5) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

~~((5))~~ (6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

~~((6))~~ (7) "County" means a county or combination of counties.

~~((7))~~ (8) "Department" means the department of corrections.

~~((8))~~ (9) "Earned early release" means earned release as authorized by RCW ~~((9.94A.728))~~ 9.94A.729.

~~((9))~~ (10) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((10))~~ (11) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((11))~~ (12) "Good conduct" means compliance with department rules and policies.

~~((12))~~ (13) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((13))~~ (14) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

~~((14))~~ (15) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((15))~~ (16) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is

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updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((46))~~ (17) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((47))~~ (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

~~((48))~~ (19) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

~~((49))~~ (20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

~~((20))~~ (21) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((21))~~ (22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((22))~~ (23) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((23))~~ (24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

~~((24))~~ (25) "Secretary" means the secretary of corrections or his or her designee.

~~((25))~~ (26) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((26))~~ (27) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((27))~~ (28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

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~~((28))~~ (29) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((29))~~ (30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((30))~~ (31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((31))~~ (32) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

**Sec. 2.** RCW 72.09.111 and 2010 c 122 s 5 and 2010 c 116 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; ~~(and)~~

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Twenty percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; ~~(and)~~

(v) Fifteen percent for any child support owed under a support order; and

(vi) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

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(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the crime victims' compensation account provided in RCW 7.68.045; ~~((and))~~

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; ~~((and))~~

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, may be made available to an inmate at the following times:

(i) During confinement to pay for accredited postsecondary educational expenses;

(ii) Prior to the release from confinement to pay for department-approved reentry activities that promote successful community reintegration; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) The secretary shall establish guidelines for the release of funds pursuant to (a) of this subsection, giving consideration to the inmate's need for resources at the time of his or her release from confinement.

(c) Any funds remaining in an offender's personal inmate savings account shall be made available to the offender at the time of his or her release from confinement.

(4) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used

only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

**Sec. 3.** RCW 72.09.480 and 2010 c 122 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; ~~((and))~~

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the

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department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to House Bill No. 1334.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "assault;" strike the remainder of the title and insert "amending RCW 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and prescribing penalties."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 1334 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1334 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1334 as amended by the Senate and the bill passed the

Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1334 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478, by House Committee on Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney)

Delaying or modifying certain regulatory and statutory requirements affecting cities and counties.

The measure was read the second time.

#### MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements.

**Sec. 2.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

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(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) ((The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.)) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, ~~((at least every ten years))~~ according to the

schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsection (6) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before ~~((December 1, 2014))~~ June 30, 2015, and every ~~((seven))~~ eight years thereafter, for ~~((Clallam, Clark, Jefferson,))~~ King, ~~((Kitsap,))~~ Pierce, and Snohomish~~((, Thurston, and Whatcom))~~ counties and the cities within those counties;

(b) On or before ~~((December 1, 2015))~~ June 30, 2016, and every ~~((seven))~~ eight years thereafter, for ~~((Cowlitz,))~~ Clallam, Clark, Island, ((Lewis)) Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and ~~((Skamania))~~ Whatcom counties and the cities within those counties;

(c) On or before ~~((December 1, 2016))~~ June 30, 2017, and every ~~((seven))~~ eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, ~~((Grant,))~~ Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before ~~((December 1, 2017))~~ June 30, 2018, and every ~~((seven))~~ eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

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(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(g) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;  
 (ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or  
 (iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

**Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program.

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This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection every ~~(five)~~ four years as provided in subsection (3) of this section. The ~~(first)~~ next evaluation shall be completed not later than ~~(September 1, 2002)~~ June 30, 2013. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent

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five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. However, the provisions of this section shall not apply to any city with a population of ten thousand inhabitants or fewer. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs as provided in this section.

**Sec. 4.** RCW 43.19.648 and 2009 c 459 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of ~~((community, trade, and economic development))~~ commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) Effective June 1, 2018, all cities and counties, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(3) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of ~~((community, trade, and economic development))~~ commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the department of ~~((community, trade, and economic development))~~ commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

~~((3))~~ (4) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

~~((4))~~ (5) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric

vehicles in each of the state's fleet parking and maintenance facilities.

~~((5))~~ (6) The department of transportation's obligations under subsection ~~((2))~~ (3) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ~~((2))~~ (3) of this section.

~~((6))~~ (7) The department of transportation's obligations under subsection ~~((4))~~ (5) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ~~((4))~~ (5) of this section unless the department receives federal or private funds for the specific purpose identified in subsection ~~((4))~~ (5) of this section.

~~((7))~~ (8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

**Sec. 5.** RCW 43.325.080 and 2007 c 348 s 204 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, by June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies and local government subdivisions will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

~~((+))~~ (a) Criteria for determining how the goal in RCW 43.19.648(1) will be met by June 1, 2015;

~~((2))~~ (b) Factors considered to determine compliance with the goal in RCW 43.19.648(1), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

~~((3))~~ (c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(1) that may include different schedules for different fuel applications or different quantities of biofuels.

(2) By June 1, 2015, the department shall adopt rules to define practicability and clarify how cities and counties will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(2). At a minimum, the rules must address:

(a) Criteria for determining how the goal in RCW 43.19.648(2) will be met by June 1, 2018;

(b) Factors considered to determine compliance with the goal in RCW 43.19.648(2), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(2) that may include different schedules for different fuel applications or different quantities of biofuels.

**Sec. 6.** RCW 43.185C.210 and 2008 c 256 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to

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provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5) ((Beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (a) State housing-related funding sources; (b) the affordable housing for all surcharge in RCW 36.22.178; (c) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and (d) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(6)) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

((7)) (6) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living,

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including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

**Sec. 7.** RCW 46.68.113 and 2006 c 334 s 21 are each amended to read as follows:

During the ((2003-2005)) 2013-2015 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia, but in no case shall it exceed eighty percent. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation. Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

**Sec. 8.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read as follows:

(1) Impact fee receipts shall be earmarked specifically and retained in special interest-bearing accounts. Separate accounts shall be established for each type of public facility for which impact fees are collected. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed. Annually, each county, city, or town imposing impact fees shall provide a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

(2) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the comprehensive plan.

(3)(a) Except as provided otherwise by (b) of this subsection, impact fees shall be expended or encumbered for a permissible use within ((six)) ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ((six)) ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(4) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

**Sec. 9.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each amended to read as follows:

(1) The current owner of property on which an impact fee has been paid may receive a refund of such fees if the county, city, or town

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fails to expend or encumber the impact fees within ~~((six))~~ ten years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county, city, or town shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

The request for a refund must be submitted to the county, city, or town governing body in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(3) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted.

**Sec. 10.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct groundwater recharge, wetland discharge, surface percolation, constructed wetlands, and streamflow or surface water augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, ~~((although the department of ecology is encouraged to adopt the final rules as soon as possible))~~ except that the department of ecology shall adopt rules for reclaimed water use no earlier than June 30, 2013.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

**Sec. 11.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the

requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

~~((+))~~ (a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: ~~((+))~~ (i) Effluent treatment and limitation requirements together with timing requirements related thereto; ~~((+))~~ (ii) applicable receiving water quality standards requirements; ~~((+))~~ (iii) requirements of standards of performance for new sources; ~~((+))~~ (iv) pretreatment requirements; ~~((+))~~ (v) termination and modification of permits for cause; ~~((+))~~ (vi) requirements for public notices and opportunities for public hearings; ~~((+))~~ (vii) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; ~~((+))~~ (viii) requirements for inspection, monitoring, entry, and reporting; ~~((+))~~ (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; ~~((+))~~ (x) a continuing planning process; and ~~((+))~~ (xi) user charges.

~~((+))~~ (b) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

~~((+))~~ (c) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

(2) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of one year any national pollutant discharge elimination system municipal storm water general permit first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit for any permit first issued on January 17, 2007. An updated permit issued under this subsection shall become effective beginning August 1, 2013.

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**Sec. 12.** RCW 90.58.080 and 2007 c 170 s 1 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable dates established by subsection ~~((2)(a)(iii)))~~ (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable date provided by subsection ~~((2)(a)(iii)))~~ (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable dates established by subsection ~~((2)(a)(iii) through (vi)))~~ (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every ~~((seven))~~ eight years ~~((after the applicable dates established by subsection (2)(a)(iii) through (vi) of this section))~~ as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

~~((a))~~ (i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

~~((b))~~ (ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, 2019, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

(ii) On or before June 30, 2020, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, 2021, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, 2022, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) In meeting the update requirements of subsection (2) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the update requirements of subsection (2) of this section, the following shall apply:

(a) Grants to local governments for developing and amending master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (2) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection (2) of this section. Any local government that applies for but does not receive funding to comply with the provisions of subsection (2) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the development or amendment compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) ~~((Notwithstanding the provisions))~~ In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

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(8) In meeting the update requirements of subsection (2) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

**Sec. 13.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

The department shall strive to achieve final action on a submitted master program within one hundred eighty days of receipt and shall post an annual assessment related to this performance benchmark on the agency web site.

(2) Upon receipt of a proposed master program or amendment, the department shall:

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(b) In the department's discretion, conduct a public hearing during the thirty-day comment period in the jurisdiction proposing the master program or amendment;

(c) Within fifteen days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(d) Within thirty days after receipt of the local government response pursuant to (c) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in (c) of this subsection, and either approve the proposal as submitted, recommend specific changes necessary to make the proposal approvable, or deny approval of the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested persons, parties, groups, and agencies of record on the proposal;

(e) If the department recommends changes to the proposed master program or amendment, within thirty days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes. The receipt by the department of the written notice of agreement constitutes final action by the department approving the amendment; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter it shall approve the changes and provide written notice to all recipients of the written findings and conclusions. If the department determines the proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposal for public and agency review pursuant to this section or reject the proposal.

(3) The department shall approve the segment of a master program relating to shorelines unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(4) The department shall approve the segment of a master program relating to critical areas as defined by RCW 36.70A.030(5) provided the master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

(5) The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest. If the department does not approve a segment of a local government master program relating to a shoreline of statewide significance, the department may develop and by rule adopt an alternative to the local government's proposal.

(6) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with the provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines.

(7) A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department. Shoreline master programs that were adopted by the department prior to July 22, 1995, in accordance with the provisions of this section then in effect, shall be deemed approved by the department in accordance with the provisions of this section that became effective on that date. The department shall maintain a record of each master program, the action taken on any proposal for adoption or amendment of the master program, and any appeal of the department's action. The department's approved document of record constitutes the official master program."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Pridemore moved that the following amendment by Senator Pridemore to the committee striking amendment be adopted:

Beginning on page 6, line 34 of the amendment, strike all of section 3 and insert the following:

"**Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city

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comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection (~~every five years~~) as provided in subsection (3) of this section. (~~The first evaluation shall be completed not later than September 1, 2002.~~) The evaluation shall be completed no later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

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(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section."

Senators Pridemore and Swecker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 6, line 34 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

The motion by Senator Pridemore carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the committee striking amendment be adopted:

On page 9, line 22 of the amendment, after "(1)" strike "Except as provided in subsection (2) of this section, effective" and insert "Effective"

On page 9, beginning on line 23 of the amendment, after "agencies" strike "and local government subdivisions of the state" and insert "~~((and local government subdivisions of the state))~~"

On page 9, line 30 of the amendment, after "all" strike "cities and counties" and insert "local government subdivisions of the state"

On page 11, line 6 of the amendment, after "(1)" strike "Except as provided in subsection (2) of this section, by" and insert "By"

On page 11, line 8 of the amendment, after "agencies" strike "and local government subdivisions" and insert "~~((and local government subdivisions))~~"

On page 11, line 22 of the amendment, after "how" strike "cities and counties" and insert "local government subdivisions of the state"

Senators Swecker and Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 9, line 22 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

The motion by Senator Swecker carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

Senator Nelson moved that the following amendment by Senators Nelson and Pridemore to the committee striking amendment be adopted:

On page 16, after line 19 of the amendment, insert the following:

"Sec. 10. RCW 82.14.415 and 2009 c 550 s 1 are each amended to read as follows:

(1) The legislative authority of any city that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW~~(-)~~ may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ~~((shall be))~~ is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue ~~((shall))~~ must perform the collection of such taxes on behalf of the city at no cost to the city and ~~((shall))~~ must remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than ~~((eighteen))~~ sixteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section ~~((shall))~~ may not exceed five million dollars per fiscal year.

(5) The tax imposed by this section ~~((shall))~~ may only be imposed at the beginning of a fiscal year and ~~((shall))~~ may continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas ~~((shall be))~~ are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

(6) All revenue collected under this section ~~((shall))~~ may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city ~~((shall))~~ must notify the department and the tax distributions authorized in this section ~~((shall))~~ must be suspended for the remainder of the year.

(8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city ~~((shall))~~ must adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that ~~((shall be))~~ is imposed within the city; and

(c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(9) The tax ~~((shall))~~ must cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city ~~((shall))~~ must provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section ~~((shall))~~ must begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount ~~((shall))~~ belongs to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, ~~((shall))~~ may not be carried forward to the next fiscal year.

(10) The tax ~~((shall))~~ must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed five million dollars for the fiscal year.

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

(12) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

(d) "Municipal services" means those services customarily provided to the public by city government.

(e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

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(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department (~~shall~~) must distribute to the city generated from the tax imposed under this section in a fiscal year."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Nelson spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Nelson and Pridemore on page 16, after line 19 to the committee striking amendment to Engrossed Substitute House Bill No. 1478.

The motion by Senator Nelson carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections as amended to Engrossed Substitute House Bill No. 1478.

The motion by Senator Pridemore carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 36.70A.215, 43.19.648, 43.325.080, 43.185C.210, 46.68.113, 82.02.070, 82.02.080, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section."

On page 25, line 3 of the title amendment, after "82.02.080," insert "82.14.415,"

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1478 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1478 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1478 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray,

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Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1048, by House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hunt)

Making technical corrections needed as a result of the recodification of campaign finance provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1048 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Swecker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1048.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1048 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1048, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Delvin, Senators Benton and Roach were excused.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Ormsby, Green, Sells, Kenney, Van De Wege, Hasegawa, Hudgins, Moeller, Miloscia, Sullivan, Upthegrove, Pettigrew, Seaquist, Hunter and Frockt)

Concerning the misclassification of contractors as independent contractors in the construction industry.

The measure was read the second time.

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## ROLL CALL

## MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove be adopted:

On page 2, line 21, after "building" insert "at the same time"

## WITHDRAWAL OF AMENDMENT

On motion of Senator Hargrove, the amendment by Senator Hargrove on page 2, line 21 to Engrossed Substitute House Bill No. 1701 was withdrawn.

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Kohl-Welles be adopted:

On page 2, line 27, after "(2)" insert "No more than two independent contractors, as covered by subsection (1) of this section, may be under contract at the same time. It is not a violation of this act, if more than two independent contractors work on or in a single building if proof is provided, both in written contract and in fact, that any independent contractors beyond the first two are not working as independent contractors during the same time period.

(3) The exemptions provided by subsection (2) of this section are broad and in no way exempt independent contractors from industrial insurance coverage under Title 51 RCW. Each and every independent contractor must separately pass the tests provided in RCW 51.08.180 or 51.08.181 to be exempt from coverage under Title 51 RCW."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Kohl-Welles on page 2, line 27 to Engrossed Substitute House Bill No. 1701.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

## MOTION

Senator Holmquist Newbry moved that the following amendment by Senators Holmquist Newbry, Ericksen, King and Sheldon be adopted:

On page 3, line 12, after "to" insert "contractors with fewer than fifty employees or,"

Senator Holmquist Newbry spoke in favor of adoption of the amendment.

Senator Kohl-Welles spoke against adoption of the amendment.

Senator Holmquist Newbry demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senators Sheldon, Ericksen, Zarelli, Schoesler, Stevens and King spoke in favor of adoption of the amendment.

Senators Prentice, Conway, Kline and Keiser spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist Newbry, Erickson, King and Sheldon on page 3, line 12 to Engrossed Substitute House Bill No. 1071.

The Secretary called the roll on the adoption of the amendment by Senators Holmquist Newbry, Ericksen, King and Sheldon and the amendment was adopted by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Delvin, Ericksen, Fain, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1701 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Hargrove spoke in favor of passage of the bill.

## MOTION

On motion of Senator Ericksen, Senator Benton was excused.

Senator Holmquist Newbry spoke against passage of the bill.

## POINT OF ORDER

Senator Kohl-Welles: "Mr. President, I believe that the remarks just made are impugning the motives of the proponents of this bill."

## REPLY BY THE PRESIDENT

President Owen: "Senator Holmquist Newbry, keep your remarks to the measure not to the individuals motives."

Senators Sheldon, Parlette and King spoke against passage of the bill.

Senators Conway, Chase and Kline spoke in favor of passage of the bill.

## MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1701 as amended by the Senate.

## ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1701 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Ericksen, Fain, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Benton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:43 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 5, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTY SIXTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, April 5, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Austin Benton and Brad Benton, presented the Colors. Dr. John McVay, President of Walla Walla University, offered the prayer.

PERSONAL PRIVILEGE

Senator Hewitt: "Thank you Mr. President. Well, it was not duly noted Mr. President that you are an honorary doctorate of Walla Walla University. I don't think that should go untold."

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 1, 2011

SB 5862 Prime Sponsor, Senator Hargrove: Regarding the administration of natural resources programs. Reported by Committee on Natural Resources & Marine Waters

MAJORITY recommendation: That Substitute Senate Bill No. 5862 be substituted therefor, and the substitute bill do pass. Signed by Senators Ranker, Chair; Regala, Vice Chair; Hargrove and Swecker.

MINORITY recommendation: Do not pass. Signed by Senator Stevens.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Morton.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 21, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STUART A. HALSAN, appointed March 21, 2011, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 12 (Centralia College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 4, 2011

MR. PRESIDENT:

The House has passed:

- SENATE BILL NO. 5057,
- SUBSTITUTE SENATE BILL NO. 5152,
- SENATE BILL NO. 5174,
- SUBSTITUTE SENATE BILL NO. 5184,
- SUBSTITUTE SENATE BILL NO. 5195,
- SUBSTITUTE SENATE BILL NO. 5337.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5913 by Senators Prentice, Hobbs and Benton

AN ACT Relating to increasing the permissible deposit of public funds with credit unions and authorizing the deposit of public funds at federally chartered credit unions; and amending RCW 39.58.240.

Referred to Committee on Financial Institutions, Housing & Insurance.

SB 5914 by Senators Tom and Zarelli

AN ACT Relating to teacher performance; amending RCW 28A.405.140, 28A.405.220, 28A.405.415, 28A.150.410, and 28A.400.200; adding new sections to chapter 28A.405 RCW;

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adding a new section to chapter 28A.150 RCW; creating new sections; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5915 by Senators Kilmer, Murray, Zarelli and Tom

AN ACT Relating to higher education funding and performance; amending RCW 28B.15.067, 28B.15.068, 28B.76.270, and 28B.76.200; adding new sections to chapter 28B.15 RCW; adding a new section to chapter 28B.76 RCW; adding a new section to chapter 28B.10 RCW; adding a new section to chapter 28B.50 RCW; creating a new section; and repealing RCW 28B.10.920, 28B.10.921, and 28B.10.922.

Referred to Committee on Ways & Means.

SB 5916 by Senator Murray

AN ACT Relating to the sale of liquor-related products in state liquor stores; and amending RCW 66.08.026, 66.08.165, and 66.16.010.

Referred to Committee on Ways & Means.

SB 5917 by Senator Murray

AN ACT Relating to allowing the liquor control board to implement a pilot project appointing up to ten colocated contract liquor stores in urban areas; and amending RCW 66.08.050.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5914 which was referred to the Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Fraser moved adoption of the following resolution:

#### SENATE RESOLUTION

8647

By Senators Fraser, King, Kohl-Welles, Rockefeller, Shin, White, McAuliffe, Roach, and Regala

WHEREAS, The Peace Corps was established in 1961 through the leadership of President John F. Kennedy to: "Help the people of interested countries in meeting their need for trained men and women"; "help promote a better understanding of Americans on the part of peoples served"; and "help promote a better understanding of other peoples"; and

WHEREAS, The Peace Corps is celebrating its 50th anniversary in 2011; and

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WHEREAS, Since 1961, approximately 200,000 Americans have served as Peace Corps volunteers in 139 host countries in what some call "the toughest job you'll ever love"; and

WHEREAS, Today, over 8,000 Peace Corps volunteers nationwide continue to work with local governments, communities, schools, and businesses in 77 countries to address changing needs in education, health, business, community development, and information technology; and

WHEREAS, During the Peace Corps' half-century of service, 8,400 tough-minded and dedicated volunteers from the state of Washington have assisted countries around the world; and

WHEREAS, Currently seven percent of Peace Corps volunteers are over age 50, contributing their invaluable, unique life experiences and professional expertise; and

WHEREAS, Washington State ranks 3rd among all states in the number of Peace Corps volunteers; and

WHEREAS, Today 372 Washingtonians currently serve in the Peace Corps; and

WHEREAS, Washington State's colleges and universities represent a notable source of Peace Corps volunteers; and

WHEREAS, Returned volunteers bring back a deeper understanding of the world's populations, continue to serve our country in a variety of ways, and represent a valuable domestic return on America's investment;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate offers our congratulations to the Peace Corps as it turns 50; recognizes its outstanding accomplishments; and conveys our deep appreciation to all present and former Peace Corps volunteers who continue to promote peace and friendship at home and around the world; and

BE IT FURTHER RESOLVED, That the Washington State Senate is pleased to recognize six individuals currently associated with the Senate for their contributions as Peace Corps volunteers: Senator Paull Shin, who trained Peace Corps volunteers beginning in 1961 and later served in Borneo Malaysia; Elyse Bell, daughter of Senator King's Legislative Assistant, Laura Bell, who is currently volunteering in Benin, until 2012; John Woolley, Deputy Legislative Auditor, former volunteer in Sierra Leon, 1977-1980; Devon Jenkins, son of Senator Kohl-Welles, former volunteer in Niger, 2004-2005; and Ann Zukoski and Mark Bartlett, sister-in-law and brother-in-law of Senate Counsel Keith Buchholz, volunteers in the Central African Republic, 1989-1991; and

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted to: The National Peace Corps Headquarters, Washington, D.C.; the Peace Corps Northwest Regional Office, Seattle; the National Peace Corps Association; the Seattle Peace Corps Association; the Olympia Area Returned Peace Corps Volunteers; the Inland Peace Corps Association; the Bellingham Peace Corps Association; and Senator Paull Shin, Elyse Bell, Laura Bell, Senator Curtis King, John Woolley, Ann Zukoski, Mark Bartlett, Devon Jenkins, and Senator Jeanne Kohl-Welles.

Senators Fraser, King, Shin, Kohl-Welles and Roach spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8647.

The motion by Senator Fraser carried and the resolution was adopted by voice vote.

#### MOTION

Senator Fraser moved that the resolution be modified to recognize Senator Shin's Peace Corps service which was recently learned.

REPLY BY THE PRESIDENT

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SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

President Owen: "Senator Fraser, we will take care of that issue for you."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced returned Peace Corps volunteers, led by Bob Finley, who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Shin: "Thank you very much. In as much as we talked about the Peace Corp, I want to share a very compassionate and humanitarian story with you if I may. This year, June 25 at the front of the Korean Veterans Memorial we are starting to produce a movie called 'Exodus for Freedom'. This is a story about General Douglas MacArthur during the Korean War. He and forces advanced into North Korea beyond thirty-eighth parallel and Chinese crossed over and McArthur ordered all U. S. troops to evacuate from north of the thirty-eighth parallel. There's a small port called Heungnam Captain Edmond Almond with seventeen cargo ships loaded with trucks and tanks and ammunition, ready to depart. And from the horizon he saw thousands of refugees running toward the ship and he looked at them again, and looked back at the ships again, after several times without permission from the commanding general he ordered all the tanks, all the trucks, all the ammunition dumped into sea and mind you he loaded seventy-six thousand refugees in the ship and brought to safety. In remembering this story the Korean government and U. S. decided to produce a movie together to commemorate not only the sixtieth anniversary of the Korean War but the story of a miracle, story of humanity. The stars that we are asking former governor of California Arnold Schwarzenegger for him to come to be a commanding officer or captain if he comes here. I'd like to invite you to the Korean Veteran Memorial where we will start recognizing Korean Memorial there and produce the movie which will be showing both in the United States and Korea. I thought this was the most compassionate story of humanity and this is what America is all about folks. Thank you Mr. President."

MOTION

At 10:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:47 a.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

- SENATE BILL NO. 5057,
- SUBSTITUTE SENATE BILL NO. 5152,
- SENATE BILL NO. 5174,
- SUBSTITUTE SENATE BILL NO. 5184,
- SUBSTITUTE SENATE BILL NO. 5195,
- SUBSTITUTE SENATE BILL NO. 5337.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

Senator Delvin moved that Gubernatorial Appointment No. 9079, David Mitchell, as a member of the Board of Trustees, Columbia Basin Community College District No. 19, be confirmed.

Senator Delvin spoke in favor of the motion.

APPOINTMENT OF DAVID MITCHELL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9079, David Mitchell as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9079, David Mitchell as a member of the Board of Trustees, Columbia Basin Community College District No. 19 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Benton

Gubernatorial Appointment No. 9079, David Mitchell, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547, by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Hunter, Dickerson, Cody, Hunt, Kagi, Sullivan and Kenney)

Concerning the deportation of criminal alien offenders.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.685 and 1993 c 419 s 1 are each amended to read as follows:

(1) Subject to the limitations of this section, any alien offender committed to the custody of the department under the sentencing reform act of 1981, chapter 9.94A RCW, who has been found by the United States attorney general to be subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation at any time prior to the expiration of the offender's term of confinement. Conditional release shall continue until the expiration of the statutory maximum

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sentence provided by law for the crime or crimes of which the offender was convicted. If the offender has multiple current convictions, the statutory maximum sentence allowed by law for each crime shall run concurrently.

(2) No offender may be released under this section unless the secretary or the secretary's designee ((find [finds] that such release is in the best interests of the state of Washington. Further, releases under this section may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction)) has reached an agreement with the immigration and customs enforcement agency that the alien offender placed on conditional release status will be detained in total confinement at a facility operated by the immigration and customs enforcement agency pending the offender's return to the country of origin or other location designated in the final deportation or exclusion order.

((3)) No offender may be released under this section who is serving a sentence for a violent offense or sex offense, as defined in RCW 9.94A.030(~~(, or any other offense that is a crime against a person)~~).

((4)) (3) The unserved portion of the term of confinement of any offender released under this section shall be tolled at the time the offender is released to the immigration and (~~(naturalization service)~~) customs enforcement agency for deportation. Upon the release of an offender to the immigration and (~~(naturalization service)~~) customs enforcement agency, the department shall issue a warrant for the offender's arrest within the United States. This warrant shall remain in effect (~~(until the expiration of the offender's conditional release)~~) indefinitely.

((5)) (4) Upon arrest of an offender, the department (~~(shall)~~) may seek extradition as necessary and the offender (~~(shall)~~) may be returned to the department for completion of the unserved portion of the offender's term of total confinement. If returned, the offender shall also be required to fully comply with all the terms and conditions of the sentence.

((6)) (5) Alien offenders released to the immigration and (~~(naturalization service)~~) customs enforcement agency for deportation under this section are not thereby relieved of their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

((7)) (6) Any offender released pursuant to this section who returns illegally to the United States may not thereafter be released again pursuant to this section.

((8)) (7) The secretary is authorized to take all reasonable actions to implement this section and shall assist federal authorities in prosecuting alien offenders who may illegally reenter the United States and enter the state of Washington.

(8) The provisions of this section apply to persons convicted before, on, or after the effective date of this section.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1547.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.685; and declaring an emergency."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1547 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Carrell spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Delvin, Senator Benton was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1547 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1547 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Kohl-Welles

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1053, by House Committee on Judiciary (originally sponsored by Representatives Moeller, Kenney, Ladenburg, Appleton, Roberts, Darneille and Uptegrove)

Implementing recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 11.88.020 and 1997 c 312 s 1 are each amended to read as follows:

(1) Any suitable person over the age of eighteen years, or any parent under the age of eighteen years or, if the petition is for appointment of a professional guardian, any individual or

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guardianship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incapacitated person. A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may act as a guardian of the estate of an incapacitated person without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian who is

(a) under eighteen years of age except as otherwise provided herein;

(b) of unsound mind;

(c) convicted of a felony or of a misdemeanor involving moral turpitude;

(d) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(e) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(f) a person whom the court finds unsuitable.

(2) The professional guardian certification requirements required under this section shall not apply to a testamentary guardian appointed under RCW 11.88.080.

(3) If a guardian or limited guardian is not a certified professional guardian or financial institution authorized under this section, the guardian or limited guardian shall complete any standardized training for lay guardians made available by the administrative office of the courts and the superior court where the petition is filed unless granted a waiver by the court under RCW 11.92.043.

(a) If a petitioner requests the appointment of a specific individual to act as a guardian or limited guardian, the petition for guardianship or limited guardianship shall include evidence of the successful completion of the required training by the proposed guardian or limited guardian. The superior court may defer the completion of the training requirement to a date no later than ninety days after appointment if the petitioner requests expedited appointment due to emergent circumstances.

(b) If no person is identified to be appointed guardian or limited guardian at the time the petition is filed, then the court shall require the completion of the required training by a date no later than ninety days after the appointment.

**Sec. 2.** RCW 11.88.030 and 2009 c 521 s 36 are each amended to read as follows:

(1) Any person or entity may petition for the appointment of a qualified person, (~~trust company, national bank, or nonprofit corporation~~) certified professional guardian, or financial institution authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

(i) A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;

(j) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(k) The requested term of the limited guardianship to be included in the court's order of appointment; and

(l) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed. The petition shall include evidence of successful completion of any training required under RCW 11.88.020 by the proposed guardian or limited guardian unless the petitioner requests expedited appointment due to emergent circumstances.

(2)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

(4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

**IMPORTANT NOTICE PLEASE READ CAREFULLY**

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

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- (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED DOMESTIC PARTNERSHIP;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;
- (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE THAT PERSON.

(5) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party or the guardian ad litem within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

**Sec. 3.** RCW 11.92.043 and 1991 c 289 s 11 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of the person:

(1) To file within three months after appointment a personal care plan for the incapacitated person which shall include (a) an assessment of the incapacitated person's physical, mental, and emotional needs and of such person's ability to perform or assist in activities of daily living, and (b) the guardian's specific plan for meeting the identified and emerging personal care needs of the incapacitated person.

(2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW 11.92.040, a report on the status of the incapacitated person, which shall include:

- (a) The address and name of the incapacitated person and all residential changes during the period;
- (b) The services or programs which the incapacitated person receives;
- (c) The medical status of the incapacitated person;
- (d) The mental status of the incapacitated person;
- (e) Changes in the functional abilities of the incapacitated person;
- (f) Activities of the guardian for the period;

(g) Any recommended changes in the scope of the authority of the guardian;

(h) The identity of any professionals who have assisted the incapacitated person during the period;

(i)(i) Evidence of the guardian or limited guardian's successful completion of any standardized training for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or limited guardian: (A) Was appointed prior to the effective date of this section; (B) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (C) has not previously completed the requirements of RCW 11.88.020(3).

(ii) The superior court may: (A) Waive this requirement for good cause. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts about the guardianship, whether the guardian is a family member caring for a developmentally disabled child or other family member whose estate is worth two thousand dollars or less; the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (B) extend the time period for completion of the training requirement for ninety days, upon: (I) Petition by the guardian or limited guardian; or (II) any other method as provided by local court rule; and

(j) Evidence of the guardian or limited guardian's successful completion of any additional or updated training offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020.

(3) To report to the court within thirty days any substantial change in the incapacitated person's condition, or any changes in residence of the incapacitated person.

(4) Consistent with the powers granted by the court, to care for and maintain the incapacitated person in the setting least restrictive to the incapacitated person's freedom and appropriate to the incapacitated person's personal care needs, assert the incapacitated person's rights and best interests, and if the incapacitated person is a minor or where otherwise appropriate, to see that the incapacitated person receives appropriate training and education and that the incapacitated person has the opportunity to learn a trade, occupation, or profession.

(5) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the incapacitated person, except in the case of a limited guardian where such power is not expressly provided for in the order of appointment or subsequent modifying order as provided in RCW 11.88.125 as now or hereafter amended, the standby guardian or standby limited guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. No guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incapacitated person who is unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapter 71.05 or 72.23 RCW are followed. Nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;

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(c) Other psychiatric or mental health procedures that restrict physical freedom of movement, or the rights set forth in RCW ((71.05.370)) 71.05.217.

A guardian, limited guardian, or standby guardian who believes these procedures are necessary for the proper care and maintenance of the incapacitated person shall petition the court for an order unless the court has previously approved the procedure within the past thirty days. The court may order the procedure only after an attorney is appointed in accordance with RCW 11.88.045 if no attorney has previously appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040.

Sec. 4. RCW 11.88.095 and 1995 c 297 s 5 are each amended to read as follows:

(1) In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

(a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;

(b) The amount of the bond, if any, or a bond review period;

(c) ((When the next report of the guardian is due;

~~(d))~~ The date the account or report shall be filed. The date of filing an account or report shall be within ninety days after the anniversary date of the appointment;

(d) A directive to the clerk of court to issue letters of guardianship;

(e) Whether the guardian ad litem shall continue acting as guardian ad litem;

~~((f))~~ ~~(f)~~ Whether a review hearing shall be required upon the filing of the inventory;

~~((g))~~ (g) Whether a review hearing is required upon filing the initial personal care plan;

~~(h)~~ The authority of the guardian, if any, for investment and expenditure of the ward's estate; ~~(and~~

~~(e))~~ ~~(i)~~ Names and addresses of those persons described in RCW 11.88.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship. The guardian, within ninety days from the date of the appointment, shall, in writing, notify the persons identified by the court of their right to request special notice of proceedings as described in RCW 11.92.150; and

(j) A guardianship summary placed directly below the case caption or on a separate cover page in the following form, or a substantially similar form, containing the following information:

GUARDIANSHIP SUMMARY

Date Guardian Appointed: .....

Due Date for Report and Accounting: .....

Date of Next Hearing .....

Bond Amount: \$.....

Restricted Account Agreements Required .....

Due Date for Inventory: .....

Due Date for Care Plan: .....

Incapacitated Person (IP)                      Guardian of: [ ] Estate [ ] Person

|                   |                   |
|-------------------|-------------------|
| <u>Name:</u>      | <u>Name:</u>      |
| <u>Address:</u>   | <u>Address:</u>   |
| <u>Phone:</u>     | <u>Phone:</u>     |
| <u>Facsimile:</u> | <u>Facsimile:</u> |

| <u>Interested Parties</u> | <u>Address</u> | <u>Relation to IP</u> |
|---------------------------|----------------|-----------------------|
|                           |                |                       |
|                           |                |                       |
|                           |                |                       |
|                           |                |                       |
|                           |                |                       |

(3) If the court determines that a limited guardian should be appointed, the order shall specifically set forth the limits by either stating exceptions to the otherwise full authority of the guardian or by stating the specific authority of the guardian.

(4) In determining the disposition of a petition for appointment of a guardian or limited guardian of the estate only, the court shall consider whether the alleged incapacitated person is capable of giving informed medical consent or of making other personal decisions and, if not, whether a guardian or limited guardian of the person of the alleged incapacitated person should be appointed for that purpose.

(5) Unless otherwise ordered, any powers of attorney or durable powers of attorney shall be revoked upon appointment of a guardian or limited guardian of the estate.

If there is an existing medical power of attorney, the court must make a specific finding of fact regarding the continued validity of that medical power of attorney before appointing a guardian or limited guardian for the person.

Sec. 5. RCW 11.88.125 and 2008 c 6 s 805 are each amended to read as follows:

(1) The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incapacitated person(~~s~~) shall file in writing with the court, within ninety days from the date of appointment, a notice designating a standby limited guardian or guardian to serve as limited guardian or guardian at the death or legal incapacity of the court-appointed guardian or limited guardian. The notice shall state the name, address, zip code, and telephone number of the designated standby or limited guardian. Notice of the guardian's designation of the standby guardian shall be given to the standby guardian, the incapacitated person and his or her spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person entitled to special notice under RCW 11.92.150 or any person entitled to receive pleadings pursuant to RCW 11.88.095(2)(~~e~~) ~~(i)~~. Such standby guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incapacity of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the standby guardian





Sec. 9. RCW 11.92.040 and 1991 c 289 s 10 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of an estate:

(1) To file within three months after the guardian's appointment a verified inventory of all the property of the incapacitated person which comes into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within ninety days after the anniversary date of the guardian's or limited guardian's appointment, and also within ((thirty)) ninety days after termination of the appointment, unless the court for good cause orders a different deadline to file following termination, a written verified account of the administration, which account shall contain at least the following information:

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets;

(3) The court in its discretion may allow reports at intervals of up to thirty-six months for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;

(4) If the court reviews an account or report filed by a guardian or limited guardian, a court order approving the account or report must contain a guardianship summary placed directly below the case caption or on a separate cover page in the following form, or a substantially similar form, containing the following information:

GUARDIANSHIP SUMMARY

Date Guardian Appointed: .....

Due Date for Report and Accounting: .....

Date of Next Hearing: .....

Bond Amount: \$.....

Restricted Account Agreements Required .....

Table with 2 columns: Incapacitated Person (IP) and Guardian of: [ ] Estate [ ] Person. Rows include Name, Address, Phone, and Facsimile.

Table with 3 columns: Standby Guardian, Address, and Relation to IP.

Table with 3 columns: Interested Parties, Address, and Relation to IP.

(5) To protect and preserve the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

((5)) (6) To invest and reinvest the property of the incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incapacitated person that a specific property be used by the incapacitated person rather than sold and the proceeds invested, the court may so order;

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~~((6))~~ (7) To apply to the court no later than the filing of the inventory for an order authorizing disbursements on behalf of the incapacitated person: PROVIDED, HOWEVER, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, or if the guardian or limited guardian of the estate has the care and custody of the incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof;

(8) To provide evidence of the guardian or limited guardian's successful completion of any standardized training for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or limited guardian: (a) Was appointed prior to the effective date of this section; (b) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (c) has not previously completed the requirements of RCW 11.88.020(3). The superior court may: (i) Waive this requirement for good cause. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts about the guardianship, whether the guardian is a family member caring for a developmentally disabled child or other family member whose estate is worth two thousand dollars or less; the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (ii) extend the time period for completion of the training requirement for ninety days, upon: (A) Petition by the guardian or limited guardian; or (B) any other method as provided by local court rule; and

(9) To provide evidence of the guardian or limited guardian's successful completion of any additional or updated training offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020.

**Sec. 10.** RCW 11.92.050 and 1995 c 297 s 6 are each amended to read as follows:

(1) Upon the filing of any intermediate guardianship or limited guardianship account or report required by statute, or of any intermediate account or report required by court rule or order, the guardian or limited guardian may petition the court for an order settling ~~((his or her))~~ the guardianship account or report with regard to any receipts, expenditures, and investments made and acts done by the guardian or limited guardian to the date of the interim report.

(2) Upon such ~~((petition))~~ account or report being filed, the court may in its discretion, where the size or condition of the estate warrants it, set a date for the hearing of the petition and require the service of the petition and a notice of the hearing as provided in RCW 11.88.040 as now or hereafter amended or as specified by the court; and, in the event a hearing is ordered, the court may also

appoint a guardian ad litem, whose duty it shall be to investigate the account or report of the guardian or limited guardian of the estate and to advise the court thereon at the hearing, in writing.

(3) At the hearing on or upon the court's review of the account or report of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account or report.

(4) If a guardian or limited guardian fails to file the account or report or fails to appear at a hearing, the court may enter an order to show cause and require the guardian or limited guardian to appear at a show cause hearing. At the show cause hearing the court may enter an order for one or more of the following actions:

(a) Directing the guardian or limited guardian to appear before the court subject to contempt sanctions;

(b) Appointing a guardian ad litem;

(c) Removing the guardian or limited guardian and appointing a successor;

(d) Requiring the completion of any approved guardianship training made available to the guardian by the court; or

(e) Providing other and further relief the court deems just and equitable.

(5) If the court has appointed a guardian ad litem, the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after the incapacitated person attains his or her majority any such interim account may be challenged by the incapacitated person on the ground of fraud.

~~((2))~~ (6) The procedure established in ~~((subsection (4) of))~~ this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under RCW 11.92.043."

Senator Kline spoke in favor of adoption of the committee striking amendment.

## MOTION

Senator Pflug moved that the following amendment by Senators Pflug and Kline to the committee striking amendment be adopted:

On page 2, line 10 of the amendment, after "11.92.043" insert "or 11.92.040"

On page 3, at the beginning of line 32 of the amendment, insert the following:

"(2)"

Remember the remaining subsections consecutively and correct internal references accordingly.

On page 6, line 13 of the amendment, after "to" strike all material through "section" and insert "July 24, 2011"

On page 6, beginning on line 17 of the amendment, after "may" strike all material through "rule" on line 30 and insert ", upon (A) petition by the guardian or limited guardian; or (B) any other method as provided by local court rule: (I) For good cause, waive this requirement for guardians appointed prior to July 24, 2011. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts about the guardianship, whether the guardian is a family member caring for another family member with a developmental disability whose estate is worth three thousand dollars or less; the length of time the guardian has been serving the

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incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (II) extend the time period for completion of the training requirement for ninety days"

On page 21, line 7 of the amendment, after "to" strike all material through "section" and insert "July 24, 2011"

On page 21, beginning on line 10 of the amendment, after "may" strike all material through "rule" on line 24 and insert ", upon (i) petition by the guardian or limited guardian; or (ii) any other method as provided by local court rule: (A) For good cause, waive this requirement for guardians appointed prior to July 24, 2011. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts about the guardianship, whether the guardian is a family member caring for another family member with a developmental disability whose estate is worth three thousand dollars or less; the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (B) extend the time period for completion of the training requirement for ninety days"

Senator Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

## MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1053 was deferred and the bill held its place on the second reading calendar.

## MOTION

The Senate resumed consideration of Substitute House Bill No. 1053.

The President declared the question before the Senate to be the adoption of the amendment by Senators Pflug and Kline on page 2, line 10 to the committee striking amendment to Substitute House Bill No. 1053.

The motion by Senator Pflug carried and the amendment to the committee striking amendment was adopted by voice vote.

## MOTION

Senator Roach moved that the following amendment by Senator Roach to the committee striking amendment be adopted:

On page 2, line 7 of the amendment, after "training" insert "video or web cast"

On page 2, line 10 of the amendment, after "11.92.043." insert "The training video or web cast must be provided at no cost to the guardian or limited guardian."

On page 2, line 14 of the amendment, after "training" insert "video or web cast"

On page 2, line 21 of the amendment, after "training" insert "video or web cast"

On page 6, line 10 of the amendment, after "training" insert "video or web cast"

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On page 6, line 16 of the amendment, after "RCW 11.88.020(3)." insert "The training video or web cast must be provided at no cost to the guardian or limited guardian."

On page 6, line 32 of the amendment, after "training" insert "video or web cast"

On page 6, line 36 of the amendment, after "RCW 11.88.020" insert ". The training video or web cast must be provided at no cost to the guardian or limited guardian"

On page 21, line 4 of the amendment, after "training" insert "video or web cast"

On page 21, line 10 of the amendment, after "RCW 11.88.020(3)." insert "The training video or web cast must be provided at no cost to the guardian or limited guardian."

On page 21, line 26 of the amendment, after "training" insert "video or web cast"

On page 21, line 30 of the amendment, after "RCW 11.88.020" insert ". The training video or web cast must be provided at no cost to the guardian or limited guardian"

Senator Roach spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 2, line 7 to the committee striking amendment to Substitute House Bill No. 1053.

The motion by Senator Roach carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Substitute House Bill No. 1053.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "force;" strike the remainder of the title and insert "amending RCW 11.88.020, 11.88.030, 11.92.043, 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, and 11.92.050; and adding a new section to chapter 11.88 RCW."

## MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1053 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Carrell and Roach spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1053 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1053 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King,

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Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1053 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041, by House Committee on Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller and Uthegrove)

Including correctional employees who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

The measure was read the second time.

## MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.41.060 and 2005 c 453 s 3 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, correctional personnel and community corrections officers who have completed government-sponsored law enforcement firearms training and have been subject to a check through the national instant criminal background check system or an equivalent background check within the past five years, or other law enforcement officers of this state or another state. Correctional personnel and community corrections officers seeking the waiver provided for by this section are required to pay for any background check that is needed in order to exercise the waiver;

(2) Members of the armed forces of the United States or of the national guard or organized reserves, when on duty;

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive pistols from the United States or from this state;

(6) Regularly enrolled members of clubs organized for the purpose of target shooting, when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting, when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Any person engaging in a lawful outdoor recreational activity such as hunting, fishing, camping, hiking, or horseback riding, only if, considering all of the attendant circumstances, including but not limited to whether the person has a valid hunting

or fishing license, it is reasonable to conclude that the person is participating in lawful outdoor activities or is traveling to or from a legitimate outdoor recreation area;

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper; ~~((e))~~

(10) Law enforcement officers retired for service or physical disabilities, except for those law enforcement officers retired because of mental or stress-related disabilities. This subsection applies only to a retired officer who has: (a) Obtained documentation from a law enforcement agency within Washington state from which he or she retired that is signed by the agency's chief law enforcement officer and that states that the retired officer was retired for service or physical disability; and (b) not been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a concealed pistol license; or

(11) Correctional personnel and community corrections officers who have completed government-sponsored law enforcement firearms training and who are retired for service or physical disabilities, except for correctional personnel or community corrections officers retired because of mental or stress-related disabilities. This subsection applies only if the person has: (a) Obtained documentation from the agency within Washington state from which the person retired that states that the person was retired for service or physical disability; and (b) not been convicted or found not guilty by reason of insanity of a crime making him or her ineligible for a concealed pistol license. Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

**Sec. 2.** RCW 9.41.300 and 2008 c 33 s 1 are each amended to read as follows:

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

For purposes of this subsection (1)(b), "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slung shot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be

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liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area.

(2) Cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at

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reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a), (b), (c), and (e) of this section does not apply to correctional personnel or community corrections officers who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

(8) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

~~((8))~~ (9) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

~~((9))~~ (10) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

~~((10))~~ (11) Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

(12) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

~~((11))~~ (13) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9.41 RCW to read as follows:

The exemptions from firearms restrictions in RCW 9.41.060 and 9.41.300 for correctional personnel and community corrections officers who complete government-sponsored law enforcement firearms training do not create a duty on the part of the state or local governmental entities with respect to the off-duty conduct of correctional personnel and community corrections officers involving the use or misuse of a firearm.

The state of Washington, local governmental entities, and their officers, employees, and agents are not liable for any civil damages caused by the use or misuse of a firearm by off-duty correctional personnel or community corrections officers based on any act or omission in the provision of government-sponsored firearms training to the correctional personnel or community corrections officers."

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Senators Kline and Pflug spoke in favor of adoption of the committee striking amendment.

MOTION

Senator Fraser moved that the following amendment by Senator Fraser and others to the committee striking amendment be adopted:

On page 1, line 7 of the amendment, after "officers" insert "as long as they are employed as such"

On page 2, line 12 of the amendment, after "wrapper;" strike "((€))" and insert "or"

On page 2, beginning on line 22 of the amendment, after "license" strike all material through "facility" on line 37

On page 5, line 34 of the amendment, after "officers" insert "as long as they are employed as such,"

Senators Fraser, Pflug, Kline and Delvin spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Sheldon, Carrell and Roach spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Fraser and others on page 1, line 7 to the committee striking amendment to Engrossed Substitute House Bill No. 1041.

The motion by Senator Fraser carried and the amendment to the committee striking amendment was adopted by a rising vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to Engrossed Substitute House Bill No. 1041.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "restrictions;" strike the remainder of the title and insert "amending RCW 9.41.060 and 9.41.300; and adding a new section to chapter 9.41 RCW."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1041 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1041 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1041 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Excused: Senator Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:33 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:37 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9121, Brian Vance, as a member of the Board of Trustees, South Puget Sound Community College District No. 24, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF BRIAN VANCE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9121, Brian Vance as a member of the Board of Trustees, South Puget Sound Community College District No. 24.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9121, Brian Vance as a member of the Board of Trustees, South Puget Sound Community College District No. 24 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9121, Brian Vance, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, South Puget Sound Community College District No. 24.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Rolfes, Hudgins, Upthegrove, Appleton, Roberts, Pedersen, Carlyle, Goodman, Liias, Van De Wege,

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Dickerson, Cody, Fitzgibbon, Dunshee, McCoy, Finn, Jacks, Reykdal, Tharinger, Frockt, Billig, Hunt, Kenney, Stanford, Ryu and Seaquist)

Concerning requirements under the state's oil spill program.

The measure was read the second time.

### MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the "deepwater horizon" wellhead blowout, explosion, and oil spill in the Gulf of Mexico on April 20, 2010, resulted in the release of two hundred million gallons of crude oil into the environment. Impacts after the spill have included deaths and injuries, extensive damage to the marine environment and wildlife habitats, as well as large socioeconomic damages to local citizens, commercial fishing, tourism, businesses, and recreation. As late as six months after the spill, four thousand two hundred square miles of the Gulf of Mexico were closed to commercial shrimp harvest. The incident in the Gulf of Mexico is a reminder that the threat of major spills to Washington's environment, natural resources, economy, quality of life, and private property is significant.

(2) The legislature further finds that during the fall of 2010 the department of ecology compiled lessons learned from the Gulf of Mexico spill and the Puget Sound partnership convened an oil spill work group in an effort to ensure there is a rapid and aggressive response to a large scale spill in Washington and that oversight of spills is well coordinated among different levels of government and industry. The legislature intends to build upon these efforts, and other recent studies, to improve Washington's prevention and response capabilities. While current oil spill contingency plans are required to address worst case spills, it is also clear that the state will benefit from additional preparation for a large scale oil spill of the magnitude possible by failures of an oil tanker or a tank barge, particularly within the confined waters of Puget Sound. Lessons learned from the 2010 deepwater horizon incident demonstrate that improvements to Washington's existing oil spill prevention, preparedness, and response capabilities are both prudent and possible.

**Sec. 2.** RCW 88.46.010 and 2009 c 11 s 7 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

- (a) The additional protection provided by the measures;
- (b) The technological achievability of the measures; and
- (c) The cost of the measures.

(2)(a) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration:

~~((a))~~ (i) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development(;) and

~~((b))~~ (ii) Processes that are currently in use.

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(b) In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) A facility does not include any: (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(10) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility.

(13) "Oil" or "oils" means oil of any kind that is liquid at atmospheric temperature and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

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(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(18) "Race Rocks light" means the nautical landmark located southwest of the city of Victoria, British Columbia.

(19) "Severe weather conditions" means observed nautical conditions with sustained winds measured at forty knots and wave heights measured between twelve and eighteen feet.

(20) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(21) "Spill" means an unauthorized discharge of oil into the waters of the state.

(22) "Strait of Juan de Fuca" means waters off the northern coast of the Olympic Peninsula seaward of a line drawn from New Dungeness light in Clallam county to Discovery Island light on Vancouver Island, British Columbia, Canada.

(23) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(24) "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

(25) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(26) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

(27) "Vessels of opportunity response system" means nondedicated boats and operators, including fishing and other vessels, that are under contract with and equipped by contingency plan holders to assist with oil spill response activities, including on-water oil recovery in the near shore environment and the placement of oil spill containment booms to protect sensitive habitats.

(28) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessels of opportunity response system to respond when needed and available to spills in a defined geographic area.

(29) "Volunteer coordination system" means an oil spill response system that, before a spill occurs, prepares for the coordination of volunteers to assist with appropriate oil spill response activities, which may include shoreline protection and cleanup, wildlife recovery, field observation, light construction, facility maintenance, donations management, clerical support, and other aspects of a spill response.

(30) "Umbrella plan holder" means a nonprofit corporation established consistent with this chapter for the purposes of providing oil spill response and contingency plan coverage.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.46 RCW to read as follows:

(1) In addition to meeting the requirements specified in RCW 88.46.060, contingency plans for tank vessels operating in Washington waters must provide for the organization and contracting of a vessels of opportunity response system as required by this section.

(2)(a) The owner or operator of a tank vessel operating in Washington waters shall establish or fund a vessels of opportunity response system to supplement the timely and effective response to spills in the vessel's area of operation.

(b) The vessels of opportunity response system must be composed of an adequate number of regional vessels of opportunity response groups so as to be prepared to respond to a spill anywhere within the tank vessel's area of operation and be underway within twelve hours of activation by the incident commander or unified command, to the extent that a twelve-hour spill response is determined to be safe and effective. For tank vessels with an area of operation limited to the Columbia river, the vessels of opportunity response system may be limited to one regional vessels of opportunity response group located near the mouth of the river.

(c) Each regional vessels of opportunity response group must be composed of a sufficient number of participating nondedicated vessels to satisfy the following planning standards:

(i) By July 1, 2012, two vessels are available to respond at any one time;

(ii) By July 1, 2013, four vessels are available to respond at any one time; and

(iii) On and after July 1, 2014, six vessels are available to respond at any one time.

(3) A vessels of opportunity response system must ensure the following:

(a) Participating vessels have access to and can be rapidly equipped, consistent with subsections (4) and (5) of this section, with dedicated response equipment including equipment as provided in section 5(1)(a) of this act. The response equipment made available to vessels of opportunity response groups may vary among individual response groups based on the expected operating environment where the equipment will be utilized. While vessels of opportunity response groups must have access to equipment as provided in section 5(1)(a) of this act, the equipment utilized by individual vessels may vary within each group and not all vessels must have access to such equipment during a spill response;

(b) The appropriate response equipment is readily available to the individual vessels participating in a regional vessels of opportunity response group; and

(c) Crews of the participating vessels are:

(i) Equipped with appropriate personal protection gear; and

(ii) Properly trained to utilize response equipment as provided in section 5(1)(a) of this act. Crew training may be limited to safe response equipment utilization and deployment and not the maintenance of response equipment.

(4) Nothing in this section requires prepositioning response equipment that would require a major refit of a participating vessel of opportunity or dedicated response vessel.

(5) The dedicated response equipment made available to a regional vessels of opportunity group may be dedicated equipment owned and maintained by the contingency plan holder and not by the owner or operator of the participating vessel as long as the participating vessels have access to, and can be equipped with, the equipment as required in this section.

(6)(a) The requirements of this section may be fulfilled by one or more private organizations or nonprofit corporations providing umbrella coverage under contract to single or multiple tank vessels. Any organization or corporation providing coverage to satisfy the requirements of this section must ensure that the vessels of opportunity response system being provided includes the

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establishment of a minimum of six distinct regional vessels of opportunity response groups stationed so as to be able to respond to incidents occurring in the following locations:

- (i) The outer coast;
- (ii) The Strait of Juan de Fuca;
- (iii) Northern Puget Sound, including the San Juan Islands;
- (iv) Central Puget Sound;
- (v) Southern Puget Sound; and
- (vi) The mouth of the Columbia river.

(b) The department may require a private organization or nonprofit corporation providing umbrella coverage to satisfy the requirements of this section to station regional vessels of opportunity response groups in areas that are in addition to the minimum required response areas of this subsection based on risk and need.

(7) Each regional vessel of opportunity response group must complete a minimum of two drills a year to ensure that the overall vessels of opportunity response system is maintained at an appropriate level of readiness and the actual number of participating vessels is sufficient to meet the planning standards provided in subsection (2)(c) of this section. The department may award credit to the plan holder for practice drills accordingly. Each successful activation of the vessels of opportunity response system may be considered by the department to satisfy a drill covering this portion of the contingency plan.

(8) The decision to activate a vessels of opportunity response system during a spill response, and provide direction as to how and where the regional vessels of opportunity response groups should respond, is the responsibility of the designated incident commander or the unified command.

(9) The department may implement and enforce the requirements of this section without adopting rules.

(10) The department shall adjust requirements provided in this section where the department determines that compliance with a requirement is not practicable.

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department shall establish a volunteer coordination system. The volunteer coordination system may be included as a part of the state's overall oil spill response strategy, and may be implemented by local emergency management organizations, in coordination with any analogous federal efforts, to supplement the state's timely and effective response to spills.

(2) The department should consider how the volunteer coordination system will:

(a) Coordinate with the incident commander or unified command of an oil spill and any affected local governments to receive, screen, and register volunteers who are not affiliated with the emergency management organization or a local nongovernmental organization;

(b) Coordinate the management of volunteers with local nongovernmental organizations and their affiliated volunteers;

(c) Coordinate appropriate response operations with different classes of volunteers, including pretrained volunteers and convergent volunteers, to fulfill requests by the department or an oil spill incident commander or unified command;

(d) Coordinate public outreach regarding the need for and use of volunteers;

(e) Determine minimum participation criteria for volunteers; and

(f) Identify volunteer training requirements and, if applicable, provide training opportunities for volunteers prior to an oil spill response incident.

(3) An act or omission by any volunteer participating in a spill response or training as part of a volunteer coordination system,

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while engaged in such activities, does not impose any liability on any state agency, any participating local emergency management organization, or the volunteer for civil damages resulting from the act or omission. However, the immunity provided under this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

(4) The decisions to utilize volunteers in an oil spill response, which volunteers to utilize, and to determine which response activities are appropriate for volunteer participation in any given response are the sole responsibilities of the designated incident commander or unified command.

**NEW SECTION. Sec. 5.** A new section is added to chapter 88.46 RCW to read as follows:

(1) In addition to meeting the requirements specified in this chapter applicable to all covered vessels, contingency plans for tank vessels must provide for:

(a) Response systems that represent best available protection and are located in close proximity to vessels of opportunity response groups as provided in section 3 of this act. The response systems must: (i) Be capable of oil recovery in currents of three knots and in adverse weather normally experienced in the area of operation for an individual vessel of opportunity response group; and (ii) be composed, at minimum, of on-water oil collection, oil skimming, and on-water storage equipment. Equipment required under this section must supplement equipment required under subsections (2) and (3) of this section. Nothing in this subsection requires prepositioning response equipment that would require a major refit of a participating vessel of opportunity or dedicated response vessel; and

(b) Access to aerial remote sensing technology that enhances the ability of response personnel to detect and respond to oil spills in times of low visibility and at night, including technology that is capable of aerial oil identification, location mapping, and downloading of the information in real time to response vessels and the command post. This technology is not required to be stationed in Washington, but must be capable of being operational at the site of an incident within four hours of a response request.

(2) In addition to meeting the requirements specified in this chapter applicable to all covered vessels, contingency plans for tank vessels must provide for:

(a) Rapid access to equipment located within the state that reflects the best achievable protection for the expected operating environment in the vessel's area of operation without requiring equipment with capabilities that exceeds the response requirements for the expected operating environment; and

(b) Continuous operation of oil spill response activities without regard to the operating environment to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(3) In reviewing tank vessel contingency plans to measure compliance with this subsection and subsection (2) of this section, the department must ensure that, at a minimum, plans:

(a) Provide access to dedicated equipment appropriate for the operating environment as needed to achieve oil recovery, to the maximum extent practicable and without jeopardizing crew safety; including, being capable of oil recovery in currents of three knots and in adverse weather normally experienced in the area of operation. These response systems must include on-water oil collection, oil skimming, and on-water storage equipment, and trained personnel representing best achievable protection. Equipment intended to be used for response activities on the outer coast or the Strait of Juan de Fuca must also be capable of open water operations;

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(b) Include a technical analysis of best achievable technology and best achievable protection for the expected operating environment in the vessel's area of operation; and

(c) Provide adequate capacity for storage or proper disposal of the volume and type of oil considered by the contingency plan so as to achieve continuous operation of oil recovery to the maximum extent practicable considering currents, wave heights, weather conditions, and the safety of response personnel.

(4)(a) The department may implement and enforce the requirements of subsection (1) of this section without adopting rules.

(b) Subject to the availability of amounts appropriated for this specific purpose, the department shall adopt rules specifying requirements under subsections (2) and (3) of this section.

(c) The department may not revise standards to require equipment upgrades under this section more than once in any five-year period.

(5) The department shall adjust requirements provided in this section where the department determines that compliance with a requirement is not practicable.

**NEW SECTION. Sec. 6.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department is responsible for ordering joint large-scale, multiple plan equipment deployment drills of tank vessels to determine the adequacy of the owner's or operator's compliance with the contingency plan requirements of this chapter. The department must order at least one drill as outlined in this section every three years.

(2) Drills ordered under this section must focus on, at a minimum, the following:

(a) The functional ability for multiple contingency plans to be simultaneously activated with the purpose of testing the ability for dedicated equipment and trained personnel cited in multiple contingency plans to be activated in a large scale spill; and

(b) The operational readiness during both the first six hours of a spill and, at the department's discretion, over multiple operational periods of response.

(3) Drills ordered under this section may be incorporated into other drill requirements under this chapter to avoid increasing the number of drills and equipment deployments otherwise required.

(4) Each successful drill conducted under this section may be considered by the department as a drill of the underlying contingency plan and credit may be awarded to the plan holder accordingly.

(5) The department shall, when practicable, coordinate with applicable federal agencies, the state of Oregon, and the province of British Columbia to establish a drill incident command and to help ensure that lessons learned from the drills are evaluated with the goal of improving the underlying contingency plans.

**Sec. 7.** RCW 88.46.060 and 2005 c 78 s 2 are each amended to read as follows:

(1) Each covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any vessel which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department, removing oil and

minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs consistent with this chapter to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, ~~((and))~~ natural resources, and ~~((the office of))~~ archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Establish guidelines for the use of equipment by the crew of a vessel to minimize vessel damage, stop or reduce any spilling from the vessel, and, only when appropriate and only when vessel safety is assured, contain and clean up the spilled oil;

(j) Provide arrangements for the prepositioning of spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(k) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(l) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(m) Until a spill prevention plan has been submitted pursuant to RCW 88.46.040, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(n) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; ~~((and))~~

(o) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules;

(p) Compliance with section 8 of this act if the contingency plan is submitted by an umbrella plan holder; and

(q) Include any additional elements of contingency plans as required by this chapter.

(2)~~((of))~~ The owner or operator of a ~~((tank))~~ covered vessel ~~((of three thousand gross tons or more shall))~~ must submit ~~((a))~~ any required contingency plan updates to the department within ~~((six months after))~~ the timelines established by the department ~~((adopts rules establishing standards for contingency plans under subsection (1) of this section.~~

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(b) Contingency plans for all other covered vessels shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period).

(3)(a) The owner or operator of a tank vessel or of the facilities at which the vessel will be unloading its cargo, or a (~~Washington state~~) nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member, shall submit the contingency plan for the tank vessel. Subject to conditions imposed by the department, the owner or operator of a facility may submit a single contingency plan for tank vessels of a particular class that will be unloading cargo at the facility.

(b) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the cargo vessel or passenger vessel, by the agent for the vessel resident in this state, or by a (~~Washington state~~) nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member. Subject to conditions imposed by the department, the owner, operator, or agent may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(c) A person who has contracted with a covered vessel to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any covered vessel for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one covered vessel.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife, shellfish beds, and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the director; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6)(a) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(b) The department must notify the plan holder in writing within sixty-five days of an initial or amended plan's submittal to the department as to whether the plan is disapproved, approved, or conditionally approved. If a plan is conditionally approved, the department must clearly describe each condition and specify a schedule for plan holders to submit required updates.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a covered vessel shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

NEW SECTION. Sec. 8. A new section is added to chapter 88.46 RCW to read as follows:

(1) When submitting a contingency plan to the department under RCW 88.46.060, any umbrella plan holders that enroll both tank vessels and covered vessels that are not tank vessels must, in addition to satisfying the other requirements of this chapter, specify:

(a) The maximum worst case discharge volume from covered vessels that are not tank vessels to be covered by the umbrella plan holder's contingency plan; and

(b) The maximum worst case discharge volume from tank vessels to be covered by the umbrella plan holder's contingency plan.

(2) Tank vessel owners or operators that are enrolled with an umbrella plan holder and that have worse case discharge volumes larger than the maximum volume covered by the contingency plan of the umbrella plan holder must demonstrate to the satisfaction of the department that the owner or operator of the tank vessel has access to the necessary additional response capabilities.

Sec. 9. RCW 88.46.100 and 2000 c 69 s 10 are each amended to read as follows:

((1)) In ((order to assist the state in identifying areas of the navigable waters of the state needing special attention, the owner or operator of a covered vessel shall notify the)) addition to any notifications that the owner or operator of a covered vessel must provide to the United States coast guard ((within one hour:

(a) Of the disability of the covered vessel if the disabled vessel is within twelve miles of the shore of the state; and

(b) Of a collision or a near miss incident within twelve miles of the shore of the state.

(2) The state military department and the department shall request the coast guard to notify the state military department as soon as possible after the coast guard receives notice of a disabled covered vessel or of a collision or near miss incident within twelve miles of the shore of the state. The department shall negotiate an agreement with the coast guard governing procedures for coast guard notification to the state regarding disabled covered vessels and collisions and near miss incidents.

(3) The department shall prepare a summary of the information collected under this section and provide the summary to the regional marine safety committees, the coast guard, and others in order to identify problems with the marine transportation system.

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(4) For the purposes of this section:

(a) A tank vessel or cargo vessel is considered disabled if any of the following occur:

(i) Any accidental or intentional grounding;

(ii) The total or partial failure of the main propulsion or primary steering or any component or control system that causes a reduction in the maneuvering capabilities of the vessel;

(iii) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service, including but not limited to, fire, flooding, or collision with another vessel;

(iv) Any other occurrence that creates the serious possibility of an oil spill or an occurrence that may result in such a spill.

(b) A barge is considered disabled if any of the following occur:

(i) The towing mechanism becomes disabled;

(ii) The towboat towing the barge becomes disabled through occurrences defined in (a) of this subsection.

(c) A near miss incident is an incident that requires the pilot or master of a covered vessel to take evasive actions or make significant course corrections in order to avoid a collision with another ship or to avoid a grounding as required by the international rules of the road.

(5) Failure of any person to make a report under this section shall not be used as the basis for the imposition of any fine or penalty) regarding a vessel emergency, the owner or operator of a covered vessel must notify the state of any vessel emergency that results in the discharge or substantial threat of discharge of oil to state waters or that may affect the natural resources of the state within one hour of the onset of that emergency. The purpose of this notification is to enable the department to coordinate with the vessel operator, contingency plan holder, and the United States coast guard to protect the public health, welfare, and natural resources of the state and to ensure all reasonable spill preparedness and response measures are in place prior to a spill occurring.

**Sec. 10.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to read as follows:

(1) The department, in consultation with the departments of fish and wildlife and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. The amount of compensation assessed under this schedule shall be:

(a) For spills totaling one thousand gallons or more in any one event, no less than ~~((one dollar))~~ three dollars per gallon of oil spilled and no greater than ~~((one))~~ three hundred dollars per gallon of oil spilled; and

(b) For spills totaling less than one thousand gallons in any one event, no less than one dollar per gallon of oil spilled and no greater than one hundred dollars per gallon of oil spilled.

(2) Oil recovered from the water within forty-eight hours of a discharge must be deducted from the total spill volume for purposes of determining the amount of compensation assessed under the compensation schedule.

(3) The compensation schedule adopted under this section shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

~~((4))~~ (a) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

~~((2))~~ (b) The sensitivity of the affected area as determined by such factors as:

~~((a))~~ (i) The location of the spill;

~~((b))~~ (ii) Habitat and living resource sensitivity;

~~((e))~~ (iii) Seasonal distribution or sensitivity of living resources;

~~((d))~~ (iv) Areas of recreational use or aesthetic importance;

~~((e))~~ (v) The proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law;

~~((f))~~ (vi) Significant archaeological resources as determined by the department of archaeology and historic preservation; and

~~((g))~~ (vii) Other areas of special ecological or recreational importance, as determined by the department; and

~~((3))~~ (c) Actions taken by the party who spilled oil or any party liable for the spill that:

~~((a))~~ (i) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or

~~((b))~~ (ii) Enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife.

**Sec. 11.** RCW 90.56.370 and 2000 c 69 s 21 are each amended to read as follows:

(1) Any person owning oil or having control over oil that enters the waters of the state in violation of RCW 90.56.320 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry.

(2) Damages for which responsible parties are liable under this section include loss of income, revenue, the means of producing income or revenue, or an economic benefit resulting from an injury to or loss of real or personal property or natural resources.

(3) Damages for which responsible parties are liable under this section include damages provided in subsections (1) and (2) of this section resulting from any action conducted in response to a violation of RCW 90.56.320, including actions to collect, investigate, perform surveillance over, remove, contain, treat, or disperse oil discharged into waters of the state.

(4) In any action to recover damages resulting from the discharge of oil in violation of RCW 90.56.320, the owner or person having control over the oil shall be relieved from strict liability, without regard to fault, if that person can prove that the discharge was caused solely by:

(a) An act of war or sabotage;

(b) An act of God;

(c) Negligence on the part of the United States government; or

(d) Negligence on the part of the state of Washington.

~~((3))~~ (5) The liability established in this section shall in no way affect the rights which: (a) The owner or other person having control over the oil may have against any person whose acts may in any way have caused or contributed to the discharge of oil, or (b) the state of Washington may have against any person whose actions may have caused or contributed to the discharge of oil.

**NEW SECTION. Sec. 12.** (1) The director of the department of ecology must formally request that the federal government contribute to the establishment of regional oil spill response equipment caches in Washington to ensure adequate response capabilities during a multiple spill event.

(2) This section expires December 31, 2014.

**NEW SECTION. Sec. 13.** (1) The department of ecology shall prepare a report to the legislature, consistent with RCW 43.01.036, that identifies the lessons learned through the implementation of sections 3 through 6 of this act and presents any recommendations for changes in the state oil spill preparation and response policies gleaned from the lessons learned.

(2) In preparing the report required in this section, the department of ecology shall consult with both the Puget Sound partnership and a diverse selection of appropriate stakeholders

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interested in tank vessel oil spill preparedness and response to be invited to participate by the director of the department of ecology. Any recommendations by the department of ecology must also identify any relevant perspectives of the invited stakeholders on the cost-benefit and cost-effectiveness of alternative approaches.

(3) The report required by this section must be delivered by January 5, 2015.

(4) This section expires July 31, 2015.

**NEW SECTION. Sec. 14.** A new section is added to chapter 88.46 RCW to read as follows:

(1) If necessary, the department shall adjust the requirements provided in section 3 of this act to ensure that the documented costs of compliance with that section, above and beyond the costs of compliance with this chapter and rules of the department on the effective date of this section, do not exceed ten million dollars in any one year. For the purposes of this subsection, "costs of compliance" with section 3 of this act are direct operating costs, such as training and drills, and do not include any equipment requirements. The maximum cost figure must be adjusted for inflation using the consumer price index as calculated by the United States department of labor.

(2) If necessary, the department shall adjust the requirements provided in section 5 of this act to ensure that the documented costs of compliance with that section, above and beyond the costs of compliance with this chapter and rules of the department on the effective date of this section, do not exceed thirty million dollars in any five-year period. For the purposes of this subsection, "costs of compliance" with section 5 of this act are capital equipment costs and direct operating costs for the equipment. The maximum cost figure must be adjusted for inflation using the consumer price index as calculated by the United States department of labor.

**NEW SECTION. Sec. 15.** (1) The requirements of this act must be met according to the compliance schedule provided in this subsection. The owners or operators of all affected vessels must either have new contingency plans approved by the department of ecology or updates to existing contingency plans approved by the department of ecology for the following plan components by the following dates:

- (a) Compliance with section 3 of this act by July 1, 2012;
- (b) Compliance with section 5(1)(a) of this act by July 1, 2012;
- (c) Compliance with section 5(1)(b) of this act by July 1, 2013;
- (d) With the exception of section 5(1) of this act, compliance with the remainder of section 5 of this act by July 1, 2013; and
- (e) Other than section 12 of this act and RCW 90.56.370 and 90.48.366, which become enforceable on the effective date of this section, all other sections of this act must be complied with by October 1, 2011.

(2) The department of ecology must comply with section 4 of this act by July 1, 2014.

(3) In the initial implementation of sections 3 through 6 and 8 of this act and RCW 88.46.060, the department of ecology shall consult with appropriate stakeholders interested in tank vessel oil spill preparedness and response, as invited to participate by the director of the department of ecology. However, nothing in this subsection limits the ability of the department of ecology to implement this act in the manner deemed most appropriate by the department of ecology.

(4) Any rules the department of ecology is required to adopt under this act or deems necessary to adopt for the implementation of this act must be adopted in time to facilitate the submittal and approval of new or updated contingency plans according to the compliance schedule in subsection (1) of this section.

(5) This section expires July 31, 2014."

Senator Ranker moved that the following committee amendment by the Committee on Ways & Means to the committee striking amendment by the Committee on Ways & Means be not adopted:

Beginning on page 1, after line 2 of the amendment, strike all of section 1

Renumber the remaining sections and correct any internal references accordingly.

Beginning on page 5, line 35 of the amendment, strike all of sections 3 through 15 and insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department shall evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter, including aerial surveillance, in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(2) The department shall by rule update the planning standards at five-year intervals to ensure the maintenance of best available protection over time.

(3) The department shall evaluate and update planning standards for tank vessels by December 31, 2012.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.46 RCW to read as follows:

By December 31, 2012, the department shall complete rule making for purposes of improving the effectiveness of the vessels of opportunity system to participate in spill response.

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department shall establish a volunteer coordination system. The volunteer coordination system may be included as a part of the state's overall oil spill response strategy, and may be implemented by local emergency management organizations, in coordination with any analogous federal efforts, to supplement the state's timely and effective response to spills.

(2) The department should consider how the volunteer coordination system will:

(a) Coordinate with the incident commander or unified command of an oil spill and any affected local governments to receive, screen, and register volunteers who are not affiliated with the emergency management organization or a local nongovernmental organization;

(b) Coordinate the management of volunteers with local nongovernmental organizations and their affiliated volunteers;

(c) Coordinate appropriate response operations with different classes of volunteers, including pretrained volunteers and convergent volunteers, to fulfill requests by the department or an oil spill incident commander or unified command;

(d) Coordinate public outreach regarding the need for and use of volunteers;

(e) Determine minimum participation criteria for volunteers; and

(f) Identify volunteer training requirements and, if applicable, provide training opportunities for volunteers prior to an oil spill response incident.

(3) An act or omission by any volunteer participating in a spill response or training as part of a volunteer coordination system, while engaged in such activities, does not impose any liability on any state agency, any participating local emergency management organization, or the volunteer for civil damages resulting from the

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act or omission. However, the immunity provided under this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

(4) The decisions to utilize volunteers in an oil spill response, which volunteers to utilize, and to determine which response activities are appropriate for volunteer participation in any given response are the sole responsibilities of the designated incident commander or unified command.

**NEW SECTION. Sec. 5.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department is responsible for requiring joint large-scale, multiple plan equipment deployment drills of tank vessels to determine the adequacy of the owner's or operator's compliance with the contingency plan requirements of this chapter. The department must order at least one drill as outlined in this section every three years.

(2) Drills required under this section must focus on, at a minimum, the following:

(a) The functional ability for multiple contingency plans to be simultaneously activated with the purpose of testing the ability for dedicated equipment and trained personnel cited in multiple contingency plans to be activated in a large scale spill; and

(b) The operational readiness during both the first six hours of a spill and, at the department's discretion, over multiple operational periods of response.

(3) Drills required under this section may be incorporated into other drill requirements under this chapter to avoid increasing the number of drills and equipment deployments otherwise required.

(4) Each successful drill conducted under this section may be considered by the department as a drill of the underlying contingency plan and credit may be awarded to the plan holder accordingly.

(5) The department shall, when practicable, coordinate with applicable federal agencies, the state of Oregon, and the province of British Columbia to establish a drill incident command and to help ensure that lessons learned from the drills are evaluated with the goal of improving the underlying contingency plans.

**Sec. 6.** RCW 88.46.060 and 2005 c 78 s 2 are each amended to read as follows:

(1) Each covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any vessel which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department, removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs consistent with this chapter to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, ~~((and))~~ natural resources, and ~~((the office of))~~ archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Establish guidelines for the use of equipment by the crew of a vessel to minimize vessel damage, stop or reduce any spilling from the vessel, and, only when appropriate and only when vessel safety is assured, contain and clean up the spilled oil;

(j) Provide arrangements for the repositioning of spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(k) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(l) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(m) Until a spill prevention plan has been submitted pursuant to RCW 88.46.040, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(n) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; ~~((and))~~

(o) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules;

(p) Compliance with section 7 of this act if the contingency plan is submitted by an umbrella plan holder; and

(q) Include any additional elements of contingency plans as required by this chapter.

~~(2)((a))~~ The owner or operator of a ~~((tank))~~ covered vessel ~~((of three thousand gross tons or more shall))~~ must submit ~~((a))~~ any required contingency plan updates to the department within ~~((six months after))~~ the timelines established by the department ~~((adopts rules establishing standards for contingency plans under subsection (1) of this section.~~

~~(b) Contingency plans for all other covered vessels shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen month period).~~

(3)(a) The owner or operator of a tank vessel or of the facilities at which the vessel will be unloading its cargo, or a ~~((Washington state))~~ nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member, shall submit the contingency plan for the tank vessel. Subject to conditions imposed by the department, the owner or operator of a facility may submit a single contingency plan

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for tank vessels of a particular class that will be unloading cargo at the facility.

(b) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the cargo vessel or passenger vessel, by the agent for the vessel resident in this state, or by a (~~Washington state~~) nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member. Subject to conditions imposed by the department, the owner, operator, or agent may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(c) A person who has contracted with a covered vessel to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any covered vessel for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one covered vessel.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife, shellfish beds, and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the director; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6)(a) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(b) The department must notify the plan holder in writing within sixty-five days of an initial or amended plan's submittal to the department as to whether the plan is disapproved, approved, or conditionally approved. If a plan is conditionally approved, the department must clearly describe each condition and specify a schedule for plan holders to submit required updates.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a covered vessel shall notify the department in writing immediately of any significant change of

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which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

**NEW SECTION. Sec. 7.** A new section is added to chapter 88.46 RCW to read as follows:

(1) When submitting a contingency plan to the department under RCW 88.46.060, any umbrella plan holder that enrolls both tank vessels and covered vessels that are not tank vessels must, in addition to satisfying the other requirements of this chapter, specify:

(a) The maximum worst case discharge volume from covered vessels that are not tank vessels to be covered by the umbrella plan holder's contingency plan; and

(b) The maximum worst case discharge volume from tank vessels to be covered by the umbrella plan holder's contingency plan.

(2) Any owner or operator of a covered vessel having a worst case discharge volume that exceeds the maximum volume covered by an approved umbrella plan holder may enroll with the umbrella plan holder if the owner or operator of the covered vessel maintains an agreement with another entity to provide supplemental equipment sufficient to meet the requirements of this chapter.

(3) The department may approve an umbrella plan holder that covers vessels having a worst case discharge volume that exceeds the maximum volume if:

(a) The department determines that the umbrella plan holder should be approved for a lower discharge volume;

(b) The owner or operator includes documentation in the plan and demonstrates to the satisfaction of the department showing that any vessel that exceeds the umbrella plan holder's maximum volume has access to supplemental equipment and programs sufficient to meet the worst case discharge volume of the vessel; and

(c) The department has previously approved a plan that relies on a listing of the supplemental equipment and programs to meet the requirements of this chapter.

**Sec. 8.** RCW 88.46.100 and 2000 c 69 s 10 are each amended to read as follows:

((1)) In ((order to assist the state in identifying areas of the navigable waters of the state needing special attention, the owner or operator of a covered vessel shall notify the)) addition to any notifications that the owner or operator of a covered vessel must provide to the United States coast guard ((within one hour:

(a) Of the disability of the covered vessel if the disabled vessel is within twelve miles of the shore of the state; and

(b) Of a collision or a near miss incident within twelve miles of the shore of the state.

(2) The state military department and the department shall request the coast guard to notify the state military department as soon as possible after the coast guard receives notice of a disabled covered vessel or of a collision or near miss incident within twelve miles of the shore of the state. The department shall negotiate an agreement with the coast guard governing procedures for coast guard notification to the state regarding disabled covered vessels and collisions and near miss incidents.

(3) The department shall prepare a summary of the information collected under this section and provide the summary to the regional marine safety committees, the coast guard, and others in order to identify problems with the marine transportation system.

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(4) For the purposes of this section:

(a) A tank vessel or cargo vessel is considered disabled if any of the following occur:

- (i) Any accidental or intentional grounding;
- (ii) The total or partial failure of the main propulsion or primary steering or any component or control system that causes a reduction in the maneuvering capabilities of the vessel;
- (iii) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service, including but not limited to, fire, flooding, or collision with another vessel;
- (iv) Any other occurrence that creates the serious possibility of an oil spill or an occurrence that may result in such a spill.

(b) A barge is considered disabled if any of the following occur:

- (i) The towing mechanism becomes disabled;
- (ii) The towboat towing the barge becomes disabled through occurrences defined in (a) of this subsection.

(c) A near miss incident is an incident that requires the pilot or master of a covered vessel to take evasive actions or make significant course corrections in order to avoid a collision with another ship or to avoid a grounding as required by the international rules of the road.

(5) Failure of any person to make a report under this section shall not be used as the basis for the imposition of any fine or penalty) regarding a vessel emergency, the owner or operator of a covered vessel must notify the state of any vessel emergency that results in the discharge or substantial threat of discharge of oil to state waters or that may affect the natural resources of the state within one hour of the onset of that emergency. The purpose of this notification is to enable the department to coordinate with the vessel operator, contingency plan holder, and the United States coast guard to protect the public health, welfare, and natural resources of the state and to ensure all reasonable spill preparedness and response measures are in place prior to a spill occurring.

**Sec. 9.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to read as follows:

(1) The department, in consultation with the departments of fish and wildlife and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. The amount of compensation assessed under this schedule shall be:

(a) For spills totaling one thousand gallons or more in any one event, no less than ~~((one dollar))~~ three dollars per gallon of oil spilled and no greater than ~~((one))~~ three hundred dollars per gallon of oil spilled; and

(b) For spills totaling less than one thousand gallons in any one event, no less than one dollar per gallon of oil spilled and no greater than one hundred dollars per gallon of oil spilled.

(2) Persistent oil recovered from the surface of the water within forty-eight hours of a discharge must be deducted from the total spill volume for purposes of determining the amount of compensation assessed under the compensation schedule.

(3) The compensation schedule adopted under this section shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

~~((4))~~ (a) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

~~((2))~~ (b) The sensitivity of the affected area as determined by such factors as:

~~((a))~~ (i) The location of the spill;

~~((b))~~ (ii) Habitat and living resource sensitivity;

~~((e))~~ (iii) Seasonal distribution or sensitivity of living resources;

~~((d))~~ (iv) Areas of recreational use or aesthetic importance;

~~((e))~~ (v) The proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law;

~~((f))~~ (vi) Significant archaeological resources as determined by the department of archaeology and historic preservation; and

~~((g))~~ (vii) Other areas of special ecological or recreational importance, as determined by the department; and

~~((3))~~ (c) Actions taken by the party who spilled oil or any party liable for the spill that:

~~((a))~~ (i) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or

~~((b))~~ (ii) Enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife.

**Sec. 10.** RCW 90.56.370 and 2000 c 69 s 21 are each amended to read as follows:

(1) Any person owning oil or having control over oil that enters the waters of the state in violation of RCW 90.56.320 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry.

(2) Damages for which responsible parties are liable under this section include loss of income, net revenue, the means of producing income or revenue, or an economic benefit resulting from an injury to or loss of real or personal property or natural resources

(3) Damages for which responsible parties are liable under this section include damages provided in subsections (1) and (2) of this section resulting from the use and deployment of chemical dispersants or from in situ burning in response to a violation of RCW 90.56.320.

(4) In any action to recover damages resulting from the discharge of oil in violation of RCW 90.56.320, the owner or person having control over the oil shall be relieved from strict liability, without regard to fault, if that person can prove that the discharge was caused solely by:

(a) An act of war or sabotage;

(b) An act of God;

(c) Negligence on the part of the United States government; or

(d) Negligence on the part of the state of Washington.

~~((3))~~ (5) The liability established in this section shall in no way affect the rights which: (a) The owner or other person having control over the oil may have against any person whose acts may in any way have caused or contributed to the discharge of oil, or

(b) the state of Washington may have against any person whose actions may have caused or contributed to the discharge of oil.

**NEW SECTION. Sec. 11.** (1) The director of the department of ecology must formally request that the federal government contribute to the establishment of regional oil spill response equipment caches in Washington to ensure adequate response capabilities during a multiple spill event.

(2) This section expires December 31, 2014."

On page 23, beginning on line 2 of the title amendment, after "insert" strike the remainder of the title amendment and insert "amending RCW 88.46.060, 88.46.100, 90.48.366, and 90.56.370; reenacting and amending RCW 88.46.010; adding new sections to chapter 88.46 RCW; creating a new section; prescribing penalties; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Ranker to not adopt the committee amendment by the Committee on Ways & Means to the

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committee striking amendment to Engrossed Second Substitute House Bill No. 1186.

The motion by Senator Ranker carried and the committee amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Ranker moved that the following amendment by Senator Ranker and others to the committee striking amendment be adopted:

Beginning on page 1, after line 2 of the amendment, strike all of section 1

Re-number the remaining sections and correct any internal references accordingly.

Beginning on page 5, line 35 of the amendment, strike all of sections 3 through 15 and insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department shall evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter, including aerial surveillance, in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(2) The department shall by rule update the planning standards at five-year intervals to ensure the maintenance of best available protection over time. Rule updates to covered non-tank vessels shall minimize potential impacts to discretionary cargo moved through the state.

(3) The department shall evaluate and update planning standards for tank vessels by December 31, 2012.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.46 RCW to read as follows:

By December 31, 2012, the department shall complete rule making for purposes of improving the effectiveness of the vessels of opportunity system to participate in spill response.

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department shall establish a volunteer coordination system. The volunteer coordination system may be included as a part of the state's overall oil spill response strategy, and may be implemented by local emergency management organizations, in coordination with any analogous federal efforts, to supplement the state's timely and effective response to spills.

(2) The department should consider how the volunteer coordination system will:

(a) Coordinate with the incident commander or unified command of an oil spill and any affected local governments to receive, screen, and register volunteers who are not affiliated with the emergency management organization or a local nongovernmental organization;

(b) Coordinate the management of volunteers with local nongovernmental organizations and their affiliated volunteers;

(c) Coordinate appropriate response operations with different classes of volunteers, including pretrained volunteers and convergent volunteers, to fulfill requests by the department or an oil spill incident commander or unified command;

(d) Coordinate public outreach regarding the need for and use of volunteers;

(e) Determine minimum participation criteria for volunteers; and

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(f) Identify volunteer training requirements and, if applicable, provide training opportunities for volunteers prior to an oil spill response incident.

(3) An act or omission by any volunteer participating in a spill response or training as part of a volunteer coordination system, while engaged in such activities, does not impose any liability on any state agency, any participating local emergency management organization, or the volunteer for civil damages resulting from the act or omission. However, the immunity provided under this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

(4) The decisions to utilize volunteers in an oil spill response, which volunteers to utilize, and to determine which response activities are appropriate for volunteer participation in any given response are the sole responsibilities of the designated incident commander or unified command.

**NEW SECTION. Sec. 5.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department is responsible for requiring joint large-scale, multiple plan equipment deployment drills of tank vessels to determine the adequacy of the owner's or operator's compliance with the contingency plan requirements of this chapter. The department must order at least one drill as outlined in this section every three years.

(2) Drills required under this section must focus on, at a minimum, the following:

(a) The functional ability for multiple contingency plans to be simultaneously activated with the purpose of testing the ability for dedicated equipment and trained personnel cited in multiple contingency plans to be activated in a large scale spill; and

(b) The operational readiness during both the first six hours of a spill and, at the department's discretion, over multiple operational periods of response.

(3) Drills required under this section may be incorporated into other drill requirements under this chapter to avoid increasing the number of drills and equipment deployments otherwise required.

(4) Each successful drill conducted under this section may be considered by the department as a drill of the underlying contingency plan and credit may be awarded to the plan holder accordingly.

(5) The department shall, when practicable, coordinate with applicable federal agencies, the state of Oregon, and the province of British Columbia to establish a drill incident command and to help ensure that lessons learned from the drills are evaluated with the goal of improving the underlying contingency plans.

**Sec. 6.** RCW 88.46.060 and 2005 c 78 s 2 are each amended to read as follows:

(1) Each covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the covered vessel into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any vessel which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department, removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans

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which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs consistent with this chapter to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, ~~(and)~~ natural resources, and ~~(the office of)~~ archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Establish guidelines for the use of equipment by the crew of a vessel to minimize vessel damage, stop or reduce any spilling from the vessel, and, only when appropriate and only when vessel safety is assured, contain and clean up the spilled oil;

(j) Provide arrangements for the repositioning of spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(k) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(l) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(m) Until a spill prevention plan has been submitted pursuant to RCW 88.46.040, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(n) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; ~~(and)~~

(o) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules;

(p) Compliance with section 7 of this act if the contingency plan is submitted by an umbrella plan holder; and

(q) Include any additional elements of contingency plans as required by this chapter.

~~(2)((a)) The owner or operator of a ((tank)) covered vessel ((of three thousand gross tons or more shall)) must submit ((a) any required contingency plan updates to the department within ((six months after)) the timelines established by the department ((adopts rules establishing standards for contingency plans under subsection (1) of this section.~~

(b) Contingency plans for all other covered vessels shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period).

(3)(a) The owner or operator of a tank vessel or of the facilities at which the vessel will be unloading its cargo, or a ~~((Washington state))~~ nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member, shall submit the contingency plan for the tank vessel. Subject to conditions imposed by the department, the owner or operator of a facility may submit a single contingency plan for tank vessels of a particular class that will be unloading cargo at the facility.

(b) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the cargo vessel or passenger vessel, by the agent for the vessel resident in this state, or by a ~~((Washington state))~~ nonprofit corporation established for the purpose of oil spill response and contingency plan coverage and of which the owner or operator is a member. Subject to conditions imposed by the department, the owner, operator, or agent may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(c) A person who has contracted with a covered vessel to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any covered vessel for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one covered vessel.

(4) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife, shellfish beds, and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the director; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6)(a) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(b) The department must notify the plan holder in writing within sixty-five days of an initial or amended plan's submittal to the department as to whether the plan is disapproved, approved, or conditionally approved. If a plan is conditionally approved, the department must clearly describe each condition and specify a schedule for plan holders to submit required updates.

(7) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a covered vessel shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

**NEW SECTION. Sec. 7.** A new section is added to chapter 88.46 RCW to read as follows:

(1) When submitting a contingency plan to the department under RCW 88.46.060, any umbrella plan holder that enrolls both tank vessels and covered vessels that are not tank vessels must, in addition to satisfying the other requirements of this chapter, specify:

(a) The maximum worst case discharge volume from covered vessels that are not tank vessels to be covered by the umbrella plan holder's contingency plan; and

(b) The maximum worst case discharge volume from tank vessels to be covered by the umbrella plan holder's contingency plan.

(2) Any owner or operator of a covered vessel having a worst case discharge volume that exceeds the maximum volume covered by an approved umbrella plan holder may enroll with the umbrella plan holder if the owner or operator of the covered vessel maintains an agreement with another entity to provide supplemental equipment sufficient to meet the requirements of this chapter.

(3) The department must approve an umbrella plan holder that covers vessels having a worst case discharge volume that exceeds the maximum volume if:

(a) The department determines that the umbrella plan holder should be approved for a lower discharge volume;

(b) The vessel owner or operator provides documentation to the umbrella plan holder authorizing the umbrella plan holder to activate additional resources sufficient to meet the worst case discharge volume of the vessel; and

(c) The department has previously approved a plan that provides access to the same resources identified in (3)(b) to meet the requirements of this chapter for worst case discharge volumes equal to or greater than the worst case discharge volume of the vessel.

(4) The umbrella plan holder must describe in the plan how the activation of additional resources will be implemented and provide the department the ability to review and inspect any documentation that the umbrella plan holder relies on to enroll a vessel with a worst case discharge that exceeds the plan's maximum volume.

**Sec. 8.** RCW 88.46.100 and 2000 c 69 s 10 are each amended to read as follows:

((1)) In ((order to assist the state in identifying areas of the navigable waters of the state needing special attention, the owner or operator of a covered vessel shall notify the)) addition to any notifications that the owner or operator of a covered vessel must provide to the United States coast guard ((within one hour:

(a) Of the disability of the covered vessel if the disabled vessel is within twelve miles of the shore of the state; and

(b) Of a collision or a near miss incident within twelve miles of the shore of the state.

(2) The state military department and the department shall request the coast guard to notify the state military department as soon as possible after the coast guard receives notice of a disabled covered vessel or of a collision or near miss incident within twelve miles of the shore of the state. The department shall negotiate an agreement with the coast guard governing procedures for coast guard notification to the state regarding disabled covered vessels and collisions and near miss incidents.

(3) The department shall prepare a summary of the information collected under this section and provide the summary to the regional marine safety committees, the coast guard, and others in order to identify problems with the marine transportation system.

(4) For the purposes of this section:

(a) A tank vessel or cargo vessel is considered disabled if any of the following occur:

(i) Any accidental or intentional grounding;

(ii) The total or partial failure of the main propulsion or primary steering or any component or control system that causes a reduction in the maneuvering capabilities of the vessel;

(iii) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service, including but not limited to, fire, flooding, or collision with another vessel;

(iv) Any other occurrence that creates the serious possibility of an oil spill or an occurrence that may result in such a spill.

(b) A barge is considered disabled if any of the following occur:

(i) The towing mechanism becomes disabled;

(ii) The towboat towing the barge becomes disabled through occurrences defined in (a) of this subsection.

(c) A near miss incident is an incident that requires the pilot or master of a covered vessel to take evasive actions or make significant course corrections in order to avoid a collision with another ship or to avoid a grounding as required by the international rules of the road.

(5) Failure of any person to make a report under this section shall not be used as the basis for the imposition of any fine or penalty) regarding a vessel emergency, the owner or operator of a covered vessel must notify the state of any vessel emergency that results in the discharge or substantial threat of discharge of oil to state waters or that may affect the natural resources of the state within one hour of the onset of that emergency. The purpose of this notification is to enable the department to coordinate with the vessel operator, contingency plan holder, and the United States coast guard to protect the public health, welfare, and natural resources of the state and to ensure all reasonable spill preparedness and response measures are in place prior to a spill occurring.

**Sec. 9.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to read as follows:

(1) The department, in consultation with the departments of fish and wildlife and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. The amount of compensation assessed under this schedule shall be:

(a) For spills totaling one thousand gallons or more in any one event, no less than ~~((one dollar))~~ three dollars per gallon of oil spilled and no greater than ~~((one))~~ three hundred dollars per gallon of oil spilled; and

(b) For spills totaling less than one thousand gallons in any one event, no less than one dollar per gallon of oil spilled and no greater than one hundred dollars per gallon of oil spilled.

(2) Persistent oil recovered from the surface of the water within forty-eight hours of a discharge must be deducted from the total spill volume for purposes of determining the amount of compensation assessed under the compensation schedule.

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(3) The compensation schedule adopted under this section shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

~~((+))~~ (a) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;

~~((2))~~ (b) The sensitivity of the affected area as determined by such factors as:

~~((+))~~ (i) The location of the spill;

~~((+))~~ (ii) Habitat and living resource sensitivity;

~~((e))~~ (iii) Seasonal distribution or sensitivity of living resources;

~~((+))~~ (iv) Areas of recreational use or aesthetic importance;

~~((e))~~ (v) The proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under state or federal law;

~~((+))~~ (vi) Significant archaeological resources as determined by the department of archaeology and historic preservation; and

~~((e))~~ (vii) Other areas of special ecological or recreational importance, as determined by the department; and

~~((3))~~ (c) Actions taken by the party who spilled oil or any party liable for the spill that:

~~((+))~~ (i) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or

~~((+))~~ (ii) Enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife.

**Sec. 10.** RCW 90.56.370 and 2000 c 69 s 21 are each amended to read as follows:

(1) Any person owning oil or having control over oil that enters the waters of the state in violation of RCW 90.56.320 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry.

(2) Damages for which responsible parties are liable under this section include loss of income, net revenue, the means of producing income or revenue, or an economic benefit resulting from an injury to or loss of real or personal property or natural resources.

(3) Damages for which responsible parties are liable under this section include damages provided in subsections (1) and (2) of this section resulting from the use and deployment of chemical dispersants or from in situ burning in response to a violation of RCW 90.56.320.

(4) In any action to recover damages resulting from the discharge of oil in violation of RCW 90.56.320, the owner or person having control over the oil shall be relieved from strict liability, without regard to fault, if that person can prove that the discharge was caused solely by:

(a) An act of war or sabotage;

(b) An act of God;

(c) Negligence on the part of the United States government; or

(d) Negligence on the part of the state of Washington.

~~((3))~~ (5) The liability established in this section shall in no way affect the rights which: (a) The owner or other person having control over the oil may have against any person whose acts may in any way have caused or contributed to the discharge of oil, or (b) the state of Washington may have against any person whose actions may have caused or contributed to the discharge of oil.

**NEW SECTION. Sec. 11.** (1) The director of the department of ecology must formally request that the federal government contribute to the establishment of regional oil spill

response equipment caches in Washington to ensure adequate response capabilities during a multiple spill event.

(2) This section expires December 31, 2014."

Senator Ranker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ranker and others on page 1, after line 2 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1186.

The motion by Senator Ranker carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Second Substitute House Bill No. 1186.

The motion by Senator Ranker carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 88.46.060, 88.46.100, 90.48.366, and 90.56.370; reenacting and amending RCW 88.46.010; adding new sections to chapter 88.46 RCW; creating new sections; prescribing penalties; and providing expiration dates."

On page 23, beginning on line 2 of the title amendment, after "insert" strike the remainder of the title amendment and insert "amending RCW 88.46.060, 88.46.100, 90.48.366, and 90.56.370; reenacting and amending RCW 88.46.010; adding new sections to chapter 88.46 RCW; creating a new section; prescribing penalties; and providing an expiration date."

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Second Substitute House Bill No. 1186 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker, Morton and Ericksen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1186 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1186 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Delvin

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1719, by House Committee on Judiciary (originally sponsored by Representatives Rodne, Schmick, Haler, Smith, Wilcox, Johnson, Klippert, Kristiansen, McCune, Short, Ross and Warnick)

Limiting liability for unauthorized passengers in a vehicle.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1719 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1719.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1719 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1719, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1179, by Representatives Hunt, Hudgins, Appleton, Lias, Miloscia, McCoy, Reykdal, Goodman, Darneille, Van De Wege, Upthegrove, Ormsby, Billig, Orwall, Green, Kenney, Dickerson, Santos, Frockt, Tharinger and Moscoso

Clarifying that public employees may attend informational or educational meetings regarding legislative issues.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1179 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1179.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1179 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1179, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1145, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune and Condotta)

Establishing mail theft provisions.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is important to the citizens of this state to have confidence in the security of the mail. Mail contains personal information, medical records, and financial documents. Theft of mail has become a serious problem in our state because mail is a key source of information for identity thieves. Currently, there is no law that adequately addresses the seriousness of this crime. This act is intended to accurately recognize the seriousness of taking personal, medical, or financial identifying information and compromising the integrity of our mail system.

**Sec. 2.** RCW 9A.56.010 and 2006 c 277 s 4 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

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(3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . .," "owned by . . . .," or other markings or words identifying ownership;

(4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(5) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed;

(6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(7) "Mail," in addition to its common meaning, means any letter, postal card, package, bag, or other item that is addressed to a specific address for delivery by the United States postal service or any commercial carrier performing the function of delivering similar items to residences or businesses, provided the mail:

(a)(i) Is addressed with a specific person's name, family name, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(ii) Is not addressed to a generic unnamed occupant or resident of the address without an identifiable person, family, or company, business, or corporation name on the outside of the item of mail or on the contents inside; and

(b) Has been left for collection or delivery in any letter box, mail box, mail receptacle, or other authorized depository for mail, or given to a mail carrier, or left with any private business that provides mail boxes or mail addresses for customers or when left in a similar location for collection or delivery by any commercial carrier; or

(c) Is in transit with a postal service, mail carrier, letter carrier, commercial carrier, or that is at or in a postal vehicle, postal station, mail box, postal airplane, transit station, or similar location of a commercial carrier; or

(d) Has been delivered to the intended address, but has not been received by the intended addressee.

Mail, for purposes of this act, does not include magazines, catalogs, direct mail inserts, newsletters, advertising circulars, or any mail that is considered third class mail by the United States postal service;

(8) "Mail box," in addition to its common meaning, means any authorized depository or receptacle of mail for the United States postal service or authorized depository for a commercial carrier that provides services to the general public, including any address to which mail is or can be addressed, or a place where the United States postal service or equivalent commercial carrier delivers mail to its addressee;

(9) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership;

~~((8))~~ (10) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

~~((9))~~ (11) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

~~((10))~~ (12) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;

~~((11))~~ (13) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

~~((12))~~ (14) "Received by the intended addressee" means that the addressee, owner of the delivery mail box, or authorized agent has removed the delivered mail from its delivery mail box;

(15) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

~~((13))~~ (16) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

~~((14))~~ (17) "Stolen" means obtained by theft, robbery, or extortion;

~~((15))~~ (18) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

~~((16))~~ (19) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

~~((17))~~ (20) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

~~((18))~~ (21) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such

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ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Except as provided in RCW 9A.56.340(4) and 9A.56.350(4), whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

For purposes of this subsection, "criminal episode" means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

~~((19))~~ (22) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of mail theft if he or she: (a) Commits theft of mail addressed to three or more different addresses; and (b) commits theft of a minimum of ten separate pieces of mail.

(2) Each set of ten separate pieces of stolen mail addressed to three or more different mail boxes constitutes a separate and distinct crime and may be punished accordingly.

(3) Mail theft is a class C felony.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of possession of stolen mail if he or she:

(a) Possesses stolen mail addressed to three or more different mail boxes; and (b) possesses a minimum of ten separate pieces of stolen mail.

(2) "Possesses stolen mail" means to knowingly receive, retain, possess, conceal, or dispose of stolen mail knowing that it has been

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stolen, and to withhold or appropriate to the use of any person other than the true owner, or the person to whom the mail is addressed.

(3) The fact that the person who stole the mail has not been convicted, apprehended, or identified is not a defense to the charge of possessing stolen mail.

(4) Each set of ten separate pieces of stolen mail addressed to three or more different mail boxes constitutes a separate and distinct crime and may be punished accordingly.

(5) Possession of stolen mail is a class C felony.

**NEW SECTION. Sec. 5.** A new section is added to chapter 9A.56 RCW to read as follows:

Every person who, in the commission of mail theft or possession of stolen mail, shall commit any other crime, may be punished therefor as well as for the mail theft or possession of stolen mail, and may be prosecuted for each crime separately."

Senators Kline and Pflug spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1145.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "theft;" strike the remainder of the title and insert "amending RCW 9A.56.010; adding new sections to chapter 9A.56 RCW; creating a new section; and prescribing penalties."

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1145 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1145 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1145 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1145 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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HOUSE BILL NO. 1227, by Representatives Ross, Taylor, Chandler, Hinkle, Warnick, Armstrong, Johnson, Moeller, Harris and Condotta

Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Concerning the waiver of restaurant corkage fees.

Absent: Senator Kline

The measure was read the second time.

HOUSE BILL NO. 1625, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, House Bill No. 1227 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

INTRODUCTION OF SPECIAL GUESTS

Senators Holmquist Newbry, Kohl-Welles and Roach spoke in favor of passage of the bill.

The President welcomed and introduced the China Rail Transportation Delegation from China who were seated in the gallery.

The President declared the question before the Senate to be the final passage of House Bill No. 1227.

SECOND READING

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1227 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

SUBSTITUTE HOUSE BILL NO. 1710, by House Committee on Education (originally sponsored by Representatives Moscoso, Liias, Probst, Ladenburg, Hasegawa, McCoy, Haler, Dahlquist, Green, Wilcox, McCune, Zeiger, Roberts, Stanford, Billig, Maxwell, Hunt and Kenney)

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Creating a strategic plan for career and technical education.

The measure was read the second time.

Voting nay: Senators Hargrove, Morton, Pridemore and Shin  
HOUSE BILL NO. 1227, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

SECOND READING

HOUSE BILL NO. 1625, by Representatives Hunter, Bailey, Seaquist, Hinkle, Moeller and Carlyle

Strike everything after the enacting clause and insert the following:

Addressing the default investment option available to new members of the plan 3 retirement systems.

"NEW SECTION. **Sec. 1.** (1) The legislature continues to find that access to high quality career and technical education for middle and high school students is a key strategy for reducing the dropout rate and closing the achievement gap. Career and technical education increases the number of young people who obtain a meaningful postsecondary credential. Improving career and technical education is also an efficiency measure, because reductions in the dropout rate are associated with increased earnings for individuals and reduced societal costs in the criminal justice and welfare systems.

The measure was read the second time.

MOTION

(2) The legislature further finds that much progress has been made since 2008 to enhance the rigor and relevance of career and technical education programs and to align and integrate instruction more closely with academic subjects, high demand fields, industry certification, and postsecondary education. Activities to support these objectives have included:

On motion of Senator Brown, the rules were suspended, House Bill No. 1625 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

(a) Requiring all preparatory career and technical education programs to lead to industry certification or offer dual high school and college credit;

The President declared the question before the Senate to be the final passage of House Bill No. 1625.

(b) Expanding state support for middle school career and technical education programs, especially in science, technology, and engineering;

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1625 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

(c) Providing support for schools to develop or upgrade programs in high demand fields and offer preapprenticeships;

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

(d) Developing model career and technical programs of study leading to industry credentials or degrees;

(e) Assisting school districts with identifying academic and career and technical education course equivalencies;

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(f) Pilot-testing programs to integrate academic, career and technical, basic skills, and English as a second language instruction; and

(g) Developing performance measures and targets for accountability.

(3) Therefore, the legislature intends to ensure that progress will be continued and enhanced by providing a mechanism for monitoring continuous improvement in the rigor, relevance, and recognition of secondary career and technical education programs and improvement in students' access to these programs.

**NEW SECTION. Sec. 2.** (1) Within existing resources, the office of the superintendent of public instruction shall convene a working group to develop a statewide strategic plan for secondary career and technical education.

(2) The strategic plan must include:

(a) A vision statement, goals, and measurable annual objectives for continuous improvement in the rigor, relevance, recognition, and student access in career and technical education programs that build on current initiatives and progress in improving career and technical education, and are consistent with targets and performance measures required under the federal Carl Perkins act; and

(b) Recommended activities and strategies, in priority order, to accomplish the objectives and goals, including activities and strategies that:

(i) Can be accomplished within current resources and funding formulas;

(ii) Should receive top priority for additional investment; and

(iii) Could be phased-in over the next ten years.

(3) In particular, the working group must examine:

(a) Proposed changes to high school graduation requirements and strategies to ensure that students continue to have opportunities to pursue career and technical education career and college pathways along with a meaningful high school diploma;

(b) How career and technical education courses can be used to meet the common core standards and how in turn the standards can be used to enhance the rigor of career and technical education;

(c) Ways to improve student access to high quality career and technical education courses and work experiences, not only in skill centers but also in middle school, comprehensive high schools, and rural areas;

(d) Ways to improve the transition from K-12 to community and technical college, university, and private technical college programs;

(e) Methods for replicating innovative middle and high schools that engage students in exploring careers, use project-based learning, and build meaningful partnerships with businesses and the community; and

(f) A framework for a series of career and technical education certifications that are: (i) Transferable between and among secondary schools and postsecondary institutions; and (ii) articulated across secondary and postsecondary levels so that students receive credit for knowledge and skills they have already mastered.

(4) The working group membership shall include:

(a) School district and skill center career and technical education directors and teachers and school guidance counselors;

(b) Community and technical college professional-technical faculty;

(c) At least one of each of the following: A school director, a principal, a counselor, and a parent;

(d) Representatives from industry, labor, tech prep consortia, local workforce development councils, private technical colleges, and the Washington association for career and technical education; and

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(e) A representative from the workforce training and education coordinating board.

(5) The office of the superintendent of public instruction shall submit a progress report to the education committees of the legislature and to the quality education council by December 1, 2011. The final strategic plan, including priorities, recommendations, and measurable annual objectives for continuous improvement, is due by December 1, 2012."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Substitute House Bill No. 1710.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "and creating new sections."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1710 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1710 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1710 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell and Schoesler

SUBSTITUTE HOUSE BILL NO. 1710 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1243, by House Committee on Judiciary (originally sponsored by Representatives Kretz, Blake, Haigh, Smith, Johnson, Kelley, Finn, Warnick, Moeller, Harris, Roberts, McCune, Stanford, Haler, Taylor and Condotta)

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Concerning crimes against animals belonging to another person.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1243 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Pflug, Honeyford and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1243.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1243 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1243, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492, by House Committee on Judiciary (originally sponsored by Representatives Pedersen and Rodne)

Concerning the Uniform Commercial Code Article 9A on secured transactions.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1492 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline, Carrell and Pflug spoke in favor of passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1492.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1492 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725, by Representatives Sells, Reykdal, Ormsby, Kenney and Upthegrove

Addressing administrative efficiencies for the workers' compensation program.

The measure was read the second time.

MOTION

Senator Conway moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.04.030 and 2004 c 65 s 1 are each amended to read as follows:

(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

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(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

**Sec. 2.** RCW 51.04.082 and 1986 c 9 s 2 are each amended to read as follows:

Any notice or order required by this title to be mailed to any employer may be served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state, but if the notice or order is mailed, it shall be addressed to the address of the employer as shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. If requested by the employer, any notice or order may be sent by secure electronic means except orders communicating the closure of a claim. Correspondence and notices sent electronically are considered received on the date sent by the department. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax or any increases or penalties thereon.

**Sec. 3.** RCW 51.24.060 and 2001 c 146 s 9 are each amended to read as follows:

(1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer: PROVIDED, That the department and/or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid under this title: PROVIDED, That the department's and/or self-insurer's proportionate share shall not exceed one hundred percent of the costs and reasonable attorneys' fees;

(ii) The department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees shall be determined by dividing the gross recovery amount into the benefits paid amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary;

(iii) The department's and/or self-insurer's reimbursement share shall be determined by subtracting their proportionate share of the costs and reasonable attorneys' fees from the benefits paid amount;

(d) Any remaining balance shall be paid to the injured worker or beneficiary; and

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits shall equal any such remaining balance minus the department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees in regards to the remaining balance. This proportionate share shall be determined by dividing the gross recovery amount into the remaining balance amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(5) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(6) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by ~~((registered or certified mail))~~ a method for which receipt can be confirmed or tracked, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or

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beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(7) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy; by ~~((certified mail, return receipt requested))~~ a method for which receipt can be confirmed or tracked; or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

**Sec. 4.** RCW 51.32.240 and 2008 c 280 s 2 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits

because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefor has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the

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department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of

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the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

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**Sec. 5.** RCW 51.48.120 and 1995 c 160 s 5 are each amended to read as follows:

If any employer should default in any payment due to the state fund the director or the director's designee may issue a notice of assessment certifying the amount due, which notice shall be served upon the employer by mailing such notice to the employer by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked to the employer's last known address or served in the manner prescribed for the service of a summons in a civil action. Such notice shall contain the information that an appeal must be filed with the board of industrial insurance appeals and the director by mail or personally within thirty days of the date of service of the notice of assessment in order to appeal the assessment unless a written request for reconsideration is filed with the department of labor and industries.

**Sec. 6.** RCW 51.48.150 and 1995 c 160 s 6 are each amended to read as follows:

The director or the director's designee is hereby authorized to issue to any person, firm, corporation, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or any agency of the state, property which is or shall become due, owing, or belonging to any employer upon whom a notice of assessment has been served by the department for payments due to the state fund. The effect of a notice and order to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability out of which such notice and order to withhold and deliver arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order to withhold and deliver when the liability out of which the notice and order to withhold and deliver arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order to withhold and deliver was made that such notice and order to withhold and deliver has been released.

The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, by ~~((certified mail, return receipt requested))~~ a method for which receipt can be confirmed or tracked, or by any duly authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation or any agency of the state upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's duly authorized representative upon service of the notice to withhold and deliver which will be held in trust by the director for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review, or in the alternative such party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. Should any party served and named in the notice to withhold and deliver fail to make answer to such notice and order to withhold and deliver, within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the director in the notice to withhold and deliver together

with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, then the employer shall be entitled to assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

**Sec. 7.** RCW 51.52.050 and 2008 c 280 s 1 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, ~~((which shall be addressed to such person at his or her last known address as shown by the records of the department))~~ or if the worker, beneficiary, employer, or other person affected thereby chooses, the department may send correspondence and other legal notices by secure electronic means except for orders communicating the closure of a claim. Persons who choose to receive correspondence and other legal notices electronically shall be provided information to assist them in ensuring all electronic documents and communications are received. Correspondence and notices must be addressed to such a person at his or her last known postal or electronic address as shown by the records of the department. Correspondence and notices sent electronically are considered received on the date sent by the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia. However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal.

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order

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granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1725.

The motion by Senator Conway carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "and amending RCW 51.04.030, 51.04.082, 51.24.060, 51.32.240, 51.48.120, 51.48.150, and 51.52.050."

#### MOTION

On motion of Senator Conway, the rules were suspended, Engrossed Substitute House Bill No. 1725 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1725 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1725 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1304, by House Committee on Health Care & Wellness (originally sponsored by Representatives Jenkins, Harris, Green, Cody, Van De Wege, Kelley, Schmicke, Bailey, Clibborn, Moeller, Hinkle and Reykdal)

Concerning the administration of drugs by health care assistants.

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1304 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senators Fraser and Haugen were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1304.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1304 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Fraser and Haugen

SUBSTITUTE HOUSE BILL NO. 1304, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1519.

#### SECOND READING

#### ROLL CALL

HOUSE BILL NO. 1939, by Representative Appleton

Defining federally recognized tribes as agencies for purposes of agency-affiliated counselors.

The measure was read the second time.

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1519 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1939 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

SECOND SUBSTITUTE HOUSE BILL NO. 1519, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of House Bill No. 1939.

#### SECOND READING

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1939 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Hewitt, Holmquist Newbry, Honeyford and Stevens

Excused: Senators Fraser and Haugen

HOUSE BILL NO. 1939, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826, by House Committee on Ways & Means (originally sponsored by Representatives Orcutt, Sells, McCune, Rolfes, Angel and Hurst)

Providing taxpayers additional appeal protections for value changes.

The measure was read the second time.

#### MOTION

On motion of Senator White, the rules were suspended, Engrossed Substitute House Bill No. 1826 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1826.

#### SECOND READING

#### ROLL CALL

SECOND SUBSTITUTE HOUSE BILL NO. 1519, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hope, Dunshee, Anderson, Haler, Pettigrew, Fagan, Sells, Johnson, Orwall, Haigh, Kenney, Kelley and Ormsby)

Regarding school assessments for students with cognitive disabilities.

The measure was read the second time.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1826 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Baumgartner

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1519 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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SENATE BILL NO. 5806, by Senators Conway, Swecker, Kastama, Hobbs, Roach, Kilmer, Shin and Kline

Authorizing a statewide raffle to benefit veterans and their families.

The measure was read the second time.

#### MOTION

On motion of Senator Conway, the rules were suspended, Senate Bill No. 5806 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Conway spoke in favor of passage of the bill.

#### POINT OF ORDER

Senator Hargrove: "Yes, I would like to ask the President to rule on whether this bill expands gambling and therefore requires a sixty percent vote by the senate."

#### MOTION

On motion of Senator White, Senator Kline was excused.

#### MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5806 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

HOUSE BILL NO. 1465, by Representatives Hunt, Taylor, McCoy, Appleton, Condotta, Miloscia and Dunshee

Modifying conditions and restrictions for liquor licenses.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.24.010 and 2009 c 271 s 6 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, or the renewal of a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the board and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and

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convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (8)(d) and (12) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority shall be adopted by rule. No retail license of any kind may be issued to:

(a) A person doing business as a sole proprietor who has not resided in the state for at least one month prior to receiving a license, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(c) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(d) A corporation or a limited liability company, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3)(a) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be.

(b) The board shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any such inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of

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the period of suspension. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5)(a) At the time of the original issuance of a spirits, beer, and wine restaurant license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by rules adopted by the board. All conditions and restrictions imposed by the board in the issuance of an individual license (~~shall~~) may be listed on the face of the individual license along with the trade name, address, and expiration date. Conditions and restrictions imposed by the board may also be included in official correspondence separate from the license.

(7) Every licensee shall post and keep posted its license, or licenses, and any additional correspondence containing conditions and restrictions imposed by the board in a conspicuous place on the premises.

(8)(a) Unless (b) of this subsection applies, before the board issues a new or renewal license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) If the application for a special occasion license is for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on property owned by the county but located within an incorporated city or town, the county legislative authority shall be the entity notified by the board under (a) of this subsection. The board shall send a duplicate notice to the incorporated city or town within which the fair is located.

(c) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after the date of transmittal of such notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewal license is asked. The board may extend the time period for submitting written objections.

(d) The written objections shall include a statement of all facts upon which such objections are based, and in case written objections are filed, the city or town or county legislative authority may request and the liquor control board may in its discretion hold a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If such a hearing is held at the request of the applicant, liquor control board representatives

shall present and defend the board's initial decision to deny a license or renewal.

(e) Upon the granting of a license under this title the board shall send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns. When the license is for a special occasion license for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on county-owned property but located within an incorporated city or town, the written notification shall be sent to both the incorporated city or town and the county legislative authority.

(9)(a) Before the board issues any license to any applicant, it shall give (i) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and (ii) written notice, with receipt verification, of the application to public institutions identified by the board as appropriate to receive such notice, churches, and schools within five hundred feet of the premises to be licensed. The board shall not issue a liquor license for either on-premises or off-premises consumption covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the main entrance of the school to the nearest public entrance of the premises proposed for license, and if, after receipt by the school of the notice as provided in this subsection, the board receives written objection, within twenty days after receiving such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. The board may extend the time period for submitting objections. For the purpose of this section, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. For the purpose of this section, "public institution" means institutions of higher education, parks, community centers, libraries, and transit centers.

(b) No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies.

(c) It is the intent under this subsection (9) that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11)(a) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or distributor license to an applicant to operate the retail or distributor premises during the

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period the application for the license is pending. The board may establish a fee for a temporary license by rule.

(b) A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for additional periods of sixty days upon payment of an additional fee and upon compliance with all conditions required in this section.

(c) Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 applies to temporary licenses.

(d) Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

(12) In determining whether to grant or deny a license or renewal of any license, the board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

**Sec. 2.** RCW 66.24.410 and 2007 c 370 s 18 are each amended to read as follows:

(1) "Spirituous liquor," as used in RCW 66.24.400 to 66.24.450, inclusive, means "liquor" as defined in RCW 66.04.010, except "wine" and "beer" sold as such.

(2) "Restaurant" as used in RCW 66.24.400 to 66.24.450, inclusive, means an establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains: PROVIDED, That such establishments shall be approved by the board and that the board shall be satisfied that such establishment is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. ~~((The service of only fry orders or such food and victuals as sandwiches, hamburgers, or salads shall not be deemed in compliance with this definition))~~ Requirements for complete meals shall be determined by the board in rules adopted pursuant to chapter 34.05 RCW.

(3) "Hotel," "clubs," "wine" and "beer" are used in RCW 66.24.400 to 66.24.450, inclusive, with the meaning given in chapter 66.04 RCW.

**Sec. 3.** RCW 66.04.010 and 2009 c 373 s 1 and 2009 c 271 s 2 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a

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fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor control board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and

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maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(27) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(28) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both ~~(, and has an occupancy load of one hundred or more)~~.

(29) "Package" means any container or receptacle used for holding liquor.

(30) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(31) "Permit" means a permit for the purchase of liquor under this title.

(32) "Person" means an individual, copartnership, association, or corporation.

(33) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(34) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(35) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(36) "Regulations" means regulations made by the board under the powers conferred by this title.

(37) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(38) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(39) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(40) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(41) "Store" means a state liquor store established under this title.

(42) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(43)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in

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an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(44) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

(45) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

(46) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

**Sec. 4.** RCW 66.24.371 and 2009 c 373 s 6 are each amended to read as follows:

(1) There shall be a beer and/or wine retailer's license to be designated as a beer and/or wine specialty shop license to sell beer, strong beer, and/or wine at retail in bottles, cans, and original containers, not to be consumed upon the premises where sold, at any store other than the state liquor stores. Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding four gallons or more of liquid. The annual fee for the beer and/or wine specialty shop license is one hundred dollars for each store. The sale of any container holding four gallons or more must comply with RCW 66.28.200 and 66.28.220.

(2) Licensees under this section may provide, free or for a charge, single-serving samples of two ounces or less to customers for the purpose of sales promotion. Sampling activities of licensees under this section are subject to RCW 66.28.010 and 66.28.040 and the cost of sampling under this section may not be borne, directly or indirectly, by any manufacturer, importer, or distributor of liquor.

(3) Upon approval by the board, the beer and/or wine specialty shop licensee that exceeds fifty percent beer and/or wine sales may also receive an endorsement to permit the sale of beer to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and fill at the tap by the licensee at the time of sale. If the beer and/or wine specialty shop licensee does not exceed fifty percent beer and/or wine sales, the board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty shop maintains alcohol inventory that exceeds fifteen thousand dollars.

(4) The board shall issue a restricted beer and/or wine specialty shop license, authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board shall consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it shall issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

~~((4))~~ (5) Licensees holding a beer and/or wine specialty shop license must maintain a minimum three thousand dollar wholesale inventory of beer, strong beer, and/or wine.

(6) The board may adopt rules to implement this section.

**Sec. 5.** RCW 66.24.244 and 2008 c 248 s 2 and 2008 c 41 s 9 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that (a) the warehouse has been approved by the board under RCW 66.24.010 and (b) the number of warehouses off the premises of the microbrewery does not exceed one. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any microbrewery licensed under this section may also sell beer produced by another microbrewery or a domestic brewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap offering of its own brands.

(4) The board may issue up to two retail licenses allowing a microbrewery to operate an on or off-premise tavern, beer and/or wine restaurant, or spirits, beer, and wine restaurant.

~~((4))~~ (5) A microbrewery that holds a tavern license, spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

~~((5))~~ (6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection ~~((5))~~ (6) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not

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store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection ~~((5))~~ (6) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((5))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection ~~((5))~~ (6):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

~~((6))~~ (7) Any microbrewery licensed under this section may contract-produce beer for another microbrewer. This contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

**Sec. 6.** RCW 66.24.240 and 2008 c 41 s 7 are each amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010~~((6))~~ (7), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A

domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any domestic brewery licensed under this section may also sell beer produced by another domestic brewery or a microbrewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the domestic brewery's on-tap offering of its own brands.

(4) A domestic brewery may hold up to two retail licenses to operate an on or off-premise tavern, beer and/or wine restaurant, or spirits, beer, and wine restaurant. This retail license is separate from the brewery license. A brewery that holds a tavern license, a spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

~~((4))~~ (5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010~~((6))~~ (7), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

~~((5))~~ (6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((5))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

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(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to House Bill No. 1465.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "licenses;" strike the remainder of the title and insert "amending RCW 66.24.010, 66.24.410, 66.24.371, and 66.24.240; and reenacting and amending RCW 66.04.010 and 66.24.244."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1465 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1465 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1465 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain,

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Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove and Haugen

HOUSE BILL NO. 1465 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1172, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kenney, Hasegawa, Maxwell, Finn, Ryu, Reykdal and Upthegrove)

Concerning beer and wine tasting at farmers markets.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1172 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1172.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1172 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Ranker, Regala, Rockefeller, Schoesler, Stevens, Tom, White and Zarelli

Voting nay: Senators Benton, Hargrove, Haugen, Kastama, Morton, Parlette, Prentice, Pridemore, Roach, Sheldon, Shin and Swecker

SUBSTITUTE HOUSE BILL NO. 1172, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1776, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Frockt, Eddy, Dickerson, Carlyle, Maxwell, Fitzgibbon, Roberts, Pedersen, Hudgins, Ryu, Kenney and Stanford)

Regarding licensing requirements for child care centers located in publicly owned buildings. Revised for 2nd Substitute: Regarding licensing requirements for child care centers located in publicly owned or operated buildings.

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The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that some licensed child care centers seeking to operate in public schools incur substantial costs to renovate spaces that are considered safe for children to use for the purpose of education. Consequently, families are forced to seek before or after school child care outside of the school building, resulting in additional transitions for students.

(2) It is the legislature's intent to allow licensed child care centers that serve school-age children to operate in facilities that provide a safe and healthy environment for children to use for the purpose of education. With respect to section 2(2) of this act, the legislature intends that the development of any related child care licensing requirements shall:

- (a) Ensure safe and healthy environments for children;
- (b) Utilize existing rule-making processes and resources;
- (c) Utilize existing requirements as a starting point rather than create an entirely new set of requirements; and
- (d) Give due consideration to the burdens imposed by inconsistent licensing requirements.

Sec. 2. RCW 43.215.200 and 2007 c 415 s 3 are each amended to read as follows:

It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation with the state fire marshal's office and the Washington state building code council, the director shall use an interagency process to address health and safety requirements for child care programs that serve school-age children and are operated in buildings that contain public or private schools that safely serve children during times in which school is in session;

(3) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

~~((3))~~ (4) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;

~~((4))~~ (5) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

~~((5))~~ (6) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

~~((6))~~ (7) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

~~((7))~~ (8) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

~~((8))~~ (9) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children."

MOTION

Senator Holmquist Newbry moved that the following amendment by Senators Baxter and Hargrove to the committee striking amendment be adopted:

On page 2, line 4 of the striking amendment, after "office", strike all material through "council" on line 5.

Senator Holmquist Newbry spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Baxter and Hargrove on page 2, line 4 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1776.

The motion by Senator Holmquist Newbry carried and the amendment to the committee striking amendment was adopted by voice vote.

Senator Hargrove spoke in favor of adoption of the committee striking amendment as amended.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Engrossed Second Substitute House Bill No. 1776.

The motion by Senator Hargrove carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "buildings;" strike the remainder of the title and insert "amending RCW 43.215.200; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 1776 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Baxter spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1776 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs,

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Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1776, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:02 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, April 6, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTY SEVENTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Wednesday, April 6, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Katherine Hill and Mariel Frank, presented the Colors. Reverend Kojo Kakihara of the Tacoma Buddhist Temple offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 5, 2011

MR. PRESIDENT:

The House has passed:

- SENATE BILL NO. 5011,
- SENATE BILL NO. 5033,
- SUBSTITUTE SENATE BILL NO. 5168,
- SENATE BILL NO. 5172,
- SUBSTITUTE SENATE BILL NO. 5386,
- SENATE BILL NO. 5463,
- SENATE BILL NO. 5633.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 5, 2011

MR. PRESIDENT:

The House has passed:

- ENGROSSED SUBSTITUTE SENATE BILL NO. 5020,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5068,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5105,
- SENATE BILL NO. 5117,
- SUBSTITUTE SENATE BILL NO. 5546,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5585,
- SENATE BILL NO. 5589,
- SUBSTITUTE SENATE BILL NO. 5635,
- SUBSTITUTE SENATE BILL NO. 5664,
- SUBSTITUTE SENATE BILL NO. 5797,
- SUBSTITUTE SENATE BILL NO. 5800.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 5, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1312.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 5, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1632,

HOUSE BILL 2019.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 5, 2011

MR. PRESIDENT:

The House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1495 and passed the bill as amended by the Senate.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 5918 by Senators Delvin and King

AN ACT Relating to equity and fairness through the creation and regulation of electronic scratch ticket machines for nontribal gambling establishments; amending RCW 67.70.040, 67.70.330, and 9.46.291; adding a new chapter to Title 67 RCW; and providing an effective date.

Referred to Committee on Labor, Commerce & Consumer Protection.

SB 5919 by Senators Murray and Zarelli

AN ACT Relating to education funding; amending RCW 28A.150.198, 28A.150.200, 28A.150.220, 28A.150.260, 28A.150.315, 28A.160.150, 28A.160.192, 28A.400.201, 28A.400.205, 28B.50.465, and 28A.405.415; reenacting and amending RCW 28A.290.010 and 28A.505.220; creating a new section; repealing 2010 c 236 s 1 (uncodified); providing effective dates; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5920 by Senators Murray and Zarelli

EIGHTY SEVENTH DAY, APRIL 6, 2011

AN ACT Relating to annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1; amending RCW 41.32.483, 41.32.489, 41.40.183, 41.40.197, and 41.45.150; creating a new section; declaring an emergency; and providing an effective date.

Referred to Committee on Ways & Means.

## MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Roach moved adoption of the following resolution:

SENATE RESOLUTION  
8644

By Senators Roach, Benton, Nelson, Chase, and Prentice

WHEREAS, Autism is a developmental disability that typically appears during the first two years of life and continues through the individual's lifespan; and

WHEREAS, Autism is the fastest growing developmental disability, affecting 1 million to 1.5 million Americans, 1 in 110 babies born; and

WHEREAS, 1 in 70 boys are affected, as opposed to 1 in 375 girls; and

WHEREAS, Many children are not diagnosed until after 3 years of age, often because of lack of recognition of autism characteristics by general practitioners; and

WHEREAS, There are many different characteristics in individuals with autism - delayed or deficient communication, decreased or unresponsive social interaction, unusual reaction to normal stimuli, a lack of spontaneous or imaginative play, and behavioral challenges; and

WHEREAS, There is no known cause and no known cure, however with aggressive and continuous therapy, some individuals can learn to acclimate to their environment and mask symptoms of their disability; and

WHEREAS, All individuals with autism should be included and regarded as valuable members of our community; and

WHEREAS, Autism can create significant stress on the families of those affected by autism; and

WHEREAS, Families, caregivers, advocates, and organizations, such as the Autism Society of Washington, Northwest Autism Center, Families for Effective Autism Treatment, Autism Awareness of Washington, and the Arc of Washington State, are striving to bring about positive changes for children and adults with autism; and

WHEREAS, Through research, training, public services, support groups, advocacy, and increased awareness, we will be more understanding, inclusive, and better equipped to support the growing number of individuals with autism and their families;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and support individuals with autism

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and acknowledge the tremendous courage that they and their families put forth every day; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Christine Gregoire.

Senators Roach, Prentice, Pflug, Rockefeller, McAuliffe, Becker and Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8644.

The motion by Senator Roach carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Autism Society of Washington who were seated in the gallery.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1663, by House Committee on Higher Education (originally sponsored by Representatives Parker, Ormsby, Probst, Billig, Schmick, Fagan, Angel and Ahern)

Removing the requirement that institutions of higher education purchase from correctional industries.

The measure was read the second time.

## MOTION

Senator Tom moved that the following committee striking amendment by the Committee on Higher Education & Workforce Development be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.10.029 and 2010 c 61 s 1 are each amended to read as follows:

(1)(a) An institution of higher education may exercise independently those powers otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration.

(c) Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, ((43.19.534,)) 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637.

(d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

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(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.41.310, 43.41.290, and 43.41.350.

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685, (~~43.19.534~~) and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4)(a) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(b) Institutions of higher education shall endeavor to assure the department of corrections has notifications of bid opportunities with the goal of meeting or exceeding the purchasing target in (a) of this subsection.

(5) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect immediately."

Senator Tom spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education & Workforce Development to Substitute House Bill No. 1663.

The motion by Senator Tom carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.10.029; and declaring an emergency."

#### MOTION

On motion of Senator Tom, the rules were suspended, Substitute House Bill No. 1663 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1663 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1663 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Carrell, Hargrove, McAuliffe, Prentice and Regala

SUBSTITUTE HOUSE BILL NO. 1663 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1477, by Representatives Schmick, Sells, Springer, Haler, Roberts and Kenney

Authorizing the board of trustees at Eastern Washington University to offer educational specialist degrees.

The measure was read the second time.

#### MOTION

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On motion of Senator Tom, the rules were suspended, House Bill No. 1477 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1477.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1477 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1477, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886, by House Committee on Local Government (originally sponsored by Representatives Takko, Angel, Bailey and Tharinger)

Implementing recommendations of the Ruckelshaus Center process.

The measure was read the second time.

#### MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The purpose of this act is to establish the voluntary stewardship program as recommended in the report submitted by the William D. Ruckelshaus Center to the legislature as required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

(2) It is the intent of this act to:

(a) Promote plans to protect and enhance critical areas within the area where agricultural activities are conducted, while maintaining and improving the long-term viability of agriculture in the state of Washington and reducing the conversion of farmland to other uses;

(b) Focus and maximize voluntary incentive programs to encourage good riparian and ecosystem stewardship as an alternative to historic approaches used to protect critical areas;

(c) Rely upon RCW 36.70A.060 for the protection of critical areas for those counties that do not choose to participate in this program;

(d) Leverage existing resources by relying upon existing work and plans in counties and local watersheds, as well as existing state and federal programs to the maximum extent practicable to achieve program goals;

(e) Encourage and foster a spirit of cooperation and partnership among county, tribal, environmental, and agricultural interests to better assure the program success;

(f) Improve compliance with other laws designed to protect water quality and fish habitat; and

(g) Rely upon voluntary stewardship practices as the primary method of protecting critical areas and not require the cessation of agricultural activities.

**NEW SECTION. Sec. 2.** The definitions in this section apply to sections 1 through 15 of this act and RCW 36.70A.130 and 36.70A.280 unless the context clearly requires otherwise.

(1) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.

(2) "Commission" means the state conservation commission as defined in RCW 89.08.030.

(3) "Director" means the executive director of the state conservation commission.

(4) "Enhance" or "enhancement" means to improve the processes, structure, and functions existing, as of the effective date of this section, of ecosystems and habitats associated with critical areas.

(5) "Participating watershed" means a watershed identified by a county under section 4(1) of this act to participate in the program.

(6) "Priority watershed" means a geographic area nominated by the county and designated by the commission.

(7) "Program" means the voluntary stewardship program established in section 3 of this act.

(8) "Protect" or "protecting" means to prevent the degradation of functions and values existing as of the effective date of this section.

(9) "Receipt of funding" means the date a county takes legislative action accepting any funds as required in section 5(1) of this act to implement the program.

(10) "Statewide advisory committee" means the statewide advisory committee created in section 11 of this act.

(11) "Technical panel" means the directors or director designees of the following agencies: The department of fish and wildlife; the department of agriculture; the department of ecology; and the commission.

(12) "Watershed" means a water resource inventory area, salmon recovery planning area, or a subbasin as determined by a county.

(13) "Watershed group" means an entity designated by a county under the provisions of section 5 of this act.

(14) "Work plan" means a watershed work plan developed under the provisions of section 6 of this act.

**NEW SECTION. Sec. 3.** (1) The voluntary stewardship program is established to be administered by the commission. The program shall be designed to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

(2) In administering the program, the commission must:

(a) Establish policies and procedures for implementing the program;

(b) Administer funding for counties to implement the program including, but not limited to, funding to develop strategies and incentive programs and to establish local guidelines for watershed stewardship programs;

(c) Administer the program's technical assistance funds and coordinate among state agencies and other entities for the implementation of the program;

(d) Establish a technical panel;

(e) In conjunction with the technical panel, review and evaluate:

(i) Work plans submitted for approval under section 6(2)(a) of this act; and (ii) reports submitted under section 6(2)(b) of this act;

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(f) Review and evaluate the program's success and effectiveness and make appropriate changes to policies and procedures for implementing the program, in consultation with the statewide advisory committee and other affected agencies;

(g) Designate priority watersheds based upon the recommendation of the statewide advisory committee. The commission and the statewide advisory committee may only consider watersheds nominated by counties under section 4 of this act. When designating priority watersheds, the commission and the statewide advisory committee shall consider the statewide significance of the criteria listed in section 4(3) of this act;

(h) Provide administrative support for the program's statewide advisory committee in its work. The administrative support must be in collaboration with the department of ecology and other agencies involved in the program;

(i) Maintain a web site about the program that includes times, locations, and agenda information for meetings of the statewide advisory committee;

(j) Report to the legislature on the general status of program implementation by December 1, 2013, and December 1, 2015;

(k) In conjunction with the statewide advisory committee, conduct a review of the program beginning in 2017 and every five years thereafter, and report its findings to the legislature by December 1st; and

(l) Report to the appropriate committees of the legislature in the format provided in RCW 43.01.036.

(3) The department shall assist counties participating in the program to develop plans and development regulations under section 9(1) of this act.

(4) The commission, department, department of agriculture, department of fish and wildlife, department of ecology, and other state agencies as directed by the governor shall:

(a) Cooperate and collaborate to implement the program; and

(b) Develop materials to assist local watershed groups in development of work plans.

(5) State agencies conducting new monitoring to implement the program in a watershed must focus on the goals and benchmarks of the work plan.

**NEW SECTION. Sec. 4.** (1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, within six months after the effective date of this section, the legislative authority of a county must adopt an ordinance or resolution that:

(i) Elects to have the county participate in the program;

(ii) Identifies the watersheds that will participate in the program; and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(5) Except as otherwise provided in subsection (9) of this section, beginning with the effective date of the ordinance or resolution adopted under subsection (1) of this section, the program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.

(6)(a) Except as otherwise provided in (b) of this subsection, within two years after the effective date of this section, a county must review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities:

(i) If the county has not elected to participate in the program, for all unincorporated areas; or

(ii) If the county has elected to participate in the program, for any watershed not participating in the program.

(b) A county that between July 1, 2003, and June 30, 2007, in accordance with RCW 36.70A.130 completed the review of its development regulations as required by RCW 36.70A.130 to protect critical areas as they specifically apply to agricultural activities is not required to review and revise its development regulations until required by RCW 36.70A.130.

(c) After the review and amendment required under (a) of this subsection, RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(7)(a) A county that has made the election under subsection (1) of this section may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years, or eight years after receipt of funding, or any time after ten years from receipt of funding.

(b) Within eighteen months after withdrawing a participating watershed from the program, the county must review and, if necessary, revise its development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on the effective date of this section. RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter

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to protect critical areas as they specifically apply to agricultural activities.

(8) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(9) A county that has made the election under subsection (1) of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county.

**NEW SECTION. Sec. 5.** (1) When the commission makes funds available to a county that has made the election provided in section 4(1) of this act, the county must within sixty days:

(a) Acknowledge the receipt of funds; and

(b) Designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.

(2) A county must confer with tribes and interested stakeholders before designating or establishing a watershed group.

(3) The watershed group must include broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups and tribes that agree to participate. The county should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.

(4) The county may designate itself, a tribe, or another entity to coordinate the local watershed group.

**NEW SECTION. Sec. 6.** (1) A watershed group designated by a county under section 5 of this act must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing and implementing the work plan, the watershed group must:

(a) Review and incorporate applicable water quality, watershed management, farmland protection, and species recovery data and plans;

(b) Seek input from tribes, agencies, and stakeholders;

(c) Develop goals for participation by agricultural operators conducting commercial and noncommercial agricultural activities in the watershed necessary to meet the protection and enhancement benchmarks of the work plan;

(d) Ensure outreach and technical assistance is provided to agricultural operators in the watershed;

(e) Create measurable benchmarks that, within ten years after the receipt of funding, are designed to result in (i) the protection of critical area functions and values and (ii) the enhancement of critical area functions and values through voluntary, incentive-based measures;

(f) Designate the entity or entities that will provide technical assistance;

(g) Work with the entity providing technical assistance to ensure that individual stewardship plans contribute to the goals and benchmarks of the work plan;

(h) Incorporate into the work plan any existing development regulations relied upon to achieve the goals and benchmarks for protection;

(i) Establish baseline monitoring for: (i) Participation activities and implementation of the voluntary stewardship plans and projects; (ii) stewardship activities; and (iii) the effects on critical areas and agriculture relevant to the protection and enhancement benchmarks developed for the watershed;

(j) Conduct periodic evaluations, institute adaptive management, and provide a written report of the status of plans and accomplishments to the county and to the commission within sixty days after the end of each biennium;

(k) Assist state agencies in their monitoring programs; and

(l) Satisfy any other reporting requirements of the program.

(2)(a) The watershed group shall develop and submit the work plan to the director for approval as provided in section 7 of this act.

(b)(i) Not later than five years after the receipt of funding for a participating watershed, the watershed group must report to the director and the county on whether it has met the work plan's protection and enhancement goals and benchmarks.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under section 8 of this act, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan under section 8 of this act, the watershed is subject to section 9 of this act.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(c)(i) Not later than ten years after receipt of funding for a participating watershed, and every five years thereafter, the watershed group must report to the director and the county on whether it has met the protection and enhancement goals and benchmarks of the work plan.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under section 8 of this act, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, the watershed is subject to section 9 of this act.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(3) Following approval of a work plan, a county or watershed group may request a state or federal agency to focus existing enforcement authority in that participating watershed, if the action will facilitate progress toward achieving work plan protection goals and benchmarks.

(4) The commission may provide priority funding to any watershed designated under the provisions of section 3(2)(g) of this act. The director, in consultation with the statewide advisory committee, shall work with the watershed group to develop an accelerated implementation schedule for watersheds that receive priority funding.

(5) Commercial and noncommercial agricultural operators participating in the program are eligible to receive funding and assistance under watershed programs.

**NEW SECTION. Sec. 7.** (1) Upon receipt of a work plan submitted to the director under section 6(2)(a) of this act, the director must submit the work plan to the technical panel for review.

(2) The technical panel shall review the work plan and report to the director within forty-five days after the director receives the work plan. The technical panel shall assess whether at the end of ten years after receipt of funding, the work plan, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

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(3)(a) If the technical panel determines the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

- (i) It must recommend approval of the work plan; and
- (ii) The director must approve the work plan.

(b) If the technical panel determines the proposed work plan will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

- (i) It must identify the reasons for its determination; and
- (ii) The director must advise the watershed group of the reasons for disapproval.

(4) The watershed group may modify and resubmit its work plan for review and approval consistent with this section.

(5) If the director does not approve a work plan submitted under this section within two years and nine months after receipt of funding, the director shall submit the work plan to the statewide advisory committee for resolution. If the statewide advisory committee recommends approval, the director must approve the work plan.

(6) If the director does not approve a work plan for a watershed within three years after receipt of funding, the provisions of section 9(2) of this act apply to the watershed.

**NEW SECTION. Sec. 8.** (1) Upon receipt of a report by a watershed group under section 6(2)(b) of this act that the work plan goals and benchmarks have been met, the director must consult with the statewide advisory committee. If the director concurs with the watershed group report, the watershed group shall continue to implement the work plan. If the director does not concur with the watershed group report, the director shall consult with the statewide advisory committee following the procedures in subsection (2) of this section.

(2) If either the director, following receipt of a report under subsection (1) of this section, or the watershed group, in the report submitted to the director under section 6(2)(b) of this act, concludes that the work plan goals and benchmarks for protection have not been met, the director must consult with the statewide advisory committee for a recommendation on how to proceed. If the director, acting upon recommendation from the statewide advisory committee, determines that the watershed is likely to meet the goals and benchmarks with an additional six months of planning and implementation time, the director must grant an extension. If the director, acting upon a recommendation from the statewide advisory committee, determines that the watershed is unlikely to meet the goals and benchmarks within six months, the watershed is subject to section 9 of this act.

(3) A watershed that fails to meet its goals and benchmarks for protection within the six-month time extension under subsection (2) of this section is subject to section 9 of this act.

**NEW SECTION. Sec. 9.** (1) Within eighteen months after one of the events in subsection (2) of this section, a county must:

(a) Develop, adopt, and implement a watershed work plan approved by the department that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed. The department shall consult with the departments of agriculture, ecology, and fish and wildlife and the commission, and other relevant state agencies before approving or disapproving the proposed work plan. The appeal of the department's decision under this subsection is subject to appeal under RCW 36.70A.280;

(b) Adopt development regulations previously adopted under this chapter by another local government for the purpose of protecting critical areas in areas used for agricultural activities. Regulations adopted under this subsection (1)(b) must be from a region with similar agricultural activities, geography, and geology and must: (i) Be from Clallam, Clark, King, or Whatcom counties;

or (ii) have been upheld by a growth management hearings board or court after July 1, 2011, where the board or court determined that the provisions adequately protected critical areas functions and values in areas used for agricultural activities;

(c) Adopt development regulations certified by the department as protective of critical areas in areas used for agricultural activities as required by this chapter. The county may submit existing or amended regulations for certification. The department must make its decision on whether to certify the development regulations within ninety days after the county submits its request. If the department denies the certification, the county shall take an action under (a), (b), or (d) of this subsection. The department must consult with the departments of agriculture, ecology, and fish and wildlife and the commission before making a certification under this section. The appeal of the department's decision under this subsection (1)(c) is subject to appeal under RCW 36.70A.280; or

(d) Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.

(2) A participating watershed is subject to this section if:

(a) The work plan is not approved by the director as provided in section 7 of this act;

(b) The work plan's goals and benchmarks for protection have not been met as provided in section 6 of this act;

(c) The commission has determined under section 10 of this act that the county, department, commission, or departments of agriculture, ecology, or fish and wildlife have not received adequate funding to implement a program in the watershed; or

(d) The commission has determined under section 10 of this act that the watershed has not received adequate funding to implement the program.

(3) The department shall adopt rules to implement subsection (1)(a) and (c) of this section.

**NEW SECTION. Sec. 10.** (1) By July 31, 2015, the commission must:

(a) In consultation with each county that has elected under section 4 of this act to participate in the program, determine which participating watersheds received adequate funding to establish and implement the program in a participating watershed by July 1, 2015; and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of sections 1 through 15 of this act have received adequate funding to support the program by July 1, 2015.

(2) By July 31, 2017, and every two years thereafter, in consultation with each county that has elected under section 4 of this act to participate in the program and other state agencies, the commission shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the commission determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of section 9 of this act.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the commission shall report to the legislature and each county that has elected under section 4 of this act to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program.

**NEW SECTION. Sec. 11.** (1)(a) From the nominations made under (b) of this subsection, the commission shall appoint a

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statewide advisory committee, consisting of: Two persons representing county government, two persons representing agricultural organizations, and two persons representing environmental organizations. The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.

(b) Organizations representing county, agricultural, and environmental organizations shall submit nominations of their representatives to the commission within ninety days of the effective date of this section. Members of the statewide advisory committee shall serve two-year terms except that for the first year, one representative from each of the sectors shall be appointed to the statewide advisory committee for a term of one year. Members may be reappointed by the commission for additional two-year terms and replacement members shall be appointed in accordance with the process for selection of the initial members of the statewide advisory committee.

(c) Upon notification of the commission by an appointed member, the appointed member may designate a person to serve as an alternate.

(d) The executive director of the commission shall serve as a nonvoting chair of the statewide advisory committee.

(e) Members of the statewide advisory committee shall serve without compensation and, unless serving as a state officer or employee, are not eligible for reimbursement for subsistence, lodging, and travel expenses under RCW 43.03.050 and 43.03.060.

(2) The role of the statewide advisory committee is to advise the commission and other agencies involved in development and operation of the program.

**NEW SECTION. Sec. 12.** (1) Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas.

(2) If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices.

**NEW SECTION. Sec. 13.** In developing stewardship practices to implement the work plan, to the maximum extent practical the watershed group should:

(1) Avoid management practices that may have unintended adverse consequences for other habitats, species, and critical areas functions and values; and

(2) Administer the program in a manner that allows participants to be eligible for public or private environmental protection and enhancement incentives while protecting and enhancing critical area functions and values.

**NEW SECTION. Sec. 14.** An agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract. The watershed group must account for any loss of protection resulting from withdrawals when establishing goals and benchmarks for protection and a work plan under section 6 of this act.

**NEW SECTION. Sec. 15.** Nothing in sections 1 through 14 of this act may be construed to:

(1) Interfere with or supplant the ability of any agricultural operator to work cooperatively with a conservation district or participate in state or federal conservation programs;

(2) Require an agricultural operator to discontinue agricultural activities legally existing before the effective date of this section;

(3) Prohibit the voluntary sale or leasing of land for conservation purposes, either in fee or as an easement;

(4) Grant counties or state agencies additional authority to regulate critical areas on lands used for agricultural activities; and

(5) Limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law.

**Sec. 16.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

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(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2014, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2015, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2016, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2017, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under section 4(1) of this act may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a

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participating watershed if:

(i) A work plan has been approved for that watershed in accordance with section 7 of this act;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under section 6 of this act;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under section 4(1) of this act must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under section 6(2)(c)(ii) of this act that the watershed's goals and benchmarks for protection have been met.

**Sec. 17.** RCW 36.70A.280 and 2010 c 211 s 7 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801; ~~((e))~~

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

(c) That the approval of a work plan adopted under section 9(1)(a) of this act is not in compliance with the requirements of the program established under section 4 of this act;

(d) That regulations adopted under section 9(1)(b) of this act are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or

(e) That a department certification under section 9(1)(c) of this act is erroneous.

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**NEW SECTION. Sec. 18.** Sections 1 through 15 of this act are each added to chapter 36.70A RCW under the subchapter heading "voluntary stewardship program."

**NEW SECTION. Sec. 19.** A new section is added to chapter 43.21C RCW to read as follows:

(1) Decisions made under section 6 of this act pertaining to work plans, as defined in section 2 of this act, are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions made by a county under section 4 of this act on whether to participate in the voluntary stewardship program established by section 3 of this act are not subject to the requirements of RCW 43.21C.030(2)(c).

**NEW SECTION. Sec. 20.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 21.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Senators Hatfield and Pridemore spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1886.

The motion by Senator Hatfield carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "2007;" strike the remainder of the title and insert "amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130; adding new sections to chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; and creating a new section."

#### MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed Substitute House Bill No. 1886 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hatfield, Parlette and Haugen spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1886 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1886 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309, by House Committee on Judiciary (originally sponsored by Representatives Roberts, Appleton, Rodne, Springer, Hasegawa, Ryu, Eddy, Green, Kagi and Kelley)

Concerning reserve accounts and studies for condominium and homeowners' associations.

The measure was read the second time.

#### MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Financial Institutions, Housing & Insurance be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 64.34.020 and 2008 c 115 s 8 are each amended to read as follows:

In the declaration and bylaws, unless specifically provided otherwise or the context requires otherwise, and in this chapter:

(1) "Affiliate" means any person who controls, is controlled by, or is under common control with the referenced person. A person "controls" another person if the person: (a) Is a general partner, officer, director, or employer of the referenced person; (b) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the referenced person; (c) controls in any manner the election of a majority of the directors of the referenced person; or (d) has contributed more than twenty percent of the capital of the referenced person. A person "is controlled by" another person if the other person: (i) Is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than

twenty percent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

(3) "Assessment" means all sums chargeable by the association against a unit including, without limitation: (a) Regular and special assessments for common expenses, charges, and fines imposed by the association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the association in connection with the collection of a delinquent owner's account.

(4) "Association" or "unit owners' association" means the unit owners' association organized under RCW 64.34.300.

(5) "Board of directors" means the body, regardless of name, with primary authority to manage the affairs of the association.

(6) "Common elements" means all portions of a condominium other than the units.

(7) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(8) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to RCW 64.34.224.

(9) "Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter.

(10) "Contribution rate" means, in a reserve study as described in RCW 64.34.380, the amount contributed to the reserve account so that the association will have cash reserves to pay major maintenance, repair, or replacement costs without the need of a special assessment.

(11) "Conversion condominium" means a condominium (a) that at any time before creation of the condominium was lawfully occupied wholly or partially by a tenant or subtenant for residential purposes pursuant to a rental agreement, oral or written, express or implied, for which the tenant or subtenant had not received the notice described in (b) of this subsection; or (b) that, at any time within twelve months before the conveyance of, or acceptance of an agreement to convey, any unit therein other than to a declarant or any affiliate of a declarant, was lawfully occupied wholly or partially by a residential tenant of a declarant or an affiliate of a declarant and such tenant was not notified in writing, prior to lawfully occupying a unit or executing a rental agreement, whichever event first occurs, that the unit was part of a condominium and subject to sale. "Conversion condominium" shall not include a condominium in which, before July 1, 1990, any unit therein had been conveyed or been made subject to an agreement to convey to any transferee other than a declarant or an affiliate of a declarant.

(12) "Conveyance" means any transfer of the ownership of a unit, including a transfer by deed or by real estate contract and, with respect to a unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

(13) "Dealer" means a person who, together with such person's affiliates, owns or has a right to acquire either six or more units in a condominium or fifty percent or more of the units in a condominium containing more than two units.

(14) "Declarant" means:

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(a) Any person who executes as declarant a declaration as defined in subsection (16) of this section; or

(b) Any person who reserves any special declarant right in the declaration; or

(c) Any person who exercises special declarant rights or to whom special declarant rights are transferred; or

(d) Any person who is the owner of a fee interest in the real property which is subjected to the declaration at the time of the recording of an instrument pursuant to RCW 64.34.316 and who directly or through one or more affiliates is materially involved in the construction, marketing, or sale of units in the condominium created by the recording of the instrument.

(15) "Declarant control" means the right of the declarant or persons designated by the declarant to appoint and remove officers and members of the board of directors, or to veto or approve a proposed action of the board or association, pursuant to RCW 64.34.308 ~~((4) or (5))~~ (5) or (6).

(16) "Declaration" means the document, however denominated, that creates a condominium by setting forth the information required by RCW 64.34.216 and any amendments to that document.

(17) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to: (a) Add real property or improvements to a condominium; (b) create units, common elements, or limited common elements within real property included or added to a condominium; (c) subdivide units or convert units into common elements; (d) withdraw real property from a condominium; or (e) reallocate limited common elements with respect to units that have not been conveyed by the declarant.

(18) "Dispose" or "disposition" means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(19) "Effective age" means the difference between the estimated useful life and remaining useful life.

(20) "Eligible mortgagee" means the holder of a mortgage on a unit that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees.

(21) "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

(22) "Fully funded balance" means the current value of the deteriorated portion, not the total replacement value, of all the reserve components. The fully funded balance for each reserve component is calculated by multiplying the current replacement cost of that reserve component by its effective age, then dividing the result by that reserve component's useful life. The sum total of all reserve components' fully funded balances is the association's fully funded balance.

(23) "Identifying number" means the designation of each unit in a condominium.

(24) "Leasehold condominium" means a condominium in which all or a portion of the real property is subject to a lease, the expiration or termination of which will terminate the condominium or reduce its size.

(25) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of RCW 64.34.204 (2) or (4) for the exclusive use of one or more but fewer than all of the units.

(26) "Master association" means an organization described in RCW 64.34.276, whether or not it is also an association described in RCW 64.34.300.

(27) "Mortgage" means a mortgage, deed of trust or real estate contract.

(28) "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entity.

(29) "Purchaser" means any person, other than a declarant or a dealer, who by means of a disposition acquires a legal or equitable interest in a unit other than (a) a leasehold interest, including renewal options, of less than twenty years at the time of creation of the unit, or (b) as security for an obligation.

(30) "Real property" means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Real property" includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water.

(31) "Remaining useful life" means the estimated time, in years, ~~((that a reserve component can be expected to continue to serve))~~ before a reserve component will require major maintenance, repair, or replacement to perform its intended function.

(32) "Replacement cost" means the current cost of replacing, repairing, or restoring a reserve component to its original functional condition.

(33) "Residential purposes" means use for dwelling or recreational purposes, or both.

(34) "Reserve component((s))" means a common element((s)) whose cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

(35) "Reserve study professional" means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with RCW 64.34.380 and 64.34.382.

(36) "Special declarant rights" means rights reserved for the benefit of a declarant to: (a) Complete improvements indicated on survey maps and plans filed with the declaration under RCW 64.34.232; (b) exercise any development right under RCW 64.34.236; (c) maintain sales offices, management offices, signs advertising the condominium, and models under RCW 64.34.256; (d) use easements through the common elements for the purpose of making improvements within the condominium or within real property which may be added to the condominium under RCW 64.34.260; (e) make the condominium part of a larger condominium or a development under RCW 64.34.280; (f) make the condominium subject to a master association under RCW 64.34.276; or (g) appoint or remove any officer of the association or any master association or any member of the board of directors, or to veto or approve a proposed action of the board or association, during any period of declarant control under RCW 64.34.308 ~~((4))~~ (5).

(37) "Timeshare" shall have the meaning specified in the timeshare act, RCW 64.36.010(11).

(38) "Unit" means a physical portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to RCW 64.34.216(1)(d). "Separate ownership" includes leasing a unit in a leasehold condominium under a lease that expires contemporaneously with any lease, the expiration or termination of which will remove the unit from the condominium.

(39) "Unit owner" means a declarant or other person who owns a unit or leases a unit in a leasehold condominium under a lease that expires simultaneously with any lease, the expiration or termination of which will remove the unit from the condominium, but does not include a person who has an interest in a unit solely as security for an obligation. "Unit owner" means the vendee, not the vendor, of a unit under a real estate contract.

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(40) "Useful life" means the estimated time, ~~((#))~~ between years, that ((a reserve component can be expected to serve its intended function)) major maintenance, repair, or replacement is estimated to occur.

(41) "Baseline funding plan" means establishing a reserve funding goal of maintaining a reserve account balance above zero dollars throughout the thirty-year study period described under RCW 64.34.380.

(42) "Full funding plan" means setting a reserve funding goal of achieving one hundred percent fully funded reserves by the end of the thirty-year study period described under RCW 64.34.380, in which the reserve account balance equals the sum of the deteriorated portion of all reserve components.

(43) "Significant assets" means that the current total cost of major maintenance, repair, and replacement of the reserve components is fifty percent or more of the gross budget of the association, excluding reserve account funds.

**Sec. 2.** RCW 64.34.308 and 1992 c 220 s 15 are each amended to read as follows:

(1) Except as provided in the declaration, the bylaws, subsection (2) of this section, or other provisions of this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors are required to exercise: (a) If appointed by the declarant, the care required of fiduciaries of the unit owners; or (b) if elected by the unit owners, ordinary and reasonable care.

(2) The board of directors shall not act on behalf of the association to amend the declaration in any manner that requires the vote or approval of the unit owners pursuant to RCW 64.34.264, to terminate the condominium pursuant to RCW 64.34.268, or to elect members of the board of directors or determine the qualifications, powers, and duties, or terms of office of members of the board of directors pursuant to subsection ~~((6))~~ (7) of this section; but the board of directors may fill vacancies in its membership for the unexpired portion of any term.

(3) Within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of units to which a majority of the votes in the association are allocated or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

(4) As part of the summary of the budget provided to all unit owners, the board of directors shall disclose to the unit owners:

(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each unit per month or year, and the purpose of the assessments;

(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that

sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per unit per month or year;

(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.

~~((5))~~ (6) Subject to subsection ~~((5))~~ (6) of this section, the declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may: (i) Appoint and remove the officers and members of the board of directors; or (ii) veto or approve a proposed action of the board or association. A declarant's failure to veto or approve such proposed action in writing within thirty days after receipt of written notice of the proposed action shall be deemed approval by the declarant.

(b) Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of: (i) Sixty days after conveyance of seventy-five percent of the units which may be created to unit owners other than a declarant; (ii) two years after the last conveyance or transfer of record of a unit except as security for a debt; (iii) two years after any development right to add new units was last exercised; or (iv) the date on which the declarant records an amendment to the declaration pursuant to which the declarant voluntarily surrenders the right to further appoint and remove officers and members of the board of directors. A declarant may voluntarily surrender the right to appoint and remove officers and members of the board of directors before termination of that period pursuant to (i), (ii), and (iii) of this subsection ~~((4))~~ (5)(b), but in that event the declarant may require, for the duration of the period of declarant control, that specified actions of the association or board of directors, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective.

~~((5))~~ (6) Not later than sixty days after conveyance of twenty-five percent of the units which may be created to unit owners other than a declarant, at least one member and not less than twenty-five percent of the members of the board of directors must be elected by unit owners other than the declarant. Not later than sixty days after conveyance of fifty percent of the units which may be created to unit owners other than a declarant, not less than thirty-three and one-third percent of the members of the board of directors must be elected by unit owners other than the declarant.

~~((6))~~ (7) Within thirty days after the termination of any period of declarant control, the unit owners shall elect a board of directors of at least three members, at least a majority of whom must be unit owners. The number of directors need not exceed the number of units then in the condominium. The board of directors shall elect the officers. Such members of the board of directors and officers shall take office upon election.

~~((7))~~ (8) Notwithstanding any provision of the declaration or bylaws to the contrary, the unit owners, by a two-thirds vote of the voting power in the association present and entitled to vote at any meeting of the unit owners at which a quorum is present, may remove any member of the board of directors with or without cause,

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other than a member appointed by the declarant. The declarant may not remove any member of the board of directors elected by the unit owners. Prior to the termination of the period of declarant control, the unit owners, other than the declarant, may remove by a two-thirds vote, any director elected by the unit owners.

**Sec. 3.** RCW 64.34.380 and 2008 c 115 s 1 are each amended to read as follows:

(1) An association is encouraged to establish a reserve account with a financial institution to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within thirty years. ~~((A reserve account shall be established in the name of the association.))~~ If the association establishes a reserve account, the account must be in the name of the association. The board of directors is responsible for administering the reserve account.

(2) Unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study, in accordance with the association's governing documents and RCW 64.34.224(1). The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.

(3) Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) This section and RCW 64.34.382 through ~~((64.34.390))~~ 64.34.392 apply to condominiums governed by chapter 64.32 RCW or this chapter and intended in whole or in part for residential purposes. These sections do not apply to condominiums consisting solely of units that are restricted in the declaration to nonresidential use. An association's governing documents may contain stricter requirements.

**Sec. 4.** RCW 64.34.382 and 2008 c 115 s 2 are each amended to read as follows:

(1) A reserve study as described in RCW 64.34.380 is supplemental to the association's operating and maintenance budget. In preparing a reserve study, the association shall estimate the anticipated major maintenance, repair, and replacement costs, whose infrequent and significant nature make them impractical to be included in an annual budget.

(2) A reserve study ~~((shall))~~ must include:

(a) A reserve component list, including roofing, painting, paving, decks, siding, plumbing, windows, and any other reserve component that would cost more than one percent of the annual budget for major maintenance, repair, or replacement. If one of these reserve components is not included in the reserve study, the study should provide commentary explaining the basis for its exclusion. The study must also include quantities and estimates for the useful life of each reserve component, remaining useful life of each reserve component, and current repair and replacement cost for each component;

(b) The date of the study and a statement that the study meets the requirements of this section;

(c) The following level of reserve study performed:

(i) Level I: Full reserve study funding analysis and plan;

(ii) Level II: Update with visual site inspection; or

(iii) Level III: Update with no visual site inspection;

(d) The association's reserve account balance;

(e) The percentage of the fully funded balance that the reserve account is funded;

(f) Special assessments already implemented or planned;

(g) Interest and inflation assumptions;

(h) Current reserve account contribution rate;

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(i) A recommended reserve account contribution rate, a contribution rate for a full funding plan to achieve one hundred percent fully funded reserves by the end of the thirty-year study period, a baseline funding plan to maintain the reserve balance above zero throughout the thirty-year study period without special assessments, and a contribution rate recommended by a reserve study professional;

(j) A projected reserve account balance for thirty years and a funding plan to pay for projected costs from those reserves without reliance on future unplanned special assessments; and

(k) A statement on whether the reserve study was prepared with the assistance of a reserve study professional.

(3) A reserve study shall include the following disclosure:

"This reserve study should be reviewed carefully.

It may not include all common and limited common element components that will require major maintenance, repair, or replacement in future years, and may not include regular contributions to a reserve account for the cost of such maintenance, repair, or replacement. The failure to include a component in a reserve study, or to provide contributions to a reserve account for a component, may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a reserve component."

**Sec. 5.** RCW 64.34.384 and 2008 c 115 s 3 are each amended to read as follows:

An association may withdraw funds from its reserve account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair, or replacement of the reserve components. The board of directors shall record any such withdrawal in the minute books of the association, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner, and adopt a repayment schedule not to exceed twenty-four months unless it determines that repayment within twenty-four months would impose an unreasonable burden on the unit owners. Payment for major maintenance, repair, or replacement of the reserve components out of cycle with the reserve study projections or not included in the reserve study may be made from the reserve account without meeting the notification or repayment requirements under this section.

**Sec. 6.** RCW 64.34.010 and 2008 c 115 s 7 and 2008 c 114 s 1 are each reenacted and amended to read as follows:

(1) This chapter applies to all condominiums created within this state after July 1, 1990. RCW 64.34.040 (separate titles and taxation), RCW 64.34.050 (applicability of local ordinances, regulations, and building codes), RCW 64.34.060 (condemnation), RCW 64.34.208 (construction and validity of declaration and bylaws), RCW 64.34.268 (1) through (7) and (10) (termination of condominium), RCW 64.34.212 (description of units), RCW 64.34.304(1) (a) through (f) and (k) through ~~((#))~~ (t) (powers of unit owners' association), RCW 64.34.308(1) (board of directors and officers), RCW 64.34.340 (voting—proxies), RCW 64.34.344 (tort and contract liability), RCW 64.34.354 (notification on sale of unit), RCW 64.34.360(3) (common expenses—assessments), RCW 64.34.364 (lien for assessments), RCW 64.34.372 (association records), RCW 64.34.425 (resales of units), RCW 64.34.455 (effect

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of violation on rights of action; attorney's fees), RCW 64.34.380 through ~~(34.34.390)~~ 64.34.392 (reserve studies and accounts), and RCW 64.34.020 (definitions) to the extent necessary in construing any of those sections, apply to all condominiums created in this state before July 1, 1990; but those sections apply only with respect to events and circumstances occurring after July 1, 1990, and do not invalidate or supersede existing, inconsistent provisions of the declaration, bylaws, or survey maps or plans of those condominiums.

(2) The provisions of chapter 64.32 RCW do not apply to condominiums created after July 1, 1990, and do not invalidate any amendment to the declaration, bylaws, and survey maps and plans of any condominium created before July 1, 1990, if the amendment would be permitted by this chapter. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by chapter 64.32 RCW. If the amendment grants to any person any rights, powers, or privileges permitted by this chapter which are not otherwise provided for in the declaration or chapter 64.32 RCW, all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.

(3) This chapter does not apply to condominiums or units located outside this state.

(4) RCW 64.34.400 (applicability—waiver), RCW 64.34.405 (liability for public offering statement requirements), RCW 64.34.410 (public offering statement—general provisions), RCW 64.34.415 (public offering statement—conversion condominiums), RCW 64.34.420 (purchaser's right to cancel), RCW 64.34.430 (escrow of deposits), RCW 64.34.440 (conversion condominiums—notice—tenants(~~(relocation assistance)~~)-relocation assistance), and RCW 64.34.455 (effect of violations on rights of action—attorney's fees) apply with respect to all sales of units pursuant to purchase agreements entered into after July 1, 1990, in condominiums created before July 1, 1990, in which as of July 1, 1990, the declarant or an affiliate of the declarant owns or had the right to create at least ten units constituting at least twenty percent of the units in the condominium.

**Sec. 7.** RCW 64.38.010 and 1995 c 283 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Homeowners' association" or "association" means a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction, as described in the governing documents, and by virtue of membership or ownership of property is obligated to pay real property taxes, insurance premiums, maintenance costs, or for improvement of real property other than that which is owned by the member. "Homeowners' association" does not mean an association created under chapter 64.32 or 64.34 RCW.

(2) "Governing documents" means the articles of incorporation, bylaws, plat, declaration of covenants, conditions, and restrictions, rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in this chapter or to manage, maintain, or otherwise affect the property under its jurisdiction.

(3) "Board of directors" or "board" means the body, regardless of name, with primary authority to manage the affairs of the association.

(4) "Common areas" means property owned, or otherwise maintained, repaired or administered by the association.

(5) "Common expense" means the costs incurred by the association to exercise any of the powers provided for in this chapter.

(6) "Residential real property" means any real property, the use of which is limited by law, covenant or otherwise to primarily residential or recreational purposes.

(7) "Assessment" means all sums chargeable to an owner by an association in accordance with RCW 64.38.020.

(8) "Baseline funding plan" means establishing a reserve funding goal of maintaining a reserve account balance above zero dollars throughout the thirty-year study period described under section 9 of this act.

(9) "Contribution rate" means, in a reserve study as described in RCW 64.34.380, the amount contributed to the reserve account so that the association will have cash reserves to pay major maintenance, repair, or replacement costs without the need of a special assessment.

(10) "Effective age" means the difference between the estimated useful life and remaining useful life.

(11) "Full funding plan" means setting a reserve funding goal of achieving one hundred percent fully funded reserves by the end of the thirty-year study period described under section 9 of this act, in which the reserve account balance equals the sum of the deteriorated portion of all reserve components.

(12) "Fully funded balance" means the current value of the deteriorated portion, not the total replacement value, of all the reserve components. The fully funded balance for each reserve component is calculated by multiplying the current replacement cost of the reserve component by its effective age, then dividing the result by the reserve component's useful life. The sum total of all reserve components' fully funded balances is the association's fully funded balance.

(13) "Lot" means a physical portion of the real property located within an association's jurisdiction designated for separate ownership.

(14) "Owner" means the owner of a lot, but does not include a person who has an interest in a lot solely as security for an obligation. "Owner" also means the vendee, not the vendor, of a lot under a real estate contract.

(15) "Remaining useful life" means the estimated time, in years, before a reserve component will require major maintenance, repair, or replacement to perform its intended function.

(16) "Replacement cost" means the current cost of replacing, repairing, or restoring a reserve component to its original functional condition.

(17) "Reserve component" means a common element whose cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

(18) "Reserve study professional" means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with RCW 64.34.380 and 64.34.382.

(19) "Significant assets" means that the current replacement value of the major reserve components is seventy-five percent or more of the gross budget of the association, excluding the association's reserve account funds.

(20) "Useful life" means the estimated time, between years, that major maintenance, repair, or replacement is estimated to occur.

**Sec. 8.** RCW 64.38.025 and 1995 c 283 s 5 are each amended to read as follows:

(1) Except as provided in the association's governing documents or this chapter, the board of directors shall act in all instances on behalf of the association. In the performance of their duties, the officers and members of the board of directors shall exercise the degree of care and loyalty required of an officer or director of a corporation organized under chapter 24.03 RCW.

(2) The board of directors shall not act on behalf of the association to amend the articles of incorporation, to take any action

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that requires the vote or approval of the owners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of members of the board of directors; but the board of directors may fill vacancies in its membership of the unexpired portion of any term.

(3) Within thirty days after adoption by the board of directors of any proposed regular or special budget of the association, the board shall set a date for a meeting of the owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the owners of a majority of the votes in the association are allocated or any larger percentage specified in the governing documents reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the owners shall be continued until such time as the owners ratify a subsequent budget provided by the board of directors.

(4) As part of the summary of the budget provided to all owners, the board of directors shall disclose to the owners:

(a) The current amount of regular assessments budgeted for contribution to the reserve account, the recommended contribution rate from the reserve study, and the funding plan upon which the recommended contribution rate is based;

(b) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each owner per month or year, and the purpose of the assessments;

(c) Based upon the most recent reserve study and other information, whether currently projected reserve account balances will be sufficient at the end of each year to meet the association's obligation for major maintenance, repair, or replacement of reserve components during the next thirty years;

(d) If reserve account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient reserve account funds will be available each year during the next thirty years, the approximate dates assessments may be due, and the amount of the assessments per owner per month or year;

(e) The estimated amount recommended in the reserve account at the end of the current fiscal year based on the most recent reserve study, the projected reserve account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest reserve study;

(f) The estimated amount recommended in the reserve account based upon the most recent reserve study at the end of each of the next five budget years, the projected reserve account cash balance in each of those years, and the projected percent funded for each of those years; and

(g) If the funding plan approved by the association is implemented, the projected reserve account cash balance in each of the next five budget years and the percent funded for each of those years.

(5) The owners by a majority vote of the voting power in the association present, in person or by proxy, and entitled to vote at any meeting of the owners at which a quorum is present, may remove any member of the board of directors with or without cause.

**NEW SECTION. Sec. 9.** A new section is added to chapter 64.38 RCW to read as follows:

(1) An association is encouraged to establish a reserve account with a financial institution to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within thirty years. If the association establishes a reserve account, the account must be in the name of the association. The board of directors is responsible for administering the reserve account.

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(2) Unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study, in accordance with the association's governing documents and this chapter. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.

(3) Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) The decisions relating to the preparation and updating of a reserve study must be made by the board of directors in the exercise of the reasonable discretion of the board. The decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized.

**NEW SECTION. Sec. 10.** A new section is added to chapter 64.38 RCW to read as follows:

(1) A reserve study as described in section 9 of this act is supplemental to the association's operating and maintenance budget. In preparing a reserve study, the association shall estimate the anticipated major maintenance, repair, and replacement costs, whose infrequent and significant nature make them impractical to be included in an annual budget.

(2) A reserve study must include:

(a) A reserve component list, including any reserve component that would cost more than one percent of the annual budget of the association, not including the reserve account, for major maintenance, repair, or replacement. If one of these reserve components is not included in the reserve study, the study should provide commentary explaining the basis for its exclusion. The study must also include quantities and estimates for the useful life of each reserve component, remaining useful life of each reserve component, and current major maintenance, repair, or replacement cost for each reserve component;

(b) The date of the study, and a statement that the study meets the requirements of this section;

(c) The following level of reserve study performed:

(i) Level I: Full reserve study funding analysis and plan;

(ii) Level II: Update with visual site inspection; or

(iii) Level III: Update with no visual site inspection;

(d) The association's reserve account balance;

(e) The percentage of the fully funded balance that the reserve account is funded;

(f) Special assessments already implemented or planned;

(g) Interest and inflation assumptions;

(h) Current reserve account contribution rates for a full funding plan and baseline funding plan;

(i) A recommended reserve account contribution rate, a contribution rate for a full funding plan to achieve one hundred percent fully funded reserves by the end of the thirty-year study period, a baseline funding plan to maintain the reserve balance above zero throughout the thirty-year study period without special assessments, and a contribution rate recommended by the reserve study professional;

(j) A projected reserve account balance for thirty years and a funding plan to pay for projected costs from that reserve account balance without reliance on future unplanned special assessments; and

(k) A statement on whether the reserve study was prepared with the assistance of a reserve study professional.

(3) A reserve study must also include the following disclosure: "This reserve study should be reviewed carefully. It may not include all common and limited common element components that will require major maintenance, repair, or replacement in future

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years, and may not include regular contributions to a reserve account for the cost of such maintenance, repair, or replacement. The failure to include a component in a reserve study, or to provide contributions to a reserve account for a component, may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a reserve component."

**NEW SECTION. Sec. 11.** A new section is added to chapter 64.38 RCW to read as follows:

An association may withdraw funds from its reserve account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair, or replacement of the reserve components. The board of directors shall record any such withdrawal in the minute books of the association, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class United States mail to the mailing address of each owner or to any other mailing address designated in writing by the owner, and adopt a repayment schedule not to exceed twenty-four months unless it determines that repayment within twenty-four months would impose an unreasonable burden on the owners. Payment for major maintenance, repair, or replacement of the reserve components out of cycle with the reserve study projections or not included in the reserve study may be made from the reserve account without meeting the notification or repayment requirements under this section.

**NEW SECTION. Sec. 12.** A new section is added to chapter 64.38 RCW to read as follows:

(1) When more than three years have passed since the date of the last reserve study prepared by a reserve study professional, the owners to which at least thirty-five percent of the votes are allocated may demand, in writing, to the association that the cost of a reserve study be included in the next budget and that the study be prepared by the end of that budget year. The written demand must refer to this section. The board of directors shall, upon receipt of the written demand, provide the owners who make the demand reasonable assurance that the board will include a reserve study in the next budget and, if the budget is not rejected by a majority of the owners, will arrange for the completion of a reserve study.

(2) If a written demand under this section is made and a reserve study is not timely prepared, a court may order specific performance and award reasonable attorneys' fees to the prevailing party in any legal action brought to enforce this section. An association may assert unreasonable hardship as an affirmative defense in any action brought against it under this section. Without limiting this affirmative defense, an unreasonable hardship exists where the cost of preparing a reserve study would exceed five percent of the association's annual budget.

(3) An owner's duty to pay for common expenses is not excused because of the association's failure to comply with this section or this chapter. A budget ratified by the owners is not invalidated because of the association's failure to comply with this section or this chapter.

**NEW SECTION. Sec. 13.** A new section is added to chapter 64.38 RCW to read as follows:

Monetary damages or any other liability may not be awarded against or imposed upon the association, the officers or board of directors of the association, or those persons who may have provided advice or assistance to the association or its officers or directors, for failure to: Establish a reserve account; have a current reserve study prepared or updated in accordance with the requirements of this chapter; or make the reserve disclosures in accordance with this chapter.

**NEW SECTION. Sec. 14.** A new section is added to chapter 64.38 RCW to read as follows:

An association is not required to follow the reserve study requirements under RCW 64.38.025 and sections 9 through 13 of this act if the cost of the reserve study exceeds five percent of the association's annual budget, the association does not have significant assets, or there are ten or fewer homes in the association.

**NEW SECTION. Sec. 15.** This act takes effect January 1, 2012."

Senator Hobbs spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Financial Institutions, Housing & Insurance to Engrossed Substitute House Bill No. 1309.

The motion by Senator Hobbs carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "associations;" strike the remainder of the title and insert "amending RCW 64.34.020, 64.34.308, 64.34.380, 64.34.382, 64.34.384, 64.38.010, and 64.38.025; reenacting and amending RCW 64.34.010; adding new sections to chapter 64.38 RCW; and providing an effective date."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute House Bill No. 1309 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1309 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1309 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1899, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Miloscia, Overstreet, Hurst, Taylor, Hunt, Armstrong, McCoy and Condotta)

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Changing penalty amounts for public records violations.

The measure was read the second time.

## MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.56.550 and 2005 c 483 s 5 and 2005 c 274 s 288 are each reenacted and amended to read as follows:

(1) Upon the motion of any person having been denied an opportunity to inspect or copy a public record by an agency, the superior court in the county in which a record is maintained may require the responsible agency to show cause why it has refused to allow inspection or copying of a specific public record or class of records. The burden of proof shall be on the agency to establish that refusal to permit public inspection and copying is in accordance with a statute that exempts or prohibits disclosure in whole or in part of specific information or records.

(2) Upon the motion of any person who believes that an agency has not made a reasonable estimate of the time that the agency requires to respond to a public record request, the superior court in the county in which a record is maintained may require the responsible agency to show that the estimate it provided is reasonable. The burden of proof shall be on the agency to show that the estimate it provided is reasonable.

(3) Judicial review of all agency actions taken or challenged under RCW 42.56.030 through 42.56.520 shall be de novo. Courts shall take into account the policy of this chapter that free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Courts may examine any record in camera in any proceeding brought under this section. The court may conduct a hearing based solely on affidavits.

(4) Any person who prevails against an agency in any action in the courts seeking the right to inspect or copy any public record or the right to receive a response to a public record request within a reasonable amount of time shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action. In addition, it shall be within the discretion of the court whether to make any monetary award to such person ((and)) or to make a monetary award in any amount ((not less than five dollars and not to exceed)) up to one hundred dollars for each day that he or she was denied the right to inspect or copy said public record.

(5) For actions under this section against counties, the venue provisions of RCW 36.01.050 apply.

(6) Actions under this section must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections to Substitute House Bill No. 1899.

The motion by Senator Pridemore carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 1 of the title, after "violations;" strike the remainder of the title and insert "reenacting and amending RCW 42.56.550; and prescribing penalties."

## MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1899 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1899 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1899 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1899 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. Well, today is Tartan Day in honor of our Scottish ancestry and wanted to just talk a little bit, briefly about the Scottish impact on the U. S. and our state. A little known fact here in the Senate chamber and of course we can't leave out Ralph Monro, former Secretary of State, we had George Sellar, Bob McGloughlin, Dan McDonald, Senators Fraser, Pflug, Stevens, Kohl-Welles and myself. There are probably others that I missed because I haven't updated this list for awhile. Anyway, at noon today they will be displaying the Scottish flag on the capitol steps out here and the bag pipes will be playing. Thank you Mr. President."

## REPLY BY THE PRESIDENT

President Owen: "Senator Honeyford, we will be looking forward to you and your kilt this afternoon."

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist and Dickerson)

Improving health care in the state using evidence-based care.

The measure was read the second time.

## MOTION

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Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Efforts are needed across the health care system to improve the quality and cost-effectiveness of health care services provided in Washington state and to improve care outcomes for patients.

(b) Some health care services currently provided in Washington state present significant safety, efficacy, or cost-effectiveness concerns. Substantial variation in practice patterns or high utilization trends can be indicators of poor quality and potential waste in the health care system, without producing better care outcomes for patients.

(c) State purchased health care programs should partner with private health carriers, third-party purchasers, and health care providers in shared efforts to improve quality, health outcomes, and cost-effectiveness of care.

(2) The legislature declares that collaboration among state purchased health care programs, private health carriers, third-party purchasers, and health care providers to identify appropriate strategies that will increase the effectiveness of health care delivered in Washington state is in the best interest of the public. The legislature therefore intends to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the state action doctrine, for activities undertaken pursuant to efforts designed and implemented under this act that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the price or specific level of reimbursement for health care services.

(3) The legislature intends that the Robert Bree collaborative established in section 3 of this act provide a mechanism through which public and private health care purchasers, health carriers, and providers can work together to identify effective means to improve quality health outcomes and cost-effectiveness of care. It is not the intent of the legislature to mandate payment or coverage decisions by private health care purchasers or carriers.

**Sec. 2.** RCW 70.250.010 and 2009 c 258 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced diagnostic imaging services" means magnetic resonance imaging services, computed tomography services, positron emission tomography services, cardiac nuclear medicine services, and similar new imaging services.

(2) "Authority" means the Washington state health care authority.

(3) "Collaborative" means the Robert Bree collaborative established in section 3 of this act.

~~(4) "Payor" means ((public purchasers and)) carriers licensed under chapters 48.21, 48.41, 48.44, 48.46, and 48.62 RCW.~~

~~((4) "Public purchaser" means the department of social and health services, the department of health, the department of labor and industries, the authority, and the Washington state health insurance pool))~~ (5) "Self-funded health plan" means an employer-sponsored health plan or Taft-Hartley plan that is not provided through a fully insured health carrier.

~~((5))~~ (6) "State purchased health care" has the same meaning as in RCW 41.05.011.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.250 RCW to read as follows:

(1) Consistent with the authority granted in RCW 41.05.013, the authority shall convene a collaborative, to be known as the Robert Bree collaborative. The collaborative shall identify health care services for which there are substantial variation in practice patterns or high utilization trends in Washington state, without producing better care outcomes for patients, that are indicators of poor quality and potential waste in the health care system. On an annual basis, the collaborative shall identify up to three health care services it will address.

(2) For each health care service identified, the collaborative shall:

(a) Analyze and identify evidence-based best practice approaches to improve quality and reduce variation in use of the service, including identification of guidelines or protocols applicable to the health care service. In evaluating guidelines, the collaborative should identify the highest quality guidelines based upon the most rigorous and transparent methods for identification, rating, and translation of evidence into practice recommendations.

(b) Identify data collection and reporting necessary to develop baseline health service utilization rates and to measure the impact of strategies adopted under this section. Methods for data collection and reporting should strive to minimize cost and administrative effort related to data collection and reporting wherever possible, including the use of existing data resources and nonfee-based tools for reporting.

(c) Identify strategies to increase use of the evidence-based best practice approaches identified under (a) of this subsection in both state purchased and privately purchased health care plans. Strategies considered should include, but are not limited to: Identifying goals for appropriate utilization rates and reduction in practice variation among providers; peer-to-peer consultation or second opinions; provider feedback reports; use of patient decision aids; incentives for appropriate use of health care services; centers of excellence or other provider qualification standards; quality improvement systems; and service utilization and outcomes reporting, including public reporting. In developing strategies, the collaborative should strongly consider related efforts of organizations such as the Puget Sound health alliance, the Washington state hospital association, the national quality forum, the joint commission on accreditation of health care organizations, the national committee for quality assurance, the foundation for health care quality, and, where appropriate, more focused quality improvement efforts, such as the Washington state perinatal advisory committee and the Washington state surgical care and outcomes assessment program. The collaborative shall provide an opportunity for public comment on the strategies chosen before finalizing their recommendations.

(3) If the collaborative chooses a health care service for which there is substantial variation in practice patterns or a high or low utilization trend in Washington state, and a lack of evidence-based best practice approaches, it should consider strategies that will promote improved care outcomes, such as patient decision aids, provider feedback reports, centers of excellence or other provider qualification standards, and research to improve care quality and outcomes.

(4) The governor shall appoint twenty members of the collaborative, who must include:

(a) Two members, selected from health carriers or third-party administrators that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is

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entitled to no more than a single position on the collaborative to represent all entities under common ownership or control;

(b) One member, selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the collaborative to represent all entities under common ownership or control;

(c) One member, chosen from among three nominees submitted by the association of Washington health plans, representing national health carriers that operate in multiple states outside of the Pacific Northwest;

(d) Four physicians, selected from lists of nominees submitted by the Washington state medical association, as follows:

(i) Two physicians, one of whom must be a practicing primary care physician, representing large multispecialty clinics with fifty or more physicians, selected from a list of five nominees. The primary care physician must be either a family physician, an internal medicine physician, or a general pediatrician; and

(ii) Two physicians, one of whom must be a practicing primary care physician, representing clinics with less than fifty physicians, selected from a list of five nominees. The primary care physician must be either a family physician, an internal medicine physician, or a general pediatrician;

(e) One osteopathic physician, selected from a list of five nominees submitted by the Washington state osteopathic medical association;

(f) Two physicians representing the largest hospital-based physician systems in the state, selected from a list of five nominees submitted jointly by the Washington state medical association and the Washington state hospital association;

(g) Three members representing hospital systems, at least one of whom is responsible for quality, submitted from a list of six nominees from the Washington state hospital association;

(h) Three members, representing self-funded purchasers of health care services for employees;

(i) Two members, representing state purchased health care programs; and

(j) One member, representing the Puget Sound health alliance.

(5) The governor shall appoint the chair of the collaborative.

(6) The collaborative shall add members to its membership or establish clinical committees for each therapy under review by the collaborative for the purpose of acquiring clinical expertise needed to accomplish its responsibilities under this section and RCW 70.250.010 and 70.250.030. Membership of clinical committees should reflect clinical expertise in the area of health care services being addressed by the collaborative, including clinicians involved in related quality improvement or comparative effectiveness efforts, as well as nonphysician practitioners.

(7) Permanent and ad hoc members of the collaborative or any of its committees may not have personal financial conflicts of interest that could substantially influence or bias their participation. If a collaborative or committee member has a personal financial conflict of interest with respect to a particular health care service being addressed by the collaborative, he or she shall disclose such an interest. The collaborative must determine whether the member should be recused from any deliberations or decisions related to that service.

(8) A person serving on the collaborative or any of its clinical committees shall be immune from civil liability, whether direct or derivative, for any decisions made in good faith while pursuing activities associated with the work of collaborative or any of its clinical committees.

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(9) The guidelines or protocols identified under this section shall not be construed to establish the standard of care or duty of care owed by health care providers in any cause of action occurring as a result of health care.

(10) The collaborative shall actively solicit federal or private funds and in-kind contributions necessary to complete its work in a timely fashion. The collaborative shall not accept private funds if receipt of such funding could present a potential conflict of interest or bias in the collaborative's deliberations. Available state funds may be used to support the work of the collaborative when the collaborative has selected a health care service that is a high utilization or high-cost service in state purchased health care programs or the health care service is undergoing evaluation in one or more state purchased health care programs and coordination will reduce duplication of efforts. The collaborative shall not begin the work described in this section unless sufficient funds are received from private or federal resources, or available state funds.

(11) No member of the collaborative or its committees may be compensated for his or her service.

(12) The proceedings of the collaborative shall be open to the public and notice of meetings shall be provided at least twenty days prior to a meeting.

(13) The collaborative shall report to the administrator of the authority regarding the health services areas it has chosen and strategies proposed. The administrator shall review the strategies recommended in the report, giving strong consideration to the direction provided in section 1 of this act and this section. The administrator's review shall describe the outcomes of the review and any decisions related to adoption of the recommended strategies by state purchased health care programs. Following the administrator's review, the collaborative shall report to the legislature and the governor regarding chosen health services, proposed strategies, the results of the administrator's review, and available information related to the impact of strategies adopted in the previous three years on the cost and quality of care provided in Washington state. The initial report must be submitted by November 15, 2011, with annual reports thereafter.

**Sec. 4.** RCW 70.250.030 and 2009 c 258 s 3 are each amended to read as follows:

(1) No later than September 1, 2009, all state purchased health care programs shall, except for state purchased health care services that are purchased from or through health carriers as defined in RCW 48.43.005, implement evidence-based best practice guidelines or protocols applicable to advanced diagnostic imaging services, and the decision support tools to implement the guidelines or protocols, identified under (~~RCW 70.250.020~~) section 3 of this act.

(2) By January 1, 2012, and every January 1st thereafter, all state purchased health care programs must implement the evidence-based best practice guidelines or protocols and strategies identified under section 3 of this act, after the administrator, in consultation with participating agencies, has affirmatively reviewed and endorsed the recommendations. This requirement applies to health carriers, as defined in RCW 48.43.005 and to entities acting as third-party administrators that contract with state purchased health care programs to provide or administer health benefits for enrollees of those programs. If the collaborative fails to reach consensus within the time frames identified in this section and section 3 of this act, state purchased health care programs may pursue implementation of evidence-based strategies on their own initiative.

**NEW SECTION. Sec. 5.** RCW 70.250.020 (Work group--Members--Duties--Report--Expiration of work group) and 2009 c 258 s 2 are each repealed."

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Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1311 as amended by the Senate.

MOTION

ROLL CALL

Senator Carrell moved that the following amendment by Senators Carrell and Keiser to the committee striking amendment be adopted:

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1311 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 11; Absent, 0; Excused, 0.

On page 5, line 30 of the committee amendment, after "nonphysician practitioners." Insert "Each clinical committee shall include at least two members of the specialty or subspecialty society most experienced with the health service identified for review."

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom, White and Zarelli

Senators Carrell and Keiser spoke in favor of adoption of the amendment to the committee striking amendment.

Voting nay: Senators Baumgartner, Baxter, Benton, Delvin, Ericksen, Holmquist Newbry, Roach, Schoesler, Sheldon, Stevens and Swecker

The President declared the question before the Senate to be the adoption of the amendment by Senators Carrell and Keiser on page 5, line 30 to the committee striking amendment to Engrossed Substitute House Bill No. 1311.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The motion by Senator Carrell carried and the amendment to the committee striking amendment was adopted by voice vote.

SECOND READING

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Engrossed Substitute House Bill No. 1311.

SUBSTITUTE HOUSE BILL NO. 1169, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Haigh, Chandler, Blake, Kristiansen, Taylor, Rivers, Finn and Shea)

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

Regarding noxious weed lists.

MOTION

The measure was read the second time.

There being no objection, the following title amendment was adopted:

MOTION

On page 1, line 3 of the title, after "state;" strike the remainder of the title and insert "amending RCW 70.250.010 and 70.250.030; adding a new section to chapter 70.250 RCW; creating a new section; and repealing RCW 70.250.020."

On motion of Senator Hatfield, the rules were suspended, Substitute House Bill No. 1169 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

Senators Hatfield and Honeyford spoke in favor of passage of the bill.

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1311 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1169.

Senator Keiser spoke in favor of passage of the bill.

ROLL CALL

POINT OF INQUIRY

Senator Becker: "Will Senator Keiser yield to a question? Is the purpose of the collaborative to make decisions about covering specific health care services, therapies and technologies?"

The Secretary called the roll on the final passage of Substitute House Bill No. 1169 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Senator Keiser: "No. The new advisory committee's role is one of exploring best physicians' practices regarding approach, technique and best outcomes. This is distinctly different from discussion regarding what health care services, therapies, pharmaceuticals or technologies might be covered. This advisory collaborative is to focus on discussion of best physician practices with the goal to voluntarily ignore outcomes more broadly and shall not include any discussions of coverage for specific services for private payers."

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, White and Zarelli

Senator Becker spoke in favor of passage of the bill.

Voting nay: Senators Nelson, Pflug and Prentice

Absent: Senator Tom

SUBSTITUTE HOUSE BILL NO. 1169, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 11:15 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 4:02 p.m. by President Owen.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Tom moved that Gubernatorial Appointment No. 9134, Suzan Delbene, as Director of the Department of Revenue, be confirmed.

Senator Tom spoke in favor of the motion.

## APPOINTMENT OF SUZAN DELBENE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9134, Suzan Delbene as Director of the Department of Revenue.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9134, Suzan Delbene as Director of the Department of Revenue and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Pflug

Gubernatorial Appointment No. 9134, Suzan Delbene, having received the constitutional majority was declared confirmed as Director of the Department of Revenue.

## SECOND READING

SENATE BILL NO. 5119, by Senators Pridemore and Kline

Canceling the 2012 presidential primary.

The measure was read the second time.

## MOTION

Senator Fain moved that the following amendment by Senators Fain and Kastama be adopted:

On page 2, line 17, after "2012" insert the following: "unless the major political parties agree to use only the results of the presidential primary election for allocation of no less than fifty percent of their delegates to the national nominating convention. The major political parties must agree to allocate their delegates in proportion to the votes each of the parties' candidates receive. The parties must notify the secretary of state of the parties' decisions regarding allocation of their delegates by September first of the year before the year in which the presidential nominee is selected."

Senators Fain, Roach and Kastama spoke in favor of adoption of the amendment.

Senators Pridemore, Murray and Sheldon spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fain and Kastama on page 2, line 17 to Senate Bill No. 5119.

The motion by Senator Fain failed and the amendment was not adopted by voice vote.

## MOTION

On motion of Senator Pridemore, the rules were suspended, Senate Bill No. 5119 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5119.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5119 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Fain, Hill, Holmquist Newbry, Kastama, Morton, Parlette, Pflug, Roach and Stevens

SENATE BILL NO. 5119, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Senate Bill No. 5119 was immediately transmitted to the House of Representatives.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1194, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Ladenburg)

Continuing to determine bail for the release of a person arrested and detained for a felony offense on an individualized basis by a judicial officer. Revised for 1st Substitute: Concerning bail for the release of a person arrested and detained for a class A or B felony offense.

The measure was read the second time.

## PARLIAMENTARY INQUIRY

Senator Kline: "I believe that there should be an amendment other than a striking amendment along with the two amendments that have been distributed to the members of the body. I'm wondering if we should first have that other amendment distributed?"

## REPLY BY THE PRESIDENT

President Owen: "Senator Kline, we show the committee striking amendment and two amendments to the striking amendment. We show no amendment specifically to the bill itself."

## MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1194 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

HOUSE BILL NO. 1432, by Representatives Rodne, Kelley, Shea, Green, Van De Wege, Ahern and Orwall

Permitting private employers to exercise a voluntary veterans' preference in employment.

The measure was read the second time.

## MOTION

On motion of Senator Conway, the rules were suspended, House Bill No. 1432 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway, Holmquist Newbry and Benton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1432.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1432 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1432, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1567, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ross, Hurst, Upthegrove, Kelley and Moscoso)

Requiring background investigations for peace officers and reserve officers as a condition of employment.

The measure was read the second time.

## MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.101.080 and 2008 c 69 s 3 are each amended to read as follows:

The commission shall have all of the following powers:

- (1) To meet at such times and places as it may deem proper;
- (2) To adopt any rules and regulations as it may deem necessary;
- (3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;
- (4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;
- (5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;
- (6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;
- (7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;
- (8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;
- (9) To own, establish, and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to purchase, lease, or otherwise acquire, subject to the approval of the department of general administration, a training facility or facilities necessary to the conducting of such programs;
- (10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;
- (11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;
- (12) To direct the development of alternative, innovative, and interdisciplinary training techniques;
- (13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;
- (14) To allocate financial resources among training and education programs conducted by the commission;
- (15) To allocate training facility space among training and education programs conducted by the commission;
- (16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;
- (17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;
- (18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;
- (19) To require ((that each applicant that has been offered a conditional offer of employment as a fully commissioned peace

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officer or a fully commissioned reserve officer take and successfully pass a psychological examination)) county, city, or state law enforcement agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer or a reserve officer to administer a background investigation including a check of criminal history, a psychological examination, and a polygraph test or similar assessment ((procedure as administered by county, city, or state law enforcement agencies as a condition of employment as a peace officer)) to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2). The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee;

(20) To promote positive relationships between law enforcement and the citizens of the state of Washington by allowing commissioners and staff to participate in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

**Sec. 2.** RCW 43.101.095 and 2009 c 139 s 1 are each amended to read as follows:

(1) As a condition of continuing employment as peace officers, all Washington peace officers: (a) Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter.

(2)(a) As a condition of continuing employment for any applicant ~~((that))~~ who has been offered a conditional offer of employment as a fully commissioned peace officer or a reserve officer after July 24, 2005, including any person whose certification has lapsed as a result of a break of more than twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall ~~((successfully pass))~~ submit to a background investigation including a check of criminal history, a psychological examination, and a polygraph or similar ((test)) assessment as administered by the county, city, or state law enforcement agency ((that complies with the following requirements:

~~—(i) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW in compliance with standards established in rules of the commission.~~

~~—(ii)), the results of which shall be used to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer.~~

~~—(i) The background investigation including a check of criminal history shall be administered by the county, city, or state law enforcement agency that made the conditional offer of employment in compliance with standards established in the rules of the commission.~~

~~—(ii) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission.~~

~~—(iii) The polygraph ((examination or similar assessment)) test shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American polygraph association and in compliance with standards established in rules of the commission.~~

~~—(iv) Any other test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.~~

(b) The employing county, city, or state law enforcement agency may require that each peace officer or reserve officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer or reserve officer does not readily have the means to pay for his or her portion of the testing fee.

(3) The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.

(4) The commission shall allow a peace officer to retain status as a certified peace officer as long as the officer: (a) Timely meets the basic law enforcement training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification revoked by the commission.

(5) As a prerequisite to certification, as well as a prerequisite to pursuit of a hearing under RCW 43.101.155, a peace officer must, on a form devised or adopted by the commission, authorize the release to the commission of his or her personnel files, termination papers, criminal investigation files, or other files, papers, or information that are directly related to a certification matter or decertification matter before the commission.

(6) The commission is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment by the commission or peace officer certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

(7) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

**Sec. 3.** RCW 43.101.105 and 2005 c 434 s 3 are each amended to read as follows:

(1) Upon request by a peace officer's employer or on its own initiative, the commission may deny or revoke certification of any peace officer, after written notice and hearing, if a hearing is timely requested by the peace officer under RCW 43.101.155, based upon a finding of one or more of the following conditions:

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(a) The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;

(b) The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;

(c) The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;

(d) The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;

(e) The peace officer's certificate was previously issued by administrative error on the part of the commission; or

(f) The peace officer has interfered with an investigation or action for denial or revocation of certificate by: (i) Knowingly making a materially false statement to the commission; or (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness.

(2) After July 24, 2005, the commission shall deny certification to any applicant ~~((that))~~ who has lost his or her certification as a result of a break in service of more than twenty-four consecutive months if that applicant failed to ~~((successfully pass the psychological examination and the polygraph test or similar assessment procedure required in))~~ comply with the requirements set forth in RCW 43.101.080(19) and 43.101.095(2)((, as administered by county, city, or state law enforcement agencies))."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1567.

The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "officers;" strike the remainder of the title and insert "and amending RCW 43.101.080, 43.101.095, and 43.101.105."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1567 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1567 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1567 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1567 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Angel, Morris and Armstrong)

Regarding underground utilities. Revised for 2nd Substitute: Concerning underground utilities.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.122.010 and 1984 c 144 s 1 are each amended to read as follows:

((It is the intent of the legislature in enacting this chapter to assign responsibilities for locating and keeping accurate records of utility locations, protecting and repairing damage to existing underground facilities, and protecting the public health and safety from interruption in utility services caused by damage to existing underground utility facilities.)) In this chapter, the underground utility damage prevention act, the legislature intends to:

(1) Protect public health and safety and prevent disruption of vital utility services by establishing a comprehensive damage prevention program;

(2) Establish authority to enforce the act; and

(3) Assign responsibilities for locating underground facilities, for providing accurate location records, and for repairing damage.

Sec. 2. RCW 19.122.020 and 2007 c 142 s 9 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter(=) unless the context clearly requires otherwise.

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or

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complete, of any underground facility to the extent that the project owner or the affected utility owner determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" and "excavate" means any operation including the installation of signs, except for installation of official traffic signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means ~~(, except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline).~~

(5) "Excavation confirmation code" means a code or ticket issued by the one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(6) "Excavator" means any person who engages directly in excavation.

(7) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(8) "Hazardous liquid" means:

(a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998; ~~(and)~~

(b) Carbon dioxide ~~(. The utilities and transportation commission may by rule incorporate by reference); and~~

(c) Other substances designated as hazardous by the secretary of transportation and incorporated by reference by the commission by rule.

(9) ("Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(10)) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

~~((44))~~ (10) "Locatable underground facility" means an underground facility which can be field-marked with reasonable accuracy.

~~((42))~~ (11) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

~~((43))~~ (12) "Notice" or "notify" means contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code.

~~((44))~~ (13) "One-number locator service" means a service through which a person can notify utilities and request field-marking of underground facilities.

~~((45))~~ "Operator" means the individual conducting the excavation.

~~(46))~~ (14) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of a state, and its employees, agents, or legal representatives.

~~((47))~~ (15) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

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~~((48))~~ (16) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. A pipeline company does not include: (a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or (b) excavation contractors or other contractors that contract with a pipeline company.

~~((49))~~ (17) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

~~((20))~~ (18) "Transfer pipeline" means a buried or aboveground pipeline used to carry hazardous liquid between a tank vessel or transmission pipeline and the first valve inside secondary containment at the facility provided that any discharge on the facility side of that first valve will not directly impact waters of the state. A transfer pipeline includes valves, and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. A transfer pipeline does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

~~((21))~~ (19) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

~~((22))~~ (20) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. This definition does not include pipelines as defined in subsection ~~((47))~~ (15) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

(21) "Bar hole" means a hole made in the soil or pavement with a bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(22) "Commission" means the utilities and transportation commission.

(23) "Easement" or "utility easement" means a right held by a facility operator to enter or cross with in-place assets, property owned by another for the purpose of providing utility service, or maintaining assets that provide utility service.

(24) "End user" means any utility customer or consumer of utility services or commodities provided by a facility operator.

(25) "Equipment operator" means the individual conducting the excavation.

(26) "Facility operator" means any person who owns underground facilities or is in the business of supplying any utility service or commodity for compensation. "Facility operator" does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.

(27) "Large project" means a project that exceeds seven hundred linear feet.

(28) "Service lateral" means an underground water, storm water, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.

(29) "Unlocatable underground facility" means, subject to the provisions of RCW 19.122.030, an underground facility that cannot be field-marked with reasonable accuracy using best available

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information to designate the location of underground facilities. "Unlocatable underground facility" includes, but is not limited to, service laterals, storm drains, and nonconductive and nonmetallic underground facilities that do not contain trace wires.

**Sec. 3.** RCW 19.122.027 and 2005 c 448 s 2 are each amended to read as follows:

(1) The ~~((utilities and transportation commission shall cause to be established))~~ commission must establish a single statewide toll-free telephone number to be used for referring excavators to the appropriate one-number locator service.

(2) The ~~((utilities and transportation))~~ commission, in consultation with the Washington utilities coordinating council, ~~((shall))~~ must establish minimum standards and best management practices for one-number locator services.

(3) One-number locator services ~~((shall))~~ must be operated by nongovernmental agencies.

(4) All facility operators within a one-number locator service area must subscribe to the service.

(5) Failure to subscribe to the one-number locator service constitutes willful intent to avoid compliance with this chapter.

**Sec. 4.** RCW 19.122.030 and 2000 c 191 s 17 are each amended to read as follows:

(1)(a) Unless exempted under section 5 of this act, before commencing any excavation, ~~((excluding agriculture tilling less than twelve inches in depth, the excavator shall))~~ an excavator must mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all ~~((owners of underground facilities))~~ facility operators through a one-number locator service.

(b) If boundary marking required by (a) of this subsection is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified.

(2) (All owners of underground facilities within a one-number locator service area shall subscribe to the service. One-number locator service rates for cable television companies will be based on the amount of their underground facilities. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities) An excavator must provide the notice required by subsection (1) of this section to a one-number locator service not less than two business days ((or) and not more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed ((by the parties)) to by the excavator and facility operators. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

(3) Upon receipt of the notice provided for in ~~((this section, the owner of the underground facility shall))~~ subsection (1) of this section, a facility operator must, with respect to:

(a) The operator's locatable underground facilities, provide the excavator with reasonably accurate information ((as to its locatable underground facilities by surface marking the location of the facilities. If there are)) by surface-marking their location;

(b) The operator's unlocatable or identified but unlocatable underground facilities, ((the owner of such facilities shall)) provide the excavator with ((the best)) available information as to their ((locations. The owner of the underground facility providing the information shall respond)) location; and

(c) Service laterals, designate their presence or location, if the service laterals:

(i) Connect end users to the facility operator's main utility line; and

(ii) Are within a public right-of-way or utility easement and the boundary of the excavation area identified under subsection (1) of this section.

(4)(a) A facility operator must provide information to an excavator pursuant to subsection (3) of this section no later than two business days after the receipt of the notice or before the excavation time, at the option of the ((owner)) facility operator, unless otherwise agreed by the parties. ((Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings. Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section.

~~((The owner of the underground facility shall have))~~

(b) A facility operator may comply with subsection (3)(b) and (c) of this section in a manner that includes, but is not limited to, any one of the following methods:

(i) Placing within a proposed excavation area a triangular green mark at the main utility line pointing at an address in question, indicating the presence of an unlocatable or identified but unlocatable underground facility, including a service lateral;

(ii) Arranging to meet an excavator at a worksite to provide available information about the location of service laterals; or

(iii) Providing available information through other means if agreeable to both the excavator and facility operator.

(c) A facility operator's good faith attempt to designate the presence or location of a service lateral using available information:

(i) Is deemed to comply with the requirements of this section; and

(ii) Does not constitute any assertion of ownership or operation of the service lateral by the facility operator.

(d) An end user is responsible for determining the location of service laterals on their property or service laterals that they own. Nothing in this section may be interpreted to require an end user to subscribe to a one-number locator service or to locate a service lateral within a right-of-way or easement.

(5) An excavator must not excavate until all known facility operators have marked or provided information regarding underground facilities as provided in this section.

(6)(a) Once marked by a facility operator, an excavator is responsible for maintaining the accuracy of the facility operator's markings of underground utilities for the lesser of:

(i) Forty-five calendar days from the date that the excavator provided notice to the one-number locator service pursuant to subsection (1) of this section; or

(ii) The duration of the project.

(b) An excavator that makes repeated requests for location of underground utilities due to its failure to maintain the accuracy of a facility operator's markings of underground facilities as required by this subsection (6) may be charged for services provided.

(c) A facility operator's markings of underground utilities expire forty-five calendar days from the date that the excavator provided notice to the one-number locator service pursuant to subsection (1) of this section. For excavation occurring after that date, an excavator must provide additional notice to a one-number locator service pursuant to subsection (1) of this section.

(7) An excavator has the right to receive compensation from a facility operator for costs incurred if the facility operator does not locate its underground facilities in accordance with the requirements specified in this section.

(8) A facility operator has the right to receive compensation for

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costs incurred in responding to excavation notices given less than two business days prior to the excavation from the excavator.

((5) An owner of underground facilities is not required to indicate the presence of existing service laterals or appurtenances if the presence of existing service laterals or appurtenances on the site of the construction project can be determined from the presence of other visible facilities, such as buildings, manholes, or meter and junction boxes on or adjacent to the construction site.

(6)) (9) Emergency excavations are exempt from the time requirements for notification provided in this section. With respect to creating bar holes twelve inches or more in depth during emergency leak investigations, excavators must take reasonable measures to eliminate electrical arc hazards.

~~((7) If the excavator, while performing the contract,)~~ (10) If an excavator discovers underground facilities ((which)) that are not identified, the excavator ((shall)) must cease excavating in the vicinity of the ((facility)) underground facilities and immediately notify the ((owner of)) facility operator ((of such facilities,)) or the one-number locator service. If an excavator discovers identified but unlocatable underground facilities, the excavator must notify the facility operator. Upon notification by the one-number locator service or an excavator, a facility operator must allow for location of the uncovered portion of an underground facility identified by the excavator, and may accept location information from the excavator for marking of the underground facility.

NEW SECTION. Sec. 5. A new section is added to chapter 19.122 RCW to read as follows:

(1) The requirements specified in RCW 19.122.030 do not apply to any of the following described activities:

(a) An excavation of less than twelve inches in depth on private noncommercial property, if the excavation is performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed;

(b) The tilling of soil less than twenty inches in depth for agricultural purposes;

(c) Road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth below the original ditch flowline or alteration of the original ditch horizontal alignment;

(d) The creation of bar holes with hand-operated equipment during emergency leak investigations;

(e) The creation of bar holes less than twelve inches in depth; or

(f) Construction, operation, or maintenance activities by an irrigation district on rights-of-way, easements, or facilities owned by the federal bureau of reclamation in federal reclamation projects.

(2) Any activity described under subsection (1) of this section is subject to the requirements specified in RCW 19.122.050.

Sec. 6. RCW 19.122.033 and 2000 c 191 s 18 are each amended to read as follows:

(1) Before commencing any excavation, ~~((excluding agricultural tilling less than twelve inches in depth,))~~ an excavator ~~((shall))~~ must notify pipeline companies of the scheduled commencement of excavation through a one-number locator service in the same manner as is required for notifying ~~((owners of underground facilities))~~ facility operators of excavation work under RCW 19.122.030. Pipeline companies ~~((shall))~~ have the same rights and responsibilities as ~~((owners of underground facilities))~~ facility operators under RCW 19.122.030 regarding excavation work. Excavators have the same rights and responsibilities under this section as they have under RCW 19.122.030.

(2) Project owners, excavators, and pipeline companies have the same rights and responsibilities relating to excavation near pipelines that they have for excavation near underground facilities as provided in RCW 19.122.040.

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(3) The state or any of its political subdivisions undertaking or permitting construction or excavation activity under chapter 19.27 RCW within one hundred feet, or greater distance if defined by local ordinance, of a right-of-way or easement that contains a transmission pipeline must:

(a) Notify the transmission pipeline company of the proposed construction activity before such a permit is approved; or

(b) Require consultation between the person proposing the construction activity and the transmission pipeline company as a condition of receiving the permit.

Sec. 7. RCW 19.122.035 and 2000 c 191 s 19 are each amended to read as follows:

(1) After a pipeline company has been notified by an excavator pursuant to RCW 19.122.033 that excavation work will uncover any portion of the pipeline, the pipeline company shall ensure that the pipeline section in the vicinity of the excavation is examined for damage prior to being reburied.

(2) Immediately upon receiving information of third-party damage to a hazardous liquid pipeline, the company that operates the pipeline shall terminate the flow of hazardous liquid in that pipeline until it has visually inspected the pipeline. After visual inspection, the ~~((operator of the hazardous liquid))~~ pipeline company shall determine whether the damaged pipeline section should be replaced or repaired, or whether it is safe to resume pipeline operation. Immediately upon receiving information of third-party damage to a gas pipeline, the ~~((company that operates the))~~ pipeline company shall conduct a visual inspection of the pipeline to determine whether the flow of gas through that pipeline should be terminated, and whether the damaged pipeline should be replaced or repaired. A record of the pipeline company's inspection report and test results shall be provided to the ~~((utilities and transportation))~~ commission consistent with reporting requirements under 49 C.F.R. 195 Subpart B.

(3) Pipeline companies shall immediately notify local first responders and the department of any reportable release of a hazardous liquid from a pipeline. Pipeline companies shall immediately notify local first responders and the commission of any blowing gas leak from a gas pipeline that has ignited or represents a probable hazard to persons or property. Pipeline companies shall take all appropriate steps to ensure the public safety in the event of a release of hazardous liquid or gas under this subsection.

(4) No damaged pipeline may be buried until it is repaired or relocated. The pipeline company shall arrange for repairs or relocation of a damaged pipeline as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec. 8. RCW 19.122.040 and 1984 c 144 s 4 are each amended to read as follows:

(1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation. The following ~~((shall be))~~ are deemed changed or differing site conditions:

(a) An underground facility not identified as required by this chapter or other provision of law; ~~((and))~~ or

(b) An underground facility not located, as required by this chapter or other provision of law, by the project owner, facility operator, or excavator if the project owner or excavator is also a ~~((utility))~~ facility operator.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator ~~((shall))~~ must:

(a) Determine the precise location of underground facilities which have been marked;

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(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation ~~((shall be))~~ is liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, different from the provisions of this chapter is against public policy and unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys' fees.

**Sec. 9.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to read as follows:

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the ~~((utility owning or operating such))~~ facility operator and the one-number locator service, and report the damage as required under section 20 of this act. If the damage causes an emergency condition, the excavator causing the damage shall also alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) ~~((The owner of the underground facilities damaged))~~ A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

**Sec. 10.** RCW 19.122.055 and 2005 c 448 s 3 are each amended to read as follows:

(1)(a) Any excavator who fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline is subject to a civil penalty of not more than ten thousand dollars for each violation.

(b) The civil penalty in this subsection may also be imposed on any excavator who violates RCW 19.122.090.

(2) All civil penalties recovered under this section ~~((shall))~~ must be deposited into the ~~((pipeline safety))~~ damage prevention account created in ~~((RCW 81.88.050))~~ section 12 of this act.

**Sec. 11.** RCW 19.122.070 and 2005 c 448 s 4 are each amended to read as follows:

(1) Any person who violates any provision of this chapter not amounting to a violation of RCW 19.122.055~~((, and which violation results in damage to underground facilities,))~~ is subject to a civil penalty of not more than one thousand dollars for ~~((each violation. All penalties recovered in such actions shall be deposited in the general fund))~~ an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period. All penalties recovered in such actions must be used for education and training of excavators and facility operators regarding best practices and compliance with this chapter. All penalties recovered in such actions must be deposited in the damage prevention account created in section 12 of this act.

(2) Any excavator who willfully or maliciously damages a field-marked underground facility ~~((shall be))~~ is liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known underground facility ~~((owners))~~ operators or the one-number locator service, any damage to the underground facility ~~((shall be))~~ is deemed willful and

malicious and ~~((shall be))~~ is subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage.

**NEW SECTION. Sec. 12.** A new section is added to chapter 19.122 RCW to read as follows:

The damage prevention account is created in the custody of the state treasurer. All receipts from moneys directed by law or the commission to be deposited to the account must be deposited in the account. Expenditures from the account may be used only for purposes designated in section 13 of this act. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW.

**NEW SECTION. Sec. 13.** A new section is added to chapter 19.122 RCW to read as follows:

The commission may use money deposited in the damage prevention account created in section 12 of this act to:

(1) Develop and disseminate educational programming designed to improve worker and public safety relating to excavation and underground facilities; and

(2) Provide grants to persons who have developed educational programming that the commission and the safety committee created pursuant to section 18 of this act deem appropriate for improving worker and public safety relating to excavation and underground facilities.

**Sec. 14.** RCW 19.122.075 and 2000 c 191 s 23 are each amended to read as follows:

Any person who willfully damages or removes a permanent marking used to identify an underground facility or pipeline, or a temporary marking prior to its intended use, is subject to a civil penalty of not more than one thousand dollars for ~~((each act))~~ an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period.

**Sec. 15.** RCW 19.122.080 and 1984 c 144 s 8 are each amended to read as follows:

The notification and marking provisions of this chapter may be waived for one or more designated persons by ~~((an underground))~~ a facility ~~((owner))~~ operator with respect to all or part of that ~~((underground))~~ facility ~~((owner's))~~ operator's own underground facilities.

**Sec. 16.** RCW 19.122.100 and 2005 c 448 s 6 are each amended to read as follows:

If charged with a violation of RCW 19.122.090, an equipment operator ~~((will be))~~ is deemed to have established an affirmative defense to such charges if:

(1) The equipment operator was provided a valid excavation confirmation code;

(2) The excavation was performed in an emergency situation;

(3) The equipment operator was provided a false confirmation code by an identifiable third party; or

(4) Notice of the excavation was not required under this chapter.

**Sec. 17.** RCW 19.122.110 and 2005 c 448 s 7 are each amended to read as follows:

Any person who intentionally provides an equipment operator with a false excavation confirmation code is guilty of a misdemeanor.

**NEW SECTION. Sec. 18.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission must contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of this chapter. The contract does not obligate funding by the commission for activities

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performed by the nonprofit entity or the safety committee under this section, and therefore is exempt under RCW 39.29.040(1) from the requirements of chapter 39.29 RCW.

(2) The contracting entity must create a safety committee to:

(a) Advise the commission and other state agencies, the legislature, and local government agencies and officials on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety and protection of underground facilities; and

(b) Review complaints alleging violations of this chapter involving practices related to underground facilities.

(3) The safety committee consists of thirteen members, who must be nominated by represented groups and appointed by the contracting entity to staggered three-year terms. The safety committee must include representatives of:

(a) Local governments;

(b) An investor-owned natural gas utility subject to regulation under Titles 80 and 81 RCW;

(c) Contractors;

(d) Excavators;

(e) An investor-owned electric utility subject to regulation under Title 80 RCW;

(f) A consumer-owned utility;

(g) A pipeline company;

(h) The insurance industry;

(i) The commission; and

(j) A telecommunications company.

(4) The safety committee must meet at least once every three months.

(5) The safety committee may review complaints of alleged violations of this chapter involving practices related to underground facilities. Any person may bring a complaint to the safety committee regarding an alleged violation.

(6) To review complaints of alleged violations, the safety committee must appoint at least three and no more than five members as a review committee. The review committee must represent a balance of excavators, facility operators, and the insurance industry, and must include at least one representative of a pipeline company or natural gas distribution company.

(7) Before reviewing a complaint alleging a violation of this chapter, the review committee must notify the person making the complaint and the alleged violator of its review and the opportunity to participate.

(8) The safety committee may provide written notification to the commission, with supporting documentation, that a person has likely committed a violation of this chapter, and recommend remedial action that may include a penalty amount, training, or education to improve public safety, or some combination of penalty, training, and education.

(9) This section expires December 31, 2020.

**NEW SECTION. Sec. 19.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may enforce the civil penalties authorized in RCW 19.122.070 or 19.122.075 when it receives written notification from the safety committee created under section 18 of this act indicating that a violation of this chapter has likely been committed by a person subject to regulation by the commission, or involving the underground facilities of such a person.

(2) If the commission receives written notification from the safety committee pursuant to section 18 of this act that a violation of this chapter has likely been committed by a person who is not subject to regulation by the commission, and in which the underground facility involved is also not subject to regulation by the commission, the commission may refer the matter to the attorney general for enforcement of a civil penalty under RCW 19.122.070 or

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19.122.075. The commission must provide funding for such enforcement. However, any costs and fees recovered by the attorney general pursuant to subsection (3) of this section must be deposited by the commission in the fund that paid those costs and fees.

(3) In a matter referred to it by the commission pursuant to subsection (2) of this section, the attorney general may bring an action to enforce the penalties authorized in RCW 19.122.070 or 19.122.075. In any action brought under this subsection, the court may award the state all costs of investigation and trial, including a reasonable attorneys' fee fixed by the court.

(4) This section expires December 31, 2020.

**NEW SECTION. Sec. 20.** A new section is added to chapter 19.122 RCW to read as follows:

(1) Facility operators and excavators who observe or cause damage to an underground facility must report the event to the commission.

(2)(a) Facility operators and excavators who observe or cause damage must report whenever the event results in scrapes, gouges, cracks, dents, or other visible damage to a utility, pipeline, or cable casing or other external protection of any underground facility.

(b) A nonpipeline facility operator conducting excavations, or a subcontractor conducting excavations on the facility operator's behalf, that strikes the facility operator's own underground facilities is not required to report that damage event to the commission.

(3) Reports must be made to the commission's office of pipeline safety within forty-five days of the event, or sooner if required by law using the commission's virtual private damage information reporting tool (DIRT) report form or other similar form if it reports:

(a) The name of the person submitting the report and whether the person is an excavator, a representative of a one-number locator service, or a facility operator;

(b) The date and time of the damage event;

(c) The address where the damage occurred;

(d) The type of right-of-way, where the damage occurred, including but not limited to city street, state highway, or private easement;

(e) The type of underground facility damaged, including but not limited to pipes, transmission pipelines, distribution lines, sewers, conduits, cables, valves, lines, wires, manholes, attachments, or parts of poles or anchors below ground;

(f) The type of utility service or commodity the underground facility stores or conveys, including but not limited to electronic, telephonic or telegraphic communications, water, sewage, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances;

(g) The type of excavator, including but not limited to contractors or facility operators;

(h) The excavation equipment used, including but not limited to augers, bulldozers, backhoes, or hand tools;

(i) The type of work being performed, including but not limited to drainage, grading, or landscaping;

(j) Whether a one-number locator service was notified before excavation commenced, and, if so, the excavation confirmation code provided by the one-number locator service;

(k) The person who located the underground facility, and their employer;

(l) Whether underground facility marks were visible in the proposed excavation area before excavation commenced;

(m) Whether underground facilities were marked correctly;

(n) Whether an excavator experienced interruption of work as a result of the damage;

(o) A description of the damage; and

(p) Whether the damage caused an interruption of underground facility service.

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(4) The commission must use reported data to evaluate the effectiveness of the damage prevention program.

**NEW SECTION. Sec. 21.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may investigate and enforce violations of RCW 19.122.055, 19.122.075, and 19.122.090 relating to pipeline facilities without initial referral to the safety committee created under section 18 of this act.

(2) If the commission's investigation of notifications received pursuant to section 19 of this act or subsection (1) of this section substantiates violations of this chapter, the commission may impose penalties authorized by RCW 19.122.055, 19.122.070, 19.122.075, and 19.122.090, and require training, education, or any combination of these remedies.

(3) With respect to referrals from the safety committee, the commission must consider any recommendation by the committee regarding enforcement and remedial actions involving an alleged violator.

(4) In an action to impose penalties initiated by the commission under subsection (1) or (2) of this section, the penalty is due and payable when the person incurring the penalty receives a notice of penalty in writing from the commission describing the violation and advising the person that the penalty is due. The person incurring the penalty has fifteen days from the date it receives the notice of penalty to file with the commission a request for mitigation or a request for a hearing, and the commission must include this time limit information in the notice of penalty. After receiving a timely request for mitigation or hearing, the commission must suspend collection of the penalty until it issues a final order concerning the penalty or mitigation of that penalty. A person aggrieved by the commission's final order may seek judicial review, subject to provisions of the administrative procedure act, chapter 34.05 RCW.

(5) If a penalty imposed by the commission is not paid, the attorney general may, on the commission's behalf, file a civil action in superior court to collect the penalty.

(6) This section expires December 31, 2020.

**NEW SECTION. Sec. 22.** A new section is added to chapter 19.122 RCW to read as follows:

All penalties collected pursuant to section 21 of this act must be deposited in the damage prevention account created in section 12 of this act.

**NEW SECTION. Sec. 23.** RCW 19.122.060 (Exemption from notice and marking requirements for property owners) and 1984 c 144 s 6 are each repealed.

**NEW SECTION. Sec. 24.** A new section is added to chapter 19.122 RCW to read as follows:

Nothing in this act may be construed to classify a consumer-owned utility, as defined in RCW 19.27A.140, to be under the authority of the commission.

**NEW SECTION. Sec. 25.** A new section is added to chapter 19.122 RCW to read as follows:

This act may be known and cited as the underground utility damage prevention act.

**NEW SECTION. Sec. 26.** This act takes effect January 1, 2013."

On page 1, line 1 of the title, after "utilities;" strike the remainder of the title and insert "amending RCW 19.122.010, 19.122.020, 19.122.027, 19.122.030, 19.122.033, 19.122.035, 19.122.040, 19.122.050, 19.122.055, 19.122.070, 19.122.075, 19.122.080, 19.122.100, and 19.122.110; adding new sections to chapter 19.122 RCW; repealing RCW 19.122.060; prescribing penalties; providing an effective date; and providing expiration dates."

The President declared the question before the Senate to be the motion by Senator Rockefeller to not adopt the committee

striking amendment by the Committee on Environment, Water & Energy to Engrossed Second Substitute House Bill No. 1634.

The motion by Senator Rockefeller carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Rockefeller moved that the following striking amendment by Senators Rockefeller, Nelson and Honeyford be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 19.122.010 and 1984 c 144 s 1 are each amended to read as follows:

((It is the intent of the legislature in enacting this chapter to assign responsibilities for locating and keeping accurate records of utility locations, protecting and repairing damage to existing underground facilities, and protecting the public health and safety from interruption in utility services caused by damage to existing underground utility facilities.)) In this chapter, the underground utility damage prevention act, the legislature intends to protect public health and safety and prevent disruption of vital utility services through a comprehensive damage prevention program that includes:

(1) Assigning responsibility for providing notice of proposed excavation, locating and marking underground utilities, and reporting and repairing damage;

(2) Setting safeguards for construction and excavation near hazardous liquid and gas pipelines;

(3) Improving worker and public knowledge of safe practices;

(4) Collecting and analyzing damage data;

(5) Reviewing alleged violations; and

(6) Enforcing this chapter.

**Sec. 2.** RCW 19.122.020 and 2007 c 142 s 9 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter(§) unless the context clearly requires otherwise.

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected ~~((utility owner))~~ facility operator determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" and "excavate" means any operation, including the installation of signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means ~~((, except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline)).~~

(5) "Excavation confirmation code" means a code or ticket issued by ~~((the))~~ a one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(6) "Excavator" means any person who engages directly in excavation.

(7) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(8) "Hazardous liquid" means:

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(a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998; ~~(and)~~

(b) Carbon dioxide ~~(. The utilities and transportation commission may by rule incorporate by reference); and~~

(c) Other substances designated as hazardous by the secretary of transportation and incorporated by reference by the commission by rule.

(9) ("Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(10)) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

~~((14))~~ (10) "Locatable underground facility" means an underground facility which can be ~~((field-marked))~~ marked with reasonable accuracy.

~~((12))~~ (11) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

~~((13))~~ (12) "Notice" or "notify" means contact in person or by telephone or other electronic method ~~((s that)), and, with respect to contact of a one-number locator service, also results in the receipt of a valid excavation confirmation code.~~

~~((14))~~ (13) "One-number locator service" means a service through which a person can notify ~~((utilities))~~ facility operators and request ~~((field-marking))~~ marking of underground facilities.

~~((15))~~ "Operator" ~~means the individual conducting the excavation.~~

~~((16))~~ (14) "Person" means an individual, partnership, franchise holder, association, corporation, ~~((a))~~ the state, a city, a county, a town, or any subdivision or instrumentality of ~~((a))~~ the state, including any unit of local government, and its employees, agents, or legal representatives.

~~((17))~~ (15) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

~~((18))~~ (16) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. ~~((A))~~ "Pipeline company" does not include:

(a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or

(b) Excavation contractors or other contractors that contract with a pipeline company.

~~((19))~~ (17) "Reasonable accuracy" means location within twenty-four inches of the outside dimensions of both sides of an underground facility.

~~((20))~~ (18) "Transfer pipeline" means a buried or aboveground pipeline used to carry hazardous liquid between a tank vessel or transmission pipeline and the first valve inside secondary containment at ~~((the))~~ a facility, provided that any discharge on the facility side of ~~((that))~~ the first valve will not directly impact waters of the state. ~~((A))~~ "Transfer pipeline" includes valves ~~((s))~~ and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. ~~((A))~~ "Transfer pipeline" does not include process pipelines, pipelines

carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

~~((21))~~ (19) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

~~((22))~~ (20) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors that are below ground. This definition does not include pipelines as defined in subsection ~~((17))~~ (15) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

(21) "Bar hole" means a hole made in the soil or pavement with a hand-operated bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(22) "Commission" means the utilities and transportation commission.

(23) "End user" means any utility customer or consumer of utility services or commodities provided by a facility operator.

(24) "Equipment operator" means an individual conducting an excavation.

(25) "Facility operator" means any person who owns an underground facility or is in the business of supplying any utility service or commodity for compensation. "Facility operator" does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.

(26) "Large project" means a project that exceeds seven hundred linear feet.

(27) "Service lateral" means an underground water, storm water, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.

(28) "Unlocatable underground facility" means, subject to the provisions of RCW 19.122.030, an underground facility that cannot be marked with reasonable accuracy using available information to designate the location of an underground facility. "Unlocatable underground facility" includes, but is not limited to, service laterals, storm drains, and nonconductive and nonmetallic underground facilities that do not contain trace wires.

(29) "Utility easement" means a right held by a facility operator to install, maintain, and access an underground facility or pipeline.

**Sec. 3.** RCW 19.122.027 and 2005 c 448 s 2 are each amended to read as follows:

(1) The ~~((utilities and transportation commission shall cause to be established))~~ commission must establish a single statewide toll-free telephone number to be used for referring excavators to the appropriate one-number locator service.

(2) The ~~((utilities and transportation))~~ commission, in consultation with the Washington utilities coordinating council, ~~((shall))~~ must establish minimum standards and best management practices for one-number locator services.

(3) One-number locator services ~~((shall))~~ must be operated by nongovernmental agencies.

(4) All facility operators within a one-number locator service area must subscribe to the service.

(5) Failure to subscribe to a one-number locator service constitutes willful intent to avoid compliance with this chapter.

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**Sec. 4.** RCW 19.122.030 and 2000 c 191 s 17 are each amended to read as follows:

(1)(a) Unless exempted under section 5 of this act, before commencing any excavation, ~~((excluding agriculture tilling less than twelve inches in depth, the excavator shall))~~ an excavator must mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all ~~((owners of underground facilities))~~ facility operators through a one-number locator service.

(b) If boundary marking required by (a) of this subsection is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified.

(2) ~~((All owners of underground facilities within a one-number locator service area shall subscribe to the service. One-number locator service rates for cable television companies will be based on the amount of their underground facilities. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities))~~ An excavator must provide the notice required by subsection (1) of this section to a one-number locator service not less than two business days ((or) and not more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed ((by the parties)) by the excavator and facility operators. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

(3) Upon receipt of the notice provided for in ~~((this section, the owner of the underground facility shall))~~ subsection (1) of this section, a facility operator must, with respect to:

(a) The facility operator's locatable underground facilities, provide the excavator with reasonably accurate information ~~((as to its locatable underground facilities by surface marking the location of the facilities. If there are))~~ by marking their location;

(b) The facility operator's unlocatable or identified but unlocatable underground facilities, ~~((the owner of such facilities shall))~~ provide the excavator with ~~((the best))~~ available information as to their ~~((locations. The owner of the underground facility providing the information shall respond))~~ location; and

(c) Service laterals, designate their presence or location, if the service laterals:

(i) Connect end users to the facility operator's main utility line; and

(ii) Are within a public right-of-way or utility easement and the boundary of the excavation area identified under subsection (1) of this section.

(4)(a) A facility operator must provide information to an excavator pursuant to subsection (3) of this section no later than two business days after the receipt of the notice ~~((or before the excavation time))~~ provided for in subsection (1) of this section or before excavation commences, at the option of the ~~((owner))~~ facility operator, unless otherwise agreed by the parties. ~~((Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings. Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section.~~

~~((4) The owner of the underground facility shall have))~~

(b) A facility operator complying with subsection (3)(b) and (c) of this section may do so in a manner that includes any of the following methods:

(i) Placing within a proposed excavation area a triangular mark at the main utility line pointing at the building, structure, or property in question, indicating the presence of an unlocatable or identified but unlocatable underground facility, including a service lateral;

(ii) Arranging to meet an excavator at a worksite to provide available information about the location of service laterals; or

(iii) Providing copies of the best reasonably available records by electronic message, mail, facsimile, or other delivery method.

(c) A facility operator's good faith attempt to comply with subsection (3)(b) and (c) of this section:

(i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries that may result from such compliance, apart from liability for arranging for repairs or relocation as provided in RCW 19.122.050(2); and

(ii) Does not constitute any assertion of ownership or operation of a service lateral by the facility operator.

(d) An end user is responsible for determining the location of a service lateral on their property or a service lateral that they own. Nothing in this section may be interpreted to require an end user to subscribe to a one-number locator service or to locate a service lateral within a right-of-way or utility easement.

(5) An excavator must not excavate until all known facility operators have marked or provided information regarding underground facilities as provided in this section.

(6)(a) Once marked by a facility operator, an excavator is responsible for maintaining the accuracy of the facility operator's markings of underground facilities for the lesser of:

(i) Forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section; or

(ii) The duration of the project.

(b) An excavator that makes repeated requests for location of underground facilities due to its failure to maintain the accuracy of a facility operator's markings as required by this subsection (6) may be charged by the facility operator for services provided.

(c) A facility operator's markings of underground utilities expire forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section. For excavation occurring after that date, an excavator must provide additional notice to a one-number locator service pursuant to subsection (1) of this section.

(7) An excavator has the right to receive reasonable compensation from a facility operator for costs incurred by the excavator if the facility operator does not locate its underground facilities in accordance with the requirements specified in this section.

(8) A facility operator has the right to receive ~~((compensation for costs incurred in responding to excavation notices given less than two business days prior to the excavation from the excavator))~~ reasonable compensation from an excavator for costs incurred by the facility operator if the excavator does not comply with the requirements specified in this section.

~~((5))~~ An owner of underground facilities is not required to indicate the presence of existing service laterals or appurtenances if the presence of existing service laterals or appurtenances on the site of the construction project can be determined from the presence of other visible facilities, such as buildings, manholes, or meter and junction boxes on or adjacent to the construction site.

(6) Emergency excavations are exempt from the time requirements for notification provided in this section.

(7) If the excavator, while performing the contract,) (9) A

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facility operator is not required to comply with subsection (4) of this section with respect to service laterals conveying only water if their presence can be determined from other visible water facilities, such as water meters, water valve covers, and junction boxes in or adjacent to the boundary of an excavation area identified under subsection (1) of this section.

(10) If an excavator discovers underground facilities ((which)) that are not identified, the excavator ((shall)) **must** cease excavating in the vicinity of the ((facility)) **underground facilities** and immediately notify the ((owner or)) **facility operator** ((of such facilities,)) or ((the)) a one-number locator service. **If an excavator discovers identified but unlocatable underground facilities, the excavator must notify the facility operator. Upon notification by a one-number locator service or an excavator, a facility operator must allow for location of the uncovered portion of an underground facility identified by the excavator, and may accept location information from the excavator for marking of the underground facility.**

**NEW SECTION. Sec. 5.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The requirements specified in RCW 19.122.030 do not apply to any of the following activities:

(a) An emergency excavation, but only with respect to boundary marking and notice requirements specified in RCW 19.122.030 (1) and (2), and provided that the excavator provides notice to a one-number locator service at the earliest practicable opportunity;

(b) An excavation of less than twelve inches in depth on private noncommercial property, if the excavation is performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed;

(c) The tilling of soil for agricultural purposes less than:

(i) Twelve inches in depth within a utility easement; and

(ii) Twenty inches in depth outside of a utility easement;

(d) The replacement of an official traffic sign installed prior to January 1, 2013, no deeper than the depth at which it was installed;

(e) Road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth below the original ditch flowline, or alteration of the original ditch horizontal alignment;

(f) The creation of bar holes less than twelve inches in depth, or of any depth during emergency leak investigations, provided that the excavator takes reasonable measures to eliminate electrical arc hazards; or

(g) Construction, operation, or maintenance activities by an irrigation district on rights-of-way, easements, or facilities owned by the federal bureau of reclamation in federal reclamation projects.

(2) Any activity described in subsection (1) of this section is subject to the requirements specified in RCW 19.122.050.

**Sec. 6.** RCW 19.122.033 and 2000 c 191 s 18 are each amended to read as follows:

(1) Before commencing any excavation, ~~((excluding agricultural tilling less than twelve inches in depth,))~~ an excavator ~~((shall))~~ **must** notify pipeline companies of the scheduled commencement of excavation through a one-number locator service in the same manner as ~~((is))~~ required for notifying ~~((owners of underground facilities))~~ **facility operators** of excavation ~~((work))~~ under RCW 19.122.030. Pipeline companies ~~((shall))~~ have the same rights and responsibilities as ~~((owners of underground facilities))~~ **facility operators** under RCW 19.122.030 regarding excavation ~~((work))~~. Excavators have the same rights and responsibilities under this section as they have under RCW 19.122.030.

(2) Project owners, excavators, and pipeline companies have the same rights and responsibilities relating to excavation near pipelines

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that they have for excavation near underground facilities as provided in RCW 19.122.040.

(3) The state, and any subdivision or instrumentality of the state, including any unit of local government, must, when planning construction or excavation within one hundred feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline, notify the pipeline company of the scheduled commencement of work.

(4) Any unit of local government that issues permits under codes adopted pursuant to chapter 19.27 RCW must, when permitting construction or excavation within one hundred feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline:

(a) Notify the pipeline company of the permitted activity when it issues the permit; or

(b) Require, as a condition of issuing the permit, that the applicant consult with the pipeline company.

(5) The commission must assist local governments in obtaining hazardous liquid and gas pipeline location information and maps, as provided in RCW 81.88.080.

**Sec. 7.** RCW 19.122.035 and 2000 c 191 s 19 are each amended to read as follows:

(1) After a pipeline company has been notified by an excavator pursuant to RCW 19.122.033 that excavation ~~((work))~~ will uncover any portion of the pipeline company's pipeline, the pipeline company shall ensure that the pipeline section in the vicinity of the excavation is examined for damage prior to being reburied.

(2) Immediately upon receiving information of third-party damage to a hazardous liquid pipeline, the company that operates the pipeline shall terminate the flow of hazardous liquid in that pipeline until it has visually inspected the pipeline. After visual inspection, the ~~((operator of the hazardous liquid))~~ pipeline company shall determine whether the damaged pipeline section should be replaced or repaired, or whether it is safe to resume pipeline operation. Immediately upon receiving information of third-party damage to a gas pipeline, the ~~((company that operates the))~~ pipeline company shall conduct a visual inspection of the pipeline to determine whether the flow of gas through that pipeline should be terminated, and whether the damaged pipeline should be replaced or repaired. A record of the pipeline company's inspection report and test results shall be provided to the ~~((utilities and transportation))~~ commission, consistent with reporting requirements under 49 C.F.R. Parts 191 and 195, Subpart B.

(3) Pipeline companies shall immediately notify local first responders and the department of ecology of any reportable release of a hazardous liquid from a pipeline. Pipeline companies shall immediately notify local first responders and the commission of any blowing gas leak from a gas pipeline that has ignited or represents a probable hazard to persons or property. Pipeline companies shall take all appropriate steps to ensure the public safety in the event of a release of hazardous liquid or gas under this subsection.

(4) No damaged pipeline may be buried until it is repaired or relocated. The pipeline company shall arrange for repairs or relocation of a damaged pipeline as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

**Sec. 8.** RCW 19.122.040 and 1984 c 144 s 4 are each amended to read as follows:

(1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation. The following ~~((shall be))~~ are deemed to be changed or differing site conditions:

(a) An underground facility not identified as required by this chapter or other provision of law; ~~((and))~~ or

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(b) An underground facility not located, as required by this chapter or other provision of law, by the project owner, facility operator, or excavator if the project owner or excavator is also a ~~((utility))~~ facility operator.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator ~~((shall))~~ must:

(a) Determine the precise location of underground facilities which have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation ~~((shall be))~~ is liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, ~~((different))~~ that differs from the provisions of this chapter is against public policy and unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys' fees.

**Sec. 9.** RCW 19.122.050 and 1984 c 144 s 5 are each amended to read as follows:

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the ~~((utility owning or operating such))~~ facility operator and ~~((the))~~ a one-number locator service, and report the damage as required under section 20 of this act. If the damage causes an emergency condition, the excavator causing the damage shall also alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) ~~((The owner of the underground facilities damaged))~~ A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical, or ((may)) permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

**Sec. 10.** RCW 19.122.055 and 2005 c 448 s 3 are each amended to read as follows:

(1)(a) Any excavator who fails to notify ~~((the))~~ a one-number locator service and causes damage to a hazardous liquid or gas ~~((pipeline))~~ underground facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

(b) The civil penalty in this subsection may also be imposed on any excavator who violates RCW 19.122.090.

(2) All civil penalties recovered under this section ~~((shall))~~ must be deposited into the ~~((pipeline safety))~~ damage prevention account created in ~~((RCW 81.88.050))~~ section 12 of this act.

**Sec. 11.** RCW 19.122.070 and 2005 c 448 s 4 are each amended to read as follows:

(1) Any person who violates any provision of this chapter not amounting to a violation of RCW 19.122.055~~((, and which violation results in damage to underground facilities,))~~ is subject to a civil penalty of not more than one thousand dollars for ~~((each violation. All penalties recovered in such actions shall be deposited in the general fund))~~ an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period. All penalties recovered in such actions must be deposited in the damage prevention account created in section 12 of this act.

(2) Any excavator who willfully or maliciously damages a ~~((field marked))~~ marked underground facility ~~((shall be))~~ is liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known ~~((underground))~~ facility ~~((owners))~~ operators or ~~((the))~~ a one-number locator service, any damage to the underground facility ~~((shall be))~~ is deemed willful and malicious and ~~((shall be))~~ is subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage.

**NEW SECTION. Sec. 12.** A new section is added to chapter 19.122 RCW to read as follows:

The damage prevention account is created in the custody of the state treasurer. All receipts from moneys directed by law or the commission to be deposited to the account must be deposited in the account. Expenditures from the account may be used only for purposes designated in section 13 of this act. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW.

**NEW SECTION. Sec. 13.** A new section is added to chapter 19.122 RCW to read as follows:

The commission may use money deposited in the damage prevention account created in section 12 of this act to:

(1) Develop and disseminate educational programming designed to improve worker and public safety relating to excavation and underground facilities; and

(2) Provide grants to persons who have developed educational programming that the commission and the safety committee created pursuant to section 18 of this act deem appropriate for improving worker and public safety relating to excavation and underground facilities.

**Sec. 14.** RCW 19.122.075 and 2000 c 191 s 23 are each amended to read as follows:

Any person who willfully damages or removes a permanent marking used to identify an underground facility or pipeline, or a temporary marking prior to its intended use, is subject to a civil penalty of not more than one thousand dollars for ~~((each act))~~ an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period.

**Sec. 15.** RCW 19.122.080 and 1984 c 144 s 8 are each amended to read as follows:

The notification and marking provisions of this chapter may be waived for one or more designated persons by ~~((an underground))~~ a facility ~~((owner))~~ operator with respect to all or part of that ~~((underground))~~ facility ~~((owner's own))~~ operator's underground facilities.

**Sec. 16.** RCW 19.122.100 and 2005 c 448 s 6 are each amended to read as follows:

If charged with a violation of RCW 19.122.090, an equipment operator ~~((will be))~~ is deemed to have established an affirmative defense to such charges if:

(1) The equipment operator was provided a valid excavation confirmation code;

(2) The excavation was performed in an emergency situation;

(3) The equipment operator was provided a false confirmation code by an identifiable third party; or

(4) Notice of the excavation was not required under this chapter.

**Sec. 17.** RCW 19.122.110 and 2005 c 448 s 7 are each amended to read as follows:

Any person who intentionally provides an equipment operator with a false excavation confirmation code is guilty of a misdemeanor.

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**NEW SECTION. Sec. 18.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission must contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of this chapter. The contract must not obligate funding by the commission for activities performed by the nonprofit entity or the safety committee under this section, and is therefore exempt under RCW 39.29.040(1) from the requirements of chapter 39.29 RCW.

(2) The contracting entity must create a safety committee to:

(a) Advise the commission and other state agencies, the legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and

(b) Review complaints alleging violations of this chapter involving practices related to underground facilities.

(3) The safety committee will consist of thirteen members, who must be nominated by represented groups and appointed by the contracting entity to staggered three-year terms. The safety committee must include representatives of:

(a) Local governments;

(b) A natural gas utility subject to regulation under Titles 80 and 81 RCW;

(c) Contractors;

(d) Excavators;

(e) An electric utility subject to regulation under Title 80 RCW;

(f) A consumer-owned utility, as defined in RCW 19.27A.140;

(g) A pipeline company;

(h) The insurance industry;

(i) The commission; and

(j) A telecommunications company.

(4) The safety committee must meet at least once every three months.

(5) The safety committee may review complaints of alleged violations of this chapter involving practices related to underground facilities. Any person may bring a complaint to the safety committee regarding an alleged violation.

(6) To review complaints of alleged violations, the safety committee must appoint at least three and not more than five members as a review committee. The review committee must include the same number of members representing excavators and facility operators. One member representing facility operators must also be a representative of a pipeline company or a natural gas utility subject to regulation under Titles 80 and 81 RCW. The review committee must also include a member representing the insurance industry.

(7) Before reviewing a complaint alleging a violation of this chapter, the review committee must notify the person making the complaint and the alleged violator of its review and of the opportunity to participate.

(8) The safety committee may provide written notification to the commission, with supporting documentation, that a person has likely committed a violation of this chapter, and recommend remedial action that may include a penalty amount, training, or education to improve public safety, or some combination thereof.

(9) This section expires December 31, 2020.

**NEW SECTION. Sec. 19.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may enforce the civil penalties authorized in RCW 19.122.070 or 19.122.075 when it receives written notification from the safety committee created under section 18 of this act indicating that a violation of this chapter has likely been committed by a person subject to regulation by the commission, or involving the underground facilities of such a person.

(2) If the commission receives written notification from the safety committee pursuant to section 18 of this act that a violation of this chapter has likely been committed by a person who is not subject to regulation by the commission, and in which the underground facility involved is also not subject to regulation by the commission, the commission may refer the matter to the attorney general for enforcement of a civil penalty under RCW 19.122.070 or 19.122.075. The commission must provide funding for such enforcement. However, any costs and fees recovered by the attorney general pursuant to subsection (3) of this section must be deposited by the commission in the fund that paid for such enforcement.

(3) In a matter referred to it by the commission pursuant to subsection (2) of this section, the attorney general may bring an action to enforce the penalties authorized in RCW 19.122.070 or 19.122.075. In such an action, the court may award the state all costs of investigation and trial, including a reasonable attorneys' fee fixed by the court.

(4) This section expires December 31, 2020.

**NEW SECTION. Sec. 20.** A new section is added to chapter 19.122 RCW to read as follows:

(1) Facility operators and excavators who observe or cause damage to an underground facility must report the damage event to the commission.

(2) A nonpipeline facility operator conducting an excavation, or a subcontractor conducting an excavation on the facility operator's behalf, that strikes the facility operator's own underground facility is not required to report that damage event to the commission.

(3) Reports must be made to the commission's office of pipeline safety within forty-five days of the damage event, or sooner if required by law, using the commission's virtual private damage information reporting tool (DIRT) report form, or other similar form if it reports:

(a) The name of the person submitting the report and whether the person is an excavator, a representative of a one-number locator service, or a facility operator;

(b) The date and time of the damage event;

(c) The address where the damage event occurred;

(d) The type of right-of-way, where the damage event occurred, including but not limited to city street, state highway, or utility easement;

(e) The type of underground facility damaged, including but not limited to pipes, transmission pipelines, distribution lines, sewers, conduits, cables, valves, lines, wires, manholes, attachments, or parts of poles or anchors below ground;

(f) The type of utility service or commodity the underground facility stores or conveys, including but not limited to electronic, telephonic or telegraphic communications, water, sewage, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances;

(g) The type of excavator involved, including but not limited to contractors or facility operators;

(h) The excavation equipment used, including but not limited to augers, bulldozers, backhoes, or hand tools;

(i) The type of excavation being performed, including but not limited to drainage, grading, or landscaping;

(j) Whether a one-number locator service was notified before excavation commenced, and, if so, the excavation confirmation code provided by a one-number locator service;

(k) If applicable:

(i) The person who located the underground facility, and their employer;

(ii) Whether underground facility marks were visible in the proposed excavation area before excavation commenced;

(iii) Whether underground facilities were marked correctly;

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(l) Whether an excavator experienced interruption of work as a result of the damage event;

(m) A description of the damage; and

(n) Whether the damage caused an interruption of underground facility service.

(4) The commission must use reported data to evaluate the effectiveness of the damage prevention program.

**NEW SECTION. Sec. 21.** A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may investigate and enforce violations of RCW 19.122.055, 19.122.075, and 19.122.090 relating to pipeline facilities without initial referral to the safety committee created under section 18 of this act.

(2) If the commission's investigation of notifications received pursuant to section 19 of this act or subsection (1) of this section substantiates violations of this chapter, the commission may impose penalties authorized by RCW 19.122.055, 19.122.070, 19.122.075, and 19.122.090, and require training, education, or any combination thereof.

(3) With respect to referrals from the safety committee, the commission must consider any recommendation by the committee regarding enforcement and remedial actions involving an alleged violator.

(4) In an action to impose a penalty initiated by the commission under subsection (1) or (2) of this section, the penalty is due and payable when the person incurring the penalty receives a notice of penalty in writing from the commission describing the violation and advising the person that the penalty is due. The person incurring the penalty has fifteen days from the date the person receives the notice of penalty to file with the commission a request for mitigation or a request for a hearing. The commission must include this time limit information in the notice of penalty. After receiving a timely request for mitigation or hearing, the commission must suspend collection of the penalty until it issues a final order concerning the penalty or mitigation of that penalty. A person aggrieved by the commission's final order may seek judicial review, subject to provisions of the administrative procedure act, chapter 34.05 RCW.

(5) If a penalty imposed by the commission is not paid, the attorney general may, on the commission's behalf, file a civil action in superior court to collect the penalty.

(6) This section expires December 31, 2020.

**NEW SECTION. Sec. 22.** A new section is added to chapter 19.122 RCW to read as follows:

All penalties collected pursuant to section 21 of this act must be deposited in the damage prevention account created in section 12 of this act.

**NEW SECTION. Sec. 23.** RCW 19.122.060 (Exemption from notice and marking requirements for property owners) and 1984 c 144 s 6 are each repealed.

**NEW SECTION. Sec. 24.** A new section is added to chapter 19.122 RCW to read as follows:

Nothing in this act may be construed to classify a consumer-owned utility, as defined in RCW 19.27A.140, to be under the authority of the commission.

**NEW SECTION. Sec. 25.** A new section is added to chapter 19.122 RCW to read as follows:

This act may be known and cited as the underground utility damage prevention act.

**NEW SECTION. Sec. 26.** By December 1, 2015, the utilities and transportation commission must report to the appropriate committees of the legislature on the effectiveness of the damage prevention program established under chapter 19.122 RCW. The legislative report required under this section must include analysis of damage data reported under section 20 of this act.

**NEW SECTION. Sec. 27.** This act takes effect January 1, 2013."

Senators Rockefeller, Honeyford and Nelson spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Rockefeller, Nelson and Honeyford to Engrossed Second Substitute House Bill No. 1634.

The motion by Senator Rockefeller carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "utilities;" strike the remainder of the title and insert "amending RCW 19.122.010, 19.122.020, 19.122.027, 19.122.030, 19.122.033, 19.122.035, 19.122.040, 19.122.050, 19.122.055, 19.122.070, 19.122.075, 19.122.080, 19.122.100, and 19.122.110; adding new sections to chapter 19.122 RCW; creating a new section; repealing RCW 19.122.060; prescribing penalties; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Second Substitute House Bill No. 1634 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1634 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1634 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1402, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Upthegrove and Orwall)

Concerning certain social card games in an area annexed by a city or town.

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The measure was read the second time.

#### MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1402 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1402.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1402 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove and Haugen

Absent: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1402, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1051, by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Eddy, Goodman, Kelley and Moeller)

Amending trusts and estates statutes.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 11.02.005 and 2008 c 6 s 901 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Personal representative" includes executor, administrator, special administrator, and guardian or limited guardian and special representative.

(2) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

(3) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to a decedent, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in

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the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who survive the decedent who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the decedent but who left issue surviving the decedent; each share of a deceased person in the nearest degree shall be divided among those of the deceased person's issue who survive the decedent and have no ancestor then living who is in the line of relationship between them and the decedent, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the decedent.

(4) "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant. A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

(5) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(6) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

(7) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

(8) "Will" means an instrument validly executed as required by RCW 11.12.020.

(9) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(10) "Guardian" or "limited guardian" means a personal representative of the person or estate of an incompetent or disabled person as defined in RCW 11.88.010 and the term may be used in lieu of "personal representative" wherever required by context.

(11) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(12) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

(13) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

(14) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

(15) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which

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is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, see RCW 11.07.010(5). For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

(16) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended or renumbered as of January 1, 2001.

(17) References to "section 2033A" of the Internal Revenue Code in wills, trust agreements, powers of appointment, beneficiary designations, and other instruments governed by or subject to this title shall be deemed to refer to the comparable or corresponding provisions of section 2057 of the Internal Revenue Code, as added by section 6006(b) of the Internal Revenue Service Restructuring Act of 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A "exclusion" shall be deemed to mean the section 2057 deduction.

(18) "Surviving spouse" or "surviving domestic partner" does not include an individual whose marriage to or state registered domestic partnership with the decedent has been terminated, dissolved, or invalidated unless, by virtue of a subsequent marriage or state registered domestic partnership, he or she is married to or in a domestic partnership with the decedent at the time of death. A decree of separation that does not terminate the status of spouses or domestic partners is not a dissolution or invalidation for purposes of this subsection.

(19) "Trustor" means a person, including a testator, who creates, or contributes property to, a trust.

(20) "Settlor" has the same meaning as provided for "trustor" in this section.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

**Sec. 2.** RCW 11.28.237 and 1997 c 252 s 85 are each amended to read as follows:

(1) Within twenty days after appointment, the personal representative of the estate of a decedent shall cause written notice of his or her appointment and the pendency of said probate proceedings, to be served personally or by mail to each heir, legatee and devisee of the estate and each beneficiary or transferee of a nonprobate asset of the decedent whose names and addresses are known to him or her, and proof of such mailing or service shall be made by affidavit and filed in the cause. If a trust is a legatee or devisee of the estate or a beneficiary or transferee of a nonprobate asset of the decedent, then notice to the trustee is sufficient.

(2) If the personal representative does not otherwise give notice to creditors under chapter 11.40 RCW within thirty days after appointment, the personal representative shall cause written notice of his or her appointment and the pendency of the probate proceedings to be mailed to the state of Washington department of

social and health services' office of financial recovery, and proof of the mailing shall be made by affidavit and filed in the cause.

**Sec. 3.** RCW 11.68.090 and 2003 c 254 s 3 are each amended to read as follows:

(1) Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise have the same powers, and be subject to the same limitations of liability, that a trustee has under (~~RCW 11.98.070 and~~) chapters 11.98, 11.100, and 11.102 RCW with regard to the assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Except as otherwise specifically provided in this title or by order of court, a personal representative acting under nonintervention powers may exercise the powers granted to a personal representative under chapter 11.76 RCW but is not obligated to comply with the duties imposed on personal representatives by that chapter. A party to such a transaction and the party's successors in interest are entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.

(2) Except as otherwise provided in chapter 11.108 RCW or elsewhere in order to preserve a marital deduction from estate taxes, a testator may by a will relieve the personal representative from any or all of the duties, restrictions, and liabilities imposed: Under common law; by chapters 11.54, 11.56, 11.100, 11.102, and 11.104A RCW; or by RCW 11.28.270 and 11.28.280, 11.68.095, and 11.98.070. In addition, a testator may likewise alter or deny any or all of the privileges and powers conferred by this title, and may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this title. If any common law or any statute referenced earlier in this subsection is in conflict with a will, the will controls whether or not specific reference is made in the will to this section. However, notwithstanding the rest of this subsection, a personal representative may not be relieved of the duty to act in good faith and with honest judgment.

**Sec. 4.** RCW 11.94.050 and 2001 c 203 s 12 are each amended to read as follows:

(1) Although a designated attorney-in-fact or agent has all powers of absolute ownership of the principal, or the document has language to indicate that the attorney-in-fact or agent shall have all the powers the principal would have if alive and competent, the attorney-in-fact or agent shall not have the power to make, amend, alter, or revoke the principal's wills or codicils, and shall not have the power, unless specifically provided otherwise in the document: To make, amend, alter, or revoke any of the principal's life insurance, annuity, or similar contract beneficiary designations, employee benefit plan beneficiary designations, trust agreements, registration of the principal's securities in beneficiary form, payable on death or transfer on death beneficiary designations, designation of persons as joint tenants with right of survivorship with the principal with respect to any of the principal's property, community property agreements, or any other provisions for nonprobate transfer at death contained in nontestamentary instruments described in RCW 11.02.091; to make any gifts of property owned by the principal; to exercise the principal's rights to distribute property in trust or cause a trustee to distribute property in trust to the extent consistent with the terms of the trust agreement; to make transfers of property to any trust (whether or not created by the principal) unless the trust benefits the principal alone and does not have dispositive provisions which are different from those which would have governed the property had it not been transferred into the trust((s)); or to disclaim property.

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(2) Nothing in subsection (1) of this section prohibits an attorney-in-fact or agent from making any transfer of resources not prohibited under chapter 74.09 RCW when the transfer is for the purpose of qualifying the principal for medical assistance or the limited casualty program for the medically needy.

**Sec. 5.** RCW 11.96A.030 and 2009 c 525 s 20 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

(2) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; or (v) the determination of fees for a personal representative or trustee;

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) An action or proceeding under chapter 11.84 RCW;

(f) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust; ((and))

(g) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

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(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset; and

(h) The reformation of a will or trust to correct a mistake under section 11 of this act.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Notice agent" has the meanings given in RCW 11.42.010.

(5) "Party" or "parties" means each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:

(a) The trustor if living;

(b) The trustee;

(c) The personal representative;

(d) An heir;

(e) A beneficiary, including devisees, legatees, and trust beneficiaries;

(f) The surviving spouse or surviving domestic partner of a decedent with respect to his or her interest in the decedent's property;

(g) A guardian ad litem;

(h) A creditor;

(i) Any other person who has an interest in the subject of the particular proceeding;

(j) The attorney general if required under RCW 11.110.120;

(k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney-in-fact;

(l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;

(m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW; and

(n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200.

(6) "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust.

(7) ("Principal place of administration of the trust" means the trustee's usual place of business where the day-to-day records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.

(8))) "Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.

((9) The "situs" of a trust means the place where the principal place of administration of the trust is located, unless otherwise provided in the instrument creating the trust.

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(10)) (8) "Trustee" means any acting and qualified trustee of the trust.

**Sec. 6.** RCW 11.96A.050 and 2001 c 203 s 10 are each amended to read as follows:

(1) Venue for proceedings pertaining to trusts shall be:

(a) For testamentary trusts established under wills probated in the state of Washington, in the superior court of the county where ~~((letters testamentary were granted to a personal representative of the estate subject to the will or, in the alternative, the superior court of the county of the situs of the trust; and~~

~~—(b) For all other trusts, in the superior court of the county in which the situs of the trust is located, or, if the situs is not located in the state of Washington, in any county)) the probate of the will is being administered or was completed or, in the alternative, the superior court of the county where any beneficiary of the trust entitled to notice under RCW 11.97.010 resides, the county where any trustee resides or has a place of business, or the county where any real property that is an asset of the trust is located; and~~

~~(b) For all other trusts, in the superior court of the county where any beneficiary of the trust entitled to notice under RCW 11.97.010 resides, the county where any trustee resides or has a place of business, or the county where any real property that is an asset of the trust is located. If no county has venue for proceedings pertaining to a trust under the preceding sentence, then in any county.~~

(2) A party to a proceeding pertaining to a trust may request that venue be changed. If the request is made within four months of the giving of the first notice of a proceeding pertaining to the trust, except for good cause shown, venue must be moved to the county with the strongest connection to the trust as determined by the court, considering such factors as the residence of a beneficiary of the trust entitled to notice under RCW 11.97.010, the residence or place of business of a trustee, and the location of any real property that is an asset of the trust.

(3) Venue for proceedings subject to chapter 11.88 or 11.92 RCW shall be determined under the provisions of those chapters.

~~((3))~~ (4) Venue for proceedings pertaining to the probate of wills, the administration and disposition of a decedent's property, including nonprobate assets, and any other matter not identified in subsection (1) ~~((or)), (2), or (3)~~ of this section, ~~((may))~~ shall be in any county in the state of Washington that the petitioner selects. A party to a proceeding may request that venue be changed if the request is made within four months of the mailing of the notice of appointment and pendency of probate required by RCW 11.28.237, and except for good cause shown, venue must be moved as follows:

(a) If the decedent was a resident of the state of Washington at the time of death, to the county of the decedent's residence; or

(b) If the decedent was not a resident of the state of Washington at the time of death, to any of the following:

(i) Any county in which any part of the probate estate might be;

(ii) If there are no probate assets, any county where any nonprobate asset might be; or

(iii) The county in which the decedent died.

~~((4))~~ (5) Once letters testamentary or of administration have been granted in the state of Washington, all orders, settlements, trials, and other proceedings under this title shall be had or made in the county in which such letters have been granted unless venue is moved as provided in subsection ~~((2))~~ (4) of this section.

~~((5))~~ (6) Venue for proceedings pertaining to powers of attorney shall be in the superior court of the county of the principal's residence, except for good cause shown.

~~((6))~~ (7) If venue is moved, an action taken before venue is changed is not invalid because of the venue.

~~((7))~~ (8) Any request to change venue that is made more than four months after the commencement of the action may be granted in the discretion of the court.

**Sec. 7.** RCW 11.96A.070 and 1999 c 42 s 204 are each amended to read as follows:

(1)(a) ((An action against the trustee of an express trust for a breach of fiduciary duty must be brought within three years from the earlier of: (i) The time the alleged breach was discovered or reasonably should have been discovered; (ii) the discharge of a trustee from the trust as provided in RCW 11.98.041 or by agreement of the parties under RCW 11.96A.220; or (iii) the time of termination of the trust or the trustee's repudiation of the trust.

(b) The provisions of (a) of this subsection apply to all express trusts, no matter when created, however it shall not apply to express trusts created before June 10, 1959, until the date that is three years after January 1, 2000.

~~(c))~~ A beneficiary of an express trust may not commence a proceeding against a trustee for breach of trust more than three years after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

(b) A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence. A report that includes the following information is presumed to have provided such sufficient information regarding the existence of potential claims for breach of trust:

(i) A statement of receipts and disbursements of principal and income that have occurred during the accounting period;

(ii) A statement of the assets and liabilities of the trust and their values at the beginning and end of the period;

(iii) The trustee's compensation for the period;

(iv) The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the period;

(v) Disclosure of any pledge, mortgage, option, or lease of trust property, or other agreement affecting trust property binding for a period of five years or more that was granted or entered into during the accounting period;

(vi) Disclosure of all transactions during the period that are equivalent to one of the types of transactions described in section 32 of this act or otherwise could have been affected by a conflict between the trustee's fiduciary and personal interests;

(vii) A statement that the recipient of the account information may petition the superior court pursuant to chapter 11.106 RCW to obtain review of the statement and of acts of the trustee disclosed in the statement; and

(viii) A statement that claims against the trustee for breach of trust may not be made after the expiration of three years from the date the beneficiary receives the statement.

(c) If (a) of this subsection does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within three years after the first to occur of:

(i) The removal, resignation, or death of the trustee;

(ii) The termination of the beneficiary's interest in the trust; or

(iii) The termination of the trust.

(d) For purposes of this section, "express trust" does not include resulting trusts, constructive trusts, business trusts in which certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, ((trusts created by the judgment or decree of a court not sitting in probate,)) liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions, or profits, trusts created in deposits in any financial institution under chapter 30.22 RCW, unless any such trust that is created in writing specifically incorporates this chapter in whole or in part.

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(2) Except as provided in RCW 11.96A.250 with respect to special representatives, an action against a personal representative for alleged breach of fiduciary duty by an heir, legatee, or other interested party must be brought before discharge of the personal representative.

(3) The legislature hereby confirms the long standing public policy of promoting the prompt and efficient resolution of matters involving trusts and estates. To further implement this policy, the legislature adopts the following statutory provisions in order to: (a) Encourage and facilitate the participation of qualified individuals as special representatives; (b) serve the public's interest in having a prompt and efficient resolution of matters involving trusts or estates; and (c) promote complete and final resolution of proceedings involving trusts and estates.

(i) Actions against a special representative must be brought before the earlier of:

(A) Three years from the discharge of the special representative as provided in RCW 11.96A.250; or

(B) The entry of an order by a court of competent jurisdiction under RCW 11.96A.240 approving the written agreement executed by all interested parties in accord with the provisions of RCW 11.96A.220.

(ii) If a legal action is commenced against the special representative after the expiration of the period during which claims may be brought against the special representative as provided in (c)(i) of this subsection, alleging property damage, property loss, or other civil liability caused by or resulting from an alleged act or omission of the special representative arising out of or by reason of the special representative's duties or actions as special representative, the special representative shall be indemnified: (A) From the assets held in the trust or comprising the estate involved in the dispute; and (B) by the persons bringing the legal action, for all expenses, attorneys' fees, judgments, settlements, decrees, or amounts due and owing or paid in satisfaction of or incurred in the defense of the legal action. To the extent possible, indemnification must be made first by the persons bringing the legal action, second from that portion of the trust or estate that is held for the benefit of, or has been distributed or applied to, the persons bringing the legal action, and third from the other assets held in the trust or comprising the estate involved in the dispute.

(4) The tolling provisions of RCW 4.16.190 apply to this chapter except that the running of a statute of limitations under subsection (1) or (2) of this section, or any other applicable statute of limitations for any matter that is the subject of dispute under this chapter, is not tolled as to an individual who had a guardian ad litem, limited or general guardian of the estate, or a special representative to represent the person during the probate or dispute resolution proceeding.

**Sec. 8.** RCW 11.96A.110 and 1999 c 42 s 304 are each amended to read as follows:

(1) Subject to RCW 11.96A.160, in all judicial proceedings under this title that require notice, the notice must be personally served on or mailed to all parties or the parties' virtual representatives at least twenty days before the hearing on the petition unless a different period is provided by statute or ordered by the court. The date of service shall be determined under the rules of civil procedure. Notwithstanding the foregoing, notice that is provided in an electronic transmission and electronically transmitted complies with this section if the party receiving notice has previously consented in a record delivered to the party giving notice to receiving notice by electronic transmission. Consent to receive notice by electronic transmission may be revoked at any time by a record delivered to the party giving notice. Consent is deemed revoked if the party giving notice is unable to electronically transmit two consecutive notices given in accordance with the consent.

(2) Proof of the service ~~((or)),~~ mailing, or electronic delivery required in this section must be made by affidavit or declaration filed at or before the hearing.

(3) For the purposes of this title, the terms "electronic transmission" and "electronically transmitted" have the same meaning as set forth in RCW 23B.01.400.

**Sec. 9.** RCW 11.96A.120 and 2008 c 6 s 928 are each amended to read as follows:

(1) With respect to a particular matter that affects a trust, probate estate, guardianship estate, or property subject to a power of attorney, in which the interests of such fiduciary estate and the beneficiaries are not in conflict:

(a) A guardian may represent and bind the estate that the guardian controls;

(b) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

(c) A trustee may represent and bind the beneficiaries of the trust; and

(d) A personal representative of a decedent's estate may represent and bind persons interested in the estate.

(2) This section is intended to adopt the common law concept of virtual representation. This section supplements the common law relating to the doctrine of virtual representation and shall not be construed as limiting the application of that common law doctrine.

~~((2))~~ (3) Any notice requirement in this title is satisfied if ~~((notice is given as follows))~~:

(a) Where an interest in an estate, trust, or nonprobate asset or an interest that may be affected by a power of attorney has been given to persons who comprise a certain class upon the happening of a certain event, notice may be given to the living persons who would constitute the class if the event had happened immediately before the commencement of the proceeding requiring notice, and the persons shall virtually represent all other members of the class;

(b) Where an interest in an estate, trust, or nonprobate asset or an interest that may be affected by a power of attorney has been given to a living person, and the same interest, or a share in it, is to pass to the surviving spouse or surviving domestic partner or to persons who are, or might be, the distributees, heirs, issue, or other kindred of that living person upon the happening of a future event, notice may be given to that living person, and the living person shall virtually represent the surviving spouse or surviving domestic partner, distributees, heirs, issue, or other kindred of the person; ~~((and))~~

(c) Except as otherwise provided in this subsection, where an interest in an estate, trust, or nonprobate asset or an interest that may be affected by a power of attorney has been given to a person or a class of persons, or both, upon the happening of any future event, and the same interest or a share of the interest is to pass to another person or class of persons, or both, upon the happening of an additional future event, notice may be given to the living person or persons who would take the interest upon the happening of the first event, and the living person or persons shall virtually represent the persons and classes of persons who might take on the happening of the additional future event~~((-~~

~~(3) A party is not virtually represented by a person receiving notice if a conflict of interest involving the matter is known to exist between the notified person and the party-~~

~~(4))~~; and

(d) The holder of a general power of appointment, exercisable either during the power holder's life or by will, or a limited power of appointment, exercisable either during the power holder's life or by will, that excludes as possible appointees only the power holder, his or her estate, his or her creditors, and the creditors of his or her estate, may accept notice and virtually represent and bind persons whose interests, as permissible appointees, takers in default, or

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otherwise, are subject to the power, to the extent there is no conflict of interest between the holder of the power of appointment and the persons represented with respect to the particular question or dispute.

(4) A party is not virtually represented by a person receiving notice if a conflict of interest involving the matter is known to exist between the notified person and the party.

(5) An action taken by the court is conclusive and binding upon each person receiving actual or constructive notice or who is otherwise ((virtually)) represented under this section.

**NEW SECTION. Sec. 10.** A new section is added to chapter 11.96A RCW to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, with respect to any charitable disposition made in a will or trust, if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

(a) The disposition does not fail, in whole or in part;

(b) The subject property does not revert to the alternative, residuary, or intestate heirs of the estate or, in the case of a trust, the trustor or the trustor's successors in interest; and

(c) The court may modify or terminate the trust by directing that the property be applied or distributed, in whole or in part, in a manner consistent with the testator's or trustor's charitable purposes.

(2) A provision in the terms of a will or charitable trust that would result in distribution of the property to a noncharitable beneficiary prevails over the power of the court under subsection (1) of this section to modify or terminate the will provision or trust only if, when the provision takes effect:

(a) The property is to revert to the trustor and the trustor is still living; or

(b) Fewer than twenty-one years have elapsed since the following:

(i) In the case of a charitable disposition in trust, the date of the trust's creation or the date the trust became irrevocable; or

(ii) In the case of a charitable disposition in a will, the death of the testator, in the case of a charitable disposition in a will.

(3) For purposes of this title, a charitable purpose is one for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to a community.

**NEW SECTION. Sec. 11.** A new section is added to chapter 11.96A RCW to read as follows:

The terms of a will or trust, even if unambiguous, may be reformed by judicial proceedings or binding nonjudicial procedure under this chapter to conform the terms to the intention of the testator or trustor if it is proved by clear, cogent, and convincing evidence, or the parties to a binding nonjudicial agreement agree that there is clear, cogent, and convincing evidence, that both the intent of the testator or trustor and the terms of the will or trust were affected by a mistake of fact or law, whether in expression or inducement.

**Sec. 12.** RCW 11.97.010 and 2003 c 254 s 4 are each amended to read as follows:

(1) The trustor of a trust may by the provisions of the trust relieve the trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed by chapters 11.95, 11.98, 11.100, and 11.104A RCW and RCW 11.106.020, or may alter or deny any or all of the privileges and powers conferred by those provisions; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by those provisions. If any specific provision of those chapters is in conflict with the provisions of a trust, the provisions of the trust control whether or not specific reference is made in the trust to any of those chapters, except as provided in RCW 6.32.250, 11.96A.190, 19.36.020, 11.98.200 through 11.98.240 ((and)), 11.95.100 through 11.95.150, and chapter 11.--

RCW (the new chapter created in section 39 of this act). In no event may a trustee be relieved of the duty to act in good faith and with honest judgment or the duty to provide information to beneficiaries as required in this section. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(2) Within sixty days after the date of acceptance of the position of trustee of an irrevocable trust, or the date the trustee of a formerly revocable trust acquires knowledge that the trust has become irrevocable, whether by the death of the trustor or otherwise, the trustee shall give notice of: (a) The existence of the trust, (b) the identity of the trustor or trustors, (c) the trustee's name, address, and telephone number, and (d) the right to request such information as is reasonably necessary to enable the notified person to enforce his or her rights under the trust, to all persons interested in the trust, as defined in RCW 11.96A.030, and who would be entitled to notice under RCW 11.96A.110 and 11.96A.120 if they were a party to judicial proceedings regarding the trust. If any such person is a minor and no guardian has been appointed for such person by any court, then such notice may be given to a parent of the person. If a person otherwise entitled to notice under this section is a charitable organization, and the charitable organization's only interest in the trust is a future interest that may be revoked, then such notice shall instead be given to the attorney general. A trustee who gives notice pursuant to this section satisfies the duty to inform the beneficiaries of the existence of the trust. The notice required under this subsection (2) applies only to irrevocable trusts created after December 31, 2011, and revocable trusts that become irrevocable after December 31, 2011, provided that all common law duties of a trustee to notify beneficiaries applicable to trusts created or that became irrevocable before such date are not affected.

(3) A trustee shall keep all persons interested in the trust, as defined in RCW 11.96A.030, and who would be entitled to notice under RCW 11.96A.110 and 11.96A.120 if they were a party to judicial proceedings regarding the trust, reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. A report that contains the following is presumed to satisfy the trustee's duty to keep such persons reasonably informed for the relevant period of trust administration:

(a) A statement of receipts and disbursements of principal and income that have occurred during the accounting period;

(b) A statement of the assets and liabilities of the trust and their values at the beginning and end of the period;

(c) The trustee's compensation for the period;

(d) The agents hired by the trustee, their relationship to the trustee, if any, and their compensation, for the period;

(e) Disclosure of any pledge, mortgage, option, or lease of trust property, or other agreement affecting trust property binding for a period of five years or more that was granted or entered into during the accounting period;

(f) Disclosure of all transactions during the period that are equivalent to one of the types of transactions described in section 32 of this act or otherwise could have been affected by a conflict between the trustee's fiduciary and personal interests;

(g) A statement that the recipient of the account information may petition the superior court pursuant to chapter 11.106 RCW to obtain review of the statement and of acts of the trustee disclosed in the statement; and

(h) A statement that claims against the trustee for breach of trust may not be made after the expiration of three years from the date the beneficiary receives the statement.

(4) Unless unreasonable under the circumstances, a trustee shall

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promptly respond to any beneficiary's request for information related to the administration of the trust.

(5) If a person entitled to notice under this section requests information reasonably necessary to enable the notified person to enforce his or her rights under the trust, then the trustee must provide such information within sixty days of receipt of such request. Delivery of the entire trust instrument to the persons entitled to notice under this section who request information concerning the terms of the trust reasonably necessary to enable the notified person to enforce his or her rights under the trust is deemed to satisfy the trustee's obligations under this subsection.

**NEW SECTION. Sec. 13.** A new section is added to chapter 11.97 RCW to read as follows:

The rules of construction that apply in this state to the interpretation of a will and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

**Sec. 14.** RCW 11.98.009 and 1985 c 30 s 40 are each amended to read as follows:

Except as provided in this section, this chapter applies to express trusts executed by the trustor after June 10, 1959, and does not apply to resulting trusts, constructive trusts, business trusts where certificates of beneficial interest are issued to the beneficiary, investment trusts, voting trusts, trusts in the nature of mortgages or pledges, (~~trusts created by the judgment or decree of a court not sitting in probate,~~) liquidation trusts, or trusts for the sole purpose of paying dividends, interest, interest coupons, salaries, wages, pensions or profits, trusts created in deposits in any financial institution pursuant to chapter 30.22 RCW, unless any such trust which is created in writing incorporates this chapter in whole or in part.

**NEW SECTION. Sec. 15.** A new section is added to chapter 11.98 RCW to read as follows:

**METHODS OF CREATING A TRUST.** A trust may be created by:

(1) Transfer of property to another person as trustee during the trustor's lifetime or by will or other disposition taking effect upon the trustor's death;

(2) Declaration by the owner of property that the owner holds identifiable property as trustee; or

(3) Exercise of a power of appointment in favor of a trustee.

**NEW SECTION. Sec. 16.** A new section is added to chapter 11.98 RCW to read as follows:

**REQUIREMENTS FOR CREATION.** (1) A trust is created only if:

(a) The trustor has capacity to create a trust;

(b) The trustor indicates an intention to create the trust;

(c) The trust has a definite beneficiary or is:

(i) A charitable trust;

(ii) A trust for the care of an animal, as provided in chapter 11.118 RCW; or

(iii) A trust for a noncharitable purpose, as provided in section 20 of this act;

(d) The trustee has duties to perform; and

(e) The same person is not the sole trustee and sole beneficiary.

(2) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(3) A power in a trustee to select a beneficiary from an indefinite class is valid, except to the extent that the trustee may distribute trust property to himself or herself. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

**NEW SECTION. Sec. 17.** A new section is added to chapter 11.98 RCW to read as follows:

**TRUSTS CREATED IN OTHER JURISDICTIONS.** A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation or in the case of a revocable trust, at the time the trust became irrevocable:

(1) The trustor was domiciled, had a residence, or was a national;

(2) The trustee was domiciled or had a place of business; or

(3) Any trust property was located.

**NEW SECTION. Sec. 18.** A new section is added to chapter 11.98 RCW to read as follows:

**TRUST PURPOSES.** A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve.

**NEW SECTION. Sec. 19.** A new section is added to chapter 11.98 RCW to read as follows:

**EVIDENCE OF ORAL TRUST.** Except as required by a statute other than this title, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear, cogent, and convincing evidence.

**NEW SECTION. Sec. 20.** A new section is added to chapter 11.98 RCW to read as follows:

**NONCHARITABLE TRUST WITHOUT ASCERTAINABLE BENEFICIARY.** Except as otherwise provided in chapter 11.118 RCW or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for longer than the time period specified in RCW 11.98.130 as the period during which a trust cannot be deemed to violate the rule against perpetuities;

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court; and

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the trustor, if then living, otherwise to the trustor's successors in interest. Successors in interest include the beneficiaries under the trustor's will, if the trustor has a will, or, in the absence of an effective will provision, the trustor's heirs.

**Sec. 21.** RCW 11.98.039 and 2005 c 97 s 13 are each amended to read as follows:

(1) Where a vacancy occurs in the office of the trustee and there is a successor trustee who is willing to serve as trustee and (a) is named in the governing instrument as successor trustee or (b) has been selected to serve as successor trustee under the procedure established in the governing instrument for the selection of a successor trustee, the outgoing trustee, or any other interested party, shall give notice of such vacancy, whether arising because of the trustee's resignation or because of any other reason, and of the successor trustee's agreement to serve as trustee, to each adult distributee or permissible distributee of trust income or of trust principal or of both trust income and trust principal. If there are no such adults, no notice need be given. The successor trustee named in the governing instrument or selected pursuant to the procedure therefor established in the governing instrument shall be entitled to act as trustee except for good cause or disqualification. The successor trustee shall serve as of the effective date of the discharge of the predecessor trustee as provided in RCW 11.98.041.

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(2) Where a vacancy exists or occurs in the office of the trustee and there is no successor trustee who is named in the governing instrument or who has been selected to serve as successor trustee under the procedure established in the governing instrument for the selection of a successor trustee, and who is willing to serve as trustee, then all parties with an interest in the trust may agree to a nonjudicial change of the trustee under RCW 11.96A.220. The successor trustee shall serve as of the effective date of the discharge of the predecessor trustee as provided in RCW 11.98.041 or, in circumstances where there is no predecessor trustee, as of the effective date of the trustee's appointment.

(3) When there is a desire to name one or more cotrustees to serve with the existing trustee, then all parties with an interest in the trust may agree to the nonjudicial addition of one or more cotrustees under RCW 11.96A.220. The additional cotrustee shall serve as of the effective date of the cotrustee's appointment.

(4) Unless subsection (1), (2), or (3) of this section applies, any beneficiary of a trust, the trustor, if alive, or the trustee may petition the superior court having jurisdiction for the appointment or change of a trustee or cotrustee under the procedures provided in RCW 11.96A.080 through 11.96A.200: (a) Whenever the office of trustee becomes vacant; (b) upon filing of a petition of resignation by a trustee; or (c) for any other reasonable cause.

(5) For purposes of this subsection, the term fiduciary includes both trustee and personal representative.

(a) Except as otherwise provided in the governing instrument, a successor fiduciary, absent actual knowledge of a breach of fiduciary duty: (i) Is not liable for any act or omission of a predecessor fiduciary and is not obligated to inquire into the validity or propriety of any such act or omission; (ii) is authorized to accept as conclusively accurate any accounting or statement of assets tendered to the successor fiduciary by a predecessor fiduciary; and (iii) is authorized to accept only for assets actually delivered and has no duty to make further inquiry as to undisclosed assets of the trust or estate.

(b) Nothing in this section relieves a successor fiduciary from liability for retaining improper investments, nor does this section in any way bar the successor fiduciary, trust beneficiaries, or other party in interest from bringing an action against a predecessor fiduciary arising out of the acts or omissions of the predecessor fiduciary, nor does it relieve the successor fiduciary of liability for its own acts or omissions except as specifically stated or authorized in this section.

(6) A change of trustee to a foreign trustee does not change the situs of the trust. Transfer of situs of a trust to another jurisdiction requires compliance with section 22 of this act and RCW 11.98.045 through 11.98.055.

**NEW SECTION. Sec. 22.** A new section is added to chapter 11.98 RCW to read as follows:

**SITUS OF TRUST AND GOVERNING LAW.** (1) If provisions of a trust instrument designate Washington as the situs of the trust or designate Washington law to govern the trust or any of its terms, then the situs of the trust is Washington provided that one of the following conditions is met:

(a) A trustee has a place of business in or a trustee is a resident of Washington; or

(b) More than an insignificant part of the trust administration occurs in Washington; or

(c) The trustor resides in Washington at the time situs is being established, or resided in Washington at the time the trust became irrevocable; or

(d) One or more of the beneficiaries resides in Washington; or

(e) An interest in real property located in Washington is an asset of the trust.

(2)(a) Unless the trust instrument designates a state other than Washington as the situs of the trust and does not expressly authorize transfer of situs, the trustee may register the trust as a Washington trust if any of the factors in subsection (1)(a) through (e) of this section are present. The trustee shall register the trust by filing with the clerk of the court in any county where venue lies for the trust under RCW 11.96A.050, a statement including the following information:

(i) The name and address of the trustee;

(ii) The date of the trust, name of the trustor, and name of the trust, if any;

(iii) The factor or factors listed in subsection (1)(a) through (e) of this section that are present for the trust and which qualify the trust for registration.

(b) Within five days of filing the registration with the court, the trustee shall mail a copy of the registration to each person who would be entitled to notice under RCW 11.97.010 and has not waived notice of the registration, in writing, filed in the cause, together with a notice that must be in substantially the same form as set forth in this section. Persons receiving such notice shall have thirty days from the date of filing the registration to file a petition in the court objecting to such registration and requesting the court to issue an order that Washington is not the proper situs of the trust, and to serve a copy of such petition upon the trustee or the trustee's lawyer. If a petition objecting to the registration is filed within thirty days of the date of filing the registration, the trustee must request the court to fix a time and place for the hearing of the petition and notify by mail, personal service or electronic transmission, if a valid consent to electronic transmission is in effect under the terms of RCW 11.96A.110, all persons who were entitled to notice of the registration of the time and place of the hearing, not less than ten days before the hearing on the petition.

(c) Unless a person receiving notice of the registration files a petition with the court objecting to the registration within thirty days of the date of filing the registration, the registration shall be deemed the equivalent of an order entered by the court declaring that the situs of the trust is Washington. After expiration of the thirty-day period following filing of the registration, the trustee may obtain a certificate of registration signed by the clerk, and issued under the seal of the court, which may be in the form specified in (d) of this subsection.

(d) Notice of registration and certificates of registration may be in the following form:

(i) Notice form:

NOTICE OF FILING OF REGISTRATION OF [NAME AND DATE OF TRUST] AS A WASHINGTON TRUST

NOTICE IS GIVEN that the attached Registration of Trust was filed by the undersigned in the above-entitled court on the . . . . day of . . . . ., 20. . . ; unless you file a petition in the above-entitled court objecting to such registration and requesting the court to issue an order that Washington is not the proper situs of the trust, and serve a copy thereof upon the trustee or the trustee's lawyer, within thirty days after the date of the filing, the registration will be deemed the equivalent of an order entered by the court declaring that the situs of the trust is Washington.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

(ii) Certificate of Registration:

State of Washington, County of . . . . .

In the superior court of the county of . . . . .

Whereas, the attached Registration of Trust was filed with this court on . . . . ., the attached Notice of Filing Registration of Trust and

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Affidavit of Mailing Notice of Filing Registration of Trust were filed with this court on . . . , and no objections to such Registration have been filed with this court, the trust known as . . . , under trust agreement dated . . . , between . . . as Trustor and . . . as Trustee, is hereby registered as a Washington trust.

Witness my hand and the seal of said court this . . . day of . . . , 20 . . .

(3) If the instrument establishing a trust does not designate Washington as the situs or designate Washington law to apply to the trust, and the trustee of the trust has not registered the trust as allowed in subsection (2) of this section, the situs of the trust is Washington if the conditions specified in this subsection (3) are met.

(a) For a testamentary trust, the situs of the trust is Washington if:

(i) The will was admitted to probate in Washington; or

(ii) The will has not been admitted to probate in Washington, but any trustee of the trust resides or has a place of business in Washington, any beneficiary entitled to notice under RCW 11.97.010 resides in Washington, or any real property that is an asset of the trust is located in Washington.

(b) For an intervivos trust where the trustor is domiciled in Washington either when the trust becomes irrevocable or, in the case of a revocable trust, when judicial proceedings under chapter 11.96A RCW are commenced, the situs of the trust is Washington if:

(i) The trustor is living and Washington is the trustor's domicile or any of the trustees reside in or have a place of business in Washington; or

(ii) The trustor is deceased, situs has not previously been established by any court proceeding, and:

(A) The trustor's will was admitted to probate in Washington;

(B) The trustor's will was not admitted to probate in Washington, but any person entitled to notice under RCW 11.97.010 resides in Washington, any trustee resides or has a place of business in Washington, or any real property that is an asset of the trust is located in Washington.

(c) If the situs of the trust is not determined under (a) or (b) of this subsection, the determination regarding the situs of the trust is a matter for purposes of RCW 11.96A.030. Whether Washington is the situs shall be determined by a court in a judicial proceeding conducted under RCW 11.96A.080 if:

(i) A trustee has a place of business in or a trustee is a resident of Washington; or

(ii) More than an insignificant part of the trust administration occurs in Washington; or

(iii) One or more of the beneficiaries resides in Washington; or

(iv) An interest in real property located in Washington is an asset of the trust.

(d) Determination of situs under (c) of this subsection (3) cannot be made by nonjudicial agreement under RCW 11.96A.220.

**Sec. 23.** RCW 11.98.045 and 1985 c 30 s 45 are each amended to read as follows:

(1) ((A trustee may transfer trust assets to a trustee in another jurisdiction or may transfer the place of administration of a trust to another jurisdiction)) If a trust is a Washington trust under section 22 of this act, a trustee may transfer the situs of the trust to a jurisdiction other than Washington if the trust instrument so provides or in accordance with RCW 11.98.051 or 11.98.055.

(2) Transfer under this section is permitted only if:

(a) The transfer would facilitate the economic and convenient administration of the trust;

(b) The transfer would not materially impair the interests of the beneficiaries or others interested in the trust;

(c) The transfer does not violate the terms of the trust; ~~((and))~~

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(d) The new trustee is qualified and able to administer the trust or such assets on the terms set forth in the trust; and

(e) The trust meets at least one condition for situs listed in section 22(1) of this act with respect to the new jurisdiction.

(3) Acceptance of such transfer by a foreign corporate trustee or trust company under this section~~((s))~~ or RCW 11.98.051~~((s))~~ or 11.98.055 shall not be construed to be doing a "trust business" as described in RCW 30.08.150(9).

**Sec. 24.** RCW 11.98.051 and 1999 c 42 s 619 are each amended to read as follows:

(1) The trustee may transfer ~~((trust assets or the place of administration))~~ trust situs (a) in accordance with RCW 11.96A.220~~((: - In addition, the trustee shall give))~~; or (b) by giving written notice to those persons entitled to notice as provided for under RCW 11.96A.110 and to the attorney general in the case of a charitable trust subject to chapter 11.110 RCW not less than sixty days before initiating the transfer. The notice ~~((shall))~~ must:

(a) State the name and mailing address of the trustee;

(b) Include a copy of the governing instrument of the trust;

(c) Include a statement of assets and liabilities of the trust dated within ninety days of the notice;

(d) State the name and mailing address of the trustee to whom the ~~((assets or administration))~~ trust will be transferred together with evidence that the trustee has agreed to accept the ~~((assets or))~~ trust ((administration)) in the manner provided by law of the new ~~((place of administration))~~ situs. The notice ~~((shall))~~ must also contain a statement of the trustee's qualifications and the name of the court, if any, having jurisdiction of that trustee or in which a proceeding with respect to the administration of the trust may be heard;

(e) State the facts supporting the requirements of RCW 11.98.045(2);

(f) Advise the beneficiaries of the ~~((right to petition for judicial determination of the proposed transfer as provided in RCW 11.98.055))~~ date, not less than sixty days after the giving of the notice, by which the beneficiary must notify the trustee of an objection to the proposed transfer; and

(g) Include a form on which the recipient may indicate consent or objection to the proposed transfer.

(2) If the ~~((trustee receives written consent to the proposed transfer from all persons entitled to notice))~~ date upon which the beneficiaries' right to object to the transfer expires without receipt by the trustee of any objection, the trustee may transfer the trust ~~((assets or place of administration))~~ situs as provided in the notice. ~~((Transfer in accordance with the notice is a full discharge of the trustee's duties in relation to all property referred to therein. Any person dealing with the trustee is entitled to rely on the authority of the trustee to act and is not obliged to inquire into the validity or propriety of the transfer.))~~ If the trust was registered under RCW 11.98.045(2), the trustee must file a notice of transfer of situs and termination of registration with the court of the county where the trust was registered.

(3) The authority of a trustee under this section to transfer a trust's situs terminates if a beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

(4) A change of trust situs does not authorize a change of trustee. Change of trustee of a trust requires compliance with RCW 11.98.039.

**Sec. 25.** RCW 11.98.055 and 1999 c 42 s 620 are each amended to read as follows:

(1) Any trustee, beneficiary, or beneficiary representative may petition the superior court of the county of the situs of the trust for a transfer of ~~((trust assets or transfer of the place of administration))~~ the situs of a trust in accordance with RCW 11.96A.080 through 11.96A.200.

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(2) At the conclusion of the hearing, if the court finds the requirements of RCW 11.98.045(2) have been satisfied, it may direct the transfer of ~~((trust assets or the place of trust administration))~~ the situs of a trust on such terms and conditions as it deems appropriate. The court in its discretion may provide for payment from the trust of reasonable fees and expenses for any party to the proceeding. Delivery of trust assets in accordance with the court's order is a full discharge of the trustee's duties in relation to all transferred property.

(3) A change of trust situs does not authorize a change of trustee. Change of trustee of a trust requires compliance with RCW 11.98.039.

**Sec. 26.** RCW 11.98.070 and 2010 c 8 s 2091 are each amended to read as follows:

A trustee, or the trustees jointly, of a trust, in addition to the authority otherwise given by law, have discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund of the trust to be held and administered under the provisions of the trust;

(2) Sell on credit;

(3) Grant, purchase or exercise options;

(4) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights;

(5) Deposit stock or other corporate securities with any protective or other similar committee;

(6) Assent to corporate sales, leases, and encumbrances;

(7) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(8) Register and hold any stocks, securities, or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees are liable for any loss occasioned by the acts of any nominee, except that this subsection shall not apply to situations covered by subsection (31) of this section;

(9) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements;

(10) Subdivide, develop, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property, and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(11) Compromise or submit claims to arbitration;

(12) Borrow money, secured or unsecured, from any source, including a corporate trustee's banking department, or from the individual trustee's own funds;

(13) Make loans, either secured or unsecured, at such interest as the trustee may determine to any person, including any beneficiary of a trust, except that no trustee who is a beneficiary of a trust may participate in decisions regarding loans to such beneficiary from the trust ~~((unless the loan is as described in RCW 83.110.020(2))~~) and then only to the extent of the loan, and also except that if a beneficiary or the grantor of a trust has the power to change a trustee of the trust, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;

(14) Determine the hazards to be insured against and maintain insurance for them;

(15) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; make nonpro rata distributions of property in kind; allocate particular assets or portions of them or undivided interests in them to any one or more

of the beneficiaries without regard to the income tax basis of specific property allocated to any beneficiary and without any obligation to make an equitable adjustment;

(16)(a) Pay ((any income or principal distributable to or for the use of any beneficiary, whether that beneficiary is under legal disability, to the beneficiary or for the beneficiary's use to the beneficiary's parent, guardian, custodian under the uniform gifts to minors act of any state, person with whom he or she resides, or third person)) ~~an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:~~

(i) Paying it to the beneficiary's guardian;

(ii) Paying it to the beneficiary's custodian under chapter 11.114 RCW, and, for that purpose, creating a custodianship;

(iii) If the trustee does not know of a guardian or custodian, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, with instructions to expend the funds on the beneficiary's behalf; or

(iv) Managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution.

(b) If the trustee pays any amount to a third party under (a)(i) through (iii) of this subsection, the trustee has no further obligations regarding the amounts so paid;

(17) Change the character of or abandon a trust asset or any interest in it;

(18) Mortgage, pledge the assets or the credit of the trust estate, or otherwise encumber trust property, including future income, whether an initial encumbrance or a renewal or extension of it, for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(19) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing structures, and make any improvements to trust property;

(20) Create restrictions, easements, including easements to public use without consideration, and other servitudes;

(21) Manage any business interest, including any farm or ranch interest, regardless of form, received by the trustee from the trustor of the trust, as a result of the death of a person, or by gratuitous transfer from any other transferor, and with respect to the business interest, have the following powers:

(a) To hold, retain, and continue to operate that business interest solely at the risk of the trust, without need to diversify and without liability on the part of the trustee for any resulting losses;

(b) To enlarge or diminish the scope or nature or the activities of any business;

(c) To authorize the participation and contribution by the business to any employee benefit plan, whether or not qualified as being tax deductible, as may be desirable from time to time;

(d) To use the general assets of the trust for the purpose of the business and to invest additional capital in or make loans to such business;

(e) To endorse or guarantee on behalf of the trust any loan made to the business and to secure the loan by the trust's interest in the business or any other property of the trust;

(f) To leave to the discretion of the trustee the manner and degree of the trustee's active participation in the management of the business, and the trustee is authorized to delegate all or any part of the trustee's power to supervise, manage, or operate to such persons as the trustee may select, including any partner, associate, director, officer, or employee of the business; and also including electing or employing directors, officers, or employees of the trustee to take part in the management of the business as directors or officers or

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otherwise, and to pay that person reasonable compensation for services without regard to the fees payable to the trustee;

(g) To engage, compensate, and discharge or to vote for the engaging, compensating, and discharging of managers, employees, agents, lawyers, accountants, consultants, or other representatives, including anyone who may be a beneficiary of the trust or any trustee;

(h) To cause or agree that surplus be accumulated or that dividends be paid;

(i) To accept as correct financial or other statements rendered by any accountant for any sole proprietorship or by any partnership or corporation as to matters pertaining to the business except upon actual notice to the contrary;

(j) To treat the business as an entity separate from the trust, and in any accounting by the trustee it is sufficient if the trustee reports the earning and condition of the business in a manner conforming to standard business accounting practice;

(k) To exercise with respect to the retention, continuance, or disposition of any such business all the rights and powers that the trustor of the trust would have if alive at the time of the exercise, including all powers as are conferred on the trustee by law or as are necessary to enable the trustee to administer the trust in accordance with the instrument governing the trust, subject to any limitations provided for in the instrument; and

(l) To satisfy contractual and tort liabilities arising out of an unincorporated business, including any partnership, first out of the business and second out of the estate or trust, but in no event may there be a liability of the trustee, except as provided in RCW 11.98.110 (2) and (4), and if the trustee is liable, the trustee is entitled to indemnification from the business and the trust, respectively;

(22) Participate in the establishment of, and thereafter in the operation of, any business or other enterprise according to subsection (21) of this section except that the trustee shall not be relieved of the duty to diversify;

(23) Cause or participate in, directly or indirectly, the formation, reorganization, merger, consolidation, dissolution, or other change in the form of any corporate or other business undertaking where trust property may be affected and retain any property received pursuant to the change;

(24) Limit participation in the management of any partnership and act as a limited or general partner;

(25) Charge profits and losses of any business operation, including farm or ranch operation, to the trust estate as a whole and not to the trustee; make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(26) Pay reasonable compensation to the trustee or co-trustees considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the trustee and reimburse the trustee, with interest as appropriate, for expenses that were properly incurred in the administration of the trust;

(27) Employ persons, including lawyers, accountants, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's duties or to perform any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except that:

(a) A trustee may not delegate all of the trustee's duties and responsibilities;

(b) This power to employ and to delegate duties does not relieve the trustee of liability for such person's discretionary acts, that, if done by the trustee, would result in liability to the trustee;

(c) This power to employ and to delegate duties does not relieve the trustee of the duty to select and retain a person with reasonable care;

(d) The trustee, or a successor trustee, may sue the person to collect any damages suffered by the trust estate even though the trustee might not be personally liable for those damages, subject to the statutes of limitation that would have applied had the claim been one against the trustee who was serving when the act or failure to act occurred;

(28) Appoint an ancillary trustee or agent to facilitate management of assets located in another state or foreign country;

(29) Retain and store such items of tangible personal property as the trustee selects and pay reasonable storage charges thereon from the trust estate;

(30) Issue proxies to any adult beneficiary of a trust for the purpose of voting stock of a corporation acting as the trustee of the trust;

(31) Place all or any part of the securities at any time held by the trustee in the care and custody of any bank, trust company, or member firm of the New York Stock Exchange with no obligation while the securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank, trust company, or firm, so long as the bank, trust company, or firm was selected and retained with reasonable care, and have all stocks and registered securities placed in the name of the bank, trust company, or firm, or in the name of its nominee, and to appoint such bank, trust company, or firm agent as attorney to collect, receive, receipt for, and disburse any income, and generally may perform, but is under no requirement to perform, the duties and services incident to a so-called "custodian" account;

(32) Determine at any time that the corpus of any trust is insufficient to implement the intent of the trust, and upon this determination by the trustee, terminate the trust by distribution of the trust to the current income beneficiary or beneficiaries of the trust or their legal representatives, except that this determination may only be made by the trustee if the trustee is neither the grantor nor the beneficiary of the trust, and if the trust has no charitable beneficiary;

(33) Continue to be a party to any existing voting trust agreement or enter into any new voting trust agreement or renew an existing voting trust agreement with respect to any assets contained in trust; ~~(and)~~

(34)(a) Donate a qualified conservation easement, as defined by ~~(section)~~ 26 U.S.C. Sec. 2031(c) of the federal internal revenue code, on any real property, or consent to the donation of a qualified conservation easement on any real property by a personal representative of an estate of which the trustee is a devisee, to obtain the benefit of the estate tax exclusion allowed under ~~(section)~~ 26 U.S.C. Sec. 2031(c) of the federal internal revenue code or the deduction allowed under ~~(section)~~ 26 U.S.C. Sec. 2055(f) of the federal internal revenue code as long as:

(i)(A) The governing instrument authorizes the donation of a qualified conservation easement on the real property; or

(B) Each beneficiary that may be affected by the qualified conservation easement consents to the donation under the provisions of chapter 11.96A RCW; and

(ii) The donation of a qualified conservation easement will not result in the insolvency of the decedent's estate.

(b) The authority granted under this subsection includes the authority to amend a previously donated qualified conservation easement, as defined under ~~(section)~~ 26 U.S.C. Sec. 2031(c)(8)(B) of the federal internal revenue code, and to amend a previously donated unqualified conservation easement for the purpose of making the easement a qualified conservation easement under ~~(section)~~ 26 U.S.C. Sec. 2031(c)(8)(B);

(35) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(36) Exercise elections with respect to federal, state, and local

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taxes;

(37) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(38) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(39) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds.

**NEW SECTION. Sec. 27.** A new section is added to chapter 11.98 RCW to read as follows:

**DISTRIBUTION UPON TERMINATION.** (1) Upon termination or partial termination of a trust, the trustee may send, by personal service, certified mail with return receipt requested, or in an electronic transmission if there is a consent of the recipient to electronic transmission then in effect under the terms of RCW 11.96A.110, to the beneficiaries a proposed plan to distribute existing trust assets. The right of any beneficiary to object to the plan to distribute existing trust assets, including the right to object to nonpro rata distributions authorized under RCW 11.98.070(15), terminates if the beneficiary does not notify the trustee of an objection within thirty days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(2) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

**NEW SECTION. Sec. 28.** A new section is added to chapter 11.98 RCW to read as follows:

**NONLIABILITY OF THIRD PERSONS WITHOUT KNOWLEDGE OF BREACH.** (1) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(2) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

(3) A person who in good faith delivers assets to a trustee need not ensure their proper application.

(4) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

(5) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

**NEW SECTION. Sec. 29.** A new section is added to chapter 11.98 RCW to read as follows:

**EXCULPATION OF TRUSTEE.** (1) An exculpatory term which was inserted as the result of an abuse of a fiduciary or confidential relationship between the trustor and the trustee is unenforceable.

(2) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the trustor.

**NEW SECTION. Sec. 30.** A new section is added to chapter 11.98 RCW to read as follows:

**BENEFICIARY'S CONSENT, RELEASE, OR RATIFICATION.** A trustee is not liable to a beneficiary for breach of trust if the beneficiary consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

(1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or

(2) At the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

**NEW SECTION. Sec. 31.** A new section is added to chapter 11.98 RCW to read as follows:

**CERTIFICATION OF TRUST.** (1) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(a) That the trust exists and the date the trust instrument was executed;

(b) The identity of the trustor;

(c) The identity and address of the currently acting trustee;

(d) Relevant powers of the trustee;

(e) The revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(f) The authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and

(g) The name of the trust or the titling of the trust property.

(2) A certification of trust may be signed or otherwise authenticated by any trustee or by an attorney for the trust.

(3) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(4) A certification of trust need not contain the dispositive terms of a trust.

(5) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction or any other reasonable information.

(6) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(7) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(8) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages, including reasonable attorney fees, if the court determines that the person did not act in good faith in demanding the trust instrument.

(9) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

**NEW SECTION. Sec. 32.** A new section is added to chapter 11.98 RCW to read as follows:

**DUTY OF LOYALTY.** (1) A trustee shall administer the trust solely in the interests of the beneficiaries.

(2) Subject to the rights of persons dealing with or assisting the trustee as provided in RCW 11.98.090, a sale, encumbrance, or

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other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

- (a) The transaction was authorized by the terms of the trust;
  - (b) The transaction was approved by the court or approved in a nonjudicial binding agreement in compliance with RCW 11.96A.210 through 11.96A.250;
  - (c) The beneficiary did not commence a judicial proceeding within the time allowed by RCW 11.96A.070;
  - (d) The beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 30 of this act; or
  - (e) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.
- (3)(a) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be "otherwise affected" by a conflict between fiduciary and personal interests under this section if it is entered into by the trustee with:
- (i) The trustee's spouse or registered domestic partner;
  - (ii) The trustee's descendants, siblings, parents, or their spouses or registered domestic partners;
  - (iii) An agent or attorney of the trustee; or
  - (iv) A corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.
- (b) The presumption is rebutted if the trustee establishes that the conflict did not adversely affect the interests of the beneficiaries.
- (4) A sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account that is voidable under subsection (2) of this section may be voided by a beneficiary without further proof.
- (5) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of chapter 11.100 RCW. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee must at least annually notify the persons entitled under RCW 11.106.020 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.
- (6) The following transactions, if fair to the beneficiaries, cannot be voided under this section:
- (a) An agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;
  - (b) Payment of reasonable compensation to the trustee and any affiliate providing services to the trust, provided total compensation is reasonable;
  - (c) A transaction between a trust and another trust, decedent's estate, or guardianship of which the trustee is a fiduciary or in which a beneficiary has an interest;
  - (d) A deposit of trust money in a regulated financial-service institution operated by the trustee or its affiliate;
  - (e) A delegation and any transaction made pursuant to the delegation from a trustee to an agent that is affiliated or associated with the trustee; or
  - (f) Any loan from the trustee or its affiliate.

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(7) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

(8) If a trust has two or more beneficiaries, the trustee shall act impartially in administering the trust and distributing the trust property, giving due regard to the beneficiaries' respective interests.

**NEW SECTION. Sec. 33.** A new section is added to chapter 11.98 RCW to read as follows:

**DAMAGES FOR BREACH OF TRUST.** (1) A trustee who commits a breach of trust is liable for the greater of:

(a) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or

(b) The profit the trustee made by reason of the breach.

(2) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

**Sec. 34.** RCW 11.100.090 and 1985 c 30 s 75 are each amended to read as follows:

Unless the instrument creating the trust expressly provides to the contrary and except as authorized in section 32 of this act, any fiduciary in carrying out the obligations of the trust, may not buy or sell investments from or to himself, herself, or itself or any affiliated or subsidiary company or association. This section shall not be construed as prohibiting the trustee's powers under RCW 11.98.070(12).

**NEW SECTION. Sec. 35.** CAPACITY OF TRUSTOR OF REVOCABLE TRUST. The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

**NEW SECTION. Sec. 36.** REVOCATION OR AMENDMENT OF REVOCABLE TRUST. (1) Unless the terms of a trust expressly provide that the trust is revocable, the trustor may not revoke or amend the trust.

(2) If a revocable trust is created or funded by more than one trustor and unless the trust agreement provides otherwise:

(a) To the extent the trust consists of community property, the trust may be revoked by either spouse or either domestic partner acting alone but may be amended only by joint action of both spouses or both domestic partners;

(b) To the extent the trust consists of property other than community property, each trustor may revoke or amend the trust with regard to the portion of the trust property attributable to that trustor's contribution;

(c) The character of community property or separate property is unaffected by its transfer to and from a revocable trust; and

(d) Upon the revocation or amendment of the trust by fewer than all of the trustors, the trustee shall promptly notify the other trustors of the revocation or amendment.

(3) The trustor may revoke or amend a revocable trust:

(a) By substantial compliance with a method provided in the terms of the trust; or

(b)(i) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

(A) A later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

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(B) A written instrument signed by the trustor evidencing intent to revoke or amend.

(ii) The requirements of chapter 11.11 RCW do not apply to revocation or amendment of a revocable trust under (b)(i) of this subsection.

(4) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the trustor directs.

(5) A trustor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the power, as provided in RCW 11.94.050(1) and to the extent consistent with or expressly authorized by the trust agreement.

(6) A guardian of the trustor may exercise a trustor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the guardianship pursuant to RCW 11.92.140.

(7) A trustee who does not know that a trust has been revoked or amended is not liable to the trustor or trustor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

(8) This section does not limit or affect operation of RCW 11.96A.220 through 11.96A.240.

**NEW SECTION. Sec. 37. TRUSTOR'S POWERS--POWERS OF WITHDRAWAL.** While a trust is revocable by the trustor, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the trustor. If a revocable trust has more than one trustor, the duties of the trustee are owed to all of the trustors having the right to revoke the trust.

**NEW SECTION. Sec. 38. LIMITATION ON ACTION CONTESTING VALIDITY OF REVOCABLE TRUST--DISTRIBUTION OF TRUST PROPERTY.** (1) A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the trustor's death within the earlier of:

(a) Twenty-four months after the trustor's death; or

(b) Four months after the trustee sent to the person by personal service, mail, or in an electronic transmission if there is a consent of the recipient to electronic transmission then in effect under the terms of RCW 11.96A.110, a notice with the information required in RCW 11.97.010, and notice of the time allowed for commencing a proceeding.

(2) Upon the death of the trustor of a trust that was revocable at the trustor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust, unless:

(a) The trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(b) A potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification.

(3) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

**NEW SECTION. Sec. 39.** Sections 35 through 38 of this act constitute a new chapter in Title 11 RCW.

**NEW SECTION. Sec. 40. APPLICATION.** Except as otherwise provided in this act:

(1) This act applies to all trusts created before, on, or after January 1, 2012;

(2) This act applies to all judicial proceedings concerning trusts commenced on or after January 1, 2012;

(3) Any rule of construction or presumption provided in this act applies to trust instruments executed before January 1, 2012, unless there is a clear indication of a contrary intent in the terms of the trust;

(4) An action taken before January 1, 2012, is not affected by this act; and

(5) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before January 1, 2012, that statute continues to apply to the right even if it has been repealed or superseded.

**NEW SECTION. Sec. 41. EFFECTIVE DATE.** This act takes effect January 1, 2012."

Senators Kline and Pflug spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1051.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "estates;" strike the remainder of the title and insert "amending RCW 11.02.005, 11.28.237, 11.68.090, 11.94.050, 11.96A.030, 11.96A.050, 11.96A.070, 11.96A.110, 11.96A.120, 11.97.010, 11.98.009, 11.98.039, 11.98.045, 11.98.051, 11.98.055, 11.98.070, and 11.100.090; adding new sections to chapter 11.96A RCW; adding a new section to chapter 11.97 RCW; adding new sections to chapter 11.98 RCW; adding a new chapter to Title 11 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1051 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1051 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1051 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Shin

SUBSTITUTE HOUSE BILL NO. 1051 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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On motion of Senator White, Senator Shin was excused.

### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721, by House Committee on Environment (originally sponsored by Representatives Frockt, Kenney, Roberts, Fitzgibbon and Stanford)

Preventing storm water pollution from coal tar sealants.

The measure was read the second time.

### MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Coal tar" means a viscous substance obtained by the destructive distillation of coal and containing levels of polycyclic aromatic hydrocarbons in excess of ten thousand milligrams per kilogram. "Coal tar" includes, but is not limited to, refined coal tar, high temperature coal tar, coal tar pitch, or any substance identified by chemical abstract number 65996-93-2.

(2) "Coal tar pavement product" means a material that contains coal tar that is intended for use as a pavement sealant.

(3) "Department" means the department of ecology.

**NEW SECTION. Sec. 2.** (1) After January 1, 2012, no person may sell at wholesale or retail a coal tar pavement product that is labeled as containing coal tar.

(2) After July 1, 2012, a person may not apply a coal tar pavement product on a driveway or parking area.

(3) The department may issue a notice of corrective action to a person in violation of subsection (1) or (2) of this section.

(4) A city or county may adopt an ordinance providing for enforcement of the requirements of subsection (1) or (2) of this section. A city or county adopting an ordinance has jurisdiction concurrent with the department to enforce this section.

**NEW SECTION. Sec. 3.** Sections 1 and 2 of this act constitute a new chapter in Title 70 RCW."

### MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 1, beginning on line 14 of the amendment, strike all of section 2 and insert the following:

**"NEW SECTION. Sec. 2.** (1) A county may adopt an ordinance to restrict the sale and use of a coal tar pavement product by: (a) A two-thirds majority vote by a county legislative authority or county council; or (b) approval by a vote of the people of the county.

(2) A county ordinance to ban wholesale or retail sales of a coal tar pavement product that is labeled as containing coal tar may not take effect until January 1, 2012.

(3) A county ordinance to ban the use or application of a coal tar pavement product on a driveway or parking area may not take effect until July 1, 2012."

Senator Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Nelson spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 1, line 14 to the committee striking amendment to Engrossed Substitute House Bill No. 1721.

The motion by Senator Schoesler failed and the amendment to the committee striking amendment was not adopted by voice vote.

### MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove to the committee striking amendment be adopted:

On page 1, line 17 of the amendment, after "July 1," strike "2012" and insert "2013"

Senators Hargrove and Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 1, line 17 to the committee striking amendment to Engrossed Substitute House Bill No. 1721.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

### MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford to the committee striking amendment be adopted:

On page 1, line 19, after "(3)" insert "(a)"

On page 1, after line 20, insert the following:

"(b) Prior to issuing a notice of corrective action under (a) of this subsection, the department shall verify that the product referenced in the notice is a coal tar pavement product.

(c) In determining whether a product is a coal tar pavement product under (b) of this subsection, the department shall use credible testing data that incorporates peer-reviewed science." Senator Honeyford spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Rockefeller spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 1, line 19 to the committee striking amendment to Engrossed Substitute House Bill No. 1721.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy as amended to Engrossed Substitute House Bill No. 1721.

The motion by Senator Rockefeller carried and the committee striking amendment as amended was adopted by voice vote.

### MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "sealants;" strike the remainder of the title and insert "and adding a new chapter to Title 70 RCW."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 1721 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1721 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1721 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Morton, Roach, Stevens and Zarelli

Excused: Senator Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1703, by Representatives Dammeier, Haigh, Anderson, Probst, Parker, Alexander, Zeiger and Smith

Addressing fiscal notes for legislation that uniquely affects school districts.

The measure was read the second time.

MOTION

On motion of Senator Zarelli, the rules were suspended, Engrossed House Bill No. 1703 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1703.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1703 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Morton

Excused: Senator Shin

ENGROSSED HOUSE BILL NO. 1703, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5011,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5020,  
 SENATE BILL NO. 5033,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5068,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5105,  
 SENATE BILL NO. 5117,  
 SUBSTITUTE SENATE BILL NO. 5168,  
 SENATE BILL NO. 5172,  
 SUBSTITUTE SENATE BILL NO. 5386,  
 SENATE BILL NO. 5463,  
 SUBSTITUTE SENATE BILL NO. 5546,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5585,  
 SENATE BILL NO. 5589,  
 SENATE BILL NO. 5633,  
 SUBSTITUTE SENATE BILL NO. 5635,  
 SUBSTITUTE SENATE BILL NO. 5664,  
 SUBSTITUTE SENATE BILL NO. 5797,  
 SUBSTITUTE SENATE BILL NO. 5800.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Hargrove as to whether Senate Bill 5806 is an expansion of gambling which would take a sixty percent vote under the Constitution, the President finds and rules as follows:

Senator Hargrove is correct that Article II, section 24 of the Washington Constitution provides that an expansion of gambling requires a sixty percent vote of the legislature. Not every bill dealing with this topic, however, requires a super-majority vote. For example, there is ample precedent in this body, as well as other legal authority, to differentiate an expansion of gambling from the designation of new games or themes to take place under a pre-existing statutory scheme.

Such is the case with this bill. The President believes that this measure does not expand gambling, but instead makes use of existing authority under RCW 67.70.040 and adopted WACs. Under current law, the Lottery Commission may already conduct raffles, and it has done so in the past. This measure simply makes use of this existing framework to dedicate a raffle to veterans, specify the date of the drawing, and direct the sale proceeds.

For these reasons, the President believes this measure will take only a simple majority vote on final passage.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

SENATE BILL NO. 5806, by Senators Conway, Swecker, Kastama, Hobbs, Roach, Kilmer, Shin and Kline.

Authorizing a statewide raffle to benefit veterans and their families.

The bill was read on Third Reading.

Senators Conway and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5806.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5806 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove and Haugen

Excused: Senator Shin

SENATE BILL NO. 5806, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

HOUSE BILL NO. 1178, by Representatives Appleton and Miloscia

Addressing the office of regulatory assistance.

The measure was read the second time.

## MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.328 and 2010 c 112 s 15 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and

analyze alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice shall include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis shall be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

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(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency shall report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees or rates pursuant to legislative standards;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; or

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B)

establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of (~~financial management~~) regulatory assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

**Sec. 2.** RCW 43.42.010 and 2009 c 97 s 4 are each amended to read as follows:

(1) The office of regulatory assistance is created in the office of financial management and (~~shall~~) must be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor (~~shall~~) must appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office (~~shall~~) must offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060;

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW by providing information about best permitting practices methods to improve communication with, and solicit early involvement of, state agencies when needed; and

(l) Maintain and furnish information as provided in RCW 43.42.040.

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(4) The office (~~shall~~) must provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(a) A performance report including:

(i) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(ii) The number and type of projects where the office provided services and the resolution provided by the office on any conflicts that arose on such projects; (~~and~~)

(iii) The agencies involved on specific projects;

(iv) Specific information on any difficulty encountered in provision of services, implementation of programs or processes, or use of tools; and

(v) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and

(b) Recommendations on system improvements including recommendations regarding:

(i) Measurement of overall system performance; (~~and~~)

(ii) Changes needed to make cost reimbursement, a fully coordinated permit process, multiagency permitting teams, and other processes effective; and

(iii) Resolving any conflicts or inconsistencies arising from differing statutory or regulatory authorities, roles and missions of agencies, timing and sequencing of permitting and procedural requirements as identified by the office in the course of its duties.

**NEW SECTION. Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 43.131.401 (Office of regulatory assistance--Termination) and 2007 c 231 s 6, 2007 c 94 s 15, 2003 c 71 s 5, & 2002 c 153 s 13; and

(2) RCW 43.131.402 (Office of regulatory assistance--Repeal) and 2010 c 162 s 7.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 29, 2011."

Senator Kastama spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to House Bill No. 1178.

The motion by Senator Kastama carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "34.05.328" insert "and 43.42.010"

#### MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1178 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1178 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1178 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Honeyford, Morton, Pflug and Stevens

Excused: Senator Shin

HOUSE BILL NO. 1178 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1506, by House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson)

Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 1506 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1517, by Representatives Jinkins, Hinkle, Green, Harris and Stanford

Requiring comparable coverage for patients who require orally administered anticancer medication.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The Washington state legislature finds that for cancer patients, there is an inequity in how much they have to pay toward the cost of a self-administered oral medication and how much they have to pay for an intravenous product that is administered in a physician's office or clinic. The legislature further finds that when these inequities exist, patients' access to medically necessary, appropriate treatment is often unfairly restricted. The legislature also acknowledges that self-administered chemotherapy is the only treatment for some types of cancer where there is no intravenous alternative. The legislature

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declares that in order to reduce the out-of-pocket costs for cancer patients whose diagnosis requires treatment through self-administered anticancer medication, the cost-sharing responsibilities for these patients must be on a basis at least comparable to those of patients receiving intravenously administered anticancer medication.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Each health plan offered to public employees and their covered dependents under this chapter, including those subject to the provision of Title 48 RCW, and is issued or renewed beginning January 1, 2012, and provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (15) and (16).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.20 RCW to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (15) and (16).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

**NEW SECTION. Sec. 4.** A new section is added to chapter 48.21 RCW to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (15) and (16).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.44 RCW to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (15) and (16).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

**NEW SECTION. Sec. 6.** A new section is added to chapter 48.46 RCW to read as follows:

(1) Each health plan issued or renewed on or after January 1, 2012, that provides coverage for cancer chemotherapy treatment must provide coverage for prescribed, self-administered anticancer

medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to cancer chemotherapy medications administered by a health care provider or facility as defined in RCW 48.43.005 (15) and (16).

(2) Nothing in this section may be interpreted to prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

**NEW SECTION. Sec. 7.** Each health plan offering individual or small group products that provides coverage for prescribed, self-administered anticancer medication as required under this act must report to the health committees of the legislature by November 1, 2013, with a summary of their cost experience."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Parlette, Senator Ericksen was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed House Bill No. 1517.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "medication;" strike the remainder of the title and insert "adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; and creating new sections."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 1517 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Hill spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Parlette, Senator Baumgartner was excused.

#### MOTION

On motion of Senator Eide, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1517 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1517 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

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Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford and Schoesler

Excused: Senators Baumgartner, Ericksen, Kline and Shin

ENGROSSED HOUSE BILL NO. 1517 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Hill: "I would like to point out that my daughter Allie is in the wings and it is her thirteenth birthday today so let's wrap it up quickly here so I can go have dinner with her."

#### REMARKS BY THE PRESIDENT

President Owen: "If I'm not mistaken Senator Hill, she's also one of our outstanding pages this week, is that not true?"

Senator Hill: "No, that's the other one."

#### REPLY BY THE PRESIDENT

President Owen: "Oh, the other one. Oh. Oh there she is. She's waiting for dinner too."

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1171, by Representatives Rolfes, Armstrong, Liias, Billig, Angel, Finn, Appleton, Seaquist and Reykdal

Concerning high capacity transportation system plan components and review.

The measure was read the second time.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed House Bill No. 1171 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1171.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1171 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Stevens, Swecker, Tom and White

Voting nay: Senators Benton, Carrell, Hewitt, Roach, Schoesler and Zarelli

Excused: Senators Baumgartner, Kline and Shin

ENGROSSED HOUSE BILL NO. 1171, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1438, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Dammeier)

Concerning the interstate compact for adult offender supervision.

The measure was read the second time.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1438 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1438.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1438 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Shin

SUBSTITUTE HOUSE BILL NO. 1438, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1565, by House Committee on Judiciary (originally sponsored by Representatives Frockt, Rodne, Pedersen, Eddy, Goodman, Roberts, Walsh, Green, Jacks, Fitzgibbon, Reykdal, Kenney, Stanford, Billig and Kelley)

Concerning the modification and termination of domestic violence protection orders.

The measure was read the second time.

#### MOTION

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On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1565 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1565.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1565 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Shin

SUBSTITUTE HOUSE BILL NO. 1565, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1485, by House Committee on Judiciary (originally sponsored by Representatives Rodne, Kirby, Pedersen, Johnson and Kelley)

Regarding charitable solicitations.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.09.010 and 2007 c 471 s 1 are each amended to read as follows:

The purpose of this chapter is to:

(1) Provide citizens of the state of Washington with information relating to ~~((persons and organizations who))~~ any entity that solicits funds from the public for public charitable purposes in order to prevent (a) deceptive and dishonest practices in the conduct of soliciting funds for or in the name of charity; and (b) improper use of contributions intended for charitable purposes;

(2) Improve the transparency and accountability of organizations that solicit funds from the public for charitable purposes; and

(3) Develop and operate educational programs or partnerships for charitable organizations, board members, and the general public that help build public confidence and trust in organizations that solicit funds from the public for charitable purposes.

Sec. 2. RCW 19.09.020 and 2007 c 471 s 2 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) A "bona fide officer or employee" of a charitable organization is one (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of an independent contractor in his or her relation with the organization; and (c) whose compensation is not computed on funds raised or to be raised.

(2) "Charitable organization" means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable purpose, but does not include any commercial fund-raiser, commercial fund-raising entity, commercial coventurer, or any fund-raising counsel, as defined in this section. Churches and their integrated auxiliaries, and political organizations are not charitable organizations, but all are subject to RCW 19.09.100 ~~((12,))~~ (15) ~~((and))~~ through (18).

(3) "Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

(4) "Commercial coventurer" means any individual or corporation, partnership, sole proprietorship, limited liability company, limited partnership, limited liability partnership, or any other legal entity, that:

(a) Is regularly and primarily engaged in making sales of goods or services for profit directly to the general public;

(b) Is not otherwise regularly or primarily engaged in making ~~((charitable))~~ solicitations in this state or otherwise raising funds in this state for one or more charitable organizations;

(c) Represents to prospective purchasers that, if they purchase a good or service from the commercial coventurer, a portion of the sales price or a sum of money or some other specified thing of value will be donated to a named charitable organization; and

(d) Does not ask purchasers to make checks or other instruments payable to a named charitable organization or any entity other than the commercial coventurer itself under its regular commercial name.

(5) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration ~~((within this state))~~ directly or indirectly solicits or receives contributions within this state for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of, or ~~((is held out))~~ represents to persons in this state as independently engaged in the business of, soliciting or receiving contributions for such purposes. However, a commercial coventurer, fund-raising counsel, or consultant is not a commercial fund-raiser or commercial fund-raising entity.

(6) "Compensation" means salaries, wages, fees, commissions, or any other remuneration or valuable consideration.

(7) "Contribution" means the payment, donation, or promise, ~~((or grant))~~ for consideration or otherwise, of any money or property of any kind or value which contribution is wholly or partly induced by a solicitation. Reference to dollar amounts of "contributions" or "solicitations" in this chapter means in the case of payments or promises to pay for merchandise or rights of any

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description, the value of the total amount paid or promised to be paid for such merchandise or rights.

(8) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation.

(9) "Entity" means an individual, organization, group, association, partnership, corporation, agency or unit of state government, or any combination thereof.

(10) "Fund-raising counsel" or "consultant" means any entity or individual who is retained by a charitable organization, for a fixed fee or rate, that is not computed on a percentage of funds raised, or to be raised, under a written agreement only to plan, advise, consult, or prepare materials for a solicitation of contributions in this state, but who does not manage, conduct, or carry on a fund-raising campaign and who does not solicit contributions or employ, procure, or engage any compensated person to solicit contributions, and who does not at any time have custody or control of contributions. A volunteer, employee, or salaried officer of a charitable organization maintaining a permanent establishment or office in this state is not a fund-raising counsel. An attorney, investment counselor, or banker who advises an individual, corporation, or association to make a charitable contribution is not a fund-raising counsel as a result of the advice.

(11) "General public" or "public" means any individual or entity located in Washington state without a membership or other official relationship with a charitable organization before a solicitation by the charitable organization.

(12) "Gross revenue" or "annual gross revenue" means, for any accounting period, the total value of revenue, excluding unrealized capital gains, but including noncash contributions of tangible, personal property received by or on behalf of a charitable organization from all sources, without subtracting any costs or expenses.

(13) "Membership" means that for the payment of fees, dues, assessments, etc., an organization provides services and confers a bona fide right, privilege, professional standing, honor, or other direct benefit, in addition to the right to vote, elect officers, or hold office. The term "membership" does not include those persons who are granted a membership upon making a contribution as the result of solicitation.

~~((13))~~ (14) "Other employee" of a charitable organization means any person (a) whose conduct is subject to direct control by such organization; (b) who does not act in the manner of any independent contractor in his or her relation with the organization; and (c) who is not engaged in the business of or held out to persons in this state as independently engaged in the business of soliciting contributions for charitable purposes or religious activities.

~~((14))~~ (15) "Political organization" means those organizations whose activities are subject to chapter ~~((42-47))~~ 42.17A RCW or the Federal Elections Campaign Act of 1971, as amended.

~~((15))~~ (16) "Religious organization" means those entities that are not churches or integrated auxiliaries and includes nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, speakers' organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

~~((16))~~ (17) "Secretary" means the secretary of state.

~~((17))~~ (18) "Signed" means hand-written, or, if the secretary adopts rules facilitating electronic filing that pertain to this chapter, in the manner prescribed by those rules.

~~((18))~~ (19)(a) "Solicitation" means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(i) Any appeal is made for any charitable purpose;

(ii) The name of any charitable organization is used as an inducement for consummating the sale; or

(iii) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization.

(b) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(c) "Solicitation" does not include bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission.

(20) "Solicitation report" means the financial information the secretary requires pursuant to RCW 19.09.075 or 19.09.079.

NEW SECTION. Sec. 3. A new section is added to chapter 19.09 RCW to read as follows:

The application requirements of RCW 19.09.075 do not apply to:

(1) Any charitable organization raising less than fifty thousand dollars in any accounting year when all the activities of the organization, including all fund-raising activities, are carried on by persons who are unpaid for their services and no part of the charitable organization's assets or income inures to the benefit of or is paid to any officer, director, member, or trustee of the organization, other than as part of a charitable class benefited by the charitable organization.

(2) Appeals for funds on behalf of a specific individual named in the solicitation, but only if all of the proceeds of the solicitation are given to or expended for the direct benefit of that individual.

**Sec. 4.** RCW 19.09.062 and 2010 1st sp.s. c 29 s 11 are each amended to read as follows:

The secretary of state (~~shall~~) must collect the following fees in accordance with this chapter:

(1) For an application for registration as a charitable organization, a fee of sixty dollars. Twenty dollars of this fee must be deposited in the state general fund and the remaining forty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(2) For an annual renewal of registration as a charitable organization, a fee of forty dollars. Ten dollars of this fee must be deposited in the state general fund and the remaining thirty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(3) For an application for registration as a commercial fund-raiser, a fee of three hundred dollars. Two hundred fifty dollars of this fee must be deposited in the state general fund and the remaining fifty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(4) For an annual renewal of registration as a commercial fund-raiser, a fee of two hundred twenty-five dollars. One hundred seventy-five dollars of this fee must be deposited in the state general fund and the remaining fifty dollars must be deposited in the charitable organization education account under RCW 19.09.530;

(5) For a registration of a commercial fund-raiser service contract, a fee of twenty dollars. Ten dollars of this fee must be deposited in the state general fund and the remaining ten dollars must be deposited in the charitable organization education account under RCW 19.09.530.

**Sec. 5.** RCW 19.09.065 and 1993 c 471 s 2 are each amended to read as follows:

(1) All charitable organizations and commercial fund-raisers (~~shall~~) must register with the secretary prior to conducting any solicitations.

(2) Failure to register as required by this chapter is a violation of this chapter.

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(3) Information provided to the secretary pursuant to this chapter ~~((shall be))~~ is a public record except as ~~((otherwise stated in this chapter))~~ provided by law. Social security numbers and financial account numbers are not public information.

(4) Registration ~~((shall))~~ must not be considered or be represented as an endorsement by the secretary or the state of Washington.

**NEW SECTION. Sec. 6.** A new section is added to chapter 19.09 RCW, to be codified between RCW 19.09.065 and 19.09.075, to read as follows:

(1) Entities are deemed registered under RCW 19.09.075 or 19.09.079 twenty days after receipt of the registration or renewal form by the secretary and may thereafter solicit contributions from the general public.

(2) If the secretary determines that the application for initial registration or renewal is incomplete, the secretary will notify the applicant of the information necessary to complete the application. The secretary may hold the application up to thirty days to allow the applicant time to provide additional information. If the applicant fails to provide complete information as requested by the secretary, the applicant will be deemed unregistered and must cease all solicitations as defined by this chapter.

(3) If an applicant fails to pay a required fee for any filing, the secretary will notify the applicant of the necessary fee to complete the application. The secretary may hold the application up to thirty days to allow the applicant time to submit the required payment. If the applicant fails to provide the required payment as requested by the secretary, the applicant will be deemed unregistered and must cease all solicitations as defined by this chapter.

**NEW SECTION. Sec. 7.** A new section is added to chapter 19.09 RCW, to be codified between section 6 of this act and RCW 19.09.075, to read as follows:

Charitable organizations must ensure that the financial information included in the solicitation report fairly represents, in all material respects, the financial condition and results of operations of the organization as of, and for, the period presented to the secretary for filing. If the financial information submitted to the secretary is incorrect in any material way, it is a violation of this chapter and the charitable organization may be subject to penalties as provided under RCW 19.09.279.

**Sec. 8.** RCW 19.09.075 and 2010 1st sp.s. c 29 s 12 are each amended to read as follows:

~~((1))~~ (1) An application for initial registration and renewal as a charitable organization ~~((shall))~~ must be submitted ~~((in))~~ on the form ~~((prescribed by rule))~~ approved by the secretary ~~((containing, but not limited to, the following))~~ and must contain:

~~((1))~~ (a) The name, address, and telephone number of the charitable organization;

~~((2))~~ (b) The name(s) under which the charitable organization will solicit contributions;

~~((3))~~ (c) The name, address, and telephone number of the officers of or persons accepting responsibility for the charitable organization;

~~((4))~~ (d) The names of the three officers or employees receiving the greatest amount of compensation from the charitable organization;

~~((5))~~ (e) The purpose of the charitable organization;

~~((6))~~ (f) Whether the organization is exempt from federal income tax; and if so the organization shall attach to its application a copy of the letter by which the internal revenue service granted such status; ~~((and~~

~~((b))~~ (g) The name and address of the entity that prepares, reviews, or audits the financial statement of the charitable organization;

~~((7))~~ (h) A solicitation report of the charitable organization for the preceding, completed accounting year including:

~~((a))~~ (i) The types of solicitations conducted;

~~((b))~~ (ii) The ~~((total dollar value of contributions))~~ gross revenue received from ~~((solicitations and from))~~ all ~~((other))~~ sources ~~((received on behalf of the charitable purpose))~~ by or on behalf of the charitable organization before any expenses are paid or deducted;

~~((c))~~ (iii) The total ~~((amount of money applied to charitable purposes, fund-raising costs, and other expenses; and~~

~~((d))~~ (iv) The name, address, and telephone number of any commercial fund-raiser used by the organization;

~~((e))~~ (v) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305; and

~~((f))~~ (vi) The total revenue of the preceding fiscal year.

The solicitation report required to be submitted under subsection (7) of this section shall be in the form prescribed by rule by the secretary, or as agreed to by the secretary and a charitable organization) value of contributions received from all solicitations for or on behalf of the charitable organization before any expenses are paid or deducted;

~~((g))~~ (vii) The total value of funds expended for charitable purposes; and

~~((h))~~ (viii) Total expenses, including expenditures for charitable purposes, fund-raising costs, and administrative expenses;

~~((i))~~ (ix) The name, address, and telephone number of any commercial fund-raiser retained by the charitable organization; and

~~((j))~~ (x) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305; and

~~((k))~~ (xi) Such other information the secretary deems necessary by rule.

~~((l))~~ (xii) The governing body or committee thereof must review and accept any financial report that the charitable organization may be required to file with the office of the secretary.

~~((m))~~ (xiii) Charitable organizations that are required under federal tax law to file an annual return in the form 990 series or any successor series is not required to file a copy of such annual return with the secretary: PROVIDED, That the charitable organization complies with all federal tax law requirements with respect to public inspection of such annual return.

~~((n))~~ (xiv) The president, treasurer, or comparable officer of the organization must sign and date the application. The application ~~((shall))~~ must be submitted with a nonrefundable filing fee established in RCW 19.09.062. ~~((If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.))~~

~~((o))~~ (xv) Charitable organizations required to register and renew under this chapter must file a notice of change of information within thirty days of any change in the information contained in subsection (1)(a) through (k) of this section.

**NEW SECTION. Sec. 9.** A new section is added to chapter 19.09 RCW to read as follows:

The secretary is authorized to adopt rules, in accordance with chapter 34.05 RCW, that establish a set of tiered financial reporting requirements for charitable organizations required to register with the secretary pursuant to this chapter. Rules adopted under this section must include, but not be limited to, substantially the following:

(1) Tier one. Charitable organizations with one million dollars or less in annual gross revenue averaged over the three preceding, completed accounting years must meet the financial reporting requirements specified in RCW 19.09.075;

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(2) Tier two. Charitable organizations with more than one million dollars and up to three million dollars in annual gross revenue averaged over the three preceding, completed accounting years must, in addition to the reporting requirements in RCW 19.09.075, make one of the following financial reporting requirements available to the public upon request, or accessible to the public on the internet:

(a) The federal financial reporting form (990, 990PF, 990EZ, 990T) the organization normally files with the IRS which must be prepared by a certified public accountant or other professional who normally prepares such forms in the ordinary course of their business; or

(b) An audited financial statement prepared by an independent certified public accountant for the preceding accounting year;

(3) Tier three. Charitable organizations with more than three million dollars in annual gross revenue averaged over the three preceding, completed accounting years must, in addition to the reporting requirements in RCW 19.09.075, obtain an independent, third-party audit of its financial records for the preceding accounting year. This audit report must be made available in paper form to the public upon request or accessible to the public on the internet.

(4) The secretary may waive a tiered reporting requirement as prescribed in rule.

**Sec. 10.** RCW 19.09.079 and 2010 1st sp.s. c 29 s 13 are each amended to read as follows:

An application for registration and renewal as a commercial fund-raiser ~~((shall))~~ must be submitted ~~((#))~~ on the form ~~((prescribed))~~ approved by the secretary ~~((containing, but not limited to, the following))~~ and must contain:

(1) The name, address, and telephone number of the commercial fund-raising entity;

(2) The name(s), address(es), and telephone number(s) of the owner(s) and principal officer(s) of the commercial fund-raising entity;

(3) The name, address, and telephone number of the individual responsible for the activities of the commercial fund-raising entity in Washington;

(4) The names of the three officers or employees receiving the greatest amount of compensation from the commercial fund-raising entity;

(5) The name and address of the entity that prepares, reviews, or audits the financial statement of the organization;

(6) A solicitation report of the commercial fund-raising entity for the preceding, completed accounting year, including:

(a) The types of fund-raising services conducted;

(b) The names of charitable organizations required to register under RCW ~~((49.09.065))~~ 19.09.075 for whom fund-raising services have been performed;

(c) The total value of contributions received on behalf of charitable organizations required to register under RCW ~~((49.09.065))~~ 19.09.075 by the commercial fund-raiser, affiliate of the commercial fund-raiser, or any entity retained by the commercial fund-raiser; and

(d) The amount of money disbursed to charitable organizations for charitable purposes, net of fund-raising costs paid by the charitable organization as stipulated in any agreement between charitable organizations and the commercial fund-raiser;

(7) The name, address, and telephone number of any other commercial fund-raiser that was retained in the conduct of providing fund-raising services; ~~((and))~~

(8) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings as provided in RCW 19.09.305; and

(9) Such other information the secretary deems necessary by rule.

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The application ~~((shall))~~ must be signed by an officer or owner of the commercial fund-raiser and ~~((shall))~~ must be submitted with a nonrefundable fee established in RCW 19.09.062. ~~((If the secretary determines that the application is complete, the application shall be filed and the applicant deemed registered.))~~

Commercial fund-raisers required to register and renew under this chapter must file a notice of change of information within thirty days of any change in the information contained in subsections (1) through (7) and (9) of this section.

**NEW SECTION. Sec. 11.** A new section is added to chapter 19.09 RCW to read as follows:

(1) Every commercial fund-raiser must execute a surety bond if it:

(a) Directly or indirectly receives contributions from the public on behalf of any charitable organization;

(b) Is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any other similar method;

(c) Incurs or is authorized to incur expenses on behalf of the charitable organization; or

(d) Has not been registered with the secretary as a commercial fund-raiser for the preceding accounting year.

(2) The surety bond must be executed as principal in the amount prescribed by the secretary in rule. The issuer of the surety bond must be licensed to do business in this state, and must promptly notify the secretary when claims or payments are made against the bond or when the bond is canceled. The bond must be filed with the secretary in the form prescribed by the secretary. The bond must run to the state and to any person who may have a cause of action against the obligor of said bond for any malfeasance, misfeasance, or deceptive practice in the conduct of solicitations.

The secretary may also provide by rule for the reduction and reinstatement of the bond required by this section.

**Sec. 12.** RCW 19.09.085 and 2007 c 471 s 6 are each amended to read as follows:

(1) Registration under this chapter ~~((shall be))~~ is effective for one year or ~~((longer,))~~ as established by the secretary.

(2) ~~((Reregistration))~~ Renewals required under RCW 19.09.075 or 19.09.079 ~~((shall))~~ must be submitted to the secretary no later than the date established by the secretary by rule.

(3) ~~((Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through (9) or 19.09.079 (1) through (7).))~~

(4) The secretary ~~((shall))~~ must notify entities registered under this chapter of the need to ~~((reregister))~~ renew upon the expiration of their current registration. The notification ~~((shall))~~ must be ~~((by mail, sent at least))~~ made approximately sixty days prior to the expiration ~~((of their current registration))~~ date and must be made through postal or electronic means. Failure to ~~((register))~~ renew shall not be excused by a failure of the secretary to ~~((mail))~~ send the notice or by an entity's failure to receive the notice.

(4) Entities required to register and renew under this chapter must file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1)(a) through (k) or 19.09.079 (1) through (7) and (9).

(5) Entities are deemed registered under RCW 19.09.075 or 19.09.079 no sooner than twenty days after receipt of the registration or renewal form by the secretary and may thereafter solicit contributions from the general public.

(6) If the secretary determines that the application for initial registration or renewal is incomplete, the secretary must notify the applicant of the information necessary to complete the application. The secretary may hold the application up to thirty days to allow the applicant time to provide additional information. If the applicant

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fails to provide complete information as requested by the secretary, the applicant must be deemed unregistered and must cease all solicitations as defined by this chapter.

(7) If an applicant fails to pay a required fee for any filing, the secretary must notify the applicant of the necessary fee to complete the application. The secretary may hold the application up to thirty days to allow the applicant time to submit the required payment. If the applicant fails to provide the required payment as requested by the secretary, the applicant must be deemed unregistered and must cease all solicitations as defined by this chapter.

**Sec. 13.** RCW 19.09.097 and 2010 1st sp.s. c 29 s 14 are each amended to read as follows:

(1) No charitable organization may contract with a commercial fund-raiser for any fund-raising service or activity unless its contract requires that both parties comply with the law and permits officers of the charity reasonable access to:

(a) The fund-raiser's financial records relating to that charitable organization;

(b) The fund-raiser's operations including without limitation the right to be present during any telephone solicitation; and

(c) The names of all of the fund-raiser's employees or staff who are conducting fund-raising activities or (~~charitable~~) solicitations on behalf of the charitable organization. In addition, the contract shall specify the amount of raised funds that the charitable organization will receive or the method of computing that amount, the amount of compensation of the commercial fund-raiser or the method of computing that amount, and whether the compensation is fixed or contingent.

(2) Before a charitable organization may contract with a commercial fund-raiser for any fund-raising service or activity, the charitable organization and commercial fund-raiser shall complete and file a registration form with the secretary. The registration (~~shall~~) must be filed by the charitable organization (~~on~~) on the form (~~prescribed~~) approved by the secretary (~~The registration shall~~) and must contain (~~but not be limited to, the following information~~):

(a) The name and registration number of the commercial fund-raiser;

(b) (~~The~~) name of the surety or sureties issuing the bond required by RCW 19.09.190, the aggregate amount of such bond or bonds, the bond number(s), original effective date(s), and termination date(s);

(c) The name and registration number of the charitable organization;

~~(c)~~ (c) The name of the representative of the commercial fund-raiser who will be responsible for the conduct of the fund-raising;

~~(d)~~ (d) The type(s) of service(s) to be provided by the commercial fund-raiser;

~~(e)~~ (e) The term dates of the contract and the dates such service(s) will begin and end;

~~(f)~~ (f) The terms of the (~~agreement~~) contract between the charitable organization and commercial fund-raiser relating to:

(i) Amount or percentages of amounts to inure to the charitable organization;

(ii) Limitations placed on the maximum amount to be raised by the fund-raiser, if the amount to inure to the charitable organization is not stated as a percentage of the amount raised;

(iii) Costs of fund-raising that will be the responsibility of the charitable organization, regardless of whether paid as a direct expense, deducted from the amounts disbursed, or otherwise; and

(iv) The manner in which contributions received directly by the charitable organization, not the result of services provided by the commercial fund-raiser, will be identified and used in computing the fee owed to the commercial fund-raiser; and

~~(g)~~ (g) The names of any entity, other than the contracting commercial fund-raiser to which (~~more than ten percent~~) any of the total anticipated fund-raising cost is to be paid, and whether any principal officer or owner of the commercial fund-raiser or relative by blood or marriage thereof is an owner or officer of any such entity.

(3) The registration form must be submitted with a nonrefundable filing fee established in RCW 19.09.062 and must be signed by an owner or principal officer of the commercial fund-raiser and the president, treasurer, trustee or comparable officer of the charitable organization.

(4) A correct copy of the contract shall be filed with the secretary before the commencement of any campaign.

~~(4)~~ The registration form shall be submitted with a nonrefundable filing fee established in RCW 19.09.062 and shall be signed by an owner or principal officer of the commercial fund-raiser and the president, treasurer, or comparable officer of the charitable organization.)

(5) If the secretary determines that the application is incomplete, the secretary must notify the applicant of the information necessary to complete the application. The secretary may hold documents up to thirty days to allow the applicant time to provide additional information. If the applicant fails to provide complete information as requested by the secretary, the applicant must be deemed unregistered and the commercial fund-raiser must cease all solicitations under the terms of the contract.

(6) If an applicant fails to pay the required filing fee, the secretary must notify the applicant of the necessary fee to complete the application. The secretary may hold the application up to thirty days to allow the applicant time to submit the required payment. If the applicant fails to provide the required payment as requested by the secretary, the applicant must be deemed unregistered and the commercial fund-raiser must cease all solicitations under the terms of the contract.

**Sec. 14.** RCW 19.09.100 and 2007 c 471 s 8 and 2007 c 218 s 64 are each reenacted and amended to read as follows:

All entities soliciting contributions for charitable purposes must comply with the requirements of this section except entities exempted from registration are not required to make the disclosures under subsections (1)(c), (4)(b) or (c), and (5)(b) of this section. The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) (~~A charitable organization, whether or not required to register pursuant to this chapter,~~) Any entity that directly solicits contributions from the public in this state (~~shall~~) must make the following clear and conspicuous disclosures at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The identity of the charitable organization and the city of the principal place of business of the charitable organization;

(c) (~~If requested by the solicitee,~~) The published number (~~in~~) and web site of the office of the secretary, if requested, for the donor to obtain additional financial (~~disclosure~~) and other information on file with the secretary. The disclosure must be made during an oral solicitation of a contribution, and at the same time at which a written request for a contribution is made.

(2) A commercial fund-raiser (~~shall~~) must meet the required disclosures described in subsection (1) of this section clearly and conspicuously (~~disclose~~) at the point of solicitation(~~:~~

~~(a) The name of the individual making the solicitation;~~

~~(b)) and must also disclose the name of the entity for which the fund-raiser is an agent or employee and the name and city of the charitable organization for which the solicitation is being conducted(~~:~~ and~~

~~(c) If requested by the solicitee, the published number in the~~

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office of the secretary for the donor to obtain additional financial disclosure information on file with the secretary. The disclosure must be made during an oral solicitation of a contribution, and at the same time at which a written request for a contribution is made).

(3) ~~((A person or organization soliciting charitable contributions by))~~ Telephone ~~((shall make))~~ solicitations must include the disclosures required under subsection (1) or (2) of this section ~~((in the course of the solicitation but))~~ prior to asking for a ~~((commitment for a))~~ contribution ~~((from the solicitee, and)).~~ The required disclosures must also be provided in writing within five business days to ((any solicitee that)) anyone who makes a pledge ((within five working days of making the pledge. If the person or organization sends any materials to the person or organization solicited before the receipt of any contribution, those materials shall include the disclosures required in subsection (1) or (2) of this section, whichever is applicable)) by telephone to donate.

(4) In the case of a solicitation by advertisement or mass distribution, including postal, electronic, posters, leaflets, automatic dialing machines, publications, and audio or video broadcasts, it ~~((shall))~~ must be clearly and conspicuously disclosed in the body of the solicitation material that:

(a) The solicitation is conducted by a named commercial fund-raiser, if it is;

(b) The ~~((notice of solicitation))~~ registration required by the charitable solicitation act is on file with the secretary's office; and

(c) The potential donor can obtain additional financial ~~((disclosure))~~ and other information at a published number ~~((in))~~ or web site for the office of the secretary.

(5) A container or vending machine displaying a solicitation must ~~((also))~~ display:

(a) In a clear and conspicuous manner the name of the charitable organization for which funds are solicited, the name, business address, and telephone number of the individual ((and)) or any commercial fund-raiser responsible for collecting funds placed in the containers or vending machines((, and the following)):

(b) The statement: "This ((charity)) organization is currently registered with the secretary's office under the charitable solicitation act((, registration number . . .)) - call 1-800-332-4483," if the charitable organization for which funds are solicited is required to register under chapter 19.09 RCW.

(6) ~~((A commercial fund-raiser shall not))~~ No entity may represent that tickets to any fund-raising event will be donated for use by another person unless all the following requirements are met:

(a) The ~~((commercial fund-raiser))~~ entity prior to conducting a solicitation has written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they will accept;

(b) The written commitments are kept on file by the ~~((commercial fund-raiser))~~ entity for three years and are made available to the secretary, attorney general, or county prosecutor on demand;

(c) The contributions solicited for donated tickets may not be more than the amount representing the number of ticket commitments received from persons and kept on file under (a) of this subsection; and

(d) Not later than seven calendar days prior to the date of the event for which ticket donations are solicited, the ~~((commercial fund-raiser shall))~~ entity must give all donated tickets to the persons who made the written commitments to accept them.

(7) ~~((Each person or organization))~~ Any entity soliciting charitable contributions ~~((shall))~~ must not ((represent)) misrepresent orally or in writing ~~((that))~~:

(a) ~~((The charitable contribution is tax deductible unless the charitable organization for which charitable contributions are being solicited or to which tickets for fund-raising events or other services~~

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or goods will be donated, has applied for and received from the internal revenue service a letter of determination granting tax deductible status to the charitable organization)) The tax deductibility of a contribution;

(b) That the person soliciting the charitable contribution is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor unless such person is unpaid for his or her services;

(c) That the person soliciting the charitable contribution is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor if the person soliciting is employed, contracted, or paid by a commercial fund-raiser.

(8) If the charitable organization is associated with, or has a name that is similar to, any unit of government ~~((each person or organization))~~ the entity soliciting contributions ~~((shall))~~ must disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government. This subsection does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name.

(9) No ~~((person))~~ entity may, in conducting any solicitation, use the name "police," "sheriff," ~~((firefighter,))~~ "firefighters," or a similar name unless properly authorized by ~~((a bona fide))~~ the police, sheriff, or firefighter organization or police, sheriff, or fire department it is representing. ~~((A proper))~~ Authorization ((shall)) must be in writing and signed by two authorized officials of the organization or department ~~((and shall)).~~ The written authorization must be ((filed with the secretary)) retained in accordance with RCW 19.09.200.

(10) ~~((A person))~~ An entity may not, in conducting any solicitation, use the name of a federally chartered or nationally recognized military veterans' service organization as determined by the United States veterans' administration unless authorized in writing by the highest ranking official of that organization in this state. The written authorization must be retained in accordance with RCW 19.09.200.

(11) ~~((A charitable organization shall))~~ Entities must comply with all local governmental regulations that apply to soliciting for or on behalf of charitable organizations.

(12) ~~((An entity soliciting contributions for a charitable purpose shall not include in any solicitation, or in any advertising material for a solicitation, or in any promotional plan for a solicitation, any statement that is false, misleading, or deceptive. All solicitations, advertising material, and promotional plans must fully and fairly disclose the identity of the entity on whose behalf the solicitation is made.))~~ Any entity required to register under this chapter must not engage in any solicitation for contributions unless it complies with all provisions of this chapter.

(13) Solicitations ~~((shall))~~ must not be conducted by a charitable organization or commercial fund-raiser that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years or has been subject to any permanent injunction or administrative order or judgment under RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

(14) ~~((No charitable organization or commercial fund-raiser))~~ Any entity subject to this chapter ~~((may))~~ must not use or exploit the fact of registration under this chapter ~~((so as))~~ to lead the public to

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believe that registration constitutes an endorsement or approval by the state, but the use of the following is not deemed prohibited: "Currently registered with the Washington state secretary of state as required by law. Registration number . . ."

(15) ((No entity may engage in any solicitation for contributions for or on behalf of any charitable organization or commercial fund-raiser unless the charitable organization or commercial fund-raiser is currently registered with the secretary.

(16) No charitable organization or commercial fund-raiser may engage in any solicitation for contributions unless it complies with all provisions of this chapter.

(17)) Any entity soliciting contributions for a charitable purpose must not include in any solicitation, or in any advertising material for a solicitation, or in any promotional plan for a solicitation, any statement that is false, misleading, or deceptive. All solicitations, advertising materials, and promotional plans must fully and fairly disclose the identity of the entity on whose behalf the solicitation is made.

(16) No entity may place a telephone call to a donor or potential donor for the purpose of ((charitable solicitation)) soliciting contributions for a charitable purpose, before eight o'clock a.m. or after nine o'clock p.m. pacific time.

((18)) (17) No entity may, when contacting a donor or potential donor for the purpose of ((charitable solicitation)) soliciting contributions for a charitable purpose, engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the contact.

(18) Any entity that solicits contributions may not collect or attempt to collect contributions in person or by courier unless:

(a) The contributions are noncash items such as contributions of tangible personal property; or

(b) The solicitations are made in person and the collections, or attempts to collect, are made at the time of the solicitations; or

(c) The contributor has agreed to purchase goods or items in connection with the solicitation and the collection or attempt to collect is made at the time of delivery of the goods or items.

(19) Failure to comply with subsections (1) through (18) of this section is a violation of this chapter.

**Sec. 15.** RCW 19.09.200 and 1993 c 471 s 11 are each amended to read as follows:

(1) ((Charitable organizations and commercial fund raisers shall)) All entities required to register pursuant to this chapter must maintain accurate, current, and readily available books and records at their usual business locations until at least three years have elapsed following the effective period to which they relate. The books and records must contain, at a minimum, documentation supporting the information contained in the solicitation report and written authorization or authorizations required in RCW 19.09.100.

(2) All contracts between commercial fund-raisers and charitable organizations ((shall)) must be in writing, and true and correct copies of such contracts or records thereof ((shall)) must be kept on file in the various offices of the charitable organization and the commercial fund-raiser for a three-year period. Such records and contracts shall be available for inspection and examination by the secretary of state, attorney general, or by the county prosecuting attorney. A copy of such contract or record ((shall)) must be submitted by the charitable organization or commercial fund-raiser, within ten days, following receipt of a written demand ((therefor)) from the secretary of state, attorney general, or county prosecutor.

**Sec. 16.** RCW 19.09.210 and 2007 c 471 s 9 are each amended to read as follows:

Upon the request of the secretary of state, attorney general, or the county prosecutor, ((a charitable organization or commercial fund-raiser shall)) any entity subject to this chapter must submit a

financial statement and all requested records containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to commercial fund-raisers or charitable organizations.

(5) Copies of any annual or periodic reports furnished by the charitable organization or commercial fund-raiser of its activities during or for the same ((fiscal)) accounting period.

**Sec. 17.** RCW 19.09.230 and 1994 c 287 s 3 are each amended to read as follows:

No ((charitable organization, commercial fund-raiser, or other)) entity subject to this chapter may ((knowingly));

(1) Use ((the)) an identical or deceptively similar name, symbol, statement, or emblem so closely related or similar that its use would confuse or mislead the public, of any other entity for the purpose of soliciting contributions from persons in this state without the written consent of such other entity. ((If the official name or the "doing business name" being registered is the same or deceptively similar as that of another entity, the secretary may request that a copy of the written consent from that entity be filed with the registration. Such consent may be deemed to have been given by anyone who is a director, trustee, or other authorized officer of that entity. A copy of the written consent must be kept on file by the charitable organization or commercial fund-raiser and made available to the secretary, attorney general, or county prosecutor upon demand. A person)) Written consent may be deemed to have been given by anyone who is a director, trustee, or other authorized officer of that entity.

(2) A copy of the written consent must be retained on file by the charitable organization or commercial fund-raiser and made available to the secretary, attorney general, or county prosecutor upon demand. The secretary may revoke or deny an application for registration that violates this section.

(3) An entity may be deemed to have used the name of another ((person)) entity for the purpose of soliciting contributions if such latter ((person's)) entity's name is listed on any stationery, advertisement, brochure, or correspondence of the ((charitable organization or person)) entity or if such name is listed or represented to anyone who has contributed to, sponsored, or endorsed the ((charitable organization or person)) entity, or its ((or his)) activities.

((The secretary may revoke or deny any application for registration that violates this section.)) This section does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name.

**Sec. 18.** RCW 19.09.271 and 1993 c 471 s 8 are each amended to read as follows:

(1) If the secretary or attorney general determines that any entity is soliciting in this state, directly or indirectly, by any means, and has not registered with the secretary as required by this chapter, the secretary may notify the charitable organization or commercial fund-raiser of its registration requirements by postal or electronic means.

(2) The secretary may notify the attorney general of any entity liable for late filing fees under subsection (1) of this section.

(3) Any ((charitable organization or commercial fund-raiser)) entity who, after notification by the secretary, fails to properly

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register under this chapter is subject to a late filing fee in an amount to be established by rule by the end of the first business day following the issuance of the notice (~~(-is liable for a late filing fee in an amount to be established by rule of the secretary)~~). The late filing fee is in addition to any other filing fee provided by this chapter.

((2) The secretary shall notify the attorney general of any entity liable for late filing fees under subsection (1) of this section.) (4) If the secretary or attorney general determines that any entity is soliciting in this state, directly or indirectly, by any means, and the entity has not registered with the secretary as required by this chapter, the secretary, after five days notice sent by postal or electronic means to the charitable organization or commercial fund-raiser, may publish a press release in newspapers or on the internet, a notice to the public regarding the entity's unregistered status.

**Sec. 19.** RCW 19.09.275 and 2003 c 53 s 142 are each amended to read as follows:

(1) Any ((person)) entity who knowingly violates any provision of this chapter or who knowingly gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) Any ((person)) entity who violates any provisions of this chapter or who gives false or incorrect information to the secretary, attorney general, or county prosecuting attorney in filing statements required by this chapter, whether or not such statement or report is verified, is guilty of a misdemeanor punishable under chapter 9A.20 RCW.

**Sec. 20.** RCW 19.09.276 and 1994 c 287 s 4 are each amended to read as follows:

The secretary may waive penalties that have been set by rule and assessed by the secretary due from a registered ((charitable organization)) entity previously in good standing that would otherwise be penalized. ((A charitable organization)) An entity desiring to seek relief under this section must, within fifteen days of discovery of the missed filing or lapse by its ((corporate officials)) officers, directors, or other ((authorized officer of)) persons responsible for the missed filing or lapse, notify the secretary in writing. The notification must include the name and mailing address of the organization, the organization's officer to whom correspondence should be sent, and a statement under oath by a responsible officer of the organization, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary shall investigate the circumstances of the missed filing or lapse. If the secretary is satisfied that sufficient exigent or mitigating circumstances exist, that the ((organization)) entity has demonstrated good faith and a reasonable attempt to comply with the applicable ((corporate)) charitable solicitation statute(s) of this state, the secretary may issue an order allowing relief from the penalty. If the secretary determines the request does not comply with the requirements for relief, the secretary shall deny the relief and state the reasons for the denial. Notwithstanding chapter 34.05 RCW, a denial of relief by the secretary is not reviewable.

**Sec. 21.** RCW 19.09.277 and 1993 c 471 s 20 are each amended to read as follows:

If it appears to the attorney general that ((a person)) an entity has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule adopted or order issued under this chapter, the attorney general may, in the attorney general's discretion, issue an order directing the ((person)) entity to cease and desist from continuing the act or practice. Reasonable notice of and opportunity for a hearing shall be given. The attorney

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general may issue a temporary order pending the hearing, which shall remain in effect until ten days after the hearing is held and which shall become final if the ((person)) entity to whom the notice is addressed does not request a hearing within fifteen days after the receipt of the notice.

**Sec. 22.** RCW 19.09.279 and 2002 c 74 s 3 are each amended to read as follows:

(1) The secretary may assess against any ((person or organization who)) entity that violates this chapter, or any rule adopted under this chapter, a civil penalty of not more than one thousand dollars for each violation.

(2) ((Such person or organization shall)) The entity must be afforded the opportunity for a hearing, upon request made to the secretary within thirty days after the date of issuance of the notice of assessment. The hearing shall be conducted in accordance with chapter 34.05 RCW.

(3) If any ((person)) entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the state, the attorney general may recover the amount assessed by action in the appropriate superior court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

**Sec. 23.** RCW 19.09.305 and 1993 c 471 s 16 are each amended to read as follows:

When ((a person or an organization)) an entity registered under this chapter, or its president, treasurer, or comparable officers, cannot be found after reasonably diligent effort, the secretary of state ((shall)) must be an agent of such ((person or organization)) entity upon whom process may be served. Service on the secretary ((shall)) must be made by delivering to the secretary or the secretary's designee duplicate copies of such process, and a filing fee to be established by rule of the secretary. Thereupon, the secretary ((shall)) must immediately cause one of the copies ((thereof)) to be forwarded to the registrant at the most current address shown in the secretary's files. Any service ((so had)) on the secretary ((shall)) must be returnable in not less than thirty days.

Any fee under this section ((shall)) may be taxable as costs in the action.

The secretary ((shall)) must maintain a record of all process served on the secretary under this section, and ((shall)) must record the date of service and the secretary's action ((with reference thereto)).

Nothing in this section limits or affects the right to serve process required or permitted to be served on a registrant in any other manner now or hereafter permitted by law.

**Sec. 24.** RCW 19.09.315 and 1993 c 471 s 17 are each amended to read as follows:

(1) The secretary may establish, by rule, standard forms and procedures for the efficient administration of this chapter.

(2) The secretary may provide by rule for the filing of a financial statement by registered entities.

(3) The secretary may issue such publications, reports, or information from the records as may be useful to the solicited public and charitable organizations. To defray the costs of any such publication, the secretary is authorized to charge a reasonable fee to cover the costs of preparing, printing, and distributing such publications, in accordance with RCW 43.07.130.

**Sec. 25.** RCW 19.09.340 and 1983 c 265 s 12 are each amended to read as follows:

(1) ((The commission by any person of an act or practice prohibited by this chapter is hereby declared to be an unfair act or practice or unfair method of competition in the conduct of trade or commerce for the purpose of application of the Consumer Protection Act, chapter 19.86 RCW.)) The legislature finds that the practices covered by this chapter are matters vitally affecting the

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public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

MOTION

(2) The secretary may refer such evidence, as may be available, concerning violations of this chapter to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose. In addition to any other action they might commence, the attorney general or the county prosecuting attorney may bring an action in the name of the state, with or without such reference, against any ~~((person))~~ entity to restrain and prevent the doing of any act or practice prohibited by this chapter: PROVIDED, That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all ~~((persons))~~ entities subject to this chapter.

**Sec. 26.** RCW 19.09.355 and 2010 1st sp.s. c 29 s 15 are each amended to read as follows:

Except as otherwise provided in this chapter, all fees and other moneys received by the secretary of state under this chapter ~~((shall))~~ must be transmitted to the state treasurer for deposit in the state general fund.

**Sec. 27.** RCW 19.09.400 and 1993 c 471 s 18 are each amended to read as follows:

The attorney general, in the attorney general's discretion, may:

(1) Annually, or more frequently, make such public or private investigations within or without this state as the attorney general deems necessary to determine whether any registration should be granted, denied, revoked, or suspended, or whether any ~~((person))~~ entity has violated or is about to violate a provision of this chapter or any rule adopted or order issued under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; and

(2) Publish information concerning a violation of this chapter or a rule adopted or order issued under this chapter.

**Sec. 28.** RCW 19.09.430 and 1993 c 471 s 22 are each amended to read as follows:

The administrative procedure act, chapter 34.05 RCW, ~~((shall))~~ wherever applicable governs the rights, remedies, and procedures respecting the administration of this chapter.

**NEW SECTION. Sec. 29.** The following acts or parts of acts are each repealed:

(1) RCW 19.09.076 (Charitable organizations--Application for registration--Exemptions--Soliciting contributions) and 2007 c 471 s 4, 1994 c 287 s 1, 1993 c 471 s 4, & 1986 c 230 s 5;

(2) RCW 19.09.190 (Commercial fund-raisers--Surety bond) and 1993 c 471 s 10, 1986 c 230 s 16, 1983 c 265 s 16, 1982 c 227 s 8, 1977 ex.s. c 222 s 9, & 1973 1st ex.s. c 13 s 19;

(3) RCW 19.09.240 (Using similar name, symbol, emblem, or statement) and 1993 c 471 s 14, 1986 c 230 s 15, & 1973 1st ex.s. c 13 s 24;

(4) RCW 19.09.500 (Charitable organizations--Financial reports and information) and 2007 c 471 s 11; and

(5) RCW 19.09.540 (Rules--Tiered independent financial reporting) and 2007 c 471 s 15.

**NEW SECTION. Sec. 30.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 14, line 9, strike all of section 12 and insert the following:

**"Sec. 12.** RCW 19.09.085 and 2007 c 471 s 6 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, Registration under this chapter ~~((shall be))~~ is effective for one year or ~~((longer))~~ as established by the secretary.

(2) ~~((Reregistration))~~ Renewals required under RCW 19.09.075 or 19.09.079 ~~((shall))~~ must be submitted to the secretary no later than the date established by the secretary by rule.

(3) ~~((Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through (9) or 19.09.079 (1) through (7).~~

(4)) The secretary ~~((shall))~~ must notify entities registered under this chapter of the need to ~~((reregister))~~ renew upon the expiration of their current registration. The notification ~~((shall))~~ must be ~~((by mail, sent at least))~~ made approximately sixty days prior to the expiration ~~((of their current registration))~~ date and must be made through postal or electronic means. Failure to ~~((register))~~ renew shall not be excused by a failure of the secretary to ~~((mail))~~ send the notice or by an entity's failure to receive the notice.

(4) Registrations or renewals filed on or after July 1, 2013, are effective for two years for any charitable organization receiving contributions of less than one hundred thousand dollars from the general public for charitable purposes during any accounting year. A two-year registration may be renewed annually by an organization on a voluntary basis to promote the accountability and transparency of the organization."

Senator Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 14, line 9 to the committee striking amendment to Substitute House Bill No. 1485.

The motion by Senator Schoesler failed and the amendment to the committee striking amendment was not adopted on a rising vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Substitute House Bill No. 1485.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "solicitations;" strike the remainder of the title and insert "amending RCW 19.09.010, 19.09.020, 19.09.062, 19.09.065, 19.09.075, 19.09.079, 19.09.085, 19.09.097, 19.09.200, 19.09.210, 19.09.230, 19.09.271, 19.09.275, 19.09.276, 19.09.277, 19.09.279, 19.09.305, 19.09.315, 19.09.340, 19.09.355, 19.09.400, and 19.09.430; reenacting and amending RCW 19.09.100; adding new sections to chapter 19.09 RCW;

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repealing RCW 19.09.076, 19.09.190, 19.09.240, 19.09.500, and 19.09.540; and prescribing penalties."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1485 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1485 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1485 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Shin

SUBSTITUTE HOUSE BILL NO. 1485 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 6:27 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, April 7, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

EIGHTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, April 7, 2011

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Pflug and Shin.

The Sergeant at Arms Color Guard consisting of Pages Trevor Nesbitt and Benjamin Swartz, presented the Colors. Pastor Dwain Wolfe of New Horizon Christian Center of Fife offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The House has passed:

- SUBSTITUTE SENATE BILL NO. 5018,
- SENATE BILL NO. 5045,
- SUBSTITUTE SENATE BILL NO. 5070,
- SENATE BILL NO. 5076,
- SUBSTITUTE SENATE BILL NO. 5300,
- SUBSTITUTE SENATE BILL NO. 5374,
- SENATE BILL NO. 5395.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The House has passed:

- SENATE BILL NO. 5241,
- SUBSTITUTE SENATE BILL NO. 5352,
- SUBSTITUTE SENATE BILL 5442,
- SENATE BILL NO. 5482,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,
- SUBSTITUTE SENATE BILL NO. 5788,
- SENATE BILL NO. 5849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The Speaker has signed:

- SENATE BILL NO. 5057,
  - ENGROSSED SENATE BILL NO. 5058,
  - SUBSTITUTE SENATE BILL NO. 5071,
  - SUBSTITUTE SENATE BILL NO. 5115,
  - SENATE BILL NO. 5116,
  - SENATE BILL NO. 5149,
  - SUBSTITUTE SENATE BILL NO. 5152,
  - SENATE BILL NO. 5170,
  - SENATE BILL NO. 5174,
  - SUBSTITUTE SENATE BILL NO. 5184,
  - SENATE BILL NO. 5213,
  - SENATE BILL NO. 5224,
  - ENGROSSED SENATE BILL NO. 5242,
  - SENATE BILL NO. 5295,
  - ENGROSSED SUBSTITUTE SENATE BILL NO. 5307.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 5195.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 5337,  
SENATE BILL NO. 5375,  
SENATE BILL NO. 5388,  
SENATE BILL NO. 5492,  
SUBSTITUTE SENATE BILL NO. 5495,  
SENATE BILL NO. 5501,  
SUBSTITUTE SENATE BILL NO. 5538,  
SUBSTITUTE SENATE BILL NO. 5574,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5594.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE BILL NO. 1012,  
SUBSTITUTE HOUSE BILL NO. 1048,  
SUBSTITUTE HOUSE BILL NO. 1105,  
HOUSE BILL NO. 1181,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1206,  
HOUSE BILL NO. 1215,  
HOUSE BILL NO. 1263,  
HOUSE BILL NO. 1303,

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HOUSE BILL NO. 1353,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1362,  
 HOUSE BILL NO. 1391,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489,  
 SUBSTITUTE HOUSE BILL NO. 1575,  
 SUBSTITUTE HOUSE BILL NO. 1585.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1172,  
 HOUSE BILL NO. 1179,  
 HOUSE BILL NO. 1227,  
 SUBSTITUTE HOUSE BILL NO. 1243,  
 SUBSTITUTE HOUSE BILL NO. 1304,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1519,  
 HOUSE BILL NO. 1625,  
 HOUSE BILL NO. 1709,  
 SUBSTITUTE HOUSE BILL NO. 1719,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1803,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1808,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826,  
 HOUSE BILL NO. 1937,  
 HOUSE BILL NO. 1939.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5921 by Senators Regala and Carrell

AN ACT Relating to social services; amending RCW 74.08A.260, 74.08A.290, 74.08A.010, 74.20.040, 74.20.330, 43.215.135, 74.08.580, 66.16.041, 9.46.410, 74.04.012, 43.20A.605, and 49.60.210; adding a new section to chapter 74.12 RCW; adding a new section to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 66.24 RCW; adding a new section to chapter 18.300 RCW; adding a new section to chapter 18.185 RCW; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.09 RCW; adding a new section to chapter 43.20A RCW; creating new sections; prescribing penalties; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5922 by Senators Chase, Conway, Nelson, Kline, Harper, Keiser and Kohl-Welles

AN ACT Relating to taxpayer accountability by requiring a net benefit to the state in order to claim the benefit of a tax expenditure; and amending RCW 82.32.585 and 82.32.534.

Referred to Committee on Ways & Means.

SB 5923 by Senators Chase, Kline, Nelson, Conway, Harper, Keiser and Kohl-Welles

AN ACT Relating to taxpayer accountability by requiring a net benefit to the state in order to claim the benefit of a tax expenditure and strengthening reporting and enforcement; and amending RCW 82.04.260, 82.04.4494, 82.08.956, 82.12.956, 82.32.585, and 82.32.534.

Referred to Committee on Ways & Means.

SB 5924 by Senator Zarelli

AN ACT Relating to the running start program; and amending RCW 28A.600.310, 28A.600.370, and 28B.15.910.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1312 by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Green and Kenney)

AN ACT Relating to statutory changes needed to implement a waiver to receive federal assistance for certain state purchased health care programs; amending RCW 70.47.060; and reenacting and amending RCW 70.47.020 and 74.09.035.

Referred to Committee on Ways & Means.

SHB 1632 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Hurst and Armstrong)

AN ACT Relating to the cost of supervision; amending RCW 9.94A.780, 9.95.214, 72.04A.120, 72.11.040, and 9.94A.74504; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2019 by Representative Dunshee

AN ACT Relating to the deposit of the additional cigarette tax; amending RCW 82.24.026; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

At 9:43 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 11:44 a.m. by the President Pro Tempore.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Chase moved adoption of the following resolution:

SENATE RESOLUTION  
8651

By Senators Chase, Baxter, Prentice, McAuliffe, Kohl-Welles, Conway, Keiser, Pridemore, Tom, Kastama, Nelson, Haugen, Harper, Hargrove, Hatfield, Shin, Regala, Fraser, Eide, White, Rockefeller, Hobbs, Kline, Swecker, Pflug, and Schoesler

WHEREAS, Michael Reagan's reverence for our service men and women has led him to providing families who have lost loved ones with comfort in their greatest hour of need; and

WHEREAS, In the true Marine tradition of never leaving a man behind, Mr. Reagan has made it his life's work to immortalize our nation's fallen service men and women through the Fallen Heroes Project; and

WHEREAS, A former Marine combat veteran of the Vietnam War, Mr. Reagan has honored the Marine tradition of paying tribute to fallen soldiers through his art; and

WHEREAS, He is working tirelessly to provide surviving family members with hand drawn portraits of loved ones who have given the ultimate sacrifice in the Iraq and Afghanistan conflicts; and

WHEREAS, The goal of Mr. Reagan's project is to depict all of our country's fallen soldiers, more than 5,800 since these conflicts began; and

WHEREAS, Mr. Reagan's true calling began 5 years ago when a young widow commissioned him to draw a portrait of the husband she lost in the Iraq War; and

WHEREAS, As a combat veteran himself, Mr. Reagan understands the horrors of war and holds a great respect for those who have given their lives in service of our country; and

WHEREAS, He refused payment for the portrait and committed himself to providing surviving families with portraits of every man and woman killed in the Iraq and Afghanistan wars; and

WHEREAS, To date, Mr. Reagan has completed over 2,400 portraits of our country's service men and women, helping to bring those home who have made the ultimate sacrifice; and

WHEREAS, Mr. Reagan has spent his lifetime serving our country, not just during the Vietnam War and as a member of the Veterans of Foreign Wars Post 8870 in Edmonds, but also through his work raising money for charities throughout our state; and

WHEREAS, During his 30 year career as an artist, Mr. Reagan has completed over 10,000 portraits of U.S. Presidents, celebrities, and athletes; and

WHEREAS, The signed celebrity portraits he has donated on behalf of the Boys and Girls Club, The Humane Society, Children's Hospital, and the Fred Hutchinson Cancer Research Center have raised more than 10 million dollars for these deserving organizations;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate and Washingtonians from every corner of our state pay tribute to Michael Reagan and his tireless work on the

Fallen Heroes Project and the comfort it provides the families of our service men and women; and

BE IT FURTHER RESOLVED, That we create further awareness of the Fallen Heroes Project and support the Michael G. Reagan Foundation to help Mr. Reagan achieve his true calling; and

BE IT FURTHER RESOLVED, That we too live by the words Semper Fi, meaning always faithful, and take a lesson from Mr. Reagan's actions, never forgetting the sacrifices made every day and throughout the history of our great country by the brave men and women who have given their lives so that all people of the world can live in peace and freedom; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Michael Reagan, VFW Post No. 8870 in Edmonds, Gold Star Mothers of Washington, and Colonel Mike Johnson.

Senators Chase and Hobbs spoke in favor of adoption of the resolution.

INTRODUCTION OF SPECIAL GUESTS

The President Pro Tempore welcomed Michael Reagan and the Gold Star Mothers who were seated in the gallery.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8651.

The motion by Senator Chase carried and the resolution was adopted by voice vote.

MOTION

At 11:57 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:35 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

- SUBSTITUTE SENATE BILL NO. 5018,
- SENATE BILL NO. 5045,
- SUBSTITUTE SENATE BILL NO. 5070,
- SENATE BILL NO. 5076,
- SENATE BILL NO. 5241,
- SUBSTITUTE SENATE BILL NO. 5300,
- SUBSTITUTE SENATE BILL NO. 5352,
- SUBSTITUTE SENATE BILL NO. 5374,
- SENATE BILL NO. 5395,
- SUBSTITUTE SENATE BILL NO. 5442,
- SENATE BILL NO. 5482,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,
- SUBSTITUTE SENATE BILL NO. 5788,
- SENATE BILL NO. 5849.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

EIGHTY EIGHTH DAY, APRIL 7, 2011

The House has passed:

SUBSTITUTE HOUSE BILL NO. 1277,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1738.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Regala moved that Gubernatorial Appointment No. 9069, Mark Mattke, as a member of the Work Force Training and Education Coordinating Board, be confirmed.

Senator Regala spoke in favor of the motion.

APPOINTMENT OF MARK MATTKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9069, Mark Mattke as a member of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9069, Mark Mattke as a member of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Pflug and Shin

Gubernatorial Appointment No. 9069, Mark Mattke, having received the constitutional majority was declared confirmed as a member of the Work Force Training and Education Coordinating Board.

MOTION

On motion of Senator White, Senator Shin was excused.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1012,  
SUBSTITUTE HOUSE BILL NO. 1048,  
SUBSTITUTE HOUSE BILL NO. 1105,  
SUBSTITUTE HOUSE BILL NO. 1172,  
HOUSE BILL NO. 1179,  
HOUSE BILL NO. 1181,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1206,  
HOUSE BILL NO. 1215,  
HOUSE BILL NO. 1227,

SUBSTITUTE HOUSE BILL NO. 1243,  
HOUSE BILL NO. 1263,  
HOUSE BILL NO. 1303,  
SUBSTITUTE HOUSE BILL NO. 1304,  
HOUSE BILL NO. 1353,  
SECOND SUBSTITUTE HOUSE BILL NO. 1362,  
HOUSE BILL NO. 1391,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1489,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1492,  
SECOND SUBSTITUTE HOUSE BILL NO. 1519,  
SUBSTITUTE HOUSE BILL NO. 1575,  
SUBSTITUTE HOUSE BILL NO. 1585,  
HOUSE BILL NO. 1625,  
HOUSE BILL NO. 1709,  
SUBSTITUTE HOUSE BILL NO. 1719,  
SECOND SUBSTITUTE HOUSE BILL NO. 1803,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1808,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1826,  
HOUSE BILL NO. 1937,  
HOUSE BILL NO. 1939.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced former Senator Sid Snyder and wife Betti who were seated in the gallery.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1538, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Taylor, Orcutt, Hinkle, Haler, Johnson and Warnick)

Regarding animal health inspections.

The measure was read the second time.

MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler and others be adopted:

On page 1, after line 5 insert the following:

"**Sec. 1.** RCW 16.36.025 and 1998 c 8 s 19 are each amended to read as follows:

The director may collect moneys to recover the reasonable costs of purchasing, printing, and distributing ((certificates)) official individual identification devices or methods, regulatory forms, and other supplies ((to veterinarians)). All funds received under this section must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230 to cover the costs associated with this chapter.

NEW SECTION. **Sec. 2.** A new section is added to chapter 16.36 RCW to read as follows:

(1) The director shall adopt by rule a fee per head on cattle sold or slaughtered in the state or transported out of the state to administer animal disease traceability activities for cattle. The fee must be paid by:

(a) Sellers of cattle sold in the state, without exception;  
(b) Owners of cattle that are transported out of Washington, unless an exception is provided by rule; and

(c) Owners of cattle slaughtered in the state.

(2) The fee adopted by the department may not exceed forty cents per head of cattle.

(3)(a) Except where the seller presents proof that the fee has been paid by a meat processor under (c) of this subsection, the fee

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required in this section must be paid by the owner of cattle receiving a livestock inspection issued by the department under chapter 16.57 RCW in the same manner as livestock inspection fees are collected under RCW 16.57.220.

(b) The fee required in this section must be paid from the owner of cattle not receiving a livestock inspection issued by the department under chapter 16.57 RCW by the fifteenth day of the month following the month the sale or transportation out of state occurred, or at a different time as designated by rule.

(c) When cattle are slaughtered, the fee required by this section must be collected from the seller of the cattle by the meat processor. The meat processor must transmit the fee to the department by the fifteenth day of the month following the month the transaction occurred, or at a different time as designated by rule. When cattle owned by a meat processor are slaughtered, the fee must be paid by the meat processor.

(4) All fees received by the department under this section must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230 to carry out animal disease traceability activities for cattle and to compensate the livestock identification program for data and fee collection.

(5) Any person failing to pay the fee established in this section has committed a class 1 civil infraction punishable as provided in RCW 7.80.120. Each violation is a separate and distinct offense.

**NEW SECTION. Sec. 3.** A new section is added to chapter 16.36 RCW to read as follows:

By December 1st of each year, the department shall submit an activity report and financial statement on the implementation of the animal disease traceability activities to the animal disease traceability advisory committee created in section 5 of this act.

**Sec. 4.** RCW 16.58.100 and 2003 c 326 s 54 are each amended to read as follows:

(1) The director shall conduct audits of the cattle received, fed, handled, and shipped by the licensee at each certified feed lot. These audits shall be for the purpose of determining if the cattle correlate with the inspection certificates issued in their behalf and that the certificate of assurance furnished the director by the licensee correlates with his or her assurance that inspected cattle were not commingled with uninspected cattle.

(2) The department shall conduct an audit to determine compliance with section 2 of this act at the time of conducting audits under subsection (1) of this section.

**NEW SECTION. Sec. 5.** A new section is added to chapter 16.36 RCW to read as follows:

(1) The director shall establish an animal disease traceability advisory committee that will serve in an advisory capacity to the director and must meet at least twice a year.

(2) The animal disease traceability advisory committee is composed of eight members appointed by the director. Two members must represent cow-calf producers, and one member must represent each of the following groups: Cattle feeders, dairy farmers, public livestock markets, meat processors, and a statewide agricultural association. The director or the director's designee must also serve on the animal disease traceability advisory committee. In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The animal disease traceability advisory committee shall elect a member to serve as chair of the animal disease traceability advisory committee.

(3) Membership of the animal disease traceability advisory committee may be expanded by a unanimous vote of its members.

(4) The animal disease traceability advisory committee must work with the director to develop a plan to implement as quickly as practicable the electronic transfer of traceability data.

(5) Animal disease traceability advisory committee members must also work with the director to:

(a) Communicate effectively to their respective industry associations as to the progress of the animal disease traceability activities and to encourage the state's cattle industry to participate in the animal disease traceability program;

(b) Utilize new technology within the department and industry that enhances the animal disease traceability program within existing funding;

(c) Study national industry trends in traceability of animal movements and related animal health issues; and

(d) Discuss other matters as mutually agreed upon by the director and the animal disease traceability advisory committee for the benefit of the animal disease traceability program.

(6) Animal disease traceability advisory committee members serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the animal disease traceability advisory committee to stagger the expiration of the initial terms. The members serve without compensation.

**Sec. 6.** RCW 16.36.005 and 2010 c 66 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Animal" means all members of the animal kingdom except humans, fish, and insects. However, "animal" does not mean noncaptive wildlife as defined in RCW 77.08.010, except as used in RCW 16.36.050(1) and 16.36.080 (1), (2), (3), and (5).

(2) "Animal reproductive product" means sperm, ova, fertilized ova, and embryos from animals.

(3) "Certificate of veterinary inspection" means a legible veterinary health inspection certificate on an official electronic or paper form from the state of origin or from the animal and plant health inspection service (APHIS) of the United States department of agriculture, executed by a licensed and accredited veterinarian or a veterinarian approved by the animal and plant health inspection service. "Certificate of veterinary inspection" is also known as an "official health certificate."

(4) "Communicable disease" means a disease due to a specific infectious agent or its toxic products transmitted from an infected person, animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the environment.

(5) "Contagious disease" means a communicable disease that is capable of being easily transmitted from one animal to another animal or a human.

(6) "Department" means the department of agriculture of the state of Washington.

(7) "Deputized state veterinarian" means a Washington state licensed and accredited veterinarian appointed and compensated by the director according to state law and department policies.

(8) "Director" means the director of the department or his or her authorized representative.

(9) "Farm-raised fish" means fish raised by aquaculture as defined in RCW 15.85.020. Farm-raised fish are considered to be a part of animal agriculture; however, disease inspection, prevention, and control programs and related activities for farm-raised fish are administered by the department of fish and wildlife under chapter 77.115 RCW.

(10) "Garbage" means the solid animal and vegetable waste and offal together with the natural moisture content resulting from the handling, preparation, or consumption of foods in houses, restaurants, hotels, kitchens, markets, meat shops, packing houses and similar establishments or any other food waste containing meat or meat products.

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(11) "Herd or flock plan" means a written management agreement between the owner of a herd or flock and the state veterinarian, with possible input from a private accredited veterinarian designated by the owner and the area veterinarian-in-charge of the United States department of agriculture, animal and plant health inspection service, veterinary services in which each participant agrees to undertake actions specified in the herd or flock plan to control the spread of infectious, contagious, or communicable disease within and from an infected herd or flock and to work toward eradicating the disease in the infected herd or flock.

(12) "Hold order" means an order by the director to the owner or agent of the owner of animals or animal reproductive products which restricts the animals or products to a designated holding location pending an investigation by the director of the disease, disease exposure, well-being, movement, or import status of the animals or animal reproductive products.

(13) "Infectious agent" means an organism including viruses, rickettsia, bacteria, fungi, protozoa, helminthes, or prions that is capable of producing infection or infectious disease.

(14) "Infectious disease" means a clinical disease of humans or animals resulting from an infection with an infectious agent that may or may not be communicable or contagious.

(15) "Livestock" means horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, game birds, and other species so designated by statute. "Livestock" does not mean free ranging wildlife as defined in Title 77 RCW.

(16) "Person" means a person, persons, firm, or corporation.

(17) "Quarantine" means the placing and restraining of any animal or its reproductive products by the owner or agent of the owner within a certain described and designated enclosure or area within this state, or the restraining of any animal or its reproductive products from entering this state, as may be directed in an order by the director.

(18) "Reportable disease" means a disease designated by rule by the director as reportable to the department by veterinarians and others made responsible to report by statute.

(19) "Veterinary biologic" means any virus, serum, toxin, and analogous product of natural or synthetic origin, or product prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components intended for use in the diagnosis, treatment, or prevention of diseases in animals.

(20) "Meat processors" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.).

(21) "Sold" means sale, trade, gift, barter, or any other action that constitutes a change of ownership.

**Sec. 7.** RCW 43.23.230 and 1988 c 254 s 1 are each amended to read as follows:

(1) The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation.

(2) There is created within the agricultural local fund the animal disease traceability account which must be used to account for the costs associated with the implementation of chapter 16.36 RCW."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Schoesler spoke in favor of adoption of the amendment.

#### MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler and others to Substitute House Bill No. 1538.

The motion by Senator Schoesler carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "RCW" insert "16.36.025, 16.58.100, 43.23.230,"

On page 1, line 3 of the title, after "16.57.360;" insert "reenacting and amending RCW 16.36.005; adding new sections to chapter 16.36 RCW;"

#### MOTION

On motion of Senator Hatfield, the rules were suspended, Substitute House Bill No. 1538 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1538 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1538 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Carrell, Holmquist Newbry and Stevens

Excused: Senators Pflug and Shin

SUBSTITUTE HOUSE BILL NO. 1538 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1409, by Representatives Appleton, Hurst and McCoy

Authorizing the sale, exchange, transfer, or lease of public property.

The measure was read the second time.

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## MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 39.33.010 and 2003 c 303 s 1 are each amended to read as follows:

(1) The state or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including but not limited to the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, or a federally recognized Indian tribe, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned. In addition, the state, or any municipality or any political subdivision thereof, may sell, transfer, exchange, lease, or otherwise dispose of personal property, except weapons, to a foreign entity.

(2) This section shall be deemed to provide an alternative method for the doing of the things authorized herein, and shall not be construed as imposing any additional condition upon the exercise of any other powers vested in the state, municipalities or political subdivisions.

(3) No intergovernmental transfer, lease, or other disposition of property made pursuant to any other provision of law prior to May 23, 1972, shall be construed to be invalid solely because the parties thereto did not comply with the procedures of this section."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections to Engrossed House Bill No. 1409.

The motion by Senator Pridemore carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "property;" strike the remainder of the title and insert "and amending RCW 39.33.010."

## MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1409 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1409 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1409 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry, Honeyford, Morton and Stevens

Excused: Senator Pflug

ENGROSSED HOUSE BILL NO. 1409 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1506, by House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson)

Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

The measure was read the second time.

## MOTION

Senator Pridemore moved that the following amendment by Senators Hargrove and Chase be adopted:

On page 3, beginning on line 5, after "for" strike all material through "response" on line 6 and insert "actual costs that are incurred that are proportionate to the fire itself"

Senator Pridemore spoke in favor of adoption of the amendment.

## POINT OF INQUIRY

Senator Honeyford: "Would Senator Pridemore yield to a question? Thank you is this based on acreage or difficulty of the fire or how do you arrive at those numbers?"

Senator Pridemore: "It was based on the actual cost of the fire district or fire prevention agency would incur in the expense in fighting that particular fire."

Senator Honeyford: "Just one district or multiple districts?"

Senator Pridemore: "It could be more than one district, I would imagine, Senator."

## MOTION

On motion of Senator Ericksen, Senator Stevens was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Chase on page 3, line 5 to Substitute House Bill No. 1506.

The motion by Senator Pridemore carried and the amendment was adopted by voice vote.

## MOTION

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On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1506 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Swecker spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

#### POINT OF INQUIRY

Senator Carrell: "Would Senator Pridemore yield to a question? It seems like that a comparable bill last year had a provision to allow charging a fee on lands between the low and high tide that I don't believe could ever catch on fire. Does this bill have a provision like that in it?"

Senator Pridemore: "I don't recall that provision from last year although it was not a bill that I worked with very closely. I don't believe that it has a provision like that, to be honest I don't fully understand it but I don't believe that it has a provision like that."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1506 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1506 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford, Morton and Parlette

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1506 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1153, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins)

Concerning costs for the collection of DNA samples.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 1153 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1153.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1153 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Stevens

SECOND SUBSTITUTE HOUSE BILL NO. 1153, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1861, by House Committee on Transportation (originally sponsored by Representatives Armstrong, Clibborn, Hargrove, Lias, Billig and Schmick)

Concerning the sale or lease of surplus state-owned railroad properties.

The measure was read the second time.

#### MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.76.280 and 1995 c 380 s 8 are each amended to read as follows:

(1) The department may sell or lease property acquired under this chapter to a county rail district established under chapter 36.60 RCW, a county, a port district, or any other public or private entity authorized to operate rail service. Any public or private entity that originally donated funds to the department under this chapter shall receive credit against the purchase price for the amount donated to the department, less management costs, in the event such public or private entity purchases the property from the department.

(2) If no county rail district, county, port district, or other public or private entity authorized to operate rail service purchases or leases the property within six years after its acquisition by the department, the department may sell or lease such property in the manner provided in RCW 47.76.290. Failing this, the department may sell or convey all such property in the manner provided in RCW 47.76.300 or 47.76.320.

(3) Property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in subsections (1) and (2) of this section may be sold or leased at any time following acquisition in the manner provided in RCW 47.76.290.

Sec. 2. RCW 47.76.290 and 1993 c 224 s 8 are each amended to read as follows:

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(1) If real property acquired by the department under this chapter that is essential for the operation of the rail service contemplated in RCW 47.76.280 is not sold or leased to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may sell or lease the property at fair market value to any of the following governmental entities or persons:

- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) The former owner, heir, or successor of the property from whom the property was acquired; or
- (e) Any abutting private owner or owners.

(2)(a) Real property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in RCW 47.76.280 may be leased or sold at fair market value, at any time following acquisition, to any entity or person in the following priority order:

- (i) The current tenant or lessee of the real property or real property abutting the property being sold;
- (ii) An abutting private owner, but only after each other abutting private owner, if any, as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the real property within fifteen days after receiving notice of the proposed sale, the real property must be sold at public auction in the manner provided in RCW 47.76.320 (2) through (4);
- (iii) Any other state agency;
- (iv) The city or county in which the real property is situated;
- (v) Any other municipal corporation; or
- (vi) The former owner, heir, or successor of the real property from whom the real property was acquired.

(b) If the department intends to sell or lease property under this subsection to an entity or person that is not the entity or person with the highest priority status under this subsection, the department must give written notice to each entity or person with higher priority status under this subsection that is reasonably considered to have an interest in the property. The entity with the highest priority status, willing to enter into a sale or lease at fair market value, must be given right of first refusal to buy or lease the property.

(3) Notice of intention to sell under this section shall be given by publication in one or more newspapers of general circulation in the area in which the property is situated not less than thirty days prior to the intended date of sale.

~~((3))~~ (4) Sales to purchasers under this section may, at the department's option, be for cash or by real estate contract, except that any such property of the Palouse River and Coulee City rail lines that was purchased with bond proceeds in November 2004 may be sold only for cash at fair market value.

~~((4))~~ (5) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

~~((5))~~ (6) All moneys received under this section shall be deposited in the essential rail ~~((banking account of the general fund))~~ assistance account created in RCW 47.76.250. Any moneys deposited under this subsection from sales or leases of property that are related, in any way, to the Palouse River and Coulee City rail lines must be used and, in the case of moneys received from sales, expended within two years of receipt, only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

All revenue received by the department of transportation from operating leases or other business operations on the Palouse River and Coulee City rail lines must be deposited in the essential rail

assistance account created in RCW 47.76.250 and used only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

**NEW SECTION. Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator King spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1861.

The motion by Senator King carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "properties;" strike the remainder of the title and insert "amending RCW 47.76.280 and 47.76.290; adding a new section to chapter 46.68 RCW; and declaring an emergency."

#### MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1861 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1861 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1861 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1861 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1595, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Appleton and Green)

Regarding graduates of foreign medical schools.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1595 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1595.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1595 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Excused: Senator Stevens

SUBSTITUTE HOUSE BILL NO. 1595, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220, by House Committee on Health Care & Wellness (originally sponsored by Representatives Rolfes, Cody, Appleton, Frockt, Hinkle, Liias, Fitzgibbon, Jinkins, Hunt, Van De Wege, Moeller and Kenney)

Regulating insurance rates.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.02.120 and 1985 c 264 s 2 are each amended to read as follows:

(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by this code.

(3) Except as provided in subsection (4) of this section, actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(4) For rate filings with an effective date on or after January 1, 2012, subsection (3) of this section does not apply to rate filings for individual and small group health benefit plans. Subsection (3) of this section may continue to apply for a period of one year from the date a new individual or small group product filing is submitted or until the next rate filing for the product, whichever occurs earlier, if the commissioner determines that the proposed rate filing is for a new product that is distinct and unique from any of the carrier's currently or previously offered health benefit plans. Carriers must make a written request for a product classification as a new product under this subsection, and must receive subsequent written approval by the commissioner for this subsection to apply.

(5) Unless the commissioner has determined that the filing is for a new product pursuant to subsection (4) of this section, for individual or small group health benefit plan rate filings with an effective date on or after January 1, 2012, the commissioner must:

(a) Make each filing available for public inspection on the tenth calendar day after the commissioner determines that the rate filing is complete and accepts the filing for review through the electronic rate and form filing system;

(b) Prepare a rate disclosure summary form in a standard format for carriers to complete and submit to the commissioner electronically as part of each rate filing. The disclosure form must be written in plain language easily understood by the general public. The summary must allow carriers to explain the relationship between premium and health care cost drivers. The summary must set forth, at a minimum, the following: (i) The rate increase, year over year, for annual increases, including historic rate adjustments for at least the past three years; (ii) any percent increase to current rates attributed to mandated changes, not including changes due to demographics; (iii) the number of members impacted by the rate; (iv) the impact of benefit changes on the rate; (v) the products' filed health care trend; (vi) the projected medical loss ratio for the rating period; and (vii) other information the commissioner finds reasonably necessary to help consumers understand the reasons for proposed and accepted rates;

(c) Prepare a standardized rate summary form, to explain his or her findings after the rate review process is completed. The commissioner's summary form must be included as part of the rate filing documentation and available to the public electronically.

(6) The commissioner must adopt rules to implement and administer this section. The rules must include, but are not limited to, a process for updating the summary form content referenced in subsection (5)(b) of this section. In adopting rules under this section, the commissioner must consult with carriers, as defined in RCW 48.43.005, and consumers in the development of the summary forms."

On page 1, line 1 of the title, after "rates;" strike the remainder of the title and insert "and amending RCW 48.02.120."

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1220.

The motion by Senator Keiser carried and the committee striking amendment was not adopted by voice vote.

## MOTION

Senator Becker moved that the following striking amendment by Senators Becker and Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.02.120 and 1985 c 264 s 2 are each amended to read as follows:

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(1) The commissioner shall preserve in permanent form records of his or her proceedings, hearings, investigations, and examinations, and shall file such records in his or her office.

(2) The records of the commissioner and insurance filings in his or her office shall be open to public inspection, except as otherwise provided by this code.

(3) Except as provided in subsection (4) of this section, actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by an insurer, health care service contractor, or health maintenance organization or submitted to the commissioner upon his or her request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(4) For individual and small group health benefit plan rate filings submitted on or after July 1, 2011, subsection (3) of this section applies only to the numeric values of each small group rating factor used by a health carrier as authorized by RCW 48.21.045(3)(a), 48.44.023(3)(a), and 48.46.066(3)(a). Subsection (3) of this section may continue to apply for a period of one year from the date a new individual or small group product filing is submitted or until the next rate filing for the product, whichever occurs earlier, if the commissioner determines that the proposed rate filing is for a new product that is distinct and unique from any of the carrier's currently or previously offered health benefit plans. Carriers must make a written request for a product classification as a new product under this subsection and must receive subsequent written approval by the commissioner for this subsection to apply.

(5) Unless the commissioner has determined that a filing is for a new product pursuant to subsection (4) of this section, for all individual or small group health benefit rate filings submitted on or after July 1, 2011, the health carrier must submit part I rate increase summary and part II written explanation of the rate increase as set forth by the department of health and human services at the time of filing, and the commissioner must:

(a) Make each filing and the part I rate increase summary and part II written explanation of the rate increase available for public inspection on the tenth calendar day after the commissioner determines that the rate filing is complete and accepts the filing for review through the electronic rate and form filing system; and

(b) Prepare a standardized rate summary form, to explain his or her findings after the rate review process is completed. The commissioner's summary form must be included as part of the rate filing documentation and available to the public electronically."

Senator Becker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Becker and Keiser to Engrossed Substitute House Bill No. 1220.

The motion by Senator Becker carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "rates;" strike the remainder of the title and insert "and amending RCW 48.02.120."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1220 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1220 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1220 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Morton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1811, by House Committee on Community Development & Housing (originally sponsored by Representatives Springer, Roberts and Stanford)

Allowing for informed telephonic consent for access to housing or homelessness services.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.185C.180 and 2006 c 349 s 8 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families.

(a) Personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect

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homeless individuals' rights regarding their personally identifying information.

(b) Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals ((be informed)) receive:

(i) Information about the expected duration of their participation((s)) in the Washington homeless client management information system;

(ii) An explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information((s));

(iii) An explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client ((survey,)) management information system;

(iv) A description of any reasonably foreseeable risks to the homeless individual((s)); and

(v) A statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(c) The department must adopt policies governing the appropriate process for destroying Washington homeless client management information system paper documents containing personally identifying information when the paper documents are no longer needed. The policies must not conflict with any federal data requirements.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1811.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and amending RCW 43.185C.180."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1811 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1811 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1811 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1811 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1783, by House Committee on Local Government (originally sponsored by Representatives Pedersen, Upthegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel and Kenney)

Amending the consideration of houseboats and houseboat moorages for the purposes of aquatic lands and shoreline management.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be not adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that our state's existing houseboat communities are an important cultural amenity and an element of our maritime history. These surviving communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to preserve the long-term survival of these communities, consistent with the legislature's goal of allowing their continued use,

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improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

**Sec. 2.** RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971, relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5) A floating home legally established prior to January 1, 2011, shall be classified as conforming preferred uses. "Floating home" means a structure designed as a dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed. A conforming floating home is allowed to be maintained, repaired, expanded, and replaced consistent with the shoreline master program."

On page 1, line 1 of the title, after "moorages;" strike the remainder of the title and insert "amending RCW 90.58.270; and creating a new section."

The President declared the question before the Senate to be the by Senator Ranker to not adopt the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1783.

The motion by Senator Ranker carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Ranker moved that the following striking amendment by Senators Ranker and Murray be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that existing floating homes, as part of our state's existing houseboat communities, are an important cultural amenity and element of our maritime history. These surviving floating home communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to ensure the vitality and long-term survival of these existing floating home communities, consistent with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

**Sec. 2.** RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Ranker and Murray to Substitute House Bill No. 1783.

The motion by Senator Ranker carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "moorages;" strike the remainder of the title and insert "amending RCW 90.58.270; and creating a new section."

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1783 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1783 as amended by the Senate.

ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 1783 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

SUBSTITUTE HOUSE BILL NO. 1783 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1697, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Seaquist, Goodman, Orwall, Dickerson and Kenney)

Providing for unannounced visits to homes with dependent children.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that foster parents are a critical piece of the dependency system. The legislature further finds that the majority of foster parents provide excellent care to children in the dependency system, many of whom have suffered serious damage in their families of origin. It is the legislature's belief that through the selfless dedication of many foster parents that abused and neglected children are able to heal and go on to lead productive lives. The legislature also believes that some foster parents act in ways that are damaging to the children in their care and it is the department of social and health services' responsibility to make sure all children in care are safe. The legislature finds that unannounced visits to caregivers' homes is another method by which the department of social and health services can make sure the children in foster care are safe.

**Sec. 2.** RCW 74.13.031 and 2009 c 520 s 51, 2009 c 491 s 7, and 2009 c 235 s 2 are each reenacted and amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall

annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

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(8) The department and supervising agency shall have authority to purchase care for children.

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) The department and supervising agencies shall have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(11)(a) The department shall, within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

(i) Enrolled and participating in a postsecondary or vocational educational program;

(ii) Participating in a program or activity designed to promote or remove barriers to employment;

(iii) Engaged in employment for eighty hours or more per month; or

(iv) Incapable of engaging on any of the activities described in (a)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(b) A youth who remains eligible for placement services or benefits pursuant to department rules may continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday.

(12) The department, within amounts appropriated for this specific purpose, ~~(have)~~ has authority to provide adoption support benefits, or subsidized relative guardianship benefits on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a subsidized relative guardianship at age sixteen or older and who are engaged in one of the activities described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on ~~(the)~~ its public web site ~~((maintained by the department))~~ a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1697.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "reenacting and amending RCW 74.13.031; and creating a new section."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1697 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1697 as amended by the Senate.

#### ROLL CALL

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SECOND READING

The Secretary called the roll on the final passage of Substitute House Bill No. 1697 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1697 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 2:57 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:53 p.m. by President Owen.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1024, by House Committee on Transportation (originally sponsored by Representatives Fagan, Schmick, Armstrong, Clibborn, Lias, Frockt and Moeller)

Adding to the scenic and recreational highway system.

The measure was read the second time.

## MOTION

On motion of Senator Eide, the rules were suspended, Substitute House Bill No. 1024 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1024.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1024 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1024, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Pettigrew, Orwall, Kenney, Roberts, Kagi and Moscoso)

Recognizing adopted siblings and adoptive parents as relatives. Revised for 1st Substitute: Recognizing adopted siblings and half siblings as relatives and adoptive parents of siblings or half siblings as suitable persons in adoption and dependency proceedings. (REVISED FOR ENGROSSED: Concerning suitable persons with which a child in a dependency matter may be placed.)

The measure was read the second time.

## MOTION

On motion of Senator White, Senator Brown was excused.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be not adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition (~~other than removal of the child from~~) that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in 25 U.S.C. Sec. 1903, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family

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home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be competent to provide care for the child.

(2) Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

~~(3)~~ (3) The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in ~~(this)~~ subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

~~((2))~~ (4) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in RCW 13.34.250 and in 25 U.S.C. Sec. 1915.

~~((3))~~ (5) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~((4))~~ (6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact,

or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

~~((5))~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((6))~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((7))~~ (9) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 2.** RCW 13.34.215 and 2010 c 180 s 4 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c)(i) The child has not achieved his or her permanency plan ~~((within three years of a final order of termination));~~ or

(ii) While the child achieved a permanency plan, it has not since been sustained;

(d) Three years have passed since the final order of termination was entered; and

~~((4))~~ (e) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) If the child is eligible to petition the juvenile court under subsection (1) of this section and a parent whose rights have been previously terminated contacts the department or supervising agency or the child's guardian ad litem regarding reinstatement, the department or supervising agency or the guardian ad litem must notify the eligible child about his or her right to petition for reinstatement of parental rights.

(3) A child seeking to petition under this section shall be provided counsel at no cost to the child.

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(4) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(5) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(6) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(7) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(8) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(9)(a) If the court conditionally grants the petition under subsection (7) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(10) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(11) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(12) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(13) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(14) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(15) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "dependency matters; and amending RCW 13.34.130 and 13.34.215."

The President declared the question before the Senate to be the motion by Senator Hargrove to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 1774.

The motion by Senator Hargrove carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition (~~other than removal of the child from~~) that maintains the child in his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in 25 U.S.C. Sec. 1903, to be removed from his or her home

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unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW.

(iii) The department may also consider placing the child, subject to review and approval by the court, with a person with whom the child's sibling or half-sibling is residing or a person who has adopted the sibling or half-sibling of the child being placed as long as the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be competent to provide care for the child.

(2) Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260.

(3) The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a), including a placement provided for in subsection (1)(b)(iii) of this section, when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in ~~(this)~~ subsection (1)(b) of this section. The court shall consider the child's existing relationships and attachments when determining placement.

~~((2))~~ (4) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in RCW 13.34.250 and in 25 U.S.C. Sec. 1915.

~~((3))~~ (5) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

~~((4))~~ (6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall

consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

~~((5))~~ (7) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

~~((6))~~ (8) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

~~((7))~~ (9) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 2.** RCW 13.34.215 and 2010 c 180 s 4 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c)(i) The child has not achieved his or her permanency plan ~~(within three years of a final order of termination)~~; or

(ii) While the child achieved a permanency plan, it has not since been sustained;

(d) Three years have passed since the final order of termination was entered; and

~~((4))~~ (e) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown,

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or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) If the child is eligible to petition the juvenile court under subsection (1) of this section and a parent whose rights have been previously terminated contacts the department or supervising agency or the child's guardian ad litem regarding reinstatement, the department or supervising agency or the guardian ad litem must notify the eligible child about his or her right to petition for reinstatement of parental rights.

(3) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(4) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(5) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(6) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(7) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(8) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(9)(a) If the court conditionally grants the petition under subsection (7) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(10) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(11) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(12) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(13) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(14) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(15) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

**Sec. 3.** RCW 26.33.070 and 1984 c 155 s 7 are each amended to read as follows:

(1) The court shall appoint a guardian ad litem for any parent or alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action. If the child to be relinquished is a dependent child under chapter 13.34 RCW and the minor parent is represented by an attorney or guardian ad litem in the dependency proceeding, the court may rely on the minor parent's dependency court attorney or guardian ad litem to make a report to the court as provided in this subsection.

(2) The court in the county in which a petition is filed shall direct who shall pay the fees of a guardian ad litem or attorney appointed under this chapter and shall approve the payment of the fees. If the court orders the parties to pay the fees of the guardian ad litem, the fees must be established pursuant to the procedures in RCW 26.12.183.

**Sec. 4.** RCW 26.09.220 and 1993 c 289 s 1 are each amended to read as follows:

(1)(a) The court may order an investigation and report concerning parenting arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem,

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court-appointed special advocate, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(b) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(2) In preparing the report concerning a child, the investigator or person appointed under subsection (1) of this section may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator or person appointed under subsection (1) of this section may refer the child to professional personnel for diagnosis. The investigator or person appointed under subsection (1) of this section may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the ~~((investigator's))~~ report by the investigator or person appointed under subsection (1) of this section may be received in evidence at the hearing.

(3) The investigator or person appointed under subsection (1) of this section shall ~~((mail the investigator's))~~ provide his or her report to counsel and to any party not represented by counsel by at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator or person appointed under subsection (1) of this section shall make available to counsel and to any party not represented by counsel ~~((the investigator's))~~ his or her file of underlying data and reports, complete texts of diagnostic reports made to the investigator or appointed person pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom ~~((the investigator))~~ he or she has consulted. Any party to the proceeding may call the investigator or person appointed under subsection (1) of this section and any person whom the investigator or appointed person has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

**NEW SECTION. Sec. 5.** A new section is added to chapter 26.12 RCW to read as follows:

(1) The court may appoint an investigator in addition to a guardian ad litem or court-appointed special advocate under RCW 26.12.175 and 26.12.177 to assist the court and make recommendations.

(2) An investigator is a person appointed as an investigator under RCW 26.12.050(1)(b) or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan.

(3) Investigators who are not supervised by a guardian ad litem or by a court-appointed special advocate program must comply with the training requirements applicable to guardians ad litem or court-appointed special advocates as provided under this chapter and court rule.

**Sec. 6.** RCW 26.12.175 and 2009 c 480 s 3 are each amended to read as follows:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county. The court shall attempt to match a child with special needs with a

guardian ad litem who has specific training or education related to the child's individual needs. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child.

(b) The guardian ad litem's role is to investigate and report factual information regarding the issues ordered to be reported or investigated to the court. The guardian ad litem shall always represent the best interests of the child. Guardians ad litem ~~((and investigators))~~ under this title may make recommendations based upon his or her investigation, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem ~~((or investigator))~~. The court shall consider any written responses to a report filed by the guardian ad litem ~~((or investigator))~~, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services that are not inconsistent with this section.

(3) Each guardian ad litem program for compensated guardians ad litem and each court-appointed special advocate program shall maintain a background information record for each guardian ad litem in the program. The background information record shall include, but is not limited to, the following information:

(a) Level of formal education;

(b) General training related to the guardian ad litem's duties;

(c) Specific training related to issues potentially faced by children in dissolution, custody, paternity, and other family law proceedings;

(d) Specific training or education related to child disability or developmental issues;

(e) Number of years' experience as a guardian ad litem;

(f) Number of appointments as a guardian ad litem and county or counties of appointment;

(g) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause;

(h) Founded allegations of abuse or neglect as defined in RCW 26.44.020;

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(i) The results of an examination that shall consist of a background check as allowed through the Washington state criminal records privacy act under RCW 10.97.050 and the Washington state patrol criminal identification system under RCW 43.43.832 through 43.43.834. This background check shall be done through the Washington state patrol criminal identification section; and

(j) Criminal history, as defined in RCW 9.94A.030, for the period covering ten years prior to the appointment.

The background information record shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person appointed as guardian ad litem shall provide the background information record to the court.

Upon appointment, the guardian ad litem, court-appointed special advocate program or guardian ad litem program, shall provide the parties or their attorneys with a copy of the background information record. The portion of the background information record containing the results of the criminal background check and the criminal history shall not be disclosed to the parties or their attorneys. The background information record shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends. The court shall immediately appoint the person recommended by the program.

(5) If a party in a case reasonably believes the court-appointed special advocate or volunteer guardian ad litem is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate or volunteer guardian ad litem on the grounds the advocate or volunteer is inappropriate or unqualified.

**Sec. 7.** RCW 26.12.177 and 2009 c 480 s 4 are each amended to read as follows:

(1) All guardians ad litem (~~and investigators~~) appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the administrative office of the courts that meet or exceed the statewide requirements. In cases involving allegations of limiting factors under RCW 26.09.191, the guardians ad litem (~~and investigators~~) appointed under this title must have additional relevant training under RCW 2.56.030(15) (~~and as recommended under RCW 2.53.040~~) when it is available.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem (~~and investigators~~) under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem (~~and investigators~~) under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information record as specified in RCW 26.12.175(3), including their hourly rate for

services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem is inappropriate or unqualified, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

(e) The superior court shall remove any person from the guardian ad litem registry who has been found to have misrepresented his or her qualifications.

(3) The rotational registry system shall not apply to court-appointed special advocate programs."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to Engrossed Substitute House Bill No. 1774.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "dependency matters; amending RCW 13.34.130, 13.34.215, 26.33.070, 26.09.220, 26.12.175, and 26.12.177; and adding a new section to chapter 26.12 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1774 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1774 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1774 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

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Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1190, by Representatives Hinkle, Kelley, Van De Wege, Liias and Stanford

Concerning billing for anatomic pathology services.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1190 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1190.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1190 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown

HOUSE BILL NO. 1190, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731, by House Committee on Local Government (originally sponsored by Representatives Takko, Kagi and Reykdal)

Concerning the formation, operation, and governance of regional fire protection service authorities.

The measure was read the second time.

## MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1731 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1731.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1731 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1614, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Dickerson, Rodne, Hope, Goodman, Walsh, Roberts, Green, McCoy, Blake, Kagi, Dunshee, Springer, Appleton, Seaquist, Johnson, Jinkins, Liias, Kelley, Rolfes, Maxwell, Van De Wege and Kenney)

Concerning the traumatic brain injury strategic partnership.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1614 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1614.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1614 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Brown

SUBSTITUTE HOUSE BILL NO. 1614, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Dunshee and Ryu)

Concerning the forestry riparian easement program.

The measure was read the second time.

## MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 76.13.120 and 2004 c 102 s 1 are each amended to read as follows:

(1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forest landowners willing to sell or donate such easements to the state provided that the state will not be required to acquire such easements if they are subject to unacceptable liabilities. The legislature therefore establishes a forestry riparian easement program.

(2) The definitions in this subsection apply throughout this section and RCW 76.13.100 ~~((and))~~, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.

(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forest landowner.

(b) "Qualifying small forest landowner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forest landowner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees for which the small forest landowner is willing to grant the state a forestry riparian easement and must meet all of the following:

(i) The forest trees are covered by a forest practices application that the small forest landowner is required to leave unharvested under the rules adopted under RCW 76.09.055 and 76.09.370 or that is made uneconomic to harvest by those rules ~~((, and for which the small landowner is willing to grant the state a forestry riparian easement. "Qualifying timber" is timber))~~;

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or ~~((timber))~~ for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

~~((e))~~ (d) "Small forest landowner" means a landowner meeting all of the following characteristics:

(i) A forest landowner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least fifty years from the date the ~~((forest practices))~~ completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the ten years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the ten years following application, and that landowner establishes to the ~~((department of natural resources))~~ department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forest landowner. For purposes of determining whether a person qualifies as a small forest landowner, the small forest landowner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted ~~((or the date the landowner notifies the department that the harvest is to begin with which the forestry riparian easement is associated))~~ and the date that the department offers compensation for the forestry riparian easement. A small forest landowner can include an individual, partnership, ~~((corporate))~~ corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forest landowner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forest landowner under this section.

~~((d))~~ (e) "Completion of harvest" means that the trees have been harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) The department ~~((of natural resources))~~ is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forest landowners covering qualifying timber and to pay compensation to such landowners in accordance with ~~((subsections (6) and (7) of))~~ this section. The department ~~((of natural resources))~~ may not transfer the easements to any entity other than another state agency.

(4) Forestry riparian easements shall be effective for fifty years from the date ~~((the forest practices application associated with the qualifying timber is submitted to the department of natural resources))~~ of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department ~~((of natural resources voluntarily))~~, based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

(5) Forestry riparian easements shall be restrictive only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by

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the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

(6) ((Upon application of a small forest landowner for a riparian easement that is associated with a forest practices application and the landowner's marking of the qualifying timber on the qualifying lands, the small forest landowner office shall determine the compensation to be offered to the small forest landowner as provided for in this section. The small forest landowner office shall also determine the compensation to be offered to a small forest landowner for qualifying timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules. The legislature recognizes that there is not readily available market transaction evidence of value for easements of this nature, and thus establishes the following methodology to ascertain the value for forestry riparian easements. Values so determined shall not be considered competent evidence of value for any other purpose.

The small forest landowner office shall establish the volume of the qualifying timber. Based on that volume and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forest landowner office shall attempt to determine the fair market value of the qualifying timber as of the date the forest practices application associated with the qualifying timber was submitted or the date the landowner notifies the department that the harvest is to begin. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry)) The small forest landowner office shall determine what constitutes a completed application for a forestry riparian easement. Such an application shall, at a minimum, include documentation of the owner's status as a qualifying small forest landowner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

(7) ((Except as provided in subsection (8) of this section, the small forest landowner office shall, subject to available funding, offer compensation to the small forest landowner in the amount of fifty percent of the value determined in subsection (6) of this section, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. If the landowner accepts the offer for qualifying timber that will be harvested pursuant to an approved forest practices application, the department of natural resources shall pay the compensation promptly upon (a) completion of harvest in the area covered by the forestry riparian easement; (b) verification that there has been compliance with the rules requiring leave trees in the easement area; and (c) execution and delivery of the easement to the department of natural resources. If the landowner accepts the offer for qualifying timber for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules, the department of natural resources shall pay the compensation promptly upon (i) verification that there has been compliance with the rules requiring leave trees in the easement area; and (ii) execution and delivery of the easement to the department of natural resources. Upon donation or payment of compensation, the department of natural resources may record the easement.

(8)) Upon receipt of the qualifying small forest landowner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forest landowner office shall determine the

compensation to be offered to the qualifying small forest landowner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forest landowner office, subject to the availability of amounts appropriated for this specific purpose, is responsible for assessing the volume of qualifying timber. However, no more than fifty percent of the total amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forest landowner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forest landowner office shall attempt to determine the fair market value of the qualifying timber as of the date the complete forestry riparian easement application is received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

(8)(a) Except as provided in subsection (9) of this section and subject to the availability of amounts appropriated for this specific purpose, the small forest landowner office shall offer compensation for qualifying timber to the qualifying small forest landowner in the amount of fifty percent of the value determined by the small forest landowner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forest landowner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of fifty thousand dollars during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

(9) For approved forest practices applications ((where)) for which the regulatory impact is greater than the average percentage impact for all small forest landowners as determined by an analysis by the department ((of natural resources analysis)) under the regulatory fairness act, chapter 19.85 RCW, the compensation offered will be increased to one hundred percent for that portion of the regulatory impact that is in excess of the average. Regulatory impact includes all trees ((left in buffers, special management zones, and those rendered uneconomic to harvest by these rules)) identified as qualifying timber. A separate average or high impact regulatory threshold shall be established for western and eastern Washington. Criteria for these measurements and payments shall be established by the small forest landowner office.

((9)) (10) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

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(a) A standard version ~~((or versions of all))~~ of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

(b) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

(c) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department ~~((of natural resources))~~ shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than fifty percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department ~~((of natural resources))~~, qualifying small forest landowners, and the small forest landowner office;

(d) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for entering into a ~~((forest))~~ forestry riparian easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

(e) A method to address blowdown of qualified timber falling outside the easement premises;

(f) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the ~~((department of natural resources))~~ department's and the landowner's relative interests in the qualified timber;

(g) High impact regulatory thresholds;

(h) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370; ~~((and))~~

(i) A method for internal department ~~((of natural resources))~~ review of small forest landowner office compensation decisions under ~~((subsection (7) of))~~ this section; and

(j) Consistent with section 5 of this act, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first ten years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

**Sec. 2.** RCW 76.13.140 and 2002 c 120 s 3 are each amended to read as follows:

In order to assist small forest landowners to remain economically viable, the legislature intends that the qualifying small forest landowners be able to net fifty percent of the value of the trees left in the buffer areas. The amount of compensation offered in RCW 76.13.120 shall also include the compliance costs for participation in the forestry riparian easement program~~((—For purposes of this section, "compliance costs" includes))~~, including the cost of preparing and recording the forestry riparian easement, and any business and occupation tax and real estate excise tax imposed because of entering into the forestry riparian easement. The small forest landowner office may contract with private consultants that the office finds qualified to perform timber cruises of forestry riparian easements or to lay out streamside buffers and comply with other forest ~~((and fish))~~ practices regulatory requirements related to the ~~((forest))~~ forestry riparian easement program. The department shall reimburse qualifying small forest landowners for the actual costs incurred for laying out the

streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program. Reimbursement is subject to the work being acceptable to the department. The small forest landowner office shall determine how the reimbursement costs will be calculated.

**Sec. 3.** RCW 76.13.160 and 2004 c 102 s 2 are each amended to read as follows:

When establishing a ~~((forest))~~ forestry riparian easement program applicant's status as a qualifying small forest landowner pursuant to RCW 76.13.120, the department shall not review the applicant's timber harvest records, or any other tax-related documents, on file with the department of revenue. The department of revenue may confirm or deny an applicant's status as a small forest landowner at the request of the department~~((s))~~. However, for the purposes of this section, the department of revenue may not disclose more information than whether or not the applicant has reported a harvest or harvests totaling greater than or less than the qualifying thresholds established in RCW 76.13.120. Nothing in this section, or RCW 84.33.280, prohibits the department from reviewing aggregate or general information provided by the department of revenue.

**NEW SECTION. Sec. 4.** A new section is added to chapter 76.13 RCW to read as follows:

(1) Before November 1st of each even-numbered year, the department must recommend to the governor a list of all forest riparian easement applications to be funded under RCW 76.13.120. The governor must determine the number of applications to receive funding and then submit the list in the capital budget request to the legislature. The list must include, but not be limited to, the date of the forestry riparian easement application, the type of qualifying timber, estimates of the value of the easement, aerial photograph maps of the application area, and an estimate of administrative costs for purchase of easements.

(2) The governor or the legislature may remove an application from the list if there is evidence that the applicant is a nonqualifying landowner for a forestry riparian easement.

**NEW SECTION. Sec. 5.** A new section is added to chapter 76.13 RCW to read as follows:

If, within the first ten years after receipt of compensation for a forestry riparian easement, a landowner sells the land on which an easement is located to a nonqualifying landowner, then the selling landowner must reimburse the state for the full compensation received for the forestry riparian easement. The department continues to hold, in the name of the state, the forestry riparian easement for the full term of the easement. The department may not transfer the easement to any entity other than another state agency.

**NEW SECTION. Sec. 6.** (1) The chair of the forest practices board shall invite relevant stakeholders to participate in a process that investigates, and ultimately recommends, a potential long-term funding source for the forestry riparian easement program established in chapter 76.13 RCW.

(2) The findings of, and recommendations from, the process required by this section must be reported to the appropriate committees of the legislature in the manner prescribed in RCW 43.01.036 by May 31, 2012.

(3) This section expires July 31, 2012.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Engrossed Substitute House Bill No. 1509.

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The motion by Senator Ranker carried and the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the final passage of House Bill No. 1074.

MOTION

ROLL CALL

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 76.13.120, 76.13.140, and 76.13.160; adding new sections to chapter 76.13 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency."

The Secretary called the roll on the final passage of House Bill No. 1074 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Substitute House Bill No. 1509 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

HOUSE BILL NO. 1074, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senators Ranker and Morton spoke in favor of passage of the bill.

SECOND READING

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1509 as amended by the Senate.

SUBSTITUTE HOUSE BILL NO. 1761, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Ormsby)

ROLL CALL

Limiting private activity bond issues by out-of-state issuers.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1509 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

The measure was read the second time.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

MOTION

Senator Benton moved that the following amendment by Senators Benton and Hobbs be adopted:

On page 3, after line 25, insert the following:

"(3)(a) By December 1, 2011, annually each December 1st until December 1, 2014, and December 1st every five years thereafter, each statewide issuer receiving the notice required by subsection (2) of this section from an issuer formed or organized under the laws of another state shall, within existing funds, submit a report to the appropriate committees of the legislature.

(b) Each report under (a) of this subsection must provide, for annual reports the following information from the previous fiscal year, and for other reports the following information from each of the previous fiscal years:

(i) The number of proposed projects for which the statewide issuer received notice and the information described under subsection (2) of this section;

(ii) A description of the projects for which notice was submitted;

(iii) The dollar amount of each proposed project;

(iv) The location of each proposed project;

(v) Whether the proposed project was approved by the statewide issuer; and

(vi) For any project that was not approved by the statewide issuer, the reasons for the statewide issuer's decision."

Absent: Senator Carrell

Excused: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senators Benton and Hobbs spoke in favor of adoption of the amendment.

SECOND READING

HOUSE BILL NO. 1074, by Representatives Takko, Angel, Springer, Upthegrove and Fitzgibbon

Changing qualifications for appointees to metropolitan water pollution abatement advisory committees.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1074 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Hobbs on page 3, after line 25 to Substitute House Bill No. 1761.

Senator Pridemore spoke in favor of passage of the bill.

The motion by Senator Benton carried and the amendment was adopted by voice vote.

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## MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1761 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1761 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1761 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

SUBSTITUTE HOUSE BILL NO. 1761 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1306, by Representatives Lytton, Bailey, Dahlquist, Billig, Clibborn, Armstrong, McCune, Blake, Liias, Takko, Chandler, Johnson, Frockt, Fitzgibbon and Smith

Removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.25.060 and 2009 c 339 s 1 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person is a resident of this state, has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely, and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. In addition to the fee charged for issuance or renewal

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of any license, the applicant shall pay a fee of no more than ten dollars for each classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars for each classified skill examination or combination of classified skill examinations conducted by the department.

(b) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section under the following conditions:

(i) The test is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. part 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(c) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars for each classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Public benefit not-for-profit corporations that are federally supported head start programs; or

(ii) Public benefit not-for-profit corporations that support early childhood education and assistance programs as described in RCW 43.215.405((4)) (2).

(2) The department shall work with the office of the superintendent of public instruction to develop modified P1 and P2 skill examinations that also include the skill examination components required to obtain an "S" endorsement. In no event may a new applicant for an "S" endorsement be required to take two separate examinations to obtain an "S" endorsement and either a P1 or P2 endorsement, unless that applicant is upgrading his or her existing commercial driver's license to include an "S" endorsement. The combined P1/S or P2/S skill examination must be offered to the applicant at the same cost as a regular P1 or P2 skill examination.

(3)(a) The department may waive the skills test and the requirement for completion of a course of instruction in the operation of a commercial motor vehicle specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. part 383.77.

(b) An applicant who operates a commercial motor vehicle for agribusiness purposes is exempt from the course of instruction completion and employer skills and training certification requirements under this section. By January 1, 2010, the department shall submit recommendations regarding the continuance of this exemption to the transportation committees of the legislature. For purposes of this subsection (3)(b), "agribusiness" means a private carrier who in the normal course of business primarily transports:

(i) Farm machinery, farm equipment, implements of husbandry, farm supplies, and materials used in farming;

(ii) Agricultural inputs, such as seed, feed, fertilizer, and crop protection products;

(iii) Unprocessed agricultural commodities, as defined in RCW 17.21.020, where such commodities are produced by farmers, ranchers, vineyardists, or orchardists; or

(iv) Any combination of (b)(i) through (iii) of this subsection.

((This subsection (3)(b) expires July 1, 2011.)) The department shall notify the transportation committees of the legislature if the federal government takes action affecting the exemption provided in this subsection (3)(b).

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(4) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(5)(a) The department may issue a commercial driver's instruction permit to an applicant who is at least eighteen years of age and holds a valid Washington state driver's license and who has submitted a proper application, passed the general knowledge examination required for issuance of a commercial driver's license under subsection (1) of this section, and paid the appropriate fee for the knowledge examination and an application fee of ten dollars.

(b) A commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period.

(c) The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. The holder of a commercial driver's instruction permit is not authorized to operate a commercial motor vehicle transporting hazardous materials.

(d) The department shall transmit the fees collected for commercial driver's instruction permits to the state treasurer.

**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to House Bill No. 1306.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 46.25.060; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1306 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1306 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1306 as amended by the Senate and the bill passed the

Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

HOUSE BILL NO. 1306 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Carrell was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922, by House Committee on Transportation (originally sponsored by Representatives Shea, Taylor and McCune)

Requiring certain vehicles to stop at a weigh station for inspection and weight measurement. Revised for 1st Substitute: Requiring certain vehicles to submit to inspection and weight measurement upon entering the state. (REVISED FOR ENGROSSED: Requiring certain vehicles to stop at a port of entry upon entering the state.)

The measure was read the second time.

MOTION

Senator King moved that the following committee amendment by the Committee on Transportation be adopted:

On page 2, line 6, after "purposes" strike "in the counties described in subsection (5) of this section"

Senator King spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1922.

The motion by Senator King carried and the committee amendment was adopted by voice vote.

MOTION

On motion of Senator King, the rules were suspended, Engrossed Substitute House Bill No. 1922 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1922 as amended by the Senate.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1922 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1829, by House Committee on Education (originally sponsored by Representatives Billig, Santos, Haigh, Probst, Sells, Kenney, Reykdal, Maxwell, Stanford, Morris, Hasegawa, Ryu, McCoy, Hunt, Moscoso, Hope, Appleton and Ormsby)

Creating a division of Indian education in the office of the superintendent of public instruction. Revised for 1st Substitute: Creating an office of Native education within the office of the superintendent of public instruction.

The measure was read the second time.

## MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds:

(1) Leadership, technical assistance, and advocacy is important to promoting the academic success of all students, particularly including American Indian and Alaska Native students;

(2) American Indian and Alaska Native students make up two and one-half percent of the total student population in the state and twenty-five percent or more of the student population in fifty-seven schools across the state;

(3) The annual dropout rate for American Indian and Alaska Native students has hovered around ten or eleven percent over the past three school years and, while the on-time graduation rate for these students has improved between the 2006-07 and 2008-09 school years, it is still only fifty-two and seven-tenths percent; and

(4) Despite the passage of House Bill No. 1495 in 2005, with its goal of educating citizens of the state about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations, and the contribution of American Indians and Alaska Natives to the state, that goal has yet to be achieved in many schools.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) To the extent funds are available, an Indian education division, to be known as the office of Native education, is created within the office of the superintendent of public instruction. The superintendent shall appoint an individual to be responsible for the office of Native education.

(2) To the extent state funds are available, with additional support of federal and local funds where authorized by law, the office of Native education shall:

(a) Provide assistance to school districts in meeting the educational needs of American Indian and Alaska Native students;

(b) Facilitate the development and implementation of curricula and instructional materials in native languages, culture and history, and the concept of tribal sovereignty pursuant to RCW 28A.320.170;

(c) Provide assistance to districts in the acquisition of funding to develop curricula and instructional materials in conjunction with native language practitioners and tribal elders;

(d) Coordinate technical assistance for public schools that serve American Indian and Alaska Native students;

(e) Seek funds to develop, in conjunction with the Washington state native American education advisory committee, and implement the following support services for the purposes of both increasing the number of American Indian and Alaska Native teachers and principals and providing continued professional development for educational assistants, teachers, and principals serving American Indian and Alaska Native students:

(i) Recruitment and retention;

(ii) Academic transition programs;

(iii) Academic financial support;

(iv) Teacher preparation;

(v) Teacher induction; and

(vi) Professional development;

(f) Facilitate the inclusion of native language programs in school districts' curricula;

(g) Work with all relevant agencies and committees to highlight the need for accurate, useful data that is appropriately disaggregated to provide a more accurate picture regarding American Indian and Alaska Native students; and

(h) Report to the governor, the legislature, and the governor's office of Indian affairs on an annual basis, beginning in December 2012, regarding the state of Indian education and the implementation of all state laws regarding Indian education, specifically noting system successes and accomplishments, deficiencies, and needs.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.300 RCW to read as follows:

The Native education public-private partnership account is created in the custody of the state treasurer. The purpose of the account is to support the activities of the office of Native education within the office of the superintendent of public instruction under section 2 of this act. Receipts from any appropriations made by the legislature for the purposes of section 2 of this act, federal funds, gifts or grants from the private sector or foundations, and other sources must be deposited into the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to Substitute House Bill No. 1829.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

## MOTION

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There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "instruction;" strike the remainder of the title and insert "adding new sections to chapter 28A.300 RCW; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1829 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Brown and Roach spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1829 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1829 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Delvin, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Schoesler and Stevens

Excused: Senator Zarelli

SUBSTITUTE HOUSE BILL NO. 1829 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

At 6:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:01 p.m. by President Owen.

PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. I just want to let people know that the building is locked and we do not intend to conduct any business, any of the people's business with the building locked."

MOTION

At 7:02 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 7:49 p.m. by President Owen.

SECOND READING

ENGROSSED HOUSE BILL NO. 1223, by Representatives Fitzgibbon, Green, Darneille, Jinkins, Ladenburg and Takko

Authorizing use of hearing officers for street vacation hearings. (REVISED FOR ENGROSSED: Authorizing use of hearing examiners for street vacation hearings. )

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 1223 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Pridemore was excused.

MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1223.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1223 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Holmquist Newbry and Pridemore

ENGROSSED HOUSE BILL NO. 1223, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

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HOUSE BILL NO. 1340, by Representatives Kretz, McCune, Johnson and Warnick

Regarding the unlawful hunting of big game.

The measure was read the second time.

#### MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1340 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1340.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1340 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1340, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1266, by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Warnick, Kenney and Kelley)

Modifying the landlord-tenant act and other related provisions.

The measure was read the second time.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1266 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1266.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1266 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser,

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Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry and Stevens

SUBSTITUTE HOUSE BILL NO. 1266, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1315, by House Committee on Health Care & Wellness (originally sponsored by Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris)

Concerning the employment of physicians by nursing homes.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.51 RCW to read as follows:

(1) A nursing home licensed under this chapter may employ physicians for the provision of professional services to its residents under the following conditions:

(a) The nursing home may not in any manner, directly or indirectly, supplant, diminish, or regulate any employed physician's judgment concerning the practice of medicine or the diagnosis and treatment of any patient; and

(b) The employed physicians may provide professional services only to residents of the nursing home or a related living facility.

(2) The employment of physicians as authorized by this section may be through the following entities:

(a) The entity licensed to operate the nursing home; or

(b) A separate entity authorized to conduct business in the state of Washington that has common or overlapping ownership as an affiliate or subsidiary of the licensee, as long as the licensee complies with subsection (3) of this section.

(3) Nothing in this section relieves the licensee of its ultimate responsibility for the daily operations of the nursing home.

(4) Nothing in this section may be construed to interfere with the federal resident rights requirements found in 42 C.F.R. 483.10, or successor rules, or found in this chapter, chapter 74.42 RCW, or the rules adopted by the department addressing resident's rights under this chapter or chapter 74.42 RCW.

(5) As used in this section, "related living facility" means (a) a separate nursing home that is owned, controlled, or managed by the same or an affiliated or subsidiary entity; or (b) a facility that (i) provides independent living services or boarding home services under chapter 18.20 RCW, in a single contiguous campus as the nursing home, and (ii) is owned, controlled, or managed by the same or related entity as the nursing home. For purposes of this subsection "contiguous" means land adjoining or touching property on which the nursing home is located, including land divided by a public road.

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**Sec. 2.** RCW 74.42.010 and 2010 c 94 s 27 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services and the department's employees.

(2) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(3) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(4) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(5) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(6) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(7) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(8) "Physician assistant" means a person practicing pursuant to chapter ~~(s)~~ 18.57A ~~(and)~~ or 18.71A RCW.

~~((8))~~ (9) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker who is a graduate of a school of social work.

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

~~((9))~~ (10) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

~~((10))~~ (11) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

**NEW SECTION. Sec. 3.** The department of social and health services shall monitor nursing homes who hire physicians on staff and report to the legislature by January 1, 2013. The report shall include information on consumer satisfaction and medical cost implications of including physicians on staff in nursing facilities."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 1315.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "homes;" strike the remainder of the title and insert "reenacting and amending RCW 74.42.010; adding a new section to chapter 18.51 RCW; and creating a new section."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1315 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1315 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1315 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1315 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1770, by Representatives Hasegawa, Kenney, Orcutt, Frockt and Stanford

Enhancing small business participation in state purchasing.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that

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small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.19 RCW to read as follows:

(1) Purchasing agencies, including institutions of higher education, must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services purchased by the state. The goal of the plan must be to have the number of small businesses receiving state contracts in 2013 be at least fifty percent higher, and in 2015 be at least one hundred percent higher, than the number of contracts awarded to small businesses in 2010.

(2) To facilitate the participation of small business in the provision of goods and services to the state, including purchases under chapters 39.29 and 43.105 RCW, the state purchasing and material control director, under the powers granted by RCW 43.19.190 through 43.19.1939, and all state purchasing agencies, including institutions of higher education, operating under delegated authority granted under RCW 43.19.190 or 28B.10.029, must give assistance to small businesses by providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request after the contract award, for the agency to hold a debriefing to assist the vendor in understanding how to improve his or her responses for future competitive procurements.

(3) Purchasing agencies, including institutions of higher education, must adopt rules deemed necessary by the executive head of the agency or its board, as applicable, to implement this section. Such rules must include a set of measurable data to identify the effects the technical assistance under this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(4) As used in this section:

(a) "Purchasing agencies" are limited to the department of general administration, the department of information services, and the department of transportation.

(b) "In-state business" has the same meaning as defined in RCW 39.29.006.

(c) "Small business" has the same meaning as defined in RCW 39.29.006.

**Sec. 3.** RCW 39.29.006 and 2009 c 486 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Common vendor registration and bid notification system" means the internet-based vendor registration and bid notification system maintained by and housed within the department of general administration. The requirements contained in chapter 486, Laws of 2009 shall continue to apply to this system, regardless of future changes to its name or management structure.

(4) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services. "Competitive solicitation" includes posting

of the contract opportunity on the state's common vendor registration and bid notification system.

(5) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(6) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(7) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant. "Evidence of competition" includes documentation that the agency has posted the contract opportunity on the state's common vendor registration and bid notification system.

(8) "In-state business" means a business that has its principal office located in Washington.

~~(9)~~ "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection ~~((40))~~ (11) of this section. This term does include client services.

~~((9))~~ (10) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

~~((40))~~ (11) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

~~((44))~~ (12) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either ((44)) (i) fifty or fewer employees, or ((44)) (ii) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years~~((--As used in this definition, "in state business" means a business that has its principal office located in Washington and its officers domiciled in Washington))~~; or (b) is certified under chapter 39.19 RCW.

~~((42))~~ (13) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required."

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "amending RCW 39.29.006; adding a new section to chapter 43.19 RCW; and creating a new section."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Economic Development, Trade & Innovation to House Bill No. 1770.

The motion by Senator Kastama carried and the committee striking amendment was not adopted by voice vote.

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## MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state. The legislature recognizes the need to increase accountability for the state's procurement and contracting practices. The legislature, therefore, intends to encourage all state agencies to maintain records of state purchasing contracts awarded to registered small businesses. The legislature further recognizes that access to a modernized system that categorizes a state business by such factors as its type and size, is an essential tool for receiving accurate and verifiable information regarding the effects any technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration must develop a model plan for state agencies to increase: (a) The number of small businesses registering in the state's common vendor registration and bid notification system; (b) the number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and (c) the percentage of total state dollars spent for goods and services purchased from such registered small businesses. The goal of the plan is to increase the number of small businesses receiving state contracts as well as the percentage of total state dollars spent for goods and services from small businesses registered in the state's common vendor registration and bid notification system by at least fifty percent in fiscal year 2013, and at least one hundred percent in fiscal year 2015 over the baseline data reported for fiscal year 2011.

(2) All state purchasing agencies may adopt the model plan developed by the department of general administration under subsection (1) of this section. A state purchasing agency that does not adopt the model plan must establish and implement a plan consistent with the goals of subsection (1) of this section.

(3) To facilitate the participation of small businesses in the provision of goods and services to the state, including purchases under chapters 39.29 and 43.105 RCW, the state purchasing and material control director, under the powers granted by RCW 43.19.190 through 43.19.1939, and all state purchasing agencies operating under delegated authority granted under RCW 43.19.190 or 28B.10.029, must give technical assistance to small businesses regarding the state bidding process. Such technical assistance shall include providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, upon request, holding a debriefing after the contract award to assist the vendor in understanding how to improve his or her responses for future competitive procurements.

(4)(a) All state purchasing agencies must maintain records of state purchasing contracts awarded to registered small businesses in order to track outcomes and provide accurate, verifiable information regarding the effects the technical assistance under subsection (3) of this section is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(b) The department of general administration may provide assistance to other agencies attempting to maintain records of state purchasing contracts awarded to registered small businesses for the purposes described under (a) of this subsection.

(5) The definitions in this subsection apply throughout this section and section 3 of this act unless the context clearly requires otherwise.

(a) "Small business" has the same meaning as defined in RCW 39.29.006.

(b) "State purchasing agencies" are limited to the department of general administration, the department of information services, the office of financial management, the department of transportation, and institutions of higher education.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.19 RCW to read as follows:

(1) By November 15, 2013, and November 15th every two years thereafter, all state purchasing agencies shall submit a report to the appropriate committees of the legislature providing verifiable information regarding the effects the technical assistance under section 2(3) of this act is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

(2) By December 31, 2013, all state purchasing agencies must use the web-based information system created under subsection (3)(a) of this section to capture the data required under subsection (3)(a) of this section.

(3)(a) The department of general administration, in consultation with the department of information services, the department of transportation, and the department of commerce, must develop and implement a web-based information system. The web-based information system must be used to capture data, track outcomes, and provide accurate and verifiable information regarding the effects the technical assistance under section 2(3) of this act is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Such measurable data shall include, but not be limited to: (i) The number of registered small businesses that have been awarded state procurement contracts, (ii) the percentage of total state dollars spent for goods and services purchased from registered small businesses, and (iii) the number of registered small businesses that have bid on but were not awarded state purchasing contracts.

(b) By October 1, 2011, the department of general administration, in collaboration with the department of information services and the department of transportation, shall submit a report to the appropriate committees of the legislature detailing the projected cost associated with the implementation and maintenance of the web-based information system.

(c) By September 1, 2012, the department of general administration, in collaboration with the department of information services and the department of transportation, shall submit a report to the appropriate committees of the legislature providing any recommendations for needed legislation to improve the collection of data required under (a) of this subsection.

(d) By December 31, 2013, the department of general administration must make the web-based information system available to all state purchasing agencies.

(e) The department of general administration may also make the web-based information system available to other agencies that

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would like to use the system for the purposes of chapter . . . , Laws of 2011 (this act).

**Sec. 4.** RCW 39.29.011 and 2009 c 486 s 7 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts;
- (3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than ~~((twenty))~~ ten thousand dollars shall have documented evidence of competition. Contracts of ten thousand dollars or greater, but less than twenty thousand dollars, shall have documented evidence of competition, which must include agency posting of the contract opportunity on the state's common vendor registration and bid notification system. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

**Sec. 5.** RCW 43.19.1908 and 2009 c 486 s 11 are each amended to read as follows:

(1) For contracts of twenty-five thousand dollars or greater, the competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing.

(2) Contracts for less than twenty-five thousand dollars, and contracts up to the direct buy dollar amount limit pursuant to RCW 43.19.1906(2), must be solicited by public notice and have documented evidence of competition.

(3) Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the division of purchasing.

**Sec. 6.** RCW 43.105.041 and 2010 1st sp.s. c 7 s 65 are each amended to read as follows:

(1) The board shall have the following powers and duties related to information services:

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: **PROVIDED**, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system for (i) goods and

purchased services of fifty thousand dollars or greater, and (ii) personal services of ten thousand dollars or greater. This subsection (1)(b) does not apply to the legislative branch;

(c) To develop statewide or interagency technical policies, standards, and procedures;

(d) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;

(e) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(f) To develop and implement a process for the resolution of appeals by:

(i) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(ii) A customer agency concerning the provision of services by the department or by other state agency providers;

(g) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management;

(h) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director;

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The board shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems. Local governments are strongly encouraged to follow the standards established by the board; and

(b) Require agencies to consider electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the board is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(3)(a) The board has the duty to govern, operate, and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; procurement of shared network

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services and equipment; and resolving user/provider disputes concerning technical matters. The board shall delegate general operational and technical oversight to the department as appropriate.

(b) The board has the authority to adopt rules under chapter 34.05 RCW to implement the provisions regarding the technical operations and conditions of use of the K-20 network.

**Sec. 7.** RCW 39.29.006 and 2009 c 486 s 6 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Common vendor registration and bid notification system" means the internet-based vendor registration and bid notification system maintained by and housed within the department of general administration. The requirements contained in chapter 486, Laws of 2009 shall continue to apply to this system, regardless of future changes to its name or management structure.

(4) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services. "Competitive solicitation" includes posting of the contract opportunity on the state's common vendor registration and bid notification system.

(5) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(6) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(7) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant. "Evidence of competition" includes documentation that the agency has posted the contract opportunity on the state's common vendor registration and bid notification system.

(8) "In-state business" means a business that has its principal office located in Washington.

(9) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection ~~((40))~~ (11) of this section. This term does include client services.

~~((9))~~ (10) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

~~((40))~~ (11) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under

RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

~~((41))~~ (12) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either ~~((42))~~ (i) fifty or fewer employees, or ~~((43))~~ (ii) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years. ~~(As used in this definition, "in-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington);~~ or (b) is certified under chapter 39.19 RCW.

~~((42))~~ (13) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

NEW SECTION. **Sec. 8.** If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2012, in the omnibus appropriations act, section 3 of this act is null and void."

Senator Kastama spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to House Bill No. 1770.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "purchasing;" strike the remainder of the title and insert "amending RCW 39.29.011, 43.19.1908, 43.105.041, and 39.29.006; adding new sections to chapter 43.19 RCW; and creating new sections."

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1770 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kastama and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1770 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1770 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs,

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Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

HOUSE BILL NO. 1770 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494, by House Committee on Health Care & Wellness (originally sponsored by Representative Moeller)

Concerning elder placement referrals. Revised for 1st Substitute: Concerning vulnerable adult referral agencies.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, and his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

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(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the person or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in section 7 of this act, or the agency gives a provider the name of a client for the purposes of enabling the provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020.

**NEW SECTION. Sec. 3.** (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined single limit liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the reporting requirements of chapter 74.34 RCW.

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**NEW SECTION. Sec. 4.** Nothing in this chapter may be construed to prohibit, restrict, or apply to:

(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person.

**NEW SECTION. Sec. 5.** (1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in sections 6 and 7 of this act.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply. The client must have access upon request to the agency's records concerning the client and covered by this chapter.

**NEW SECTION. Sec. 6.** (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment

requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any.

Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A provision stating whether the agency has visited the supportive housing provider or providers to whom they will be referring the client and, if so, when that visit took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with section 10 of this act;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the personnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest.

**NEW SECTION. Sec. 7.** (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following data regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in

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defining supportive housing and care services options for the vulnerable adult;

(k) Current living situation of the client;

(l) Geographic location preferences; and

(m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible. The agency may not obtain or disclose health care information, as defined in RCW 70.02.010, without the authorization of the client or the client's representative.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee.

**NEW SECTION. Sec. 8.** (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

(i) The type of license held by the provider and license number;

(ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;

(iii) Sources of payment accepted, including whether medicaid is accepted;

(iv) General level of medication management services provided;

(v) General level and types of personal care services provided;

(vi) Particular cultural needs that may be accommodated;

(vii) Primary language spoken by care providers;

(viii) Activities typically provided;

(ix) Behavioral problems or symptoms that can or cannot be met;

(x) Food preferences and special diets that can be accommodated; and

(xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches

must be disclosed in writing to the client if the referral includes that provider.

**NEW SECTION. Sec. 9.** Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral.

**NEW SECTION. Sec. 10.** (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 11.** Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

**NEW SECTION. Sec. 12.** An agency may not charge or accept a fee or other consideration from a client, care services provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter.

**NEW SECTION. Sec. 13.** (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes.

**NEW SECTION. Sec. 14.** In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW.

**NEW SECTION. Sec. 15.** The legislature finds that the operation of an agency in violation of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 16.** Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider.

**NEW SECTION. Sec. 17.** The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in this act. The work group will provide recommendations to the legislature by December 1, 2011.

**NEW SECTION. Sec. 18.** This chapter may be known and cited as the "elder and vulnerable adult referral agency act."

**NEW SECTION. Sec. 19.** Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 20.** This act takes effect January 1, 2012.

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**NEW SECTION. Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "referrals;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date."

The President declared the question before the Senate to be the motion by Senator Keiser to not adopt the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1494.

The motion by Senator Keiser carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Becker be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, or his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so. "Client" may also mean a person seeking a referral for supportive housing or care services on behalf of the elder person or vulnerable adult through an elder care referral service: PROVIDED, That such a person is a family member, relative, or domestic partner of the senior or vulnerable adult.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or

other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the person or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in section 7 of this act, or the agency gives a provider the name of a client for the purposes of enabling the provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020.

**NEW SECTION. Sec. 3.** (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the reporting requirements of chapter 74.34 RCW.

**NEW SECTION. Sec. 4.** Nothing in this chapter may be construed to prohibit, restrict, or apply to:

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(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person.

**NEW SECTION. Sec. 5.** (1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in sections 6 and 7 of this act.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply. The client must have access upon request to the agency's records concerning the client and covered by this chapter.

**NEW SECTION. Sec. 6.** (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any. Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A statement indicating the frequency on which the agency regularly tours provider facilities, and that, at the time of referral, the agency will inform the client in writing or by electronic means if the agency has toured the referred supportive housing provider or providers, and if so, the most recent date that tour took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with section 10 of this act;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the personnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest.

**NEW SECTION. Sec. 7.** (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following information regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in

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defining supportive housing and care services options for the vulnerable adult;

- (k) Current living situation of the client;
- (l) Geographic location preferences; and
- (m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee.

**NEW SECTION. Sec. 8.** (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

- (i) The type of license held by the provider and license number;
- (ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;
- (iii) Sources of payment accepted, including whether medicaid is accepted;
- (iv) General level of medication management services provided;
- (v) General level and types of personal care services provided;
- (vi) Particular cultural needs that may be accommodated;
- (vii) Primary language spoken by care providers;
- (viii) Activities typically provided;
- (ix) Behavioral problems or symptoms that can or cannot be met;
- (x) Food preferences and special diets that can be accommodated; and
- (xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches must be disclosed in writing to the client if the referral includes that provider.

**NEW SECTION. Sec. 9.** Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral.

**NEW SECTION. Sec. 10.** (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 11.** Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

**NEW SECTION. Sec. 12.** An agency may not charge or accept a fee or other consideration from a client, care services provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter.

**NEW SECTION. Sec. 13.** (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes.

**NEW SECTION. Sec. 14.** In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW.

**NEW SECTION. Sec. 15.** The legislature finds that the operation of an agency in violation of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 16.** Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider.

**NEW SECTION. Sec. 17.** The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in this act. The work group will provide recommendations to the legislature by December 1, 2011.

**NEW SECTION. Sec. 18.** This chapter may be known and cited as the "elder and vulnerable adult referral agency act."

**NEW SECTION. Sec. 19.** Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 20.** This act takes effect January 1, 2012.

**NEW SECTION. Sec. 21.** If any provision of this act or its application to any person or circumstance is held invalid, the

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remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Keiser spoke in favor of adoption of the striking amendment.

## MOTION

Senator Becker moved that the following amendment by Senators Becker and Keiser to the striking amendment be adopted:

On page 5, line 6, after "apply", insert "but only to the extent that such information meets the definition of "health care information" under RCW 70.02.010(7)"

On page 9, after line 2, insert "(4) By January 1, 2012, the department of social and health services and the department of health must convene a workgroup of stakeholders to collaboratively identify and implement a uniform standard for the information pertaining to the enforcement status of a provider that must be disclosed to the client under subsection (3) of this section. The uniform standard must clearly identify what elements of an enforcement action should be included under the disclosure requirements of subsection (3) of this section. Agencies will have no liability or responsibility for the accuracy, completeness, timeliness or currency of information shared in the prescribed format and are immune from any cause of action arising from their reliance on, use of, or distribution of this information."

Senator Becker spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker and Keiser on page 5, line 6 to the striking amendment to Engrossed Substitute House Bill No. 1494.

The motion by Senator Becker carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Becker as amended to Engrossed Substitute House Bill No. 1494.

The motion by Senator Keiser carried and the striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "referrals;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date."

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1494 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1494 as amended by the Senate.

## ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1494 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Roach, Schoesler, Stevens and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332, by House Committee on Local Government (originally sponsored by Representatives Eddy, Anderson, Goodman, Takko, Liias, Springer, Rodne, Hurst and Tharinger)

Providing for the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services.

The measure was read the second time.

## MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** TITLE OF ACT--DECLARATION OF PURPOSE. (1) This act shall be known as the joint municipal utility services act.

(2) It is the purpose of this act to improve the ability of local government utilities to plan, finance, construct, acquire, maintain, operate, and provide facilities and utility services to the public, and to reduce costs and improve the benefits, efficiency, and quality of utility services.

(3) This act is intended to facilitate joint municipal utility services and is not intended to expand the types of services provided by local governments or their utilities. Further, nothing in this act is intended to alter the regulatory powers of cities, counties, or other local governments or state agencies that exercise such powers. Further, nothing in this act may be construed to alter the underlying authority of the units of local government that enter into agreements under this act or to diminish in any way the authority of local governments to enter into agreements under chapter 39.34 RCW or other applicable law.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreement" means a joint municipal utility services agreement, among members, that forms an authority, as more fully described in this chapter.

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(2) "Authority" means a joint municipal utility services authority formed under this chapter.

(3) "Board of directors" or "board" means the board of directors of an authority.

(4) "Member" means a city, town, county, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state that provides utility services, and any Indian tribe recognized as such by the United States government, that is a party to an agreement forming an authority.

(5) "Utility services," for purposes of this chapter, means any or all of the following functions: The provision of retail or wholesale water supply and water conservation services; the provision of wastewater, sewage, or septage collection, handling, treatment, transmission, or disposal services; the provision of point and nonpoint water pollution monitoring programs; the provision for the generation, production, storage, distribution, use, or management of reclaimed water; and the management and handling of storm water, surface water, drainage, and flood waters.

**NEW SECTION. Sec. 3. FORMATION OF JOINT MUNICIPAL UTILITY SERVICES AUTHORITIES--CHARACTERISTICS--SUBSTANTIVE POWERS.**

(1) An authority may be formed by two or more members pursuant to this chapter by execution of a joint municipal utility services agreement that materially complies with the requirements of section 5 of this act. Except as otherwise provided in section 8 of this act, at the time of execution of an agreement each member must be providing the type of utility service or services that will be provided by the authority. The agreement must be approved by the legislative authority of each of the members. The agreement must be filed with the Washington state secretary of state, who must provide a certificate of filing with respect to any authority. An authority shall be deemed to have been formed as of the date of that filing. The formation and activities of an authority, and the admission or withdrawal of members, are not subject to review by any boundary review board. Any amendments to an agreement must be filed with the Washington state secretary of state, and will become effective on the date of filing.

(2) An authority is a municipal corporation. Subject to section 4(3) of this act, the provisions of a joint municipal utility services agreement, and any limitations imposed pursuant to section 5 of this act: (a) An authority may perform or provide any or all of the utility service or services that all of its members, other than tribal government members, perform or provide under applicable law; and (b) in performing or providing those utility services, an authority may exercise any or all of the powers described in section 4(1) of this act.

(3) An authority shall be entitled to all the immunities and exemptions that are available to local governmental entities under applicable law, including without limitation the provisions of chapter 4.96 RCW. Notwithstanding this subsection (3), if all of an authority's members are the same type of Washington local government entity, then the immunities and exemptions available to that type of entity shall govern.

(4) Nothing in this chapter shall diminish a member's powers in connection with its provision or management of utility services, or its taxing power with respect to those services, nor does this chapter diminish in any way the authority of local governments to enter into agreements under chapter 39.34 RCW or other applicable law.

(5) Nothing in this chapter shall impair or diminish a valid water right, including rights established under state law and rights established under federal law.

**NEW SECTION. Sec. 4. CORPORATE POWERS OF JOINT MUNICIPAL UTILITY SERVICES AUTHORITIES.** (1) For the purpose of performing or providing utility services, and

subject to subsection (3) of this section and section 5 of this act, an authority has and is entitled to exercise the following powers:

(a) To sue and be sued, complain and defend, in its corporate name;

(b) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(c) To purchase, take, receive, take by lease, condemn, receive by grant, or otherwise acquire, and to own, hold, improve, use, operate, maintain, add to, extend, and fully control the use of and otherwise deal in and with, real or personal property or property rights, including without limitation water and water rights, or other assets, or any interest therein, wherever situated;

(d) To sell, convey, lease out, exchange, transfer, surplus, and otherwise dispose of all or any part of its property and assets;

(e) To incur liabilities for any of its utility services purposes, to borrow money at such rates of interest as the authority may determine, to issue its bonds, notes, and other obligations, and to pledge any or all of its revenues to the repayment of bonds, notes, and other obligations;

(f) To enter into contracts for any of its utility services purposes with any individual or entity, both public and private, and to enter into intergovernmental agreements with its members and with other public agencies;

(g) To be eligible to apply for and to receive state, federal, and private grants, loans, and assistance that any of its members are eligible to receive in connection with the development, design, acquisition, construction, maintenance, and/or operation of facilities and programs for utility services;

(h) To adopt and alter rules, policies, and guidelines, not inconsistent with this chapter or with other laws of this state, for the administration and regulation of the affairs and assets of the authority;

(i) To obtain insurance, to self-insure, and to participate in pool insurance programs;

(j) To indemnify any officer, director, employee, volunteer, or former officer, employee, or volunteer, or any member, for acts, errors, or omissions performed in the exercise of their duties in the manner approved by the board;

(k) To employ such persons, as public employees, that the board determines are needed to carry out the authority's purposes and to fix wages, salaries, and benefits, and to establish any bond requirements for those employees;

(l) To provide for and pay pensions and participate in pension plans and other benefit plans for any or all of its officers or employees, as public employees;

(m) To determine and impose fees, rates, and charges for its utility services;

(n) Subject to section 5(20) of this act, to have a lien for delinquent and unpaid rates and charges for retail connections and retail utility service to the public, together with recording fees and penalties (not exceeding eight percent) determined by the board, including interest (at a rate determined by the board) on such rates, charges, fees, and penalties, against the premises to which such service has been furnished or is available, which lien shall be superior to all other liens and encumbrances except general taxes and local and special assessments;

(o) To make expenditures to promote and advertise its programs, educate its members, customers, and the general public, and provide and support conservation and other practices in connection with providing utility services;

(p) With the consent of the member within whose geographic boundaries an authority is so acting, to compel all property owners within an area served by a wastewater collection system owned or operated by an authority to connect their private drain and sewer

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systems with that system, or to participate in and follow the requirements of an inspection and maintenance program for on-site systems, and to pay associated rates and charges, under such terms and conditions, and such penalties, as the board shall prescribe by resolution;

(q) With the consent of the member within whose geographic or service area boundaries an authority is so acting, to create local improvement districts or utility local improvement districts, to impose and collect assessments and to issue bonds and notes, all consistent with the statutes governing local improvement districts or utility local improvement districts applicable to the member that has provided such consent. Notwithstanding this subsection (1)(q), the guaranty fund provisions of chapter 35.54 RCW shall not apply to a local improvement district created by an authority;

(r) To receive contributions or other transfers of real and personal property and property rights, money, other assets, and franchise rights, wherever situated, from its members or from any other person;

(s) To prepare and submit plans relating to utility services on behalf of itself or its members;

(t) To terminate its operations, wind up its affairs, dissolve, and provide for the handling and distribution of its assets and liabilities in a manner consistent with the applicable agreement;

(u) To transfer its assets, rights, obligations, and liabilities to a successor entity, including without limitation a successor authority or municipal corporation;

(v) Subject to subsection (3) of this section, section 5 of this act, and applicable law, to have and exercise any other corporate powers capable of being exercised by any of its members in providing utility services;

(2) An authority, as a municipal corporation, is subject to the public records act (chapter 42.56 RCW), the open public meetings act (chapter 42.30 RCW), and the code of ethics for municipal officers (chapter 42.23 RCW), and an authority is subject to audit by the state auditor under chapter 43.09 RCW.

(3) In the exercise of its powers in connection with performing or providing utility services, an authority is subject to the following:

(a) An authority has no power to levy taxes.

(b) An authority has the power of eminent domain as necessary to perform or provide utility services, but only if all of its members, other than tribal government members, have powers of eminent domain. Further, an authority may exercise the power of eminent domain only pursuant to the provisions of Washington law, in the manner and subject to the statutory limitations applicable to one or more of its Washington local government members. If all of its members are the same type of Washington governmental entity, then the statute governing the exercise of eminent domain by that type of entity shall govern. An authority may not exercise the power of eminent domain with respect to property owned by a city, town, county, special purpose district, authority, or other unit of local government, but may acquire or use such property under mutually agreed upon terms and conditions.

(c) An authority may pledge its revenues in connection with its obligations, and may acquire property or property rights through and subject to the terms of a conditional sales contract, a real estate contract, or a financing contract under chapter 39.94 RCW, or other federal or state financing program. However, an authority must not in any other manner mortgage or provide security interests in its real or personal property or property rights. As a local governmental entity without taxing power, an authority may not issue general obligation bonds. However, an authority may pledge its full faith and credit to the payment of amounts due pursuant to a financing contract under chapter 39.94 RCW or other federal or state financing program.

(d) In order for an authority to provide a particular utility service in a geographical area, one or more of its members must have authority, under applicable law, to provide that utility service in that geographical area.

(e) As a separate municipal corporation, an authority's obligations and liabilities are its own and are not obligations or liabilities of its members except to the extent and in the manner established under the provisions of an agreement or otherwise expressly provided by contract.

(f) Upon its dissolution, after provision is made for an authority's liabilities, remaining assets must be distributed to a successor entity, or to one or more of the members, or to another public body of this state.

**NEW SECTION. Sec. 5. ELEMENTS OF JOINT MUNICIPAL UTILITY SERVICES AGREEMENTS.** A joint municipal utility services agreement that forms and governs an authority must include the elements described in this section, together with such other provisions an authority's members deem appropriate. However, the failure of an agreement to include each and every one of the elements described in this section shall not render the agreement invalid. An agreement must:

(1) Identify the members, together with conditions upon which additional members that are providing utility services may join the authority, the conditions upon which members may or must withdraw, including provisions for handling of relevant assets and liabilities upon a withdrawal, and the effect of boundary adjustments of the authority and boundary adjustments between or among members;

(2) State the name of the authority;

(3) Describe the utility services that the authority will provide;

(4) Specify how the number of directors of the authority's board will be determined, and how those directors will be appointed. Each director on the board of an authority must be an elected official of a member. Except as limited by an agreement, an authority's board may exercise the authority's powers;

(5) Describe how votes of the members represented on the authority's board are to be weighted, and set forth any limitations on the exercise of powers of the authority's board, which may include, by way of example, requirements that certain decisions be made by a supermajority of members represented on an authority's board, based on the number of members and/or some other factor or factors, and that certain decisions be ratified by the legislative authorities of the members;

(6) Describe how the agreement is to be amended;

(7) Describe how the authority's rules may be adopted and amended;

(8) Specify the circumstances under which the authority may be dissolved, and how it may terminate its operations, wind up its affairs, and provide for the handling, assumption, and/or distribution of its assets and liabilities;

(9) List any legally authorized substantive or corporate powers that the authority will not exercise;

(10) Specify under which personnel laws the authority will operate, which may be the personnel laws applicable to any one of its Washington local government members;

(11) Specify under which public works and procurement laws the authority will operate, which may be the public works and procurement laws applicable to any one of its Washington local government members;

(12) Consistent with section 4(3)(b) of this act, specify under which Washington eminent domain laws any condemnations by the authority will be subject;

(13) Specify how the treasurer of the authority will be appointed, which may be an officer or employee of the authority, the treasurer or chief finance officer of any Washington local

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government member, or the treasurer of any Washington county in which any member of the authority is located. However, if the total number of utility customers of all of the members of an authority does not exceed two thousand five hundred, the treasurer of an authority must be either the treasurer of any member or the treasurer of a county in which any member of the authority is located;

(14) Specify under which Washington state statute or statutes surplus property of the authority will be disposed;

(15) Describe how the authority's budgets will be prepared and adopted;

(16) Describe how any assets of members that are transferred to or managed by the authority will be accounted for;

(17) Generally describe the financial obligations of members to the authority;

(18) Describe how rates and charges imposed by the authority, if any, will be determined. An agreement may specify a specific Washington state statute applicable to one or all of its members for the purpose of governing rate-setting criteria applicable to retail customers, if any;

(19) Specify the Washington state statute or statutes under which bonds, notes, and other obligations of the authority will be issued for the purpose of performing or providing utility services, which must be a bond issuance statute applicable to one or more of its members other than a tribal member. If all of its members are the same type of Washington governmental entity, then a Washington state statute or statutes governing the issuance of bonds, notes, and other obligations issued by that type of entity shall govern;

(20) Specify under which Washington state statute or statutes any liens of an authority shall be exercised, which must be statutes applicable to the type or types of utility service for which the lien shall apply. Further, if all of its members are the same type of Washington governmental entity, then the statute or statutes governing that type of entity shall govern;

(21) Include any other provisions deemed necessary and appropriate by the members.

**NEW SECTION. Sec. 6. AUTHORITY OF MEMBERS TO ASSIST AUTHORITY AND TO TRANSFER FUNDS, PROPERTY, AND OTHER ASSETS.** For the purpose of assisting the authority in providing utility services, the members of an authority are authorized, with or without payment or other consideration and without submitting the matter to the electors of those members, to lease, convey, transfer, assign, or otherwise make available to an authority any money, real or personal property or property rights, other assets including licenses, water rights (subject to applicable law), other property (whether held by a member's utility or by a member's general government), or franchises or rights thereunder.

**NEW SECTION. Sec. 7. TAX EXEMPTIONS AND PREFERENCES.** (1) As a municipal corporation, the property of an authority is exempt from taxation.

(2) An authority is entitled to all of the exemptions from or preferences with respect to taxes that are available to any or all of its members, other than a tribal member, in connection with the provision or management of utility services.

**NEW SECTION. Sec. 8. CONVERSION OF EXISTING ENTITIES INTO AUTHORITIES.** (1) Any intergovernmental entity formed under chapter 39.34 RCW or other applicable law may become a joint municipal utility services authority and be entitled to all the powers and privileges available under this chapter, if: (a) The public agencies that are parties to an existing interlocal agreement would otherwise be eligible to form an authority to provide the relevant utility services; (b) the public agencies that are parties to the existing interlocal agreement amend, restate, or replace that interlocal agreement so that it materially complies with the

requirements of section 5 of this act; (c) the amended, restated, or replacement agreement is filed with the Washington state secretary of state consistent with section 3 of this act; and (d) the amended, restated, or replacement agreement expressly provides that all rights and obligations of the entity formerly existing under chapter 39.34 RCW or other applicable law shall thereafter be the obligations of the new authority created under this chapter. Upon compliance with those requirements, the new authority shall be a successor of the former intergovernmental entity for all purposes, and all rights and obligations of the former entity shall transfer to the new authority. Those obligations shall be treated as having been incurred, entered into, or issued by the new authority, and those obligations shall remain in full force and effect and shall continue to be enforceable in accordance with their terms.

(2) If an interlocal agreement under chapter 39.34 RCW or other applicable law relating to utility services includes among its original participants a city or county that does not itself provide or no longer provides utility services, that city or county may continue as a party to the amended, restated, or replacement agreement and shall be treated as a member for all purposes under this chapter.

**NEW SECTION. Sec. 9. POWERS CONFERRED BY CHAPTER ARE SUPPLEMENTAL.** The powers and authority conferred by this chapter shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained in this chapter shall be construed as limiting any other powers or authority of any member or any other entity formed under chapter 39.34 RCW or other applicable law.

**Sec. 10.** RCW 4.96.010 and 2001 c 119 s 1 are each amended to read as follows:

(1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation as defined in RCW 39.50.010, quasi-municipal corporation, any joint municipal utility services authority, any entity created by public agencies under RCW 39.34.030, or public hospital.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035.

**NEW SECTION. Sec. 11.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

**NEW SECTION. Sec. 12.** A new section is added to chapter 82.08 RCW to read as follows:

The tax levied by RCW 82.08.020 shall not apply to any sales, or transfers made, to or from a joint municipal utility services authority formed under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

**NEW SECTION. Sec. 13.** A new section is added to chapter 82.12 RCW to read as follows:

The tax levied by RCW 82.12.020 shall not apply to any sales, or uses by, or transfers made, to or from a joint municipal utility

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services authority formed under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

**NEW SECTION. Sec. 14.** A new section is added to chapter 82.16 RCW to read as follows:

This chapter does not apply to any payments between, or any transfer of assets to or from, a joint municipal utility services authority created under chapter 39.--- RCW (the new chapter created in section 17 of this act) and any of its members.

**Sec. 15.** RCW 86.09.720 and 2003 c 327 s 18 are each amended to read as follows:

In addition to the authority provided in this chapter, flood control districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including ~~((watershed management partnerships under RCW 39.34.210))~~ without limitation those under chapter 39.34 RCW, under chapter 39.--- RCW (the new chapter created in section 17 of this act), and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management.

**Sec. 16.** RCW 86.15.035 and 2003 c 327 s 19 are each amended to read as follows:

In addition to the authority provided in this chapter, flood control zone districts may participate in and expend revenue on cooperative watershed management arrangements and actions, including ~~((watershed management partnerships under RCW 39.34.210))~~ without limitation those under chapter 39.34 RCW, under chapter 39.--- RCW (the new chapter created in section 17 of this act), and under other intergovernmental agreements authorized by law, for purposes of water supply, water quality, and water resource and habitat protection and management.

**NEW SECTION. Sec. 17.** CODIFICATION. Sections 1 through 9 of this act constitute a new chapter in Title 39 RCW."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections to Engrossed Substitute House Bill No. 1332.

The motion by Senator Pridemore carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 4.96.010, 86.09.720, and 86.15.035; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 82.16 RCW; and adding a new chapter to Title 39 RCW."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1332 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Hargrove: "Would Senator Pridemore yield to a question? Mr. President and Senator Pridemore, I understand

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what a municipal waste water storm and flood water is but what are the related utility services that are covered by this bill?"

Senator Pridemore: "I'm afraid I don't understand the question Senator Hargrove."

Senator Hargrove: "'And related utility services,' what are the related utility services that are covered by this bill?"

Senator Pridemore: "Those would be those ones that are very closely related to the other ones that are enumerated in the title."

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1332 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1332 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Ericksen, Fraser, Holmquist Newbry, Honeyford and Stevens

Excused: Senator Pflug

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1596, by House Committee on Local Government (originally sponsored by Representatives Tharinger, Nealey, Haler, Takko, Walsh and Fitzgibbon)

Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1596 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1596.

#### ROLL CALL

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The Secretary called the roll on the final passage of Substitute House Bill No. 1596 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Carrell, Ericksen and King

Excused: Senator Pflug

SUBSTITUTE HOUSE BILL NO. 1596, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1493, by House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney)

Providing greater transparency to the health professions disciplinary process.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 18.130 RCW to read as follows:

(1) A disciplining authority shall provide a person or entity making a complaint or report under RCW 18.130.080 with a reasonable opportunity to supplement or amend the contents of the complaint or report. The license holder must be provided an opportunity to respond to any supplemental or amended complaint or report. The disciplining authority shall promptly respond to inquiries made by the license holder or the person or entity making a complaint or report regarding the status of the complaint or report.

(2)(a) Pursuant to chapter 42.56 RCW, following completion of an investigation or closure of a report or complaint, the disciplining authority shall, upon request, provide the license holder or the person or entity making the complaint or report with a copy of the file relating to the complaint or report, including, but not limited to, any response submitted by the license holder under RCW 18.130.095(1).

(b) The disciplining authority may not disclose documents in the file that:

(i) Contain confidential or privileged information regarding a patient other than the person making the complaint or report; or  
(ii) Contain information exempt from public inspection and copying under chapter 42.56 RCW.

(c) The exemptions in (b) of this subsection are inapplicable to the extent that the relevant information can be deleted from the documents in question.

(d) The disciplining authority may impose a reasonable charge for copying the file consistent with the charges allowed for copying public records under RCW 42.56.120.

(3)(a) Prior to any final decision on any disciplinary proceeding before a disciplining authority, the disciplining authority shall provide the person submitting the complaint or report or his or her representative, if any, an opportunity to be heard through an oral or written impact statement about the effect of the person's injury on the person and his or her family and on a recommended sanction.

(b) If the license holder is not present at the disciplinary proceeding, the disciplining authority shall transmit the impact statement to the license holder, who shall certify to the disciplining authority that he or she has received it.

(c) For purposes of this subsection, representatives of the person submitting the complaint or report include his or her family members and such other affected parties as may be designated by the disciplining authority upon request.

(4) A disciplining authority shall inform, in writing, the license holder and person or entity submitting the complaint or report of the final disposition of the complaint or report.

(5) If the disciplining authority closes a complaint or report prior to issuing a statement of charges under RCW 18.130.090 or a statement of allegations under RCW 18.130.172, the person or entity submitting the report may, within thirty days of receiving notice under subsection (4) of this section, request the disciplining authority to reconsider the closure of the complaint or report on the basis of new information relating to the original complaint or report. The disciplining authority shall, within thirty days of receiving the request for reconsideration, notify the license holder of the request and the new information providing the basis therefor. The license holder has thirty days to provide a response. The disciplining authority shall notify the person or entity and the license holder in writing of its final decision on the request for reconsideration, including an explanation of the reasoning behind the decision."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

## MOTION

Senator Becker moved that the following amendment by Senators Becker and Keiser to the committee striking amendment be adopted:

On page 2, line 18 of the amendment, after "(5)" insert "(a)"  
On page 2, line 24 of the amendment, after "report." insert "A request for reconsideration made under this subsection may only be brought in relation to the original complaint and may only be brought one time.

(b)"

Senator Becker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker and Keiser on page 2, line 18 to the committee striking amendment to Substitute House Bill No. 1493.

The motion by Senator Becker carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Substitute House Bill No. 1493.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

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## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "process;" strike the remainder of the title and insert "and adding a new section to chapter 18.130 RCW."

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1493 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1493 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1493 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Excused: Senator Pflug

SUBSTITUTE HOUSE BILL NO. 1493 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1191, by Representatives Ryu, Kirby, Buys, Fitzgibbon and Bailey

Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

The measure was read the second time.

## MOTION

On motion of Senator Fain, the rules were suspended, House Bill No. 1191 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1191.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1191 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senator Pflug

HOUSE BILL NO. 1191, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1239, by Representatives Orcutt, Hunter, Johnson and Rivers

Allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant.

The measure was read the second time.

## MOTION

On motion of Senator White, the rules were suspended, House Bill No. 1239 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1239.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1239 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Pflug

HOUSE BILL NO. 1239, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1966, by House Committee on Transportation (originally sponsored by Representatives Pearson, Haler and Bailey)

Clarifying that manure is an agricultural product for the purposes of commercial drivers' licenses. Revised for 1st Substitute: Clarifying that animal manure is an agricultural product for the purposes of commercial drivers' licenses.

The measure was read the second time.

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## MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1966 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1966.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1966 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Pflug

SUBSTITUTE HOUSE BILL NO. 1966, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator White, Senator Kline was excused.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1858, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Parker, Kagi, Dickerson, Goodman, Lytton, Jacks, Probst, Walsh, Carlyle, Kenney and Ormsby)

Concerning the department of social and health services' authority with regard to semi-secure and secure crisis residential centers and HOPE centers.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.13.032 and 2009 c 520 s 53 are each amended to read as follows:

(1) The department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

(4) The department is authorized to allow contracting entities to include a combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030 and/or HOPE centers pursuant to RCW 74.15.220 in the same building or structure. The department shall permit the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure.

(5) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.

~~((5))~~ (6) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

~~((6))~~ (7) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 2. RCW 74.15.220 and 1999 c 267 s 12 are each amended to read as follows:

The secretary shall establish HOPE centers that provide no more than seventy-five beds across the state and may establish HOPE centers by contract, within funds appropriated by the legislature specifically for this purpose. HOPE centers shall be operated in a manner to reasonably assure that street youth placed there will not run away. Street youth may leave a HOPE center during the course of the day to attend school or other necessary appointments, but the street youth must be accompanied by an administrator or an administrator's designee. The street youth must provide the administration with specific information regarding his or her destination and expected time of return to the HOPE center. Any street youth who runs away from a HOPE center shall not be readmitted unless specifically authorized by the street youth's placement and liaison specialist, and the placement and liaison specialist shall document with specific factual findings an appropriate basis for readmitting any street youth to a HOPE center. HOPE centers are required to have the following:

(1) A license issued by the secretary;

(2) A professional with a master's degree in counseling, social work, or related field and at least one year of experience working with street youth or a bachelor of arts degree in social work or a related field and five years of experience working with street youth. This professional staff person may be contractual or a part-time employee, but must be available to work with street youth in a HOPE center at a ratio of one to every fifteen youth staying in a HOPE center. This professional shall be known as a placement and liaison specialist. Preference shall be given to those professionals

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cross-credentialed in mental health and chemical dependency. The placement and liaison specialist shall:

(a) Conduct an assessment of the street youth that includes a determination of the street youth's legal status regarding residential placement;

(b) Facilitate the street youth's return to his or her legally authorized residence at the earliest possible date or initiate processes to arrange legally authorized appropriate placement. Any street youth who may meet the definition of dependent child under RCW 13.34.030 must be referred to the department. The department shall determine whether a dependency petition should be filed under chapter 13.34 RCW. A shelter care hearing must be held within seventy-two hours to authorize out-of-home placement for any youth the department determines is appropriate for out-of-home placement under chapter 13.34 RCW. All of the provisions of chapter 13.32A RCW must be followed for children in need of services or at-risk youth;

(c) Interface with other relevant resources and system representatives to secure long-term residential placement and other needed services for the street youth;

(d) Be assigned immediately to each youth and meet with the youth within eight hours of the youth receiving HOPE center services;

(e) Facilitate a physical examination of any street youth who has not seen a physician within one year prior to residence at a HOPE center and facilitate evaluation by a county-designated mental health professional, a chemical dependency specialist, or both if appropriate; and

(f) Arrange an educational assessment to measure the street youth's competency level in reading, writing, and basic mathematics, and that will measure learning disabilities or special needs;

(3) Staff trained in development needs of street youth as determined by the secretary, including an administrator who is a professional with a master's degree in counseling, social work, or a related field and at least one year of experience working with street youth, or a bachelor of arts degree in social work or a related field and five years of experience working with street youth, who must work with the placement and liaison specialist to provide appropriate services on site;

(4) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program development and service delivery. Data collection systems must have confidentiality rules and protocols developed by the secretary;

(5) Notification requirements that meet the notification requirements of chapter 13.32A RCW. The youth's arrival date and time must be logged at intake by HOPE center staff. The staff must immediately notify law enforcement and dependency caseworkers if a street youth runs away from a HOPE center. A child may be transferred to a secure facility as defined in RCW 13.32A.030 whenever the staff reasonably believes that a street youth is likely to leave the HOPE center and not return after full consideration of the factors set forth in RCW 13.32A.130(2)(a) (i) and (ii). The street youth's temporary placement in the HOPE center must be authorized by the court or the secretary if the youth is a dependent of the state under chapter 13.34 RCW or the department is responsible for the youth under chapter 13.32A RCW, or by the youth's parent or legal custodian, until such time as the parent can retrieve the youth who is returning to home;

(6) HOPE centers must identify to the department any street youth it serves who is not returning promptly to home. The department then must contact the missing children's clearinghouse identified in chapter 13.60 RCW and either report the youth's

location or report that the youth is the subject of a dependency action and the parent should receive notice from the department;

(7) Services that provide counseling and education to the street youth; and

(8) The department shall ((only)) award contracts for the operation of HOPE center beds and responsible living skills programs ((in departmental regions: (a) With operating secure crisis residential centers; or (b) in which the secretary finds significant progress is made toward opening a secure crisis residential center)) with the goal of facilitating the coordination of services provided for youth by such programs and those services provided by secure and semi-secure crisis residential centers.

**Sec. 3.** RCW 74.15.255 and 2010 c 289 s 10 are each amended to read as follows:

(1)(a) Within available funds appropriated for this purpose, the department shall contract for a continuum of short-term stabilization services pursuant to RCW 13.32A.030 and 74.15.220. The department shall collaborate with service providers in a manner that allows secure and semi-secure crisis residential centers and HOPE centers to be located in a geographically representative manner and to facilitate the coordination of services provided for youth by such programs. To achieve efficiencies and increase utilization, the department shall allow the colocation of these centers in the same building or structure, except that a youth may not be placed in a secure facility or the secure portion of a collocated facility except as specifically authorized by chapter 13.32A RCW. The department shall allow the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure. The beds so designated must be used only to serve the eligible youth in the program or center for which they are designated.

(b) The department shall adopt rules to allow the licensing of collocated facilities that include any combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030, or HOPE centers as defined in RCW 74.15.020. Such rules may provide for flexible payment structures, center specific licensing waivers, or other appropriate methods to increase utilization and provide flexibility, while continuing to meet the statutory goals of the programs. The rules shall provide that a condition of being licensed as a collocated facility is that the contracting entity must designate a particular number of beds in the collocated facility to each type of center that is located within the building or structure. The beds so designated must be used only to serve the eligible youth in the program or center for which they are designated.

(2) The department shall require that to be licensed or continue to be licensed as a secure or semi-secure crisis residential center or HOPE center that the center has on staff, or otherwise has access to, a person who has been trained to work with the needs of sexually exploited children. For purposes of this ((section)) subsection, "sexually exploited child" means that person as defined in RCW 13.32A.030(17)."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1858.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 3 of the title, after "centers;" strike the remainder of the title and insert "and amending RCW 74.13.032, 74.15.220, and 74.15.255."

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1858 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Pridemore: "Would Senator Hargrove yield to a question?"

President Owen: "The Senator does not yield".

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1858 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1858 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Kline and Pflug

SUBSTITUTE HOUSE BILL NO. 1858 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1662, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Rodne and Angel)

Addressing appeal and permit procedures under the shoreline management act. Revised for 2nd Substitute: Specifying circumstances under which work outside a shoreland area may commence in advance of the issuance of a shoreline permit.

The measure was read the second time.

MOTION

Senator Swecker moved that the following striking amendment by Senator Swecker and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.58.140 and 2010 c 210 s 36 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (11) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date of receipt as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of receipt as defined in subsection (6) of this section except as follows:

(a) ((In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995)) If an appeal is filed with the shorelines hearings board, construction outside of the shoreland area

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may be commenced in advance of final action on the appeal if the local government makes a written finding that such work does not depend on or require the work proposed within the shoreland area and is not inconsistent with any requirements of the applicable master program. Project construction that occurs under the authority of this section is done at the proponent's risk with the project proponent being responsible for meeting the requirements of the final permit decision after appeal;

(b) Construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of receipt, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

(c) If the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date of receipt as provided in subsection (6) of this section.

If a permittee begins construction pursuant to ((subsections)) (a), (b), or (c) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be transmitted to the department and the attorney general. A petition for review of such a decision must be commenced within twenty-one days from the date of receipt of the decision. With regard to a permit other than a permit governed by subsection (10) of this section, "date of receipt" as used herein refers to the date that the applicant receives written notice from the department that the department has received the decision. With regard to a permit for a variance or a conditional use, "date of receipt" means the date a local government or applicant receives the written decision of the department rendered on the permit pursuant to subsection (10) of

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this section. For the purposes of this subsection, the term "date of receipt" has the same meaning as provided in RCW 43.21B.001.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state."

Senator Swecker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Swecker and others to Second Substitute House Bill No. 1662.

The motion by Senator Swecker carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

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On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "and amending RCW 90.58.140."

MOTION

On motion of Senator Swecker, the rules were suspended, Second Substitute House Bill No. 1662 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Swecker and Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1662 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1662 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Honeyford

Excused: Senators Kline and Pflug

SECOND SUBSTITUTE HOUSE BILL NO. 1662 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 9:13 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 8, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTY NINTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Friday, April 8, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Pages Cole Paxton and Katherine Nelson, presented the Colors. Senator Shin offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 7, 2011

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 5359,  
SUBSTITUTE SENATE BILL NO. 5364,  
SUBSTITUTE SENATE BILL NO. 5428,  
SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004,  
SENATE JOINT RESOLUTION NO. 8205.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 7, 2011

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE SENATE BILL NO. 5423.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 7, 2011

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1449.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 7, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL 2017.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 5925 by Senators Haugen, White, Hobbs, Brown, Nelson and Prentice

AN ACT Relating to additive transportation funding; amending RCW 46.20.055, 46.20.117, 46.20.161, 46.20.181, 46.20.200, 46.20.202, 46.20.049, 46.25.060, 46.25.100, 46.20.308, 46.20.380, 46.17.230, 46.17.310, 46.17.315, 46.17.400, 46.17.400, 46.68.455, 46.17.005, 46.17.100, 46.17.140, 46.17.200, 46.17.200, 46.87.090, 46.87.130, 46.52.130, 46.20.293, 46.82.310, 46.82.320, 46.82.330, 46.82.340, 46.01.230, 46.70.061, 46.55.030, 46.80.040, 46.80.050, 46.80.060, 46.79.040, 46.79.050, 46.79.060, 46.76.040, 46.76.050, and 46.37.420; reenacting and amending RCW 46.20.120; creating new sections; making appropriations and authorizing expenditures for capital improvements; providing an effective date; and declaring an emergency.

Referred to Committee on Transportation.

SB 5926 by Senators Keiser, Kline, Kohl-Welles, Harper, Murray, Chase, Conway, Nelson and White

AN ACT Relating to restoring funding to in-home care services; adding a new section to chapter 74.09 RCW; creating a new section; repealing RCW 82.08.0273; and providing for submission of this act to a vote of the people.

Referred to Committee on Ways & Means.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

ESHB 1277 by House Committee on Ways & Means (originally sponsored by Representative Cody)

AN ACT Relating to oversight of licensed or certified long-term care settings for vulnerable adults; amending RCW 70.128.005, 70.128.050, 70.128.065, 70.128.070, 70.128.120, 70.128.130, 70.128.140, 70.128.160, 70.128.220, 70.129.040, 70.128.125, 18.20.180, 18.51.050, 18.20.050, and 70.128.060; adding new sections to chapter 74.39A RCW; creating new sections; repealing RCW 70.128.175; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

2E2SHB 1738 by House Committee on Ways & Means (originally sponsored by Representatives Cody and Jinkins)

AN ACT Relating to changing the designation of the medicaid single state agency from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority; amending RCW 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.522, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659, 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730, 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011, 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.020, 70.47.110, 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020, 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010, 74.09.035, and 74.09.522; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.20A RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.20A.365; repealing RCW 74.09.085, 74.09.110, 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5926 which was referred to the Committee on Health & Long-Term Care.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Conway moved that Gubernatorial Appointment No. 9040, Harold Hanson, as Director of the Washington State Lottery Commission, be confirmed.

Senator Conway spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Benton and Schoesler were excused.

MOTION

On motion of Senator White, Senator Sheldon was excused.

APPOINTMENT OF HAROLD HANSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9040, Harold Hanson as Director of the Washington State Lottery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9040, Harold Hanson as Director of the Washington State Lottery Commission and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9040, Harold Hanson, having received the constitutional majority was declared confirmed as Director of the Washington State Lottery Commission.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9093, Jada Rupley, as a member of the Board of Trustees, Clark College Community College District No. 14, be confirmed. Senator Pridemore spoke in favor of the motion.

APPOINTMENT OF JADA RUPLEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9093, Jada Rupley as a member of the Board of Trustees, Clark College Community College District No. 14.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9093, Jada Rupley as a member of the Board of Trustees, Clark College Community College District No. 14 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9093, Jada Rupley, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Clark College Community College District No. 14.

REMARKS BY THE PRESIDENT

President Owen: "The President wishes Senator Benton a Happy Birthday."

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

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## MOTION

Senator Prentice moved that gubernatorial appointment No. 9014, James Carvo, as a member of the Board of Trustees, Yakima Valley Community College District No. 16, be confirmed.

Senators Prentice and King spoke in favor of passage of the motion.

## APPOINTMENT OF JAMES CARVO

The President declared the question before the Senate to be the confirmation of gubernatorial appointment No. 9014, James Carvo as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

The Secretary called the roll on the confirmation of gubernatorial appointment No. 9014, James Carvo as a member of the Board of Trustees, Yakima Valley Community College District No. 16 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial appointment No. 9014, James Carvo, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Yakima Valley Community College District No. 16.

## SECOND READING

SENATE JOINT RESOLUTION NO. 8215, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Zarelli, Brown, Hobbs, Fraser, Tom, Sheldon, Honeyford and Hewitt)

Concerning the debt reduction act of 2011.

## MOTIONS

On motion of Senator Kilmer, Substitute Senate Joint Resolution No. 8215 was substituted for Senate Joint Resolution No. 8215 and the substitute resolution was placed on the second reading and read the second time.

On motion of Senator Kilmer, the rules were suspended, Substitute Senate Joint Resolution No. 8215 was advanced to third reading, the second reading considered the third and the bill resolution was placed on final passage.

Senators Kilmer, Parlette, Hewitt, Brown, Erickson, Hargrove and Benton spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Substitute Senate Joint Resolution No. 8215.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Joint Resolution No. 8215 and the resolution passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215, having received the constitutional majority, was declared passed.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1218, by House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne)

Making technical corrections to the Revised Code of Washington.

The measure was read the second time.

## MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1218 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1218.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1218 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1218, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790, by House Committee on Ways & Means (originally sponsored by Representatives Dammeier, Sullivan, Hinkle, Green and Ormsby)

Addressing school district contracts with direct practice health providers.

The measure was read the second time.

## MOTION

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Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.400.280 and 1990 1st ex.s. c 11 s 6 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, school districts may provide employer fringe benefit contributions after October 1, 1990, only for basic benefits. However, school districts may continue payments under contracts with employees or benefit providers in effect on April 13, 1990, until the contract expires.

(2) School districts may provide employer contributions after October 1, 1990, for optional benefit plans, in addition to basic benefits, only for employees included in pooling arrangements under this subsection. Optional ~~(benefit plans)~~ benefits may include direct agreements as defined in chapter 48.150 RCW, but may not include employee beneficiary accounts that can be liquidated by the employee on termination of employment. Optional benefit plans may be offered only if:

(a) The school district pools benefit allocations among employees using a pooling arrangement that includes at least one employee bargaining unit and/or all nonbargaining group employees;

(b) Each full-time employee included in the pooling arrangement is offered basic benefits, including coverage for dependents, without a payroll deduction for premium charges;

(c) Each full-time employee included in the pooling arrangement, regardless of the number of dependents receiving basic coverage, receives the same additional employer contribution for other coverage or optional benefits; and

(d) For part-time employees included in the pooling arrangement, participation in optional benefit plans shall be governed by the same eligibility criteria and/or proration of employer contributions used for allocations for basic benefits.

(3) Savings accruing to school districts due to limitations on benefit options under this section shall be pooled and made available by the districts to reduce out-of-pocket premium expenses for employees needing basic coverage for dependents. School districts are not intended to divert state benefit allocations for other purposes.

**Sec. 2.** RCW 28A.400.350 and 2001 c 266 s 2 are each amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the ~~((enumerated))~~ types of ~~((insurance))~~ employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance

unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW."

Senator Murray spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1790.

The motion by Senator Murray carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "and amending RCW 28A.400.280 and 28A.400.350."

#### MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1790 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1790 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1790 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1454, by Representatives Van De Wege, Hinkle, Green, Jinkins, Cody, Takko, Hurst, Liias, Hope, Stanford and Overstreet

Regarding testing for bloodborne pathogens.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1454 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1454.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1454 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1454, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1520, by Representatives Moscoso, Stanford and Clibborn

Modifying state route number 527.

The measure was read the second time.

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1520 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1520.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1520 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1520, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1290, by Representatives Green, Cody, Van De Wege, Sells, Kenney and Reykdal

Concerning mandatory overtime for certain health care employees.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.28.130 and 2002 c 112 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.28.140 and 49.28.150 unless the context clearly requires otherwise.

(1) "Employee" means a licensed practical nurse or a registered nurse licensed under chapter 18.79 RCW employed by a health care facility who is involved in direct patient care activities or clinical services and receives an hourly wage.

(2) "Employer" means an individual, partnership, association, corporation, the state ((institution)), a political subdivision of the state, or person or group of persons, acting directly or indirectly in the interest of a health care facility.

(3)(a) "Health care facility" means the following facilities, or any part of the facility, including such facilities if owned and operated by a political subdivision or instrumentality of the state, that operate((s)) on a twenty-four hours per day, seven days per week basis:

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(i) Hospices licensed under chapter 70.127 RCW((§));  
 (ii) Hospitals licensed under chapter 70.41 RCW((§));  
 (iii) Rural health care facilities as defined in RCW 70.175.020((§ and));

(iv) Psychiatric hospitals licensed under chapter 71.12 RCW((§ and includes such facilities if owned and operated by a political subdivision or instrumentality of the state)); or

(v) Facilities owned and operated by the department of corrections or by a governing unit as defined in RCW 70.48.020 in a correctional institution as defined in RCW 9.94.049 that provide health care services to inmates as defined in RCW 72.09.015.

(b) If a nursing home regulated under chapter 18.51 RCW or a home health agency regulated under chapter 70.127 RCW is operating under the license of a health care facility, the nursing home or home health agency is considered part of the health care facility for the purposes of this subsection.

(4) "Overtime" means the hours worked in excess of an agreed upon, predetermined, regularly scheduled shift within a twenty-four hour period not to exceed twelve hours in a twenty-four hour period or eighty hours in a consecutive fourteen-day period.

(5) "On-call time" means time spent by an employee who is not working on the premises of the place of employment but who is compensated for availability or who, as a condition of employment, has agreed to be available to return to the premises of the place of employment on short notice if the need arises.

(6) "Reasonable efforts" means that the employer, to the extent reasonably possible, does all of the following but is unable to obtain staffing coverage:

(a) Seeks individuals to volunteer to work extra time from all available qualified staff who are working;

(b) Contacts qualified employees who have made themselves available to work extra time;

(c) Seeks the use of per diem staff; and

(d) Seeks personnel from a contracted temporary agency when such staffing is permitted by law or an applicable collective bargaining agreement, and when the employer regularly uses a contracted temporary agency.

(7) "Unforeseeable emergent circumstance" means (a) any unforeseen declared national, state, or municipal emergency; (b) when a health care facility disaster plan is activated; or (c) any unforeseen disaster or other catastrophic event which substantially affects or increases the need for health care services.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1290.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 49.28.130; and creating a new section."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1290 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Pflug, Holmquist Newbry and King spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1290 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1290 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senator Prentice

HOUSE BILL NO. 1290, as amended by the Senate having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE JOINT MEMORIAL NO. 4004, by Representatives Short, Blake, Bailey, Hunt, Crouse, Nealey, Haler, Rodne, McCune, Buys, Asay, Klippert, Warnick, Shea, Kelley, Johnson, Seaquist, Taylor, Roberts, Haigh, Ross, Ahern, Upthegrove, Smith and Kristiansen

Requesting the designation of an "Honor and Remember Flag" as an official symbol to recognize Armed Forces members who have died in the line of duty.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Joint Memorial No. 4004 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Pridemore spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of House Joint Memorial No. 4004.

ROLL CALL

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The Secretary called the roll on the final passage of House Joint Memorial No. 4004 and the memorial passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

HOUSE JOINT MEMORIAL NO. 4004, having received the constitutional majority, was declared passed.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Haugen moved adoption of the following resolution:

#### SENATE RESOLUTION 8646

By Senators Haugen, Becker, Hargrove, Stevens, Kilmer, Hatfield, Rockefeller, Litzow, McAuliffe, Prentice, Fraser, Chase, Eide, Kastama, Tom, Nelson, Harper, Pridemore, Keiser, Conway, Kohl-Welles, Swecker, King, and Morton

WHEREAS, Camp Fire USA was founded by Charlotte and Dr. Luther Gulick in 1910 as Camp Fire Girls, and was the first nonsectarian, interracial organization for girls in the United States; and

WHEREAS, Based on a commitment to the entire family, membership in Camp Fire USA was expanded to include boys in 1975; and

WHEREAS, Camp Fire USA celebrated 100 years of building caring, confident youth and future leaders in 2010; and

WHEREAS, Camp Fire USA's motto since 1910 has been, "Give Service"; and

WHEREAS, Camp Fire USA welcomes all children, youth, and adults regardless of race, religion, socioeconomic status, disability, sexual orientation, or other aspect of diversity; and

WHEREAS, Camp Fire USA promotes effective youth development that builds assets and empowers individuals through small groups where children and youth are actively involved in creating their own learning; and

WHEREAS, Camp Fire USA provides safe, fun, and nurturing environments for children and youth, providing opportunities for boys, girls, and families to develop together; and

WHEREAS, Camp Fire USA has programs delivered in schools, camps, housing developments, neighborhood centers, and transitional housing shelters; and

WHEREAS, Camp Fire USA challenges parents and youth to build character, adopt strong values, develop positive life skills, and exercise responsibility to family and community; and

WHEREAS, Camp Fire USA Councils serve communities all over the state; and

WHEREAS, Over thirty-eight thousand Washington youth participated in Camp Fire USA last year; and

WHEREAS, Each youth attended over four programs or events last year, on average, resulting in over two million hours of youth participation in Camp Fire USA;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate salute the Camp Fire USA Councils of Washington for celebrating 100 years; and

BE IT FURTHER RESOLVED, That the Senate commend the leaders and volunteers of each of the eight Washington Camp Fire USA Councils for their continued dedication and commitment to the youth of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the eight Washington Camp Fire USA Councils and the Camp Fire USA National Headquarters.

Senators Haugen and Brown spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8646.

The motion by Senator Haugen carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Camp Fire USA members who were seated in the gallery.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1237, by House Committee on Transportation (originally sponsored by Representatives Haler, Clibborn, Klippert and Moeller)

Concerning federal selective service registration upon application for an instruction permit, intermediate license, driver's license, or identicaid.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1237 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1237.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1237 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach,

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Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

SUBSTITUTE HOUSE BILL NO. 1237, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Nealey, Ormsby, Green, Fitzgibbon, Lias, Orcutt, Maxwell, Sullivan, Pedersen, Anderson, Van De Wege, McCune, Orwall, Ross, Goodman, Sells, Bailey, Stanford, Pearson, Roberts, Kristiansen, Warnick, Cody, Moscoso and Billig)

Concerning services performed by amateur sports officials.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1636 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Baumgartner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1636.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1636 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1953, by Representatives Springer, Asay, Takko, Upthegrove, Haler, Fitzgibbon, Angel, Smith and Sullivan

Concerning county and city real estate excise taxes.

The measure was read the second time.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1953 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore, Swecker, Ranker and Sheldon spoke in favor of passage of the bill.

Senators Tom, Benton and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1953.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1953 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Pridemore, Roach, Schoesler, Stevens, Tom and Zarelli

Excused: Senator Prentice

HOUSE BILL NO. 1953, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:55 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 2:14 p.m. by President Owen.

#### SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9049, Addison Jacobs, as a member of the Higher Education Coordinating Board, be confirmed.

Senators Pridemore and Benton spoke in favor of passage of the motion.

#### MOTION

On motion of Senator Ericksen, Senators Roach and Schoesler were excused.

#### MOTION

On motion of Senator White, Senators Hatfield, Hobbs and Kline were excused.

#### APPOINTMENT OF ADDISON JACOBS

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9049, Addison Jacobs as a member of the Higher Education Coordinating Board.

confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

## SECOND READING

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9049, Addison Jacobs as a member of the Higher Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

SUBSTITUTE HOUSE BILL NO. 1793, by House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi)

Restricting access to juvenile records.

The measure was read the second time.

## MOTION

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Senator Harper moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

Excused: Senators Hatfield and Hobbs

Gubernatorial Appointment No. 9049, Addison Jacobs, having received the constitutional majority was declared confirmed as a member of the Higher Education Coordinating Board.

**"NEW SECTION. Sec. 1.** The legislature finds that:

(1) One of the goals of the juvenile justice system is to rehabilitate juvenile offenders and promote their successful reintegration into society. Without opportunities to reintegrate, juveniles suffer increased recidivism and decreased economic function.

## MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

(2) The unrestricted dissemination of juvenile records can hinder social reintegration when inaccurate, outdated, or personal information regarding the juvenile remains in the public realm.

## MOTION

On motion of Senator Ranker, Senator Brown was excused.

(3) Limiting the number of mechanisms for accessing juvenile records and the number of places where they may be housed can increase overall public record accuracy while promoting rehabilitation and integration.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9071, Cathy McAbee, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

(4) The public has an interest in accessing information relating to juvenile records for public safety and research purposes.

Senator Prentice spoke in favor of the motion.

(5) The public's legitimate interest in accessing personal information must be balanced with the rehabilitative goals of the juvenile justice system. All benefit when former juvenile offenders, after paying their debt to society, reintegrate and contribute to their local communities as productive citizens.

## APPOINTMENT OF CATHY MCABEE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9071, Cathy McAbee as a member of the Board of Trustees, Renton Technical College District No. 27.

(6) It is the intent of the legislature to balance the rehabilitative and reintegration needs of an effective juvenile justice system with the public's need to access personal information for public safety and research purposes.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9071, Cathy McAbee as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

**NEW SECTION. Sec. 2.** The administrative office of the courts shall convene a work group of stakeholders to develop recommendations that would cost-effectively restrict the public access to juvenile records where an individual has met the statutory requirements of RCW 13.50.050(12) and without requiring individuals who are the subject of the records to file a motion to seal in juvenile court. The members of the work group shall be representatives from the administrative office of the courts, the judicial information systems data dissemination committee, the association of clerks, the Washington defender association, the Washington association of prosecuting attorneys, the Washington state patrol, and a member of the Washington state bar association juvenile law section. The work group shall develop recommendations and report to the appropriate committees of the legislature by December 1, 2011.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

**Sec. 3.** RCW 13.50.050 and 2010 c 150 s 2 are each amended to read as follows:

Excused: Senators Brown, Delvin and Hobbs

Gubernatorial Appointment No. 9071, Cathy McAbee, having received the constitutional majority was declared

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

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(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central recordkeeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central recordkeeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central recordkeeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person

the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14)(a) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the

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effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section, unless such failure pertains to records relating to a matter for which the subject has received a full and unconditional pardon.

(b) All records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed when the subject of those records receives a full and unconditional pardon by the governor.

(c) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

~~((e))~~ (d) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)~~((b)-(e))~~ (c) or (d) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)~~((b)-(e))~~ (c) or (d) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) Except for subsection (17)(b) of this section, no identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

NEW SECTION. Sec. 4. RCW 13.50.050 (14)(b) and (17)(b) apply to all records of a full and unconditional pardon and should be applied retroactively as well as prospectively."

#### MOTION

Senator Benton moved that the following amendment by Senators Benton and Harper to the committee striking amendment be adopted:

On page 2, line 2, after "court", insert "The workgroup shall also develop recommendations that would cost effectively restrict public access to records related to diversions entered into in criminal matters."

On page 2, line 7, after "patrol," insert "the association of juvenile court administrators, the Washington association of criminal defense lawyers, the juvenile rehabilitation administration within DSHS,"

Senator Benton spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton and Harper on page 2, line 2 to the committee striking amendment to Substitute House Bill No. 1793.

The motion by Senator Benton carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Human Services & Corrections as amended to Substitute House Bill No. 1793.

The motion by Senator Harper carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "amending RCW 13.50.050; and creating new sections."

MOTION

On motion of Senator Harper, the rules were suspended, Substitute House Bill No. 1793 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Harper and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1793 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1793 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Holmquist Newbry, Parlette, Roach, Schoesler and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1793 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1170, by House Committee on Judiciary (originally sponsored by Representatives Roberts, Hope, Dickerson, Dammeier, Green, Rolfes, Haigh, Appleton, Walsh, Ormsby, Darneille and Kenney)

Concerning triage facilities.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital, which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and

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treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the

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property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

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(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(44) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

~~((44))~~ (45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

**Sec. 2.** RCW 71.05.153 and 2007 c 375 s 8 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, ~~((a))~~ evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, ~~((or the))~~ emergency department of a local hospital, or triage facility that has elected to operate as an involuntary facility by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours ~~((: PROVIDED, That they are examined by a mental health professional))~~.

(4) Within three hours of ~~((their))~~ arrival, the person must be examined by a mental health professional. Within twelve hours of ~~((their))~~ arrival, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person.

**Sec. 3.** RCW 10.31.110 and 2007 c 375 s 2 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a nonfelony crime that is not a serious offense as identified in RCW 10.77.092 and the individual is known by history or consultation with the regional support network to suffer from a mental disorder, the arresting officer may:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020(6). Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours ~~((: PROVIDED, That they are))~~. The individual must be examined by a mental health professional within three hours of ~~((their))~~ arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

~~((e))~~ (d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) In deciding whether to refer the individual to treatment under this section, the police officer shall be guided by standards mutually agreed upon with the prosecuting authority, which address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, where available, and the circumstances surrounding the commission of the alleged offense.

(3) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(4) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(5) The police officer is immune from liability for any good faith conduct under this section.

**NEW SECTION. Sec. 4.** Facilities providing triage services as of the effective date of this section are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities. The department of social and health services shall work with the Washington association of counties and the Washington association of sheriffs and police chiefs in creating rules that establish standards for certification of triage facilities. The department of health rules must not require triage facilities to provide twenty-four hour nursing.

**NEW SECTION. Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or

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support of the state government and its existing public institutions, and takes effect immediately."

## MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Harper and Stevens to the committee striking amendment be adopted:

On page 9, after line 19 of the amendment, insert the following:

"Sec. 4. RCW 71.24.035 and 2008 c 267 s 5 and 2008 c 261 s 3 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules.

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The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, RCW 71.24.320 and 71.24.330, which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; ~~(and)~~

(p) Certify clubhouses that meet state minimum standards; and

(q) Certify triage facilities that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics,

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schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

**Sec. 5.** RCW 71.05.150 and 2007 c 375 s 7 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: (i) Presents a likelihood of serious harm; or (ii) is gravely disabled; the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an evaluation and treatment facility (~~or in a~~)<sub>2</sub> crisis stabilization unit, or triage facility.

(2)(a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated mental health professional may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention."

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 9, line 20 of the amendment, strike "providing triage services" and insert "operating as triage facilities as defined in RCW 71.05.020, whether or not they are certified by the department of social and health services,"

Senator Hargrove spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Harper and Stevens on page 9, after line 19 to the committee striking amendment to Substitute House Bill No. 1170.

The motion by Senator Hargrove carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections as amended to Substitute House Bill No. 1170.

The motion by Senator Hargrove carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 71.05.153 and 10.31.110; reenacting and amending RCW 71.05.020; creating a new section; and declaring an emergency."

On page 10, beginning on line 2 of the title amendment, after "71.05.153" strike all material through "71.05.020" on line 3 and insert ", 10.31.110, and 71.05.150; reenacting and amending RCW 71.05.020 and 71.24.035"

## MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1170 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1170 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1170 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1170 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1431, by House Committee on Education (originally sponsored by Representatives Anderson and Haigh)

Addressing financial insolvency of school districts.

The measure was read the second time.

## MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The superintendent of public instruction shall convene educational service districts to analyze

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options and make recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency.

(2) The analysis must include, but not be limited to:

(a) A definition of financial insolvency;

(b) A time frame, criteria, and process for initiating a dissolution of an insolvent school district;

(c) Roles and responsibilities of the office of the superintendent of public instruction, educational service districts, and regional committees on school district organization; and

(d) Recommendations for how to address such issues as:

(i) Limiting a school board's ability to incur additional debt during the dissolution process;

(ii) Terminating staff contracts expeditiously;

(iii) Liquidation of liabilities;

(iv) Waiving requirements of the school accounting manual;

(v) Clarifying effective dates of transfers of property for taxation purposes;

(vi) Dealing with bonded indebtedness; and

(vii) Circumstances that require approval of voters in either the annexing school district or the dissolving school district, or both.

(3) In conducting the analysis, the educational service districts must consult with individuals with legal and financial expertise.

(4) As part of their report, the educational service districts may recommend a financial early warning system for consistent, early identification of school districts with potential fiscal difficulties.

(5) The superintendent of public instruction must submit a final report and recommendations to the governor and the education and fiscal committees of the legislature by January 5, 2012. The recommendations must specifically address amendments to current law as well as propose new laws as necessary.

**NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Substitute House Bill No. 1431.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "and creating new sections."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1431 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1431 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1431 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1431 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1188, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Kelley, Hurst, Kenney, Moscoso, Warnick, Roberts, Maxwell, Liias, Frockt, Rolfes, Sullivan, Carlyle, Finn, Hudgins, Kagi, Miloscia, Appleton, Ladenburg and Fitzgibbon)

Concerning suffocation and other domestic violence offenses.

The measure was read the second time.

MOTION

Senator Harper moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.021 and 2007 c 79 s 2 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

(g) Assaults another by strangulation or suffocation.

(2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.

(b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

**Sec. 2.** RCW 9A.04.110 and 2007 c 79 s 3 are each amended to read as follows:

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(2) "Actor" includes, where relevant, a person failing to act;

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(3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;

(4)(a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in ~~((willful))~~ willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a ~~((willful))~~ willful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Projectile stun gun" means an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal;

(22) "Property" means anything of value, whether tangible or intangible, real or personal;

(23) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(24) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(25) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(26) "Strangulation" means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe;

(27) "Suffocation" means to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe;

(28) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

~~((28))~~ (29) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

~~((29))~~ (30) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

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**Sec. 3.** RCW 9.94A.525 and 2010 c 274 s 403 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an

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enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(~~((++))~~) or 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(~~((++))~~) or 9A.44.132, which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen

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Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no-contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; (~~and~~)

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to Substitute House Bill No. 1188.

The motion by Senator Harper carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "crimes against persons involving suffocation or domestic violence; amending RCW 9A.36.021, 9A.04.110, and 9.94A.525; and prescribing penalties."

#### MOTION

On motion of Senator Harper, the rules were suspended, Substitute House Bill No. 1188 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1188 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1188 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1188 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5359,  
 SUBSTITUTE SENATE BILL NO. 5364,  
 SUBSTITUTE SENATE BILL NO. 5423,  
 SUBSTITUTE SENATE BILL NO. 5428,  
 SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004,  
 SENATE JOINT RESOLUTION NO. 8205.

SECOND READING

HOUSE BILL NO. 1182, by Representatives Goodman, Ross, Kirby, Johnson, Hope, Hurst, Kelley, Maxwell, Frockt, Klippert, Liias, Miloscia, Moscoso, Pearson, Billig, Warnick and Ladenburg

Clarifying that each instance of an attempt to intimidate or tamper with a witness constitutes a separate violation for purposes of determining the unit of prosecution under tampering with or intimidating a witness statutes.

The measure was read the second time.

MOTION

On motion of Senator Harper, the rules were suspended, House Bill No. 1182 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senators McAuliffe and Prentice were excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1182.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1182 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

Absent: Senator Regala

HOUSE BILL NO. 1182, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hunt, Ross, Appleton, Armstrong, Hurst and Stanford)

Establishing the intrastate building safety mutual aid system.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1406.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1406 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Regala

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 3:03 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 4:59 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 8, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL 5083,

SENATE BILL 5584.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

HOUSE BILL NO. 1031, by Representatives Armstrong, Orwall, Johnson, Crouse, Appleton, Condotta, Eddy, Clibborn, Haler, Ormsby, Nealey, Klippert, Miloscia, Fagan, Alexander, Taylor, Bailey, Angel, Finn, Warnick, Rodne, Orcutt, Walsh, Pearson, Green, McCoy, McCune, Schmick, Smith, Goodman, Asay, Ross, Blake, Short, Kagi, Hope, Takko, Kristiansen, Reykdal, Frockt, Ladenburg, Rolfes, Shea, Hunt, Hurst and Moeller

Requiring the county auditor to send voters a security envelope that conceals the ballot.

The measure was read the second time.

## MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1031 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1031.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1031 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 1; Excused, 0.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford and Stevens

Absent: Senator Regala

HOUSE BILL NO. 1031, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5907, by Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove

Implementing the policy recommendations resulting from the national institute of corrections review of prison safety. Revised for 2nd Substitute: Addressing prison safety by implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

## POINT OF ORDER

Senator Holmquist Newbry: "Thank you Mr. President. I believe that the second substitute offered is beyond the scope and object of the underlying bill and I have some arguments to offer on this Mr. President. Thank you Mr. President. The underlying bill implements policy recommendations from a review done by the National Institute of Corrections. By contrast the second substitute before us expands the ability of employee unions at the Department of Corrections to bargain over additional issues in their collective bargaining contracts, including employee safety relating to equipment, policy and protocol. The expansion of bargaining for DOC employees was a topic of a different bill which did not move out of committee.

For these reasons I believe the second substitute offered is outside the scope and object of underlying bill and I respectfully request a ruling on this matter. Thank you Mr. President.

Senator Kohl-Wells spoke against the point of order.

## MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5907 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1453, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Chandler, Blake, Van De Wege, Upthegrove, Stanford, Jinkins and Kretz)

Regarding commercial shellfish enforcement.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1453 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Hargrove was excused.

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## SECOND READING

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1453.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1453 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1453, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1133, by House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Goodman, Warnick, Rodne, Ladenburg and Maxwell)

Requiring massage practitioners to include their license numbers on advertising and display a copy of their license or make it available upon request.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1133 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1133.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1133 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1133, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

HOUSE BILL NO. 1640, by Representatives Green, Hinkle, Cody and Moeller

Concerning respiratory care practitioners.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, House Bill No. 1640 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1640.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1640 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1640, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1874, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Dickerson, Hurst, Klippert, Pearson, Parker, Shea, Kenney, Angel, Kristiansen, Stanford, McCune and Ormsby)

Addressing police investigations of commercial sexual exploitation of children and human trafficking.

The measure was read the second time.

## MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds increasing incidents of commercial sexual exploitation of children in our state, and further protection of victims require giving law enforcement agencies the tool to have a unified victim-centered police investigation approach to further protect victims by ensuring their safety by prosecuting traffickers. The one-party consent provision permitted for drug trafficking investigation passed in the comprehensive bill to facilitate police investigation and prosecution

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of drug trafficking crimes is a helpful tool to this end. The legislature also finds that exceptions should be allowed for minors employed for investigation when the minor is a victim and involves only electronic communication with the defendant.

**Sec. 2.** RCW 9.73.230 and 2005 c 282 s 17 are each amended to read as follows:

(1) As part of a bona fide criminal investigation, the chief law enforcement officer of a law enforcement agency or his or her designee above the rank of first line supervisor may authorize the interception, transmission, or recording of a conversation or communication by officers under the following circumstances:

(a) At least one party to the conversation or communication has consented to the interception, transmission, or recording;

(b) Probable cause exists to believe that the conversation or communication involves:

(i) The unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW; or

(ii) A party engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102; and

(c) A written report has been completed as required by subsection (2) of this section.

(2) The agency's chief officer or designee authorizing an interception, transmission, or recording under subsection (1) of this section, shall prepare and sign a written report at the time of authorization indicating:

(a) The circumstances that meet the requirements of subsection (1) of this section;

(b) The names of the authorizing and consenting parties, except that in those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged;

(c) The names of the officers authorized to intercept, transmit, and record the conversation or communication;

(d) The identity of the particular person or persons, if known, who may have committed or may commit the offense;

(e) The details of the particular offense or offenses that may have been or may be committed and the expected date, location, and approximate time of the conversation or communication; and

(f) Whether there was an attempt to obtain authorization pursuant to RCW 9.73.090(2) and, if there was such an attempt, the outcome of the attempt.

(3) An authorization under this section is valid in all jurisdictions within Washington state and for the interception of communications from additional persons if the persons are brought into the conversation or transaction by the nonconsenting party or if the nonconsenting party or such additional persons cause or invite the consenting party to enter another jurisdiction.

(4) The recording of any conversation or communication under this section shall be done in such a manner that protects the recording from editing or other alterations.

(5) An authorization made under this section is valid for no more than twenty-four hours from the time it is signed by the authorizing officer, and each authorization shall independently meet all of the requirements of this section. The authorizing officer shall sign the written report required under subsection (2) of this section, certifying the exact date and time of his or her signature. An authorization under this section may be extended not more than twice for an additional consecutive twenty-four hour period based upon the same probable cause regarding the same suspected

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transaction. Each such extension shall be signed by the authorizing officer.

(6) Within fifteen days after the signing of an authorization that results in any interception, transmission, or recording of a conversation or communication pursuant to this section, the law enforcement agency which made the interception, transmission, or recording shall submit a report including the original authorization under subsection (2) of this section to a judge of a court having jurisdiction which report shall identify (a) the persons, including the consenting party, who participated in the conversation, and (b) the date, location, and approximate time of the conversation.

In those cases where the consenting party is a confidential informant, the name of the confidential informant need not be divulged.

A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations granted, the date and time of each authorization, interceptions made, arrests resulting from an interception, and subsequent invalidations.

(7)(a) Within two judicial days of receipt of a report under subsection (6) of this section, the court shall make an ex parte review of the authorization (~~but not of the evidence~~), and shall make a determination whether the requirements of subsection (1) of this section were met. Evidence obtained as a result of the interception, transmission, or recording need not be submitted to the court. If the court determines that any of the requirements of subsection (1) of this section were not met, the court shall order that any recording and any copies or transcriptions of the conversation or communication be destroyed. Destruction of recordings, copies, or transcriptions shall be stayed pending any appeal of a finding that the requirements of subsection (1) of this section were not met.

(b) Absent a continuation under (c) of this subsection, six months following a determination under (a) of this subsection that probable cause did not exist, the court shall cause a notice to be mailed to the last known address of any nonconsenting party to the conversation or communication that was the subject of the authorization. The notice shall indicate the date, time, and place of any interception, transmission, or recording made pursuant to the authorization. The notice shall also identify the agency that sought the authorization and shall indicate that a review under (a) of this subsection resulted in a determination that the authorization was made in violation of this section provided that, if the confidential informant was a minor at the time of the recording or an alleged victim of commercial child sexual abuse under RCW 9.68A.100 through 9.68A.102 or 9.40.100, no such notice shall be given.

(c) An authorizing agency may obtain six-month extensions to the notice requirement of (b) of this subsection in cases of active, ongoing criminal investigations that might be jeopardized by sending the notice.

(8) In any subsequent judicial proceeding, evidence obtained through the interception or recording of a conversation or communication pursuant to this section shall be admissible only if:

(a) The court finds that the requirements of subsection (1) of this section were met and the evidence is used in prosecuting an offense listed in subsection (1)(b) of this section; or

(b) The evidence is admitted with the permission of the person whose communication or conversation was intercepted, transmitted, or recorded; or

(c) The evidence is admitted in a prosecution for a "serious violent offense" as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense; or

(d) The evidence is admitted in a civil suit for personal injury or wrongful death arising out of the same incident, in which a party

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who consented to the interception, transmission, or recording was a victim of a serious violent offense as defined in RCW 9.94A.030.

Nothing in this subsection bars the admission of testimony of a party or eyewitness to the intercepted, transmitted, or recorded conversation or communication when that testimony is unaided by information obtained solely by violation of RCW 9.73.030.

(9) Any determination of invalidity of an authorization under this section shall be reported by the court to the administrative office of the courts.

(10) Any person who intentionally intercepts, transmits, or records or who intentionally authorizes the interception, transmission, or recording of a conversation or communication in violation of this section, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(11) An authorizing agency is liable for twenty-five thousand dollars in exemplary damages, in addition to any other damages authorized by this chapter or by other law, to a person whose conversation or communication was intercepted, transmitted, or recorded pursuant to an authorization under this section if:

(a) In a review under subsection (7) of this section, or in a suppression of evidence proceeding, it has been determined that the authorization was made without the probable cause required by subsection (1)(b) of this section; and

(b) The authorization was also made without a reasonable suspicion that the conversation or communication would involve the unlawful acts identified in subsection (1)(b) of this section.

**Sec. 3.** RCW 9.73.210 and 1989 c 271 s 202 are each amended to read as follows:

(1) If a police commander or officer above the rank of first line supervisor has reasonable suspicion that the safety of the consenting party is in danger, law enforcement personnel may, for the sole purpose of protecting the safety of the consenting party, intercept, transmit, or record a private conversation or communication concerning:

(a) The unlawful manufacture, delivery, sale, or possession with intent to manufacture, deliver, or sell, controlled substances as defined in chapter 69.50 RCW, or legend drugs as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW; or

(b) Person(s) engaging in the commercial sexual abuse of a minor under RCW 9.68A.100, or promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102.

(2) Before any interception, transmission, or recording of a private conversation or communication pursuant to this section, the police commander or officer making the determination required by subsection (1) of this section shall complete a written authorization which shall include (a) the date and time the authorization is given; (b) the persons, including the consenting party, expected to participate in the conversation or communication, to the extent known; (c) the expected date, location, and approximate time of the conversation or communication; and (d) the reasons for believing the consenting party's safety will be in danger.

(3) A monthly report shall be filed by the law enforcement agency with the administrator for the courts indicating the number of authorizations made under this section, the date and time of each authorization, and whether an interception, transmission, or recording was made with respect to each authorization.

(4) Any information obtained pursuant to this section is inadmissible in any civil or criminal case in all courts of general or limited jurisdiction in this state, except:

(a) With the permission of the person whose communication or conversation was intercepted, transmitted, or recorded without his or her knowledge;

(b) In a civil action for personal injury or wrongful death arising out of the same incident, where the cause of action is based upon an act of physical violence against the consenting party; or

(c) In a criminal prosecution, arising out of the same incident for a serious violent offense as defined in RCW 9.94A.030 in which a party who consented to the interception, transmission, or recording was a victim of the offense.

(5) Nothing in this section bars the admission of testimony of a participant in the communication or conversation unaided by information obtained pursuant to this section.

(6) The authorizing agency shall immediately destroy any written, transcribed, or recorded information obtained from an interception, transmission, or recording authorized under this section unless the agency determines there has been a personal injury or death or a serious violent offense which may give rise to a civil action or criminal prosecution in which the information may be admissible under subsection (4)(b) or (c) of this section.

(7) Nothing in this section authorizes the interception, recording, or transmission of a telephonic communication or conversation.

**Sec. 4.** RCW 9.68A.110 and 2010 c 289 s 17 and 2010 c 227 s 8 are each reenacted and amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100 through 9.68A.102, except for the purpose of facilitating an investigation where the minor is also the alleged victim and the:

(a) Investigation is authorized pursuant to RCW 9.73.230(1)(b)(ii) or 9.73.210(1)(b); or

(b) Minor's aid in the investigation involves only telephone or electronic communication with the defendant.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100, 9.68A.101, or 9.68A.102, it is not a defense that the defendant did not know the alleged victim's age. It is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, it shall be an affirmative defense that the defendant was a law enforcement officer or a person specifically authorized, in writing, to assist a law enforcement officer and acting at the direction of a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW. Nothing in chapter 227, Laws of 2010 is intended to in any way affect or diminish the immunity afforded an electronic communication service provider, remote computing service provider, or domain name registrar acting in the performance of its reporting or preservation responsibilities under 18 U.S.C. Secs. 2258a, 2258b, or 2258c.

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(5) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.075, the state is not required to establish the identity of the alleged victim.

(6) In a prosecution under RCW 9.68A.070 or 9.68A.075, it shall be an affirmative defense that:

(a) The defendant was employed at or conducting research in partnership or in cooperation with any institution of higher education as defined in RCW 28B.07.020 or 28B.10.016, and:

(i) He or she was engaged in a research activity;

(ii) The research activity was specifically approved prior to the possession or viewing activity being conducted in writing by a person, or other such entity vested with the authority to grant such approval by the institution of higher ~~(learning))~~ education; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the authorized research; or

(b) The defendant was an employee of the Washington state legislature engaged in research at the request of a member of the legislature and:

(i) The request for research is made prior to the possession or viewing activity being conducted in writing by a member of the legislature;

(ii) The research is directly related to a legislative activity; and

(iii) Viewing or possessing the visual or printed matter is an essential component of the requested research and legislative activity.

~~((e))~~ (7) Nothing in this section authorizes otherwise unlawful viewing or possession of visual or printed matter depicting a minor engaged in sexually explicit conduct.

NEW SECTION. **Sec. 5.** This act takes effect August 1, 2011."

Senator Regala spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1874.

The motion by Senator Regala carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "trafficking;" strike the remainder of the title and insert "amending RCW 9.73.230 and 9.73.210; reenacting and amending RCW 9.68A.110; creating a new section; and providing an effective date."

#### MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1874 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Delvin and Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1874 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1874 as amended by the Senate and the bill

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passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1874 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789, by House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Roberts and Miloscia)

Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.385 and 2010 c 269 s 1 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven in the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that

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the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to

administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

**Sec. 2.** RCW 46.61.502 and 2008 c 282 s 20 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)((~~g~~));

(ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)((~~g~~));

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

**Sec. 3.** RCW 46.61.504 and 2008 c 282 s 21 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or

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higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of;

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)(~~;~~);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)(~~;~~);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

**Sec. 4.** RCW 46.61.500 and 1990 c 291 s 1 are each amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment of not more than one year and by a fine of not more than five thousand dollars.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a

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charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

**Sec. 5.** RCW 46.61.5249 and 1997 c 66 s 4 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

**Sec. 6.** RCW 46.20.720 and 2010 c 269 s 3 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

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(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section.

**Sec. 7.** RCW 46.61.5055 and 2010 c 269 s 4 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or

46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The

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county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; ~~((or))~~

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;

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(ii) The person does not operate a vehicle; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(g) The period of time for which ignition interlock use (~~or alcohol monitoring~~) is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.

(h) Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (5)(h), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the

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convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

**Sec. 8.** RCW 10.05.140 and 2004 c 95 s 1 are each amended to read as follows:

As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any alcohol-dependency based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720((2))~~(3)~~(3) (a), (b), and (c). As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

**Sec. 9.** RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the

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offender or an accomplice was armed with a firearm as defined in RCW 9A.1010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728((4))(3);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.1010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.1010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728((4))(3);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or ((9.94A.605)) 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the

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influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055. All enhancements under this subsection shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for

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an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

NEW SECTION. Sec. 10. A new section is added to chapter 2.28 RCW to read as follows:

(1) Counties may establish and operate DUI courts.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any county that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

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(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

- (A) That is a sex offense;
- (B) That is a serious violent offense;
- (C) That is vehicular homicide or vehicular assault;
- (D) During which the defendant used a firearm; or
- (E) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 11.** RCW 2.28.190 and 2005 c 504 s 502 are each amended to read as follows:

Any county that has established a DUI court, drug court, and a mental health court under this chapter may combine the functions of ~~(both)~~ these courts into a single therapeutic court.

**Sec. 12.** RCW 46.61.5054 and 1995 c 398 s 15 and 1995 c 332 s 13 are each reenacted and amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 46.61.5051 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and, subject to subsection (4) of this section, one hundred seventy-five dollars of the fee must be distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) The remainder of the fee shall be forwarded to the state treasurer who shall, through June 30, 1997, deposit: Fifty percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and fifty percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs. Effective July 1, 1997, the remainder of the fee shall be forwarded to the state treasurer who shall deposit: Fifteen percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and eighty-five percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(3) Twenty-five dollars of the fee assessed under subsection (1) of this section must be distributed to the highway safety account to be used solely for funding Washington traffic safety commission grants to reduce statewide collisions caused by persons driving

under the influence of alcohol or drugs. Grants awarded under this subsection may be for projects that encourage collaboration with other community, governmental, and private organizations, and that utilize innovative approaches based on best practices or proven strategies supported by research or rigorous evaluation. Grants recipients may include, for example:

- (a) DUI courts; and
- (b) Jurisdictions implementing the victim impact panel registries under RCW 46.61.5152 and section 15 of this act.

(4) If the court has suspended payment of part of the fee pursuant to subsection (1)(b) or (c) of this section, amounts collected shall be distributed proportionately.

(5) This section applies to any offense committed on or after July 1, 1993.

**Sec. 13.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to read as follows:

(1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the court and the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

**Sec. 14.** RCW 46.61.5152 and 2006 c 73 s 17 are each amended to read as follows:

In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program, such as a victim impact panel, focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of

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intoxicants. The victim impact panel program must meet the minimum standards established under section 15 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 10.01 RCW to read as follows:

(1) The Washington traffic safety commission may develop and maintain a registry of qualified victim impact panels. When imposing a requirement that an offender attend a victim impact panel under RCW 46.61.5152, the court may refer the offender to a victim impact panel that is listed in the registry. The Washington traffic safety commission may consult with victim impact panel organizations to develop and maintain a registry.

(2) To be listed on the registry, the victim impact panel must meet the following minimum standards:

(a) The victim impact panel must address the effects of driving while impaired on individuals and families and address alternatives to drinking and driving and drug use and driving;

(b) The victim impact panel should strive to have at least two different speakers, one of whom is a victim survivor of an impaired driving crash, to present their stories in person. A victim survivor may be the panel facilitator. The victim impact panel should be a minimum of sixty minutes of presentation, not including registration and administration time.

(c) The victim impact panel shall have policies and procedures to recruit, screen, train, and provide feedback and ongoing support to the panelists. The panel shall take reasonable steps to verify the authenticity of each panelist's story;

(d) The victim impact panel shall charge a reasonable fee to all persons required to attend, unless otherwise ordered by the court;

(e) The victim impact panel shall have a policy to prohibit admittance of anyone under the influence of alcohol or drugs, or anyone whose actions or behavior are otherwise inappropriate. The victim impact panel may institute additional admission requirements;

(f) The victim impact panel shall maintain attendance records for at least five years;

(g) The victim impact panel shall make reasonable efforts to use a facility that meets standards established by the Americans with disabilities act;

(h) The victim impact panel may provide referral information to other community services; and

(i) The victim impact panel shall have a designated facilitator who is responsible for the compliance with these minimum standards and who is responsible for maintaining appropriate records and communication with the referring courts and probationary departments regarding attendance or nonattendance."

Senator Kline spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the committee striking amendment be adopted:

On page 33, after line 25 of the amendment, insert the following:

"NEW SECTION. Sec. 16. Sections 1 through 9 of this act take effect September 1, 2011."

Senators Haugen and Pflug spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 33, after line 25 to the committee striking amendment to Engrossed Second Substitute House Bill No. 1789.

The motion by Senator Haugen carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Engrossed Second Substitute House Bill No. 1789.

The motion by Senator Kline carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.385, 46.61.502, 46.61.504, 46.61.500, 46.61.5249, 46.20.720, 46.61.5055, 10.05.140, 9.94A.533, 2.28.190, 46.61.5056, and 46.61.5152; reenacting and amending RCW 46.61.5054; adding a new section to chapter 2.28 RCW; adding a new section to chapter 10.01 RCW; and prescribing penalties."

On page 34, line 1 of the title amendment, after "RCW;" insert "providing an effective date;"

#### MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Second Substitute House Bill No. 1789 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Fraser, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1789 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1789 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Prentice

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1822, by House Committee on Higher Education (originally sponsored by

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Representatives Kenney, Parker, Seaquist, Pettigrew, Dickerson and Zeiger)

On motion of Senator White, Senator Regala was excused.

Establishing the first nonprofit online university.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1148.

The measure was read the second time.

ROLL CALL

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 1822 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The Secretary called the roll on the final passage of Substitute House Bill No. 1148 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Senators Kastama and Hill spoke in favor of passage of the bill.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

MOTION

On motion of Senator Pflug, Senator Swecker was excused.

Excused: Senators Prentice, Regala and Swecker  
 SUBSTITUTE HOUSE BILL NO. 1148, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1822.

ROLL CALL

SECOND READING

The Secretary called the roll on the final passage of Substitute House Bill No. 1822 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 7; Absent, 0; Excused, 2.

SENATE BILL NO. 5844, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt)

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Sheldon, Shin, Stevens, Tom and Zarelli

Concerning financing local government infrastructure. Revised for 1st Substitute: Financing local government infrastructure.

Voting nay: Senators Baxter, Conway, Kohl-Welles, Murray, Regala, Schoesler and White

MOTION

Excused: Senators Prentice and Swecker

SUBSTITUTE HOUSE BILL NO. 1822, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On motion of Senator Kilmer, Substitute Senate Bill No. 5844 was substituted for Senate Bill No. 5844 and the substitute bill was placed on the second reading and read the second time.

SECOND READING

MOTION

SUBSTITUTE HOUSE BILL NO. 1148, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz)

Concerning the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state.

Senator Keiser moved that the following amendment by Senators Keiser and Fain be adopted:

On page 7, after line 31, insert the following:

The measure was read the second time.

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1148 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

(vii) Flood levies. State assistance for flood levy repairs and improvements must support projects that will achieve the greatest reduction of the risk to public safety and property from levies at risk of failure due to changes in flood water flows and deterioration of the levy structural capacity. State assistance is not intended to supplant the responsibility of local government and property owners benefiting from levies to adequately fund the routine repair and maintenance of levies. Jurisdictions accepting state assistance for flood levies must demonstrate compliance with the responsibility to adequately fund levy routine repair and maintenance or agree to a plan to meet that responsibility. Jurisdictions seeking state assistance for levies must demonstrate adequate land use policies that prevent inappropriate development in flood plains, prevent encroachment upon flood levies, and prevent the inappropriate use of flood levies. Flood levy projects must be evaluated and prioritized against these policy objectives by the department of ecology

Senator Ranker spoke in favor of passage of the bill.

MOTION

Senators Keiser and Fain spoke in favor of adoption of the amendment.

Senator Honeyford spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Fain on page 7, after line 31 to Substitute Senate Bill No. 5844.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute Senate Bill No. 5844 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5844.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5844 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 13; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Pflug, Roach, Schoesler and Stevens

Excused: Senator Prentice

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Moeller, Rolfes, Hasegawa, Pettigrew, Sells, Ryu, Appleton, Hunt, Seaquist, Miloscia, Ormsby and Roberts)

Concerning for hire vehicles and for hire vehicle operators.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Labor, Commerce & Consumer Protection be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 51.12 RCW to read as follows:

The legislature finds that taxicab, limousine, and other for hire vehicle operators are at significant risk of injury due to work-related accidents or crimes such as robbery that may not be covered by standard vehicle insurance policies. Since almost all taxicab,

limousine, and other for hire vehicle business operations are independent small business franchises, their owners or operators may opt out of industrial insurance coverage without full consideration for the risk of financial exposure to themselves or to their businesses. As a result, health care may be provided to them at public expense or not at all, and erroneous claims may be made by health care providers for insurance coverage, against the state department of labor and industries, private businesses, or the taxicab associations in which certain municipalities require participation. Most for hire vehicle operators do not enjoy the benefit of the broad public policy embodied in this title that mandates industrial insurance protection for workers. The legislature therefore declares that all taxicab, limousine, for hire vehicle businesses, and for hire vehicle operators are subject to mandatory industrial insurance coverage under this title.

**NEW SECTION. Sec. 2.** A new section is added to chapter 51.12 RCW to read as follows:

(1) Any business that owns and operates a for hire vehicle licensed under chapter 46.72 RCW, a limousine under chapter 46.72A RCW, or a taxicab under chapter 81.72 RCW and the for hire operator or chauffeur of such vehicle is within the mandatory coverage of this title.

(2) Any business that as owner or agent leases a for hire vehicle licensed under chapter 46.72 RCW, a limousine under chapter 46.72A RCW, or a taxicab under chapter 81.72 RCW to a for hire operator or a chauffeur and the for hire operator or chauffeur of such vehicle is within the mandatory coverage of this title.

(3) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise:

(a) "Chauffeur" has the same meaning as provided in RCW 46.04.115; and

(b) "For hire operator" means a person who is operating a vehicle for the purpose of carrying persons for compensation.

**NEW SECTION. Sec. 3.** A new section is added to chapter 51.16 RCW to read as follows:

(1) For the purposes of section 2 of this act:

(a) By no later than January 1, 2012, the department must determine by rule the basis for industrial insurance premiums for: (i) Any business that owns and operates for hire, limousine, or taxicab vehicles; and (ii) any business that owns and leases for hire, limousine, or taxicab vehicles to a business operating such vehicle; and

(b) Not more than ninety days after the department has determined the basis for industrial insurance premiums by rule under (a) of this subsection, the department must assess such premiums on: (i) Any business that owns and operates for hire, limousine, or taxicab vehicles; and (ii) any business that owns and leases for hire, limousine, or taxicab vehicles to a business operating such vehicle.

(2) In determining the basis under this section, the department must consider:

(a) The unique economic structures of the taxicab, for hire vehicle, and limousine industries;

(b) The difficulty of equitably assessing industrial insurance premiums on classes of businesses that utilize both employer/employee and independent contractor business models;

(c) The economic impact on businesses of a rate and assessment alternative, such as a flat rate and assessment levied on a per vehicle or a miles driven basis, compared to that of an assessment based on hours worked;

(d) The department's costs and efficiency of administration;

(e) The cost to businesses and covered workers; and

(f) Anticipated effectiveness in implementing mandatory industrial insurance coverage of for hire vehicle operators as provided in section 2 of this act.

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**NEW SECTION. Sec. 4.** A new section is added to chapter 51.12 RCW to read as follows:

(1) In order to assist the department with controlling costs related to the self-monitoring of industrial insurance claims by independent owner-operated for hire vehicle, limousine, and taxicab businesses, the department may appoint a panel of individuals with for hire vehicle, limousine, or taxicab transportation industry experience and expertise to advise the department.

(2) The owner of any for hire, limousine, or taxicab vehicle subject to mandatory industrial insurance pursuant to section 2 of this act is eligible for inclusion in a retrospective rating program authorized and established pursuant to chapter 51.18 RCW.

**NEW SECTION. Sec. 5.** A new section is added to chapter 46.72 RCW to read as follows:

(1) A for hire vehicle certificate issued pursuant to this chapter must be suspended or revoked and may not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A for hire vehicle and its operator must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the for hire vehicle is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the for hire vehicle owner and the for hire vehicle operator if they are not one and the same.

(3) For hire vehicle license suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4) The department of labor and industries and the department of licensing may adopt rules and enter into cooperative agreements to implement this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 46.72A RCW to read as follows:

(1) A business license and vehicle certificate issued pursuant to RCW 46.72A.050 must be suspended or revoked and must not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A limousine and its chauffeur must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the limousine is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the limousine vehicle owner and the limousine chauffeur if they are not one and the same.

(3) Business license and vehicle certificate suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4) The department of labor and industries and the department of licensing may adopt rules and enter into cooperative agreements to implement this section.

**NEW SECTION. Sec. 7.** A new section is added to chapter 81.72 RCW to read as follows:

(1) A license issued pursuant to this chapter must be suspended or revoked and may not be renewed in the event of failure to pay the mandatory for hire vehicle operator industrial insurance premium as charged by the department of labor and industries under sections 2 and 3 of this act.

(2)(a) A taxicab vehicle and its operator must have evidence of payment in good standing with the department of labor and industries of the for hire vehicle operator industrial insurance premium, whenever the taxicab vehicle is operated on public streets and highways for compensation.

(b) Failure to produce evidence of payment of the for hire vehicle insurance premium upon demand by a law enforcement officer or other government agent acting under the authority of this chapter is a civil infraction punishable by a fine of not more than two hundred fifty dollars per infraction separately upon both the taxicab vehicle owner and the taxicab vehicle operator if they are not one and the same.

(3) Taxicab vehicle license suspension or revocation and the administration thereof for failure to pay the mandatory industrial insurance premium must be at the direction and expense of the department of labor and industries.

(4)(a) The department of labor and industries, the department of licensing, cities, towns, counties, and port districts may enter into cooperative agreements to implement this section.

(b) The department of licensing and the department of labor and industries may adopt rules to implement this section.

(c) Cities, towns, counties, and port districts may take legislative action to implement this section.

**NEW SECTION. Sec. 8.** A new section is added to chapter 81.72 RCW to read as follows:

(1) Any city, town, county, or port district setting the rates charged for taxicab services under this chapter must adjust rates to accommodate changes in the cost of industrial insurance or in other industry-wide costs.

(2) Any business that as owner leases a taxicab licensed under this chapter to a for hire operator must make a reasonable effort to train the for hire operator in motor vehicle operation and safety requirements and monitor operator compliance. Monitoring operator compliance may include the use of vehicle operator monitoring cameras.

**NEW SECTION. Sec. 9.** Except for section 3 of this act, this act takes effect January 1, 2012."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to Engrossed Substitute House Bill No. 1367.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "operators;" strike the remainder of the title and insert "adding new sections to chapter 51.12 RCW; adding a new section to chapter 51.16 RCW; adding a new section to chapter 46.72 RCW; adding a new section to chapter 46.72A RCW; adding new sections to chapter 81.72 RCW; creating a new section; prescribing penalties; and providing an effective date."

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## MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1367 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

## MOTION

On motion of Senator Hobbs, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1367 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1367 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Brown, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Hewitt, Holmquist Newbry, Roach and Stevens

Absent: Senator Chase

Excused: Senator Hargrove

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1669, by Representatives Santos, Parker, Dammeier, McCoy, Kenney, Hasegawa, Moscoso and Maxwell

Regarding the educational opportunity gap.

The measure was read the second time.

## MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 1669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

Senator Tom spoke on final passage of the bill.

Senators Roach and Schoesler spoke against passage of the bill.

## MOTION

On motion of Senator Eide, further consideration of House Bill No. 1669 was deferred and the bill held its place on the third reading calendar.

## PERSONAL PRIVILEGE

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Senator Parlette: "Thank you Mr. President. Since we're talking about education this seems appropriate that I share with you that today I got a call from the Principal of Bridgeport High School. So, for those of you who don't know where Bridgeport Washington is, if you go through Lake Chelan and go about twenty-six miles north to the little town of Brewster, you go across the river and there is the town of Bridgeport. Anyway, there's about two thousand people that live in Bridgeport. This is a small community in Douglas County. So Bridgeport received word today from the White House and from the United States Department of Education that they are one of six high schools selected as finalists for this year's 'Race to the top' high school commencement challenge. There the only rural school. They're the only school in Washington State. Other schools are in cities like Pittsburgh, San Diego and other large districts. They will now submit a video on line to promote their high school for an online vote. The video will be featured on the White House's website with five other schools and whoever's the winner President Obama will deliver the commencement address at that school this spring. So, once we know about this video maybe you would like to vote and select Bridgeport High School. Thank you Mr. President."

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1524, by House Committee on Education (originally sponsored by Representative Orwall)

Recognizing the international baccalaureate diploma.

The measure was read the second time.

## MOTION

On motion of Senator White, the rules were suspended, Substitute House Bill No. 1524 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator White spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1524.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1524 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Honeyford and Morton

Absent: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1524, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

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On motion of Senator White, Senators Chase and Kline were excused.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1728, by House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney)

Requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises.

The measure was read the second time.

#### MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1728 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Kohl-Welles spoke in favor of passage of the bill.

Senator Roach spoke against passage of the bill.

Senator Sheldon spoke on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1728.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1728 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Regala and Roach

Excused: Senator Kline

SUBSTITUTE HOUSE BILL NO. 1728, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

Senator Eide moved to adjourned until 9:00 a.m. Saturday, April 9, 2011.

#### MOTION

On motion of Senator Eide, the motion to adjourn was withdrawn.

#### MOTION

Senator Murray having voted on the prevailing side, moved that the rules be suspended and that the Senate immediately reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate earlier in the day.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate.

The motion by Senator Murray carried and the Senate proceeded to reconsider the vote by which Engrossed Substitute Senate Bill No. 5844 passed the Senate.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5844 was deferred and the bill held its place on the third reading calendar.

#### MOTION

At 6:51 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Saturday, April 9, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINETIETH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, April 9, 2011

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present.

The Sergeant at Arms Color Guard consisting of Interns Timothy Gates and Lani Bonadea, presented the Colors. Senator Hargrove offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5927 by Senators Keiser and Pflug

AN ACT Relating to limiting payments for health care services provided to low-income enrollees in state purchased health care programs; amending RCW 70.47.100; reenacting and amending RCW 74.09.522 and 70.47.020; adding a new section to chapter 70.47 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SB 5928 by Senators Hobbs, Litzow and Haugen

AN ACT Relating to traffic infraction monetary penalties; and amending RCW 46.63.110.

Referred to Committee on Transportation.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1449 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hunter, Haigh, Anderson, Maxwell, Sullivan and Dammeier)

AN ACT Relating to establishing a processing fee for educator certificates and subsequent actions; adding a new section to chapter 28A.410 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2017 by House Committee on Ways & Means (originally sponsored by Representative Hunter)

AN ACT Relating to the master license service program; amending RCW 19.02.020, 19.02.030, 19.02.050, 19.02.070, 19.02.075, 19.02.100, 19.02.800, 19.02.900, 19.80.005, 19.80.010, 19.80.025, 19.80.045, 19.80.075, 19.80.900, 19.94.015, 34.05.310, 34.05.328, 35.21.392, 35A.21.340,

43.07.200, 46.68.060, 46.72.110, 46.72A.110, 59.30.010, 59.30.020, 59.30.050, 59.30.060, 76.48.121, 79A.60.485, 82.01.060, 82.02.010, 82.32.030, 90.76.010, and 90.76.020; reenacting and amending RCW 43.24.150; adding a new section to chapter 19.02 RCW; adding a new section to chapter 59.30 RCW; creating new sections; decodifying RCW 19.02.901 and 19.02.910; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Pridemore moved adoption of the following resolution:

SENATE RESOLUTION  
8649

By Senators Pridemore, Ranker, Haugen, Tom, Kastama, Nelson, Harper, Hargrove, Hatfield, Shin, Regala, Fraser, Brown, Eide, White, Rockefeller, Hobbs, Kline, Chase, Prentice, Murray, Kilmer, Sheldon, McAuliffe, Kohl-Welles, Conway, and Keiser

WHEREAS, Many Washington citizens have literally given the gift of life by donating organs, eyes, and tissues; and

WHEREAS, It is essential that all citizens are aware of the opportunity to save and enhance the lives of others through organ, eye, and tissue donation and transplantation; and

WHEREAS, There are more than one hundred thousand courageous Americans awaiting a lifesaving organ transplant, with eighteen individuals losing their lives every day because of the shortage of donations; and

WHEREAS, Every thirteen minutes a person is added to the national organ donation waiting list; and

WHEREAS, The organ, eye, and tissue donation from one individual can save or enhance the lives of over fifty people; and

WHEREAS, Families receive comfort through the grieving process with the knowledge that through organ, eye, and tissue donation another person's life has been saved or enhanced; and

WHEREAS, Organ donation offers the recipients a second chance at life, enabling them to be with their families and maintain a higher quality of life; and

WHEREAS, Through organ, eye, and tissue donation a donor and donor's family receive gratitude from the recipient's family and is honored by the enhancement of the recipient's life; and

WHEREAS, The example set by those who choose to donate reflects the character and compassion of these individuals, whose voluntary choice saves the lives of others;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognize April as National Donate Life

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Month as declared by the Governor and honor those who have donated and celebrate the lives of the recipients.

Senators Pridemore, Eide and Benton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8649.

The motion by Senator Pridemore carried and the resolution was adopted by voice vote.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Ranker moved that Gubernatorial Appointment No. 9060, Martha Kongsgaard, as Chair of the Puget Sound Partnership, be confirmed.

Senator Ranker spoke in favor of the motion.

APPOINTMENT OF MARTHA KONGSGAARD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9060, Martha Kongsgaard as Chair of the Puget Sound Partnership.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9060, Martha Kongsgaard as Chair of the Puget Sound Partnership and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Gubernatorial Appointment No. 9060, Martha Kongsgaard, having received the constitutional majority was declared confirmed as Chair of the Puget Sound Partnership.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1211, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Rivers, Blake, Takko, Kretz, Van De Wege, Lias, Klippert, Smith, Chandler, Nealey, Fitzgibbon, Warnick, Moeller, Harris and Condotta)

Concerning utility donations to hunger programs.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 54.16 RCW to read as follows:

(1) Public utility districts may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by public utility districts under this section must be used by the public utility district to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a public utility district from requesting voluntary donations to support other programs.

NEW SECTION. Sec. 2. A new section is added to chapter 35.92 RCW to read as follows:

(1) Municipal utilities under this chapter may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by municipal utilities under this section must be used by the municipal utility to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a municipal utility from requesting voluntary donations to support other programs.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.80 RCW to read as follows:

(1) Code cities providing utility services under this chapter may request voluntary donations from their customers for the purpose of supporting hunger programs.

(2) Voluntary donations collected by code cities under this section must be used by the code city to support the maintenance and operation of hunger programs.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

(4) Nothing in this section precludes a code city providing utility services from requesting voluntary donations to support other programs."

Senator Rockefeller spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 1211.

The motion by Senator Rockefeller carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.92 RCW; and adding a new section to chapter 35A.80 RCW."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1211 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1211 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1211 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

SUBSTITUTE HOUSE BILL NO. 1211 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1225, by Representatives Angel, Takko, Warnick, Van De Wege and Fitzgibbon

Clarifying the method for calculating port commissioner compensation.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1225 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1225.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1225 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 1; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Ericksen and Roach

Absent: Senator Hargrove

HOUSE BILL NO. 1225, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1136, by House Committee on Transportation (originally sponsored by Representatives Eddy, Armstrong, Morris, Kristiansen, Chandler, Pearson and Kenney)

Creating volunteer firefighter special license plates.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.200 and 2010 c 161 s 611 are each amended to read as follows:

(1) ((The legislature recognizes that the special license plate review board established in RCW 46.16.705 reviews and approves applications for special license plate series.

(2))) Special license plate series reviewed and approved by the ((special license plate review board)) department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the ((~~special license plate review board~~) department.

~~((3) The special license plate review board approves, and)) (2) The department approves and shall issue((;)) the following special license plates:~~

| LICENSE PLATE                                | DESCRIPTION, SYMBOL, OR ARTWORK  |
|--|--|
| Armed forces collection                      | Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard. |
| Endangered wildlife                          | Displays a symbol or artwork, approved by the special license plate review board and the legislature.  |
| Gonzaga University alumni <u>association</u> | Recognizes the Gonzaga University alumni association.  |
| Helping kids speak                           | Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.  |
| Keep kids safe                               | Recognizes efforts to prevent child abuse and neglect.   |
| Law enforcement memorial                     | Honors law enforcement officers in Washington killed in the line of duty.  |

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Professional firefighters and paramedics Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.

Share the road Recognizes an organization that promotes bicycle safety and awareness education.

Ski & ride Washington Recognizes the Washington snowsports industry.

Volunteer firefighters Recognizes volunteer firefighters.

Washington lighthouses Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.

Washington state parks Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.

Washington's national park fund Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.

Washington's wildlife collection Recognizes Washington's wildlife.

We love our pets Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation.

Wild on Washington Symbolizes wildlife viewing in Washington state.

volunteer firefighter is convicted of a violation of RCW 46.61.502 or a felony, the license plates must be surrendered upon conviction.

**Sec. 2.** RCW 46.17.220 and 2010 c 161 s 521 are each amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter ~~((46.16))~~ 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

| PLATE TYPE                                   | INITIAL FEE    | RENEWAL FEE    | DISTRIBUTED UNDER              |
|--|----------------|----------------|--------------------------------|
| (a) Amateur radio license                    | \$ 5.00        | N/A            | RCW 46.68.070                  |
| (b) Armed forces                             | \$ 40.00       | \$ 30.00       | RCW 46.68.425                  |
| (c) Baseball stadium                         | \$ 40.00       | \$ 30.00       | Subsection (2) of this section |
| (d) Collector vehicle                        | \$ 35.00       | N/A            | RCW 46.68.030                  |
| (e) Collegiate                               | \$ 40.00       | \$ 30.00       | RCW 46.68.430                  |
| (f) Endangered wildlife                      | \$ 40.00       | \$ 30.00       | RCW 46.68.425                  |
| (g) Gonzaga University alumni association    | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (h) Helping kids speak                       | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (i) Horseless carriage                       | \$ 35.00       | N/A            | RCW 46.68.030                  |
| (j) Keep kids safe                           | \$ 45.00       | \$ 30.00       | RCW 46.68.425                  |
| (k) Law enforcement memorial                 | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (l) Military affiliate radio system          | \$ 5.00        | N/A            | RCW 46.68.070                  |
| (m) Professional firefighters and paramedics | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (n) Ride share                               | \$ 25.00       | N/A            | RCW 46.68.030                  |
| (o) Share the road                           | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (p) Ski and ride Washington                  | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |
| (q) Square dancer                            | \$ 40.00       | N/A            | RCW 46.68.070                  |
| (r) <u>Volunteer firefighters</u>            | <u>\$40.00</u> | <u>\$30.00</u> | <u>RCW 46.68.420</u>           |
| (s) Washington lighthouses                   | \$ 40.00       | \$ 30.00       | RCW 46.68.420                  |

~~((4))~~ (3) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof eligibility by providing a certificate of current membership from the Washington state council of firefighters.

(4) Applicants for initial volunteer firefighters special license plates must (a) have been a volunteer firefighter for at least ten years or be a volunteer firefighter for one or more years and (b) have documentation of service from the district of the appropriate fire service. If the volunteer firefighter leaves firefighting service before ten years of service have been completed, the volunteer firefighter shall surrender the license plates to the department on the registration renewal date. If the volunteer firefighter stays in service for at least ten years and then leaves, the license plate may be retained by the former volunteer firefighter and as long as the license plate is retained for use the person will continue to pay the future registration renewals. A qualifying volunteer firefighter may have no more than one set of license plates per vehicle, and a maximum of two sets per applicant, for their personal vehicles. If the

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|  |          |          |               |
|--|----------|----------|---------------|
| <del>((s))</del> <u>(t)</u>                    | \$ 40.00 | \$ 30.00 | RCW 46.68.425 |
| Washington state parks                         |          |          |               |
| <del>((t))</del> <u>(u)</u>                    | \$ 40.00 | \$ 30.00 | RCW 46.68.420 |
| Washington's national parks                    |          |          |               |
| <del>((u))</del> <u>(v)</u>                    | \$ 40.00 | \$ 30.00 | RCW 46.68.425 |
| Washington's wildlife collection               |          |          |               |
| <del>((v))</del> <u>(w)</u> We love our pets   | \$ 40.00 | \$ 30.00 | RCW 46.68.420 |
| <del>((w))</del> <u>(x)</u> Wild on Washington | \$ 40.00 | \$ 30.00 | RCW 46.68.425 |

Lighthouse environmental programs

Share the road

Ski & ride Washington

Volunteer firefighters

Washington state council of firefighters benevolent fund

Washington's national park fund

We love our pets

state capitol grounds to honor those fallen officers  
 Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents  
 Promote bicycle safety and awareness education in communities throughout Washington  
 Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs  
Receive and disseminate funds for purposes on behalf of volunteer firefighters, their families, and others deemed in need  
 Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need  
 Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks  
 Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

**Sec. 3.** RCW 46.68.420 and 2010 c 161 s 809 are each amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220 ((that were approved by the special license plate review board under RCW 46.18.200));

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

| ACCOUNT                               | CONDITIONS FOR USE OF FUNDS  |
|---------------------------------------|--|
| Gonzaga University alumni association | Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University   |
| Helping kids speak                    | Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development   |
| Law enforcement memorial              | Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the |

(3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the

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conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section.

(5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).

**Sec. 4.** RCW 46.18.060 and 2010 1st sp.s. c 7 s 94 and 2010 c 161 s 604 are each reenacted and amended to read as follows:

(1) ((The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2)) The ((board)) department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

((~~3~~)) (2) Duties of the ((~~board~~)) department include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the ((~~senate and house transportation committees~~)) joint transportation committee;

(b) Report annually to the ((~~senate and house of representatives transportation committees~~)) joint transportation committee on the special license plate applications that were considered by the ((~~board~~)) department;

(c) Issue approval and rejection notification letters to sponsoring organizations, ((~~the department~~),) the ((~~chairs of the senate and house of representatives transportation committees~~)) joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The ((~~board~~)) department may submit a recommendation to discontinue a special license plate series to the ((~~chairs of the senate and house of representatives transportation committees~~); and

((~~e~~)) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates for which an organization or a governmental entity may apply) joint transportation committee.

((~~4~~)) (3) Except as provided in RCW 46.18.245, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, ((~~the special license plate review board created in RCW 46.16.705 and~~)) the department ((~~are~~)) is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

(4) The volunteer firefighters license plates created under RCW 46.18.200 are exempt from the requirements of subsection (3) of this section.

NEW SECTION. **Sec. 5.** This act takes effect January 1, 2012."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation to Substitute House Bill No. 1136.

The motion by Senator Haugen carried and the committee amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "plates;" strike the remainder of the title and insert "amending RCW 46.18.200, 46.17.220, and 46.68.420; reenacting and amending RCW 46.18.060; and providing an effective date."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1136 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1136 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1136 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

Absent: Senator Hargrove

SUBSTITUTE HOUSE BILL NO. 1136 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Swecker: "Sure, as I was voting on this last measure something occurred to me. I served as a volunteer firefighter in the late 70's and early 80's. In 1981 I had two sons, brand new baby sons come into my home and I actually had to resign in order to continue with my home obligations. Later on my son became a volunteer firefighter and showed up at my home when my heart stopped and so what goes around comes around. It's a good thing. Thank you."

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1328, by House Committee on Transportation (originally sponsored by Representatives Van De Wege, DeBolt, Blake, Klippert, Hinkle, Ross, Hasegawa, Kirby, Billig, Lias, Takko, Stanford, Finn, Alexander, Short, Angel, Dammeier, Zeiger, Upthegrove, Tharinger, Green, Kelley, Hurst, McCune, Kenney and Maxwell)

Authorizing the temporary local suspension of certain motorcycle provisions for the operation of motorcycles in parades

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or public demonstrations. Revised for 1st Substitute: Temporarily suspending certain motorcycle rules when operating in parades or public demonstrations.

The measure was read the second time.

### MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 46.61.613 and 2010 c 8 s 9073 are each amended to read as follows:

The provisions of RCW 46.37.530 and 46.61.610 through 46.61.612 (~~(may be)~~ are temporarily suspended (~~(by the chief of the Washington state patrol, or his or her designee,)~~ within their respective jurisdictions in connection with a parade or public demonstration) on a closed road during a parade or public demonstration that has been permitted by a local jurisdiction.

**Sec. 2.** RCW 46.04.437 and 2010 c 161 s 133 are each amended to read as follows:

"Purple heart license plates" means special license plates that may be assigned to a motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, to recipients of the Purple Heart medal or to another qualified person.

**Sec. 3.** RCW 46.18.215 and 2010 c 161 s 614 are each amended to read as follows:

The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of standard issue or personalized license plates for motor vehicles required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special license plates commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium.

**Sec. 4.** RCW 46.18.225 and 2010 c 161 s 615 are each amended to read as follows:

A state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form approved by the department and request the department to issue a series of collegiate license plates, for display on motor vehicles required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, depicting the name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution.

**Sec. 5.** RCW 46.18.230 and 2010 c 161 s 618 are each amended to read as follows:

(1) A registered owner who has been awarded the Congressional Medal of Honor may apply to the department for special license plates for use on a ~~((passenger))~~ motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The Congressional Medal of Honor recipient must:

(a) Provide proof from the Washington state department of veterans affairs showing receipt of the medal; and

(b) Be recorded as the registered owner of the motor vehicle on which the Congressional Medal of Honor license plate or plates will be displayed.

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(2) Congressional Medal of Honor license plates must be issued:

(a) Only for a personal (~~((passenger))~~) motor vehicle owned by persons who have received the Congressional Medal of Honor; and

(b) Without payment of vehicle license fees, license plate fees, and motor vehicle excise taxes.

(3) Congressional Medal of Honor license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) A Congressional Medal of Honor license plate or plates may be transferred, free of charge, from one motor vehicle to another motor vehicle owned by the Congressional Medal of Honor recipient upon application to the department, county auditor or other agent, or subagent appointed by the director.

**Sec. 6.** RCW 46.18.235 and 2010 c 161 s 619 are each amended to read as follows:

(1) A registered owner who is a veteran, as defined in RCW 41.04.007, may apply to the department for disabled American veteran or former prisoner of war license plates, for use on one personal use motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The veteran must be recorded as the registered owner of the motor vehicle on which the disabled American veteran or former prisoner of war license plate or plates will be displayed and:

(a) Provide certification from the veterans administration or the military service from which the veteran was discharged that the veteran has a service-connected disability rating;

(b) Have lost the use of both hands or one foot;

(c) Have been captured and incarcerated by an enemy of the United States during a period of war with the United States and have received a prisoner of war medal;

(d) Have become blind in both eyes as the result of military service; or

(e) Be rated by the veterans administration or the military service from which the veteran was discharged and be receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year.

(2) The special license plates under this section must:

(a) Display distinguishing marks, letters, or numerals indicating that the registered owner is a disabled American veteran or former prisoner of war; and

(b) Be issued for one personal use vehicle without the payment of any vehicle license fees, license plate fees, or excise taxes.

(3) A registered owner who is a veteran, as defined in RCW 41.04.007, may, in lieu of applying for the special license plates under this section, apply for regular issue or any qualifying special license plate and receive the full benefit of the vehicle license fee and excise tax exemption provided in subsection (2)(b) of this section.

(4) The department may periodically verify the one hundred percent rate as described in subsection (1)(e) of this section.

(5) A veteran who has been issued disabled American veteran or former prisoner of war license plates under this section before July 1, 1983, continues to be eligible for the vehicle license fee and excise tax exemption described in subsection (2)(b) of this section.

(6) A disabled American veteran and former prisoner of war license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the veteran upon application to the department, county auditor or other agent, or subagent appointed by the director.

(7) For the purposes of this section:

(a) "Blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW; and

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(b) "Special license plates" does not include any plate from the armed forces license plate collection established in RCW 46.18.200(3).

(8) Any unauthorized use of a special license plate under this section is a gross misdemeanor.

**Sec. 7.** RCW 46.18.270 and 2010 c 161 s 625 are each amended to read as follows:

(1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been a member of the United States armed forces on December 7, 1941;

(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Have received an honorable discharge from the United States armed forces;

(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;

(f) Be recorded as the registered owner of the motor vehicle on which the Pearl Harbor survivor license plate or plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) A Pearl Harbor survivor license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

**Sec. 8.** RCW 46.18.280 and 2010 c 161 s 628 are each amended to read as follows:

(1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on only one motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received an honorable discharge from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;

(e) Be recorded as the registered owner of the motor vehicle on which the Purple Heart survivor license plate or plates will be displayed; and

(f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) A Purple Heart license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

**Sec. 9.** RCW 46.18.290 and 2010 c 161 s 630 are each amended to read as follows:

A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under RCW 46.17.220(1)(q), in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for motor vehicles required to display one or two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW."

Senator King spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1328.

The motion by Senator King carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "motorcycles" strike the remainder of the title and insert "; and amending RCW 46.61.613, 46.04.437, 46.18.215, 46.18.225, 46.18.230, 46.18.235, 46.18.270, 46.18.280, and 46.18.290."

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1328 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1328 as amended by the Senate.

The Secretary called the roll on the final passage of Substitute House Bill No. 1328 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1328 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1405, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Kirby, Kelley, Ladenburg, Darneille, Ryu, Stanford and Jinkins)

Regulating loans made under the consumer loan act.

The measure was read the second time.

## MOTION

Senator Hobbs moved that the following striking amendment by Senators Hobbs, Benton and Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 31.04.025 and 2009 c 311 s 1 and 2009 c 120 s 3 are each reenacted and amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter 63.14 RCW.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities making loans under chapter 63.14 RCW (retail installment sales of goods and services);

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making ~~(loans)~~ a loan primarily for business, commercial, or agricultural purposes ~~(-or)~~ unless the loan is secured by a lien on the borrower's primary residence;

~~(f)~~ Any person making loans made to government or government agencies or instrumentalities ~~(;)~~ or making loans to organizations as defined in the federal truth in lending act;

~~((g))~~ (g) Entities making loans under chapter 43.185 RCW (housing trust fund);

~~((h))~~ (h) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing

developments or grants to low-income individuals for the purchase or repair of single-family housing; ~~((and~~

~~(h)))~~ (i) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents; and

(j) Entities making loans which are not residential mortgage loans under a credit card plan.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers. The director may adopt rules interpreting this section.

**Sec. 2.** RCW 31.04.027 and 2001 c 81 s 3 are each amended to read as follows:

It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property; ~~((or))~~

(10) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary residence that is the security for the borrower's loan;

(11) Obtain at the time of closing a release of future damages for usury or other damages or penalties provided by law or a waiver of the provisions of this chapter; or

(12) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or otherwise fail to comply with any requirement of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and regulation X, 24 C.F.R. Sec. 3500, or the equal credit

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opportunity act, 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12, or any other applicable federal statute, as now or hereafter amended, in any advertising of residential mortgage loans or any other consumer loan company activity."

Senator Hobbs spoke in favor of adoption of the striking amendment.

MOTION

Senator Benton moved that the following amendment by Senators Benton and Hatfield to the striking amendment be adopted:

On page 4, after line 6 of the striking amendment insert:

"Sec. 3. RCW 31.45.073 and 2009 c 510 s 3 are each amended to read as follows:

(1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks. A licensee may have more than one endorsement.

(2) A licensee must set the due date of a small loan on or after the date of the borrower's next pay date. If a borrower's next pay date is within seven days of taking out the loan, a licensee must set the due date of a small loan on or after the borrower's second pay date after the date the small loan is made. The termination date of a small loan may not exceed the origination date of that same small loan by more than forty-five days, including weekends and holidays, unless the term of the loan is extended by agreement of both the borrower and the licensee and no additional fee or interest is charged. The maximum principal amount of any small loan, or the outstanding principal balances of all small loans made by all licensees to a single borrower at any one time, may not exceed seven hundred dollars or thirty percent of the gross monthly income of the borrower, whichever is lower. A licensee is prohibited from making a small loan to a borrower who is in default on another small loan until after that loan is paid in full or two years have passed from the origination date of the small loan, whichever occurs first.

(3) A licensee is prohibited from making a small loan to a borrower in an installment plan with any licensee until after the plan is paid in full or two years have passed from the origination date of the installment plan, whichever occurs first.

(4) A borrower is prohibited from receiving more than ~~((eight))~~ sixteen small loans from all licensees in any twelve-month period. A licensee is prohibited from making a small loan to a borrower if making that small loan would result in a borrower receiving more than ~~((eight))~~ sixteen small loans from all licensees in any twelve-month period.

(5) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the first five hundred dollars of principal. If the principal exceeds five hundred dollars, a licensee may charge interest or fees not to exceed in the aggregate ten percent of that portion of the principal in excess of five hundred dollars. If a licensee makes more than one loan to a single borrower, and the aggregated principal of all loans made to that borrower exceeds five hundred dollars at any one time, the licensee may charge interest or fees not to exceed in the aggregate ten percent on that portion of the aggregated principal of all loans at any one time that is in excess of five hundred dollars. The director may determine by rule which fees, if any, are not subject to the interest or fee limitations described in this section. It is a violation of this chapter for any licensee to knowingly loan to a single borrower at

any one time, in a single loan or in the aggregate, more than the maximum principal amount described in this section.

(6) In connection with making a small loan, a licensee may advance moneys on the security of a postdated check. The licensee may not accept any other property, title to property, or other evidence of ownership of property as collateral for a small loan. The licensee may accept only one postdated check per loan as security for the loan. A licensee may permit a borrower to redeem a postdated check with a payment of cash or the equivalent of cash. The licensee may disburse the proceeds of a small loan in cash, in the form of a check, or in the form of the electronic equivalent of cash or a check.

(7) No person may at any time cash or advance any moneys on a postdated check or draft in excess of the amount of goods or services purchased without first obtaining a small loan endorsement to a check casher or check seller license."

On page 2, strike the title amendment and insert the following:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "small loans and loans made under the consumer loan act: amending RCW 31.04.027 and 31.45.073; and reenacting and amending RCW 31.04.025."

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Hobbs: "That amendment 316 is beyond scope and object of the bill because the amendment exceeds the scope and object of the bill I respectfully request that you rule accordingly. I do have written arguments to present to you."

Senator Benton spoke against the point of order.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the Point of Order raised by Senator Hobbs as to whether Amendment 316 to Second Substitute House Bill 1405 fits within the scope and object of the underlying bill or proposed striking amendment, the President finds and rules as follows:

This legislation makes changes to the Consumer Loan Act, limiting the types of business entities that can offer loans under Chapter 31.04 RCW. It also restricts certain provisions that may appear in such loans.

The proposed amendment expands one provision applicable to certain short term loans made by Check Cashers and Sellers under Chapter 31.45 RCW. Those loans are not governed by the Consumer Loan Act.

For this reason, the President finds that the amendment is beyond the scope and object of the bill and proposed striking amendment, and Senator Hobbs's point is well-taken."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hobbs, Benton and Rockefeller to Second Substitute House Bill No. 1405.

The motion by Senator Hobbs carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "act;" strike the remainder of the title and insert "amending RCW 31.04.027; and reenacting and amending RCW 31.04.025."

MOTION

On motion of Senator Hobbs, the rules were suspended, Second Substitute House Bill No. 1405 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1405 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1405 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

SECOND SUBSTITUTE HOUSE BILL NO. 1405 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1329, by House Committee on Transportation (originally sponsored by Representatives Maxwell, Liias, Haigh, Dammeier, Armstrong, McCoy, Finn, Billig, Hunt, Probst, Lytton, Kenney, Ryu, Frockt, Sells, Jacks, Orwall, Van De Wege, Roberts, Tharinger and Miloscia)

Creating "Music Matters" special license plates.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.200 and 2010 c 161 s 611 are each amended to read as follows:

(1) ((The legislature recognizes that the special license plate review board established in RCW 46.16.705 reviews and approves applications for special license plate series.

(2))) Special license plate series reviewed and approved by the ((special license plate review board)) department:

(a) May be issued in lieu of standard issue or personalized license plates for vehicles required to display one and two license plates unless otherwise specified;

(b) Must be issued under terms and conditions established by the department;

(c) Must not be issued for vehicles registered under chapter 46.87 RCW; and

(d) Must display a symbol or artwork approved by the ((special license plate review board)) department.  
((3) The special license plate review board approves, and) (2) The department approves and shall issue(±) the following special license plates:

| LICENSE PLATE                            | DESCRIPTION, SYMBOL, OR ARTWORK  |
|--|--|
| Armed forces collection                  | Recognizes the contribution of veterans, active duty military personnel, reservists, and members of the national guard, and includes six separate designs, each containing a symbol representing a different branch of the armed forces to include army, navy, air force, marine corps, coast guard, and national guard. |
| Endangered wildlife                      | Displays a symbol or artwork, approved by the special license plate review board and the legislature.  |
| Gonzaga University alumni                | Recognizes the Gonzaga University alumni association.  |
| Helping kids speak                       | Recognizes an organization that supports programs that provide no-cost speech pathology programs to children.  |
| Keep kids safe                           | Recognizes efforts to prevent child abuse and neglect.   |
| Law enforcement memorial                 | Honors law enforcement officers in Washington killed in the line of duty.  |
| <u>Music matters</u>                     | <u>Displays the "Music Matters" logo.</u>  |
| Professional firefighters and paramedics | Recognizes professional firefighters and paramedics who are members of the Washington state council of firefighters.   |
| Share the road                           | Recognizes an organization that promotes bicycle safety and awareness education.   |
| Ski & ride Washington                    | Recognizes the Washington snowsports industry.   |
| Washington lighthouses                   | Recognizes an organization that supports selected Washington state lighthouses and provides environmental education programs.  |
| Washington state parks                   | Recognizes Washington state parks as premier destinations of uncommon quality that preserve significant natural, cultural, historical, and recreational resources.   |
| Washington's national park fund          | Builds awareness of Washington's national parks and supports priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting   |

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| PLATE TYPE                          | INITIAL FEE | RENEWAL FEE | DISTRIBUTED UNDER              |  |   |                                 |
|-------------------------------------|-------------|-------------|--------------------------------|--|---|---------------------------------|
|                                     |             |             |                                | volunteerism, engaging communities, and providing educational opportunities related to Washington's national parks.  | (m) <u>Music matters</u>                                | \$ 40.00 \$ 30.00 RCW 46.68.420 |
| Washington's wildlife collection    |             |             |                                | Recognizes Washington's wildlife.  | (( <del>o</del> )) (o) Ride                             | \$ 25.00 N/A RCW 46.68.030      |
| We love our pets                    |             |             |                                | Recognizes an organization that assists local member agencies of the federation of animal welfare and control agencies to promote and perform spay/neuter surgery on Washington state pets to reduce pet overpopulation. | (( <del>p</del> )) (p) Share the road                   | \$ 40.00 \$ 30.00 RCW 46.68.420 |
|                                     |             |             |                                |  | (( <del>q</del> )) (q) Ski and ride                     | \$ 40.00 \$ 30.00 RCW 46.68.420 |
| Wild on Washington                  |             |             |                                | Symbolizes wildlife viewing in Washington state.   | (( <del>r</del> )) (r) Square dancer                    | \$ 40.00 N/A RCW 46.68.070      |
|                                     |             |             |                                |  | (( <del>s</del> )) (s) Washington lighthouses           | \$ 40.00 \$ 30.00 RCW 46.68.425 |
|                                     |             |             |                                |  | (( <del>t</del> )) (t) Washington state parks           | \$ 40.00 \$ 30.00 RCW 46.68.420 |
|                                     |             |             |                                |  | (( <del>u</del> )) (u) Washington's national parks      | \$ 40.00 \$ 30.00 RCW 46.68.425 |
|                                     |             |             |                                |  | (( <del>v</del> )) (v) Washington's wildlife collection | \$ 40.00 \$ 30.00 RCW 46.68.420 |
|                                     |             |             |                                |  | (( <del>w</del> )) (w) We love our pets                 | \$ 40.00 \$ 30.00 RCW 46.68.425 |
|                                     |             |             |                                |  | (( <del>x</del> )) (x) Wild on Washington               | \$ 40.00 \$ 30.00 RCW 46.68.425 |
| (a) Amateur radio license           | \$ 5.00     | N/A         | RCW 46.68.070                  |  |   |                                 |
| (b) Armed forces                    | \$ 40.00    | \$ 30.00    | RCW 46.68.425                  |  |   |                                 |
| (c) Baseball stadium                | \$ 40.00    | \$ 30.00    | Subsection (2) of this section |  |   |                                 |
| (d) Collector vehicle               | \$ 35.00    | N/A         | RCW 46.68.030                  |  |   |                                 |
| (e) Collegiate                      | \$ 40.00    | \$ 30.00    | RCW 46.68.430                  |  |   |                                 |
| (f) Endangered wildlife             | \$ 40.00    | \$ 30.00    | RCW 46.68.425                  |  |   |                                 |
| (g) Gonzaga University alumni       | \$ 40.00    | \$ 30.00    | RCW 46.68.420                  |  |   |                                 |
| (h) Helping kids speak              | \$ 40.00    | \$ 30.00    | RCW 46.68.420                  |  |   |                                 |
| (i) Horseless carriage              | \$ 35.00    | N/A         | RCW 46.68.030                  |  |   |                                 |
| (j) Keep kids safe                  | \$ 45.00    | \$ 30.00    | RCW 46.68.425                  |  |   |                                 |
| (k) Law enforcement memorial        | \$ 40.00    | \$ 30.00    | RCW 46.68.420                  |  |   |                                 |
| (l) Military affiliate radio system | \$ 5.00     | N/A         | RCW 46.68.070                  |  |   |                                 |

(4) Applicants for initial and renewal professional firefighters and paramedics special license plates must show proof eligibility by providing a certificate of current membership from the Washington state council of firefighters.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.04 RCW to read as follows:

"Music Matters license plates" means special license plates issued under RCW 46.18.200 that display the "Music Matters" logo.

**Sec. 3.** RCW 46.17.220 and 2010 c 161 s 521 are each amended to read as follows:

(1) In addition to all fees and taxes required to be paid upon application for a vehicle registration in chapter ~~(46.16)~~ 46.16A RCW, the holder of a special license plate shall pay the appropriate special license plate fee as listed in this section.

(2) After deducting administration and collection expenses for the sale of baseball stadium license plates, the remaining proceeds must be distributed to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs, while the taxes are being collected under RCW 82.14.360. After this date, the state treasurer shall credit the funds to the state general fund.

**Sec. 4.** RCW 46.68.420 and 2010 c 161 s 809 are each amended to read as follows:

(1) The department shall:

(a) Collect special license plate fees established under RCW 46.17.220 ((that were approved by the special license plate review board under RCW 46.18.200));

(b) Deduct an amount not to exceed twelve dollars for initial issue and two dollars for renewal issue for administration and collection expenses incurred by it; and

(c) Remit the remaining proceeds to the custody of the state treasurer with a proper identifying detailed report.

(2) The state treasurer shall credit the proceeds to the motor vehicle account until the department determines that the state has been reimbursed for the cost of implementing the special license plate. Upon determination by the department that the state has been reimbursed, the state treasurer shall credit the remaining special license plate fee amounts for each special license plate to the following appropriate account as created in this section in the custody of the state treasurer:

| ACCOUNT  | CONDITIONS FOR USE OF FUNDS  | parks  |
|--|--|--|
| Gonzaga University alumni association                    | Scholarship funds to needy and qualified students attending or planning to attend Gonzaga University   | We love our pets   |
| Helping kids speak                                       | Provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development   | Support and enable the Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington state pets in order to reduce pet population  |
| Law enforcement memorial                                 | Provide support and assistance to survivors and families of law enforcement officers in Washington killed in the line of duty and to organize, finance, fund, construct, utilize, and maintain a memorial on the state capitol grounds to honor those fallen officers  | (3) Only the director or the director's designee may authorize expenditures from the accounts described in subsection (2) of this section. The accounts are subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.  |
| Lighthouse environmental programs                        | Support selected Washington state lighthouses that are accessible to the public and staffed by volunteers; provide environmental education programs; provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration; encourage and support interpretive programs by lighthouse docents | (4) Funds in the special license plate accounts described in subsection (2) of this section must be disbursed subject to the conditions described in subsection (2) of this section and under contract between the department and qualified nonprofit organizations that provide the services described in subsection (2) of this section. |
| <u>Music matters awareness</u>                           | <u>Promote music education in schools throughout Washington</u>  | (5) For the purposes of this section, a "qualified nonprofit organization" means a not-for-profit corporation operating in Washington that has received a determination of tax exempt status under 26 U.S.C. Sec. 501(c)(3). The qualified nonprofit organization must meet all the requirements under RCW 46.18.100(1).                   |
| Share the road   | Promote bicycle safety and awareness education in communities throughout Washington  | <b>Sec. 5.</b> RCW 46.18.060 and 2010 1st sp.s. c 7 s 94 and 2010 c 161 s 604 are each reenacted and amended to read as follows:   |
| Ski & ride Washington                                    | Promote winter snowsports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs, underprivileged youth ski and ride programs, and active, healthy lifestyle programs  | (1) ((The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.  |
| Washington state council of firefighters benevolent fund | Receive and disseminate funds for charitable purposes on behalf of members of the Washington state council of firefighters, their families, and others deemed in need  | (2))) The ((board)) <u>department</u> must review and either approve or reject special license plate applications submitted by sponsoring organizations.   |
| Washington's national park fund                          | Build awareness of Washington's national parks and support priority park programs and projects in Washington's national parks, such as enhancing visitor experience, promoting volunteerism, engaging communities, and providing educational opportunities related to Washington's national  | (( <del>3</del> )) <u>(2)</u> Duties of the (( <del>board</del> )) <u>department</u> include, but are not limited to, the following:   |

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the ((~~senate and house transportation committees~~)) joint transportation committee;

(b) Report annually to the ((~~senate and house of representatives transportation committees~~)) joint transportation committee on the special license plate applications that were considered by the ((~~board~~)) department;

(c) Issue approval and rejection notification letters to sponsoring organizations, ((~~the department,~~)) the ((~~chairs of the senate and house of representatives transportation committees~~)) joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The ((~~board~~)) department may submit a recommendation to discontinue a special license plate series to the chairs of the ((~~senate and house of representatives transportation committees~~); and

~~—(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates for which an organization or a governmental entity may apply~~) joint transportation committee.

((~~4~~)) (3) Except as provided in RCW 46.18.245, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, 2011. During this period of time, ((~~the special license plate review board created in~~

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~~RCW 46.16.705 and~~) the department ~~((are))~~ is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

(4) The Music Matters license plates created under RCW 46.18.200 are exempt from the requirements of subsection (3) of this section.

NEW SECTION. Sec. 6. This act takes effect January 1, 2012."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1329.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "plates;" strike the remainder of the title and insert "amending RCW 46.18.200, 46.17.220, and 46.68.420; reenacting and amending RCW 46.18.060; adding a new section to chapter 46.04 RCW; and providing an effective date."

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1329 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1329 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1329 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

SUBSTITUTE HOUSE BILL NO. 1329 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1358, by Representatives Klippert, Liias and Sells

Modifying combination of vehicle provisions.

The measure was read the second time.

MOTION

On motion of Senator King, the rules were suspended, House Bill No. 1358 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1358.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1358 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1358, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1382, by Representatives Clibborn, Maxwell, Liias, Eddy, Hunter and Springer

Concerning the use of express toll lanes in the eastside corridor.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that the Puget Sound region is faced with growing traffic congestion and has limited ability to expand freeway capacity due to financial, environmental, and physical constraints. Freeway high occupancy vehicle lanes have been an effective means of providing transit, vanpools, and carpools with a fast trip on congested freeway corridors, but in many cases, these lanes operate beyond their capacity during peak commute times.

It is the intent of the legislature to improve mobility for people and goods by maximizing the effectiveness of the freeway system. An express toll lanes network is one approach for managing the use of freeway high occupancy vehicle lanes and, at the same time, generating funds to improve the Interstate 405 and state route number 167 corridor. The legislature acknowledges that as one of the most congested freeway sections in the state, the combined

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Interstate 405 and state route number 167 corridor serves as an ideal candidate for the use of an express toll lanes network. An express toll lanes network could provide benefits for movement of vehicles and people, as well as having the potential to generate revenue for other improvements in the Interstate 405 and state route number 167 corridor, also known as the eastside corridor.

The legislature also recognizes the need for geographic balance and regional equity in decisions regarding tolling and pricing, and intends to consider the implementation of express toll lanes on other facilities in the region in the future. It is further the intent of the legislature to use its evaluation of initial express toll lanes on Interstate 405 to guide additions to the express toll lanes network, particularly in the most congested areas of the Interstate 405 and state route number 167 corridor, such as the Renton-to-Bellevue segment and the Interstate 405/state route number 167 interchange, with the ultimate goal of continuous express toll lanes from Puyallup to Lynnwood.

Therefore, it is the intent of this act to direct the department of transportation to develop and operate express toll lanes on Interstate 405 between the city of Bellevue on the south end and Interstate 5 on the north end and to conduct an evaluation of that project to determine the impacts on the movement of vehicles and people through the Interstate 405 and state route number 167 corridor, effectiveness for transit, carpools and single occupancy vehicles, and feasibility of financing capacity improvements through tolls.

**Sec. 2.** RCW 47.56.810 and 2008 c 122 s 3 are each amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

(2) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of the eligible toll facility.

(4) "Express toll lanes" means one or more high occupancy vehicle lanes of a highway in which the department charges tolls primarily as a means of regulating access to or use of the lanes to maintain travel speed and reliability.

**NEW SECTION. Sec. 3.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

(1) The imposition of tolls for express toll lanes on Interstate 405 between the junctions with Interstate 5 on the north end and NE 6th Street in the city of Bellevue on the south end is authorized, Interstate 405 is designated an eligible toll facility, and toll revenue generated in the corridor must only be expended as allowed under RCW 47.56.820.

(2) Toll for the express toll lanes must be set as follows:

(a) The schedule of toll rates must be set by the tolling authority pursuant to RCW 47.56.850. Toll rates may vary in amount by time of day, level of traffic congestion within the highway facility, or other criteria, as the tolling authority deems appropriate.

(b) In those locations with two express toll lanes in each direction, the toll rate must be the same in both lanes.

(c) Toll charges may not be assessed on transit buses and vanpools.

(d) The department shall establish performance standards for travel time, speed, and reliability for the express toll lanes project. The department must automatically adjust the toll rate within the schedule established by the tolling authority, using dynamic tolling, to ensure that average vehicle speeds in the lanes remain above forty-five miles per hour at least ninety percent of the time during peak hours.

(e) The tolling authority shall periodically review the toll rates against traffic performance of all lanes to determine if the toll rates are effectively maintaining travel time, speed, and reliability on the highway facilities.

(3) The department may construct and operate express toll lanes on Interstate 405 between the city of Bellevue on the south end and Interstate 5 on the north end. Operation of the express toll lanes may not commence until the department has completed capacity improvements necessary to provide a two-lane system from NE 6th Street in the city of Bellevue to state route number 522 and the conversion of the existing high occupancy vehicle lane to an express toll lane between state route number 522 and the city of Lynnwood. Construction of the capacity improvements described in this subsection, including items that enable implementation of express toll lanes such as conduit and other underground features, must begin as soon as practicable. However, any contract term regarding tolling equipment, such as gantries, barriers, or cameras, for Interstate 405 may not take effect unless specific appropriation authority is provided in 2012 stating that funding is provided solely for tolling equipment on Interstate 405. The department shall work with local jurisdictions to minimize and monitor impacts to local streets and, after consultation with local jurisdictions, recommend mitigation measures to the legislature in those locations where it is appropriate.

(4) The department shall monitor the express toll lanes project and shall annually report to the transportation commission and the legislature on the impacts from the project on the following performance measures:

(a) Whether the express toll lanes maintain speeds of forty-five miles per hour at least ninety percent of the time during peak periods;

(b) Whether the average traffic speed changed in the general purpose lanes;

(c) Whether transit ridership changed;

(d) Whether the actual use of the express toll lanes is consistent with the projected use;

(e) Whether the express toll lanes generated sufficient revenue to pay for all Interstate 405 express toll lane-related operating costs;

(f) Whether travel times and volumes have increased or decreased on adjacent local streets and state highways; and

(g) Whether the actual gross revenues are consistent with projected gross revenues as identified in the fiscal note for Engrossed House Bill No. 1382 distributed by the office of financial management on March 15, 2011.

(5) If after two years of operation of the express toll lanes on Interstate 405 performance measures listed in subsection (4)(a) and (e) of this section are not being met, the express toll lanes project must be terminated as soon as practicable.

(6) The department, in consultation with the transportation commission, shall consider making operational changes necessary to fix any unintended consequences of implementing the express toll lanes project.

(7) A violation of the lane restrictions applicable to the express toll lanes established under this section is a traffic infraction.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

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(1)(a) The transportation commission shall retain appropriate independent experts and conduct a traffic and revenue analysis for the development of a forty-mile continuous express toll lane system that includes state route number 167 and Interstate 405. The analysis must include a review of the following variables within the express toll lane system:

(i) Vehicles with two or more occupants are exempt from payment;

(ii) Vehicles with three or more occupants are exempt from payment;

(iii) A variable fee; and

(iv) A flat rate fee.

(b) The department, in consultation with the transportation commission, shall develop a corridor-wide project management plan to develop a strategy for phasing the completion of improvements in the Interstate 405 and state route number 167 corridor.

(2) The department, in consultation with the transportation commission, shall use the information from the traffic and revenue analysis and the corridor-wide project management plan to develop a finance plan to fund improvements in the Interstate 405 and state route number 167 corridor. The department must include the following elements in the finance plan:

(a) Current state and federal funding contributions for projects in the Interstate 405 and state route number 167 corridor;

(b) A potential future state and federal funding contribution to leverage toll revenues;

(c) Financing mechanisms to optimize the revenue available for capacity improvements including, but not limited to, using the full faith and credit of the state;

(d) An express toll lane system operating in the Interstate 405 and state route number 167 corridor by 2014; and

(e) Completion of the capacity improvements in the Interstate 405 and state route number 167 corridor.

(3) The department and the transportation commission must consult with a committee consisting of local and state elected officials from the Interstate 405 and state route number 167 corridor and representatives from the transit agencies that operate in the Interstate 405 and state route number 167 corridor while developing the performance standards, traffic and revenue analysis, and finance plan.

(4) The transportation commission must provide the traffic and revenue analysis plan, and the department must provide the finance plan, to the governor and the legislature by January 2012. The department shall provide technical and other support as requested by the transportation commission to complete the plans identified in this subsection. Funds from Interstate 405 capital project appropriations may be used by the transportation commission through an interagency agreement with the department to cover the cost of the plans identified in this subsection.

(5) The department shall conduct ongoing education and outreach to ensure public awareness of the express toll lane system.

**NEW SECTION. Sec. 5.** A new section is added to chapter 47.56 RCW under the subchapter heading "toll facilities created after July 1, 2008" to read as follows:

The Interstate 405 express toll lanes operations account is created in the motor vehicle fund. All revenues received by the department as toll charges collected from Interstate 405 express toll lane users must be deposited into the account. Moneys in the account may be spent only after appropriation. Consistent with RCW 47.56.820, expenditures from the account may be used for debt service, planning, administration, construction, maintenance, operation, repair, rebuilding, enforcement, and the expansion of express toll lanes on Interstate 405.

**Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education

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construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state

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treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen to the committee striking amendment be adopted:

Beginning on page 1, line 3 of the amendment, strike all material through page 10, line 2 and insert the following:

**"NEW SECTION. Sec. 1.** The legislature acknowledges that public-private initiatives provide benefits to both the public and private sectors. Such initiatives will provide the state with increased access to project development opportunities and financial and development expertise, and will supplement state transportation revenues, allowing the state to use its limited resources for other needed projects.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The department may solicit, evaluate, negotiate, and administer a public-private partnership for the construction, operation, and maintenance of high occupancy toll lanes on Interstate 405 between the junctions with Interstate 5 on the north end and NE 6th Street in the city of Bellevue on the south end. Any public-private partnership proposal entered into by the department must demonstrate that revenues generated on high occupancy toll lanes on Interstate 405 will, at a minimum, exceed operating costs of the toll facility and provide at least fifty percent of the planned capital construction costs for capacity improvements on Interstate 405 between Bellevue and Renton, identified as option four in the department's eastside corridor tolling study provided to the legislature in January 2010.

(2) Any public-private partnership agreements for constructing and operating high occupancy toll lanes on Interstate 405 entered into by the department should establish the conditions under which the private developer may secure the approval necessary to: Develop and operate the proposed transportation facilities; create a framework to attract the private capital necessary to finance their development; ensure that the proposed transportation facilities will be designed, constructed, and operated in accordance with applicable local, regional, state, and federal laws and the applicable standards and policies of the department; and require a demonstration that the proposed transportation facilities have the support of the affected communities and local jurisdictions.

(3) If, by June 1, 2011, no public-private partnership has been entered into by the department for the purposes identified in subsection (1) of this section, the department shall construct the Interstate 405/Kirkland Vicinity - Stage 2 widening project, funded in part by the 2003 nickel funding package, as soon as practicable to provide additional general purpose lane capacity on Interstate 405.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 10, beginning on line 4 of the title amendment, after "insert" strike the remainder of the title and insert "adding a new section to chapter 47.01 RCW; creating a new section; and declaring an emergency."

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Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Haugen and King spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 1, line 3 to the committee striking amendment to Engrossed House Bill No. 1382.

The motion by Senator Ericksen failed and the amendment to the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen to the committee striking amendment be adopted:

Beginning on page 1, line 3 of the amendment, strike all material through page 10, line 2 and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 47.01 RCW to read as follows:

Construction of the Interstate 405/Kirkland Vicinity - Stage 2 widening project, funded in part by the 2003 nickel funding package, must be constructed as soon as practicable to provide additional general purpose lane capacity on Interstate 405. Elements of the project may include underground features only, such as conduit, necessary to accommodate potential future toll lanes.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.01 RCW to read as follows:

The commission shall retain appropriate independent experts and conduct a traffic and revenue analysis for the development of a forty-mile continuous express toll lane system and an all-lane flat rate tolled system that includes state route number 167 and Interstate 405. The analysis must include a review of the following variables within the express toll lane system:

- (1) Vehicles with two or more occupants are exempt from payment;
- (2) Vehicles with three or more occupants are exempt from payment;
- (3) A variable fee; and
- (4) A flat rate fee."

On page 10, beginning on line 4 of the title amendment, after "insert" strike the remainder of the title and insert "and adding new sections to chapter 47.01 RCW."

Senator Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Haugen and King spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 1, line 3 to the committee striking amendment to Engrossed House Bill No. 1382.

The motion by Senator Ericksen failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed House Bill No. 1382.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "corridor;" strike the remainder of the title and insert "amending RCW 47.56.810; reenacting and amending RCW 43.84.092; adding new sections to chapter 47.56 RCW; creating a new section; and prescribing penalties."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed House Bill No. 1382 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, King, Nelson and Pflug spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1382 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1382 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Ericksen, Holmquist Newbry, Honeyford, Keiser, Morton, Roach, Sheldon, Stevens and Zarelli

ENGROSSED HOUSE BILL NO. 1382 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Swecker: "I must be getting old, I think of these things as I'm voting on these bills. In the early, actually it was in 2001 we formed a group called the Transportation Permit Efficiency and Accountability Committee and our goal was to streamline the transportation permits and have better environmental outcomes. It was interesting on the 405 corridor we had a whole series of projects in the rounded number of cost was around ten billion dollars. We put together a team to expedite the permit process and we brought the project in for closer to nine billion dollars which was a significant savings for the state of Washington. Since that time some of our costs have gone down because of the economy and I know that Senator Haugen mentioned that we have eight billion dollars of work to do on that corridor but it's just interesting to know that some of these kinds of processes can achieve savings in the billion range so, worthy to think about, just occurred to me. Thank you."

#### SECOND READING

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SUBSTITUTE HOUSE BILL NO. 1384, by House Committee on Transportation (originally sponsored by Representatives Moscoso, Liias, Clibborn, Billig, Ryu, Kenney, Stanford and Reykdal)

Concerning public improvement contracts involving certain federally funded transportation projects.

The measure was read the second time.

## MOTION

Senator Nelson moved that the following amendment by Senators Nelson and Prentice be adopted:

On page 1, at the beginning of line 7, strike "federal-aid highway" and insert "transportation"

On page 2, line 7, after "contracts" strike all material through "street" on line 8

## WITHDRAWAL OF AMENDMENT

On motion of Senator Nelson, the amendment by Senators Nelson and Prentice on page 1, line 7 to Substitute House Bill No. 1384 was withdrawn.

## MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1384 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Nelson spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1384.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1384 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Ranker

SUBSTITUTE HOUSE BILL NO. 1384, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1483, by House Committee on Transportation (originally sponsored by Representative Pearson)

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Authorizing payment plans for traffic infractions. Revised for 1st Substitute: Modifying the form for a notice of traffic infraction.

The measure was read the second time.

## MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1483 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1483.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1483 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Ranker

SUBSTITUTE HOUSE BILL NO. 1483, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635, by House Committee on Transportation (originally sponsored by Representatives Uptegrove, Clibborn, Eddy, Armstrong, Liias, Rivers, Angel, Van De Wege, Wilcox, Maxwell, Rolfes, Finn, Sullivan, Dammeier, Orwall, Warnick and Moscoso)

Concerning the administration of exams and renewals for drivers' licenses. Revised for 1st Substitute: Concerning the administration of exams for and issuance and renewal of certain drivers' licenses and identicards.

The measure was read the second time.

## MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to utilize the infrastructure and resources of the commercial driver training schools and the school districts' traffic safety education programs by authorizing these entities to provide driver licensing examinations. The legislature intends for the department of licensing to authorize the administration of driver licensing examinations by these entities in order to maintain and reprioritize

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its staff for the purpose of reducing the wait times at its driver licensing offices.

Further, the legislature recognizes the growing importance of the work performed by department of licensing driver licensing services employees, who play an increasingly vital role in our security by ensuring that applicants are properly issued identification.

**Sec. 2.** RCW 28A.220.030 and 2000 c 115 s 9 are each amended to read as follows:

(1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define a "realistic level of effort" required to provide an effective traffic safety education course, establish a level of driving competency required of each student to successfully complete the course, and ensure that an effective statewide program is implemented and sustained, administer, supervise, and develop the traffic safety education program and shall assist local school districts in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules and regulations governing the operation and scope of the traffic safety education program; and each school district shall submit a report to the superintendent on the condition of its traffic safety education program: PROVIDED, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education course. If a school district elects to offer a traffic safety education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one class in traffic safety education shall be given at times other than regular school hours if there is sufficient demand therefor.

(3) The board of directors of a school district, or combination of school districts, may contract with any drivers' school licensed under the provisions of chapter 46.82 RCW to teach the laboratory phase of the traffic safety education course. Instructors provided by any such contracting drivers' school must be properly qualified teachers of traffic safety education under the joint qualification requirements adopted by the superintendent of public instruction and the director of licensing.

(4) The superintendent shall establish a required minimum number of hours of continuing traffic safety education for traffic safety education instructors. The superintendent may phase in the requirement over not more than five years.

(5) School districts that offer a traffic safety education program under this chapter may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle as authorized under RCW 46.20.120(7). The superintendent shall work with the department of licensing, in consultation with school districts that offer a traffic safety education program, to develop standards and requirements for administering each portion of the driver licensing examination that are comparable to the standards and requirements for driver training schools under section 6 of this act.

(6) Before a school district may provide a portion of the driver licensing examination, the school district must, after consultation with the superintendent, enter into an agreement with the department of licensing that sets forth an accountability and audit process that takes into account the unique nature of school district facilities and school hours and, at a minimum, contains provisions that:

- (a) Allow the department of licensing to conduct random examinations, inspections, and audits without prior notice;
- (b) Allow the department of licensing to conduct on-site inspections at least annually;
- (c) Allow the department of licensing to test, at least annually, a

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random sample of the drivers approved by the school district for licensure and to cancel any driver's license that may have been issued to any driver selected for testing who refuses to be tested; and

(d) Reserve to the department of licensing the right to take prompt and appropriate action against a school district that fails to comply with state or federal standards for a driver licensing examination or to comply with any terms of the agreement.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.01 RCW to read as follows:

A civil suit or action may not be commenced or prosecuted against the director, the state of Washington, any driver training school licensed by the department, any other government officer or entity, including a school district or an employee of a school district, or against any other person, by reason of any act done or omitted to be done in connection with administering the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle. This section does not bar the state of Washington or the director from bringing any action, whether civil or criminal, against any driver training school licensed by the department.

**Sec. 4.** RCW 46.20.120 and 2005 c 314 s 306 and 2005 c 61 s 2 are each reenacted and amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department (~~shall give~~) must ensure that examinations are given at places and times reasonably available to the people of this state. If the department does not administer driver licensing examinations as a routine part of its licensing services within a department region because adequate testing sites are provided by driver training schools or school districts within that region, the department shall, at a minimum, administer driver licensing examinations by appointment to applicants eighteen years of age and older in at least one licensing office within that region.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) All or any part of the examination involving operating a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; or

(ii) Provides for verification a valid driver's license issued by a foreign driver licensing jurisdiction with which the department has an informal agreement under RCW 46.20.125; and

(iii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of twenty dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than five years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her license by mail or by electronic commerce when it last expired. ~~((However, the department may accept an application for renewal of a driver's license submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.))~~

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(4) A person whose license expired or will expire while he or she is living outside the state, may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5) If a qualified person submits an application for renewal under subsection (3)(b) or (4)(b) of this section, he or she is not required to pass an examination nor provide an updated photograph. A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

(6) Driver training schools licensed by the department under chapter 46.82 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

(7) School districts that offer a traffic safety education program under chapter 28A.220 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

**Sec. 5.** RCW 46.20.515 and 2003 c 41 s 3 are each amended to read as follows:

(1) The motorcycle endorsement examination must emphasize maneuvers necessary for on-street operation, including emergency braking and turning as may be required to avoid an impending collision.

(2) The examination for a two-wheeled motorcycle endorsement and the examination for a three-wheeled motorcycle endorsement must be separate and distinct examinations emphasizing the skills and maneuvers necessary to operate each type of motorcycle.

(3) The department may authorize an entity that has entered into a contract under RCW 46.20.520 to administer the motorcycle endorsement examination.

(4) The department may waive all or part of the examination for persons who satisfactorily complete the voluntary motorcycle operator training and education program authorized under RCW 46.20.520 or who satisfactorily complete a private motorcycle skills education course that has been certified by the department under RCW 46.81A.020.

**NEW SECTION. Sec. 6.** A new section is added to chapter 46.82 RCW to read as follows:

(1) Driver training schools may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle as authorized under RCW 46.20.120(6).

(2) The director shall adopt rules to regulate the administration of the knowledge and driving portions of the driver licensing examination. The rules must include, but are not limited to, the following provisions:

(a) Limitations or requirements that determine which driver training schools may administer the knowledge portion of the examination;

(b) Limitations or requirements that determine which driver training schools may administer the driving portion of the examination;

(c) Requirements for the content and method of conducting the examinations to ensure consistency with industry practices;

(d) Requirements for recordkeeping;

(e) A requirement that all driver training school employees conducting driver licensing examinations meet the same qualifications and education and training standards as department employees who conduct such examinations, to the extent necessary to conduct the written and driving skills portions of the examinations;

(f) Requirements related to whether a driver training school staff member may provide both driver training instruction and the driver licensing examination to any one student;

(g) Requirements for retesting and expiring examination results;

(h) Limitations on fees that may be charged by driver training schools for administering the knowledge portion of the examination and the driving portion of the examination. The examination fees must be limited to an amount that does not exceed the amount that is sufficient for driver training schools to recover the costs of administering each examination;

(i) Requirements for the department to monitor outcomes for applicants who take a driver licensing examination through a driver training school and to make the outcomes available to the public;

(j) Requirements for annual auditing, which must include the collection of current information regarding insurance, curriculums, instructors' names and licenses, and a selection of random student files to review for accuracy; and

(k) Sanctions for violations of the rules adopted under this section.

(3) Before a driver training school may provide a portion of the driver licensing examination, it must enter into an agreement with the department that, at a minimum, contains provisions that:

(a) Allow the department to conduct random examinations, inspections, and audits without prior notice;

(b) Allow the department to conduct on-site inspections at least annually;

(c) Allow the department to test, at least annually, a random sample of the drivers approved by the driver training school for licensure and to cancel any driver's license that may have been issued to any driver selected for testing who refuses to be tested; and

(d) Reserve to the department the right to take prompt and appropriate action against a driver training school that fails to comply with state or federal standards for a driver licensing examination or to comply with any terms of the agreement.

**NEW SECTION. Sec. 7.** In communications facilitating the transition to driver training schools and school districts administering portions of the driver licensing examination, the department of licensing shall include at least one representative from each stakeholder group, including the superintendent of public instruction, driver training schools, the unions representing licensing services representatives, and the Washington state school directors' association."

Senator King spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator White moved that the following amendment by Senators White and King to the committee striking amendment be adopted:

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On page 7, beginning on line 4 of the amendment, after "(h)" strike all material through "(i)" on line 10

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators White and King spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators White and King on page 7, line 4 to the committee striking amendment to Engrossed Substitute House Bill No. 1635.

The motion by Senator White carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Engrossed Substitute House Bill No. 1635.

The motion by Senator King carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "offices;" strike the remainder of the title and insert "amending RCW 28A.220.030 and 46.20.515; reenacting and amending RCW 46.20.120; adding a new section to chapter 46.01 RCW; adding a new section to chapter 46.82 RCW; and creating new sections."

#### MOTION

On motion of Senator King, the rules were suspended, Engrossed Substitute House Bill No. 1635 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1635 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1635 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1897, by House Committee on Transportation (originally sponsored by Representatives Billig, Johnson, Clibborn, Armstrong, Liias, Takko, Walsh, Blake, Dunshee, Rolfes, Van De Wege, Lytton, Fitzgibbon and Ormsby)

Establishing a rural mobility grant program.

The measure was read the second time.

#### MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1897 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1897.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1897 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

SUBSTITUTE HOUSE BILL NO. 1897, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1933, by House Committee on Transportation (originally sponsored by Representative Finn)

Addressing fraud and law enforcement safety for certain license plates. Revised for 1st Substitute: Addressing license plate fraud and law enforcement safety for collector vehicles.

The measure was read the second time.

#### MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.18.220 and 2010 c 161 s 617 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a

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collector vehicle license plate for a motor vehicle that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters ~~((46.16))~~ 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(1)(d), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide ~~((a))~~ an actual Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates may be transferred from one motor vehicle to another motor vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director and upon payment of a transfer fee to the department as listed in RCW 46.17.200(1)(c).

(6) Any person who knowingly provides a false or facsimile license plate under subsection (2)(b) of this section is subject to a traffic infraction and fine in an amount equal to the monetary penalty for a violation of RCW 46.16A.200(7)(b). Additionally, the person must pay for the cost of a collector vehicle license plate as listed in RCW 46.17.220(1)(d), unless already paid.

NEW SECTION. Sec. 2. A new section is added to chapter 46.18 RCW to read as follows:

The department must provide a method by which law enforcement officers may readily access vehicle information for collector vehicles by using the collector vehicle license plate number. In the event duplicate license plate numbers have been issued to more than one collector vehicle, the department must provide a method for law enforcement officers to identify the correct vehicle.

NEW SECTION. Sec. 3. Section 1 of this act takes effect August 1, 2011.

NEW SECTION. Sec. 4. Section 2 of this act takes effect January 1, 2012."

#### MOTION

Senator Haugen moved that the following amendment by Senator Haugen to the committee striking amendment be adopted:

On page 1, line 28 of the amendment, after "plates" insert "under subsection (2)(b) of this section"

On page 2, beginning on line 2 of the amendment, after "director" strike all material through "46.17.200(1)(c)" on line 3

Senators Haugen and King spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 1, line 28 to the committee striking amendment to Substitute House Bill No. 1933.

The motion by Senator Haugen carried and the amendment to the committee striking amendment was adopted by voice vote.

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The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Substitute House Bill No. 1933.

The motion by Senator King carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "certain collector vehicle license plate provisions; amending RCW 46.18.220; adding a new section to chapter 46.18 RCW; prescribing penalties; and providing effective dates."

#### MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1933 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1933 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1933 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry and Stevens

SUBSTITUTE HOUSE BILL NO. 1933 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967, by House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Armstrong, Lias, Nealey, Clibborn, Billig, Frockt and Reykdal)

Concerning public transportation systems.

The measure was read the second time.

#### MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

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**Sec. 1.** RCW 35.58.2795 and 1994 c 158 s 6 are each amended to read as follows:

By ~~((April))~~ September 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, and each regional transit authority shall prepare a six-year transit development plan for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first-class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. The six-year plan for each municipality and regional transit authority shall specifically set forth those projects of regional significance for inclusion in the transportation improvement program within that region. Each municipality and regional transit authority shall file the six-year program with the state department of transportation, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality and the regional transit authority shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan approved by the state transportation commission and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

**Sec. 2.** RCW 35.58.2796 and 2005 c 319 s 101 are each amended to read as follows:

(1) The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state for the previous calendar year. By ~~((September))~~ December 1st of each year, ~~((copies of))~~ the report ~~((shall be submitted))~~ must be made available to the transportation committees of the legislature and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority.

(2) To assist the department with preparation of the report, each municipality shall file a system report by ~~((April))~~ September 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

(3) The department report shall describe individual public transportation systems, including contracted transportation services and dial-a-ride services, and include a statewide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the transportation committees of the legislature:

~~((+))~~ (a) Equipment and facilities, including vehicle replacement standards;

~~((2))~~ (b) Services and service standards;

~~((3))~~ (c) Revenues, expenses, and ending balances, by fund source;

~~((4))~~ (d) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address statewide transportation priorities;

~~((5))~~ (e) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour,

passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

(4) To the extent that information is available, the department report must include descriptive information on any other modes of public transportation, the impact of public transportation on transportation system performance, and how public transportation helps the state meet the transportation system policy goals described in RCW 47.04.280.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.19 RCW to read as follows:

New state facilities, to be located within the boundaries of a public transportation system identified under RCW 82.14.045, may only be sited after the department has consulted with the respective public transportation system to ensure that the new state facilities are located in an area that is adequately accessible by transit service."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Engrossed Substitute House Bill No. 1967.

The motion by Senator Haugen carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "modifying provisions related to public transportation system planning; amending RCW 35.58.2795 and 35.58.2796; and adding a new section to chapter 43.19 RCW."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 1967 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1967 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1967 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Holmquist Newbry, Honeyford, Schoesler and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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SECOND READING

SUBSTITUTE HOUSE BILL NO. 1046, by House Committee on Transportation (originally sponsored by Representatives Moeller, Condotta and Morris)

Concerning vehicle and vessel quick title.

The measure was read the second time.

MOTION

Senator King moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1) The application for a quick title of a vehicle must be submitted by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle, when required;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under section 2 of this act; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) The quick title process authorized under this section may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle as defined in RCW 46.04.514.

(7) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.17 RCW under the subchapter heading "certificate of title fees" to read as follows:

Before accepting an application for a quick title of a vehicle under section 1 of this act, the department, participating county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a twenty-five dollar quick title service fee in addition to any other fees and taxes required by law. The quick title service fee must be distributed under section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The quick title service fee imposed under section 2 of this act must be distributed as follows:

(a) If the fee is paid to the director, the fee must be deposited to the motor vehicle fund established under RCW 46.68.070.

(b) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twelve dollars and fifty cents must be deposited to the motor vehicle fund established under RCW 46.68.070. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(2) For the purposes of this section, "quick title" has the same meaning as in section 1 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) The application for a quick title of a vessel must be made by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, series, and body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 88.02.640(1); and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

**Sec. 5.** RCW 88.02.640 and 2010 c 161 s 1028 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

| FEE  | AMOUN<br>T                     | AUTHORITY                               | DISTRIBUTIO<br>N               |
|--|--------------------------------|---|--------------------------------|
| (a) Dealer temporary permit                      | \$5.00                         | RCW 88.02.800(2)                        | General fund                   |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsections (3) and (4) of this section | Subsection (3) of this section |
| (c) Duplicate registration                       | \$1.25                         | RCW 88.02.590(1)(c)                     | General fund                   |

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|  |                  |                                 |                                       |
|--|------------------|---------------------------------|---------------------------------------|
| (d) Filing                                 | RCW<br>46.17.005 | RCW<br>46.17.005                | RCW 46.68.440                         |
| (e) License plate technology               | RCW<br>46.17.015 | RCW<br>46.17.015                | RCW 46.68.400                         |
| (f) License service                        | RCW<br>46.17.025 | RCW<br>46.17.025                | RCW 46.68.220                         |
| (g) Nonresident vessel permit              | \$25.00          | RCW<br>88.02.620(3)             | Subsection (6) of this section        |
| (h) <u>Quick title service</u>             | <u>\$25.00</u>   | <u>Section 4(3) of this act</u> | <u>Subsection (7) of this section</u> |
| (i) Registration                           | \$10.50          | RCW<br>88.02.560(2)             | General fund                          |
| <del>((4))</del> (j) Replacement decal     | \$1.25           | RCW<br>88.02.595(1)(c)          | General fund                          |
| <del>((4))</del> (k) Title application     | \$5.00           | RCW<br>88.02.515                | General fund                          |
| <del>((4))</del> (l) Transfer              | \$1.00           | RCW<br>88.02.560(7)             | General fund                          |
| <del>((4))</del> (m) Vessel visitor permit | \$30.00          | RCW<br>88.02.610(3)             | General fund                          |

the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The twenty-five dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twelve dollars and fifty cents must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(b) For the purposes of this subsection, "quick title" has the same meaning as in section 4 of this act.

NEW SECTION. Sec. 6. This act applies to quick title transactions processed on and after January 1, 2012.

NEW SECTION. Sec. 7. This act takes effect January 1, 2012."

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) Until June 30, 2012, the derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Substitute House Bill No. 1046.

The motion by Senator King carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "title;" strike the remainder of the title and insert "amending RCW 88.02.640; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.17 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 88.02 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1046 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators King and Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1046 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1046 as amended by the Senate and the bill

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passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Erickson, Holmquist Newbry, Kastama and Stevens

SUBSTITUTE HOUSE BILL NO. 1046 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 12:35 p.m. by President Owen.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the Point of Order raised by Senator Holmquist Newbry as to whether the Ways & Means Committee amendment to Senate Bill 5907 fits within the scope and object of the underlying bill, the President finds and rules as follows:

This legislation addresses the serious subject of the security of personnel working within Washington's correctional facilities. In its initial form, the bill establishes several methods to address the protocols and equipment related to the safety of Department of Corrections' employees. These include the creation of a statewide security advisory committee, the establishment of local security committees, and the creation of multidisciplinary teams at certain DOC facilities. Each of these includes significant involvement by personnel at many levels of the correctional system.

The bill also provides for the use of consultants, working with the statewide advisory committee, to assess the use of various forms of safety equipment within the prison system.

The proposed committee amendment would add safety and equipment to the list of issues that may be collectively bargained, a separate subject not found in the underlying bill.

For this reason, the President finds that the amendment is beyond the scope and object of the bill, and Senator Holmquist Newbry's point is well-taken."

#### MOTION

On motion of Senator Eide, further consideration of Senate Bill No. 5907 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1560, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Jinkins)

Concerning the health insurance partnership.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.47A.020 and 2008 c 143 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the Washington state health care authority, established under chapter 41.05 RCW.

(2) "Board" means the health insurance partnership board established in RCW 70.47A.100.

(3) "Eligible partnership participant" means a partnership participant who:

(a) Is a resident of the state of Washington; and

(b) Has family income that does not exceed two hundred percent of the federal poverty level, as determined annually by the federal department of health and human services.

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005.

(5) "Participating small employer" means a small employer that has entered into an agreement with the partnership to purchase health benefits through the partnership. To participate in the partnership, an employer must attest to the fact that ~~((a))~~ the employer does not currently offer health insurance to its employees ~~(, and (b) at least fifty percent of the employer's employees are low wage workers).~~

(6) "Partnership" means the health insurance partnership established in RCW 70.47A.030.

(7) "Partnership participant" means a participating small employer and employees of a participating small employer, and, except to the extent provided otherwise in RCW 70.47A.110(1)(e), a former employee of a participating small employer who chooses to continue receiving coverage through the partnership following separation from employment.

(8) "Small employer" has the same meaning as defined in RCW 48.43.005.

(9) "Subsidy" or "premium subsidy" means payment or reimbursement to an eligible partnership participant toward the purchase of a health benefit plan, and may include a net billing arrangement with insurance carriers or a prospective or retrospective payment for health benefit plan premiums.

Sec. 2. RCW 70.47A.030 and 2009 c 257 s 1 are each amended to read as follows:

(1) To the extent funding is appropriated in the operating budget for this purpose or obtained through federal resources, the health insurance partnership is established. The administrator shall be responsible for the implementation and operation of the health insurance partnership, directly or by contract. The administrator shall offer premium subsidies to eligible partnership participants under RCW 70.47A.040.

(2) Consistent with policies adopted by the board under RCW 70.47A.110, the administrator shall, directly or by contract:

(a) Establish and administer procedures for enrolling small employers in the partnership, including publicizing the existence of the partnership and disseminating information on enrollment, and establishing rules related to minimum participation of employees in small groups purchasing health insurance through the partnership. Opportunities to publicize the program for outreach and education

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of small employers on the value of insurance shall explore the use of online employer guides(~~As a condition of participating in the partnership, a small employer must agree to establish a cafeteria plan under section 125 of the federal internal revenue code that will enable employees to use pretax dollars to pay their share of their health benefit plan premium. The partnership shall provide technical assistance to small employers for this purpose~~);

(b) Establish and administer procedures for health benefit plan enrollment by employees of small employers during open enrollment periods and outside of open enrollment periods upon the occurrence of any qualifying event specified in the federal health insurance portability and accountability act of 1996 or applicable state law. Except to the extent authorized in RCW 70.47A.110(1)(e), neither the employer nor the partnership shall limit an employee's choice of coverage from among the health benefit plans offered through the partnership;

(c) Establish and manage a system of collecting and transmitting to the applicable carriers all premium payments or contributions made by or on behalf of partnership participants, including employer contributions, automatic payroll deductions for partnership participants, premium subsidy payments, and contributions from philanthropies;

(d) Establish and manage a system for determining eligibility for and making premium subsidy payments under chapter 259, Laws of 2007;

(e) Establish a mechanism to apply a surcharge to each health benefit plan purchased through the partnership, which shall be used only to pay for administrative and operational expenses of the partnership. The surcharge must be applied uniformly to all health benefit plans purchased through the partnership. Any surcharge amount may be added to the premium, but shall not be considered part of the small group community rate, and shall be applied only to the coverage purchased through the partnership. Surcharges may not be used to pay any premium assistance payments under this chapter. The surcharge shall reflect administrative and operational expenses remaining after any appropriation provided by the legislature or resources received from the federal government to support administrative or operational expenses of the partnership during the year the surcharge is assessed;

(f) Design a schedule of premium subsidies that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members based on a benchmark health benefit plan designated by the board. The amount of an eligible partnership participant's premium subsidy shall be determined by applying a sliding scale subsidy schedule with the percentage of premium similar to that developed for subsidized basic health plan enrollees under RCW 70.47.060. The subsidy shall be applied to the employee's premium obligation for his or her health benefit plan, so that employees benefit financially from any employer contribution to the cost of their coverage through the partnership.

(3) The administrator may enter into interdepartmental agreements with the office of the insurance commissioner, the department of social and health services, and any other state agencies necessary to implement this chapter.

**Sec. 3.** RCW 70.47A.050 and 2007 c 260 s 12 are each amended to read as follows:

Enrollment in the health insurance partnership is not an entitlement and shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget or resources received from the federal government. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the administrator may freeze new enrollment in the program and establish a waiting list of eligible employees who shall receive subsidies only when sufficient funds are available.

**Sec. 4.** RCW 70.47A.110 and 2008 c 143 s 5 are each amended to read as follows:

(1) The health insurance partnership board shall:

(a) Develop policies for enrollment of small employers in the partnership, including minimum participation rules for small employer groups. The small employer shall determine the criteria for eligibility and enrollment in his or her plan and the terms and amounts of the employer's contributions to that plan, consistent with any minimum employer premium contribution level established by the board under (d) of this subsection;

(b) Designate health benefit plans that are currently offered in the small group market that will be offered to participating small employers through the health insurance partnership and those plans that will qualify for premium subsidy payments. Up to five health benefit plans shall be chosen, with multiple deductible and point-of-service cost-sharing options. The health benefit plans shall range from catastrophic to comprehensive coverage, and one health benefit plan shall be a high deductible health plan accompanied by a health savings account. Every effort shall be made to include health benefit plans that include components to maximize the quality of care provided and result in improved health outcomes, such as preventive care, wellness incentives, chronic care management services, and provider network development and payment policies related to quality of care;

(c) Approve a mid-range benefit plan from those selected to be used as a benchmark plan for calculating premium subsidies;

(d) Determine whether there should be a minimum employer premium contribution on behalf of employees, and if so, how much;

(e) Develop policies related to partnership participant enrollment in health benefit plans. The board may focus its initial efforts on access to coverage and affordability of coverage for participating small employers and their employees. To the extent necessary for successful implementation of the partnership, ~~(during a start-up phase of partnership operation)~~ the board may:

(i) Limit partnership participant health benefit plan choice; and

(ii) Offer former employees of participating small employers the opportunity to continue coverage after separation from employment to the extent that a former employee is eligible for continuation coverage under 29 U.S.C. Sec. 1161 et seq.

(The start-up phase may not exceed two years from the date the partnership begins to offer coverage);

(f) Determine appropriate health benefit plan rating methodologies. The methodologies shall be based on the small group adjusted community rate as defined in Title 48 RCW. The board shall evaluate the impact of applying the small group adjusted community rating methodology to health benefit plans purchased through the partnership on the principle of allowing each partnership participant to choose his or her health benefit plan, and may implement one or more risk adjustment or reinsurance mechanisms to reduce uncertainty for carriers and provide for efficient risk management of high-cost enrollees;

(g) Determine whether the partnership should be designated as the administrator of a participating small employer health benefit plan and undertake the obligations required of a plan administrator under federal law in order to minimize administrative burdens on participating small employers;

(h) Conduct analyses and provide recommendations as requested by the legislature and the governor, with the assistance of staff from the health care authority and the office of the insurance commissioner.

(2) The board may authorize one or more limited health care service plans for dental care services to be offered by limited health care service contractors under RCW 48.44.035. However, such plan shall not qualify for subsidy payments.

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(3) In fulfilling the requirements of this section, the board shall consult with small employers, the office of the insurance commissioner, members in good standing of the American academy of actuaries, health carriers, agents and brokers, and employees of small business."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker to the committee striking amendment be adopted:

On page 1, line 22 after "that" remove the strike out and retain "(a)"

On page 1, line 23 after "employees" insert "and has not offered insurance for at least six months" and remove the strike out down through and including line 24 and retain ", and (b) at least fifty percent of the employer's employees are low-wage workers."

Senators Keiser and Becker spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 1, line 22 to the committee striking amendment to Substitute House Bill No. 1560.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care as amended to Substitute House Bill No. 1560.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "partnership;" strike the remainder of the title and insert "and amending RCW 70.47A.020, 70.47A.030, 70.47A.050, and 70.47A.110."

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1560 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1560 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1560 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow,

McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Stevens, Tom and White

Voting nay: Senators Baxter, Benton, Carrell, Delvin, Ericksen, Haugen, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Swecker and Zarelli

SUBSTITUTE HOUSE BILL NO. 1560 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Becker: "I'm wondering if it would be ok to wish my mother, who will be ninety-three, a happy birthday on the floor today?"

## REPLY BY THE PRESIDENT

President Owen: "Appears you just did."

## PERSONAL PRIVILEGE

Senator Becker: "I did, didn't I?"

## REPLY BY THE PRESIDENT

President Owen: "Please, go right ahead."

## PERSONAL PRIVILEGE

Senator Becker: "May I continue?"

## REPLY BY THE PRESIDENT

President Owen: "Yes."

## PERSONAL PRIVILEGE

Senator Becker: "Well, my mother lives in Yakima and she is ninety-three as of today. She's gone through some health issues but she is probably one of the most vivacious wonderful women you will ever meet. She can still out shop me. She wears me out. I hope I have that energy, I'm not a fan of shopping by the way but I hope I have her energy at ninety-three to do all the things that she's done. She's led a wonderful life and I just want to say Happy Birthday Mom and wanted to do it publicly. Thank you."

## REMARKS BY THE PRESIDENT

President Owen: "Senator Becker, what is mom's name?"

## PERSONAL PRIVILEGE

Senator Becker: "My mother's name is Laurine Dyer."

## REPLY BY THE PRESIDENT

President Owen: "Happy Birthday, Mrs. Dyer."

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1854, by House Committee on Ways & Means (originally sponsored by Representatives Upthegrove, Rolfes, Finn, Hunt, Hope, Fitzgibbon, Stanford, Kenney and Ormsby)

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Concerning the annexation of territory by regional fire protection service authorities.

The measure was read the second time.

MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1854 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1854.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1854 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

SUBSTITUTE HOUSE BILL NO. 1854, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:  
 SENATE BILL NO. 5083,  
 SENATE BILL NO. 5584.

SECOND READING

HOUSE BILL NO. 1455, by Representative McCune

Concerning where an individual may petition to restore firearm possession rights.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee amendment by the Committee on Judiciary be adopted:

On page 6, after line 24, insert the following:

"Sec. 3. RCW 36.23.030 and 2002 c 30 s 1 are each amended to read as follows:

The clerk of the superior court at the expense of the county shall keep the following records:

(1) A record in which he or she shall enter all appearances and the time of filing all pleadings in any cause;

(2) A docket in which before every session, he or she shall enter the titles of all causes pending before the court at that session in the order in which they were commenced, beginning with criminal cases, noting in separate columns the names of the attorneys, the

character of the action, the pleadings on which it stands at the commencement of the session. One copy of this docket shall be furnished for the use of the court and another for the use of the members of the bar;

(3) A record for each session in which he or she shall enter the names of witnesses and jurors, with time of attendance, distance of travel, and whatever else is necessary to enable him or her to make out a complete cost bill;

(4) A record in which he or she shall record the daily proceedings of the court, and enter all verdicts, orders, judgments, and decisions thereof, which may, as provided by local court rule, be signed by the judge; but the court shall have full control of all entries in the record at any time during the session in which they were made;

(5) An execution docket and also one for a final record in which he or she shall make a full and perfect record of all criminal cases in which a final judgment is rendered, and all civil cases in which by any order or final judgment the title to real estate, or any interest therein, is in any way affected, and such other final judgments, orders, or decisions as the court may require;

(6) A record in which shall be entered all orders, decrees, and judgments made by the court and the minutes of the court in probate proceedings;

(7) A record of wills and bonds shall be maintained. Originals shall be placed in the original file and shall be preserved or duplicated pursuant to RCW 36.23.065;

(8) A record of letters testamentary, administration, and guardianship in which all letters testamentary, administration, and guardianship shall be recorded;

(9) A record of claims shall be entered in the appearance docket under the title of each estate or case, stating the name of each claimant, the amount of his or her claim and the date of filing of such;

(10) A memorandum of the files, in which at least one page shall be given to each estate or case, wherein shall be noted each paper filed in the case, and the date of filing each paper;

(11) A record of the number of petitions filed for restoration of the right to possess a firearm under chapter 9.41 RCW and the outcome of the petitions;

(12) Such other records as are prescribed by law and required in the discharge of the duties of his or her office."

Senator Kline spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Judiciary to House Bill No. 1455.

The motion by Senator Kline carried and the committee amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "9.41.040" strike "and 9.41.047" and insert ", 9.41.047, and 36.23.030"

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1455 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Delvin: "Would Senator Kline yield to a question? What kind of records that the clerk, is there money provided for them to keep these records and do they have to report them and to who? How is that all going to work out?"

Senator Kline: "No, I believe there is no fund in the record that is directed specifically to record keeping. Presumably this is an unfunded mandate on the court."

Senator Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1455 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1455 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

HOUSE BILL NO. 1455 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864, by House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Frockt, Fitzgibbon, Ryu, Billig, Moscoso, Ladenburg and Kenney)

Concerning the business practices of collection agencies.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.16.250 and 2001 c 217 s 5 and 2001 c 47 s 2 are each reenacted and amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(c) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall ~~((make a reasonable effort to obtain the name of such person and))~~ provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form is the first notice to the

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debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the

attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (18) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted

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written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(21) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

**Sec. 2.** RCW 6.15.010 and 2005 c 272 s 6 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property (~~shall be~~) is exempt from execution, attachment, and garnishment:

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((4)) (a) All wearing apparel of every individual and family, but not to exceed ~~((one))~~ three thousand five hundred dollars in value in furs, jewelry, and personal ornaments for any individual.

((2)) (b) All private libraries including electronic media, which includes audio-visual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed ~~((fifteen hundred))~~ three thousand five hundred dollars in value, and all family pictures and keepsakes.

((3)) (c) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

((a)) (i) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed ~~((two))~~ six thousand ~~((seven))~~ five hundred dollars in value for the individual or ~~((five))~~ thirteen thousand ~~((four hundred))~~ dollars for the community, no single item to exceed seven hundred fifty dollars, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

((b)) (ii) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed ~~((two))~~ three thousand dollars in value, of which not more than ~~((two hundred))~~ one thousand five hundred dollars in value may consist of cash, and of which not more than ~~((two hundred dollars in value may consist of))~~;

(A) Until January 1, 2018:

(I) For debts owed to state agencies, two hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under (c)(ii)(A) of this subsection may not exceed two hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(II) For all other debts, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under (c)(ii)(B) of this subsection may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) After January 1, 2018: For all debts, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(c)(ii)(B) may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

((e)) (iii) For an individual, a motor vehicle used for personal transportation, not to exceed ~~((two))~~ three thousand ~~((five))~~ two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed ~~((five))~~ six thousand five hundred dollars in aggregate value;

((f)) (iv) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

((g)) (v) All professionally prescribed health aids for the debtor or a dependent of the debtor; and

((h)) (vi) To any individual, the right to or proceeds of a payment not to exceed ~~((sixteen))~~ twenty thousand ~~((one hundred fifty))~~ dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. The exemption under this subsection ~~((3)(f))~~ (1)(c)(vi) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

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~~((4))~~ (d) To each qualified individual, one of the following exemptions:

~~((a))~~ (i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ~~((five))~~ ten thousand dollars in value;

~~((b))~~ (ii) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ~~((five))~~ ten thousand dollars in value;

~~((c))~~ (iii) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed ~~((five))~~ ten thousand dollars in value.

(e) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

~~((5 Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment.))~~

**Sec. 3.** RCW 6.15.020 and 2007 c 492 s 1 are each amended to read as follows:

(1) It is the policy of the state of Washington to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Washington under 11 U.S.C. Sec. 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this subsection, the same shall be exempt to the family as provided in this subsection. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in ~~((sections))~~ 26 U.S.C. Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order

issued by a court of competent jurisdiction that provides for maintenance or support. This subsection ~~((shall))~~ does not prohibit actions against an employee benefit plan, or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in ~~((sections))~~ 26 U.S.C. Sec. 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is a tax-sheltered annuity or a custodial account described in section 403(b) of such code or an individual retirement account or an individual retirement annuity described in section 408 of such code; or a Roth individual retirement account described in section 408A of such code; or a medical savings account or a health savings account described in sections 220 and 223, respectively, of such code; ~~((or an education individual retirement account described in section 530 of such code))~~ or a retirement bond described in section 409 of such code as in effect before January 1, 1984. ~~((The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance for purchase of tuition units under the advanced college tuition payment program in chapter 28B.95 RCW.))~~ The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or instrumentality of the government of the United States.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the trustee or custodian of the plan and the beneficiary, or the ability of the debtor to withdraw or borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in ~~((sections))~~ 26 U.S.C. Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support.

(6) Unless ~~((contrary to applicable))~~ prohibited by federal law, nothing contained in subsection (3), (4), or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan held in the name of or on account of the other spouse, who is the participant or the account holder spouse. Unless prohibited by applicable federal law, at the death of the nonparticipant, nonaccount holder spouse, the nonparticipant, nonaccount holder spouse may transfer or distribute the community property interest of the nonparticipant, nonaccount holder spouse in the participant or account holder spouse's ~~((individual retirement account))~~ employee benefit plan to the nonparticipant, nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonparticipant, nonaccount holder spouse or the law of intestate succession, and that distributee may, but shall not be required to, obtain an order of a court of competent jurisdiction, including a nonjudicial ~~((dispute resolution))~~ binding agreement or ~~((other))~~ order entered under chapter 11.96A RCW, to confirm the distribution. For purposes of subsection (3) of this section, the

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distributee of the nonparticipant, nonaccount holder spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan shall be considered a person entitled to the full protection of subsection (3) of this section. The nonparticipant, nonaccount holder spouse's consent to a beneficiary designation by the participant or account holder spouse with respect to an ~~((individual retirement account))~~ employee benefit plan shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonparticipant, nonaccount holder spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan. For purposes of this subsection, the term "nonparticipant, nonaccount holder spouse" means the spouse of the person who is a participant in an employee benefit plan or in whose name ~~((the))~~ an individual retirement account is maintained. ~~((The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the internal revenue code of 1986, as amended, a Roth individual retirement account as described in section 408A of the internal revenue code of 1986, as amended, and an individual retirement bond as described in section 409 of the internal revenue code as in effect before January 1, 1984.))~~ As used in this subsection, an order of a court of competent jurisdiction entered under chapter 11.96A RCW includes an agreement, as that term is used under RCW 11.96A.220.

**Sec. 4.** RCW 48.18.430 and 2005 c 223 s 10 are each amended to read as follows:

(1) The benefits, rights, privileges, and options under any annuity contract that are due the annuitant who paid the consideration for the annuity contract are not subject to execution and the annuitant may not be compelled to exercise those rights, powers, or options, and creditors are not allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on an annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to making the payments to the annuitant out of which the creditor seeks to recover. The notice must specify the amount claimed or the facts that will enable the insurer to determine the amount, and must set forth the facts that will enable the insurer to determine the insurance or annuity contract, the person insured or annuitant and the payments sought to be avoided on the basis of fraud.

(b) The total exemption of benefits presently due and payable to an annuitant periodically or at stated times under all annuity contracts may not at any time exceed ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month for the length of time represented by the installments, and a periodic payment in excess of ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month is subject to garnishment execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to an annuitant under all annuity contracts at any time exceeds payment at the rate of ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month, then the court may order the annuitant to pay to a judgment creditor or apply on the judgment, in installments, the portion of the excess benefits that the court determines to be just and proper, after due regard for the reasonable requirements of the judgment debtor and the judgment debtor's dependent family, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) The benefits, rights, privileges, or options accruing under an annuity contract to a beneficiary or assignee are not transferable or subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant apply to the beneficiary or assignee.

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(3) An annuity contract within the meaning of this section is any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not the sums are payable to one or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives, or for a specified term or terms.

**Sec. 5.** RCW 6.27.140 and 2010 1st sp.s. c 26 s 2 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

## NOTICE OF GARNISHMENT

## AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

## YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

**WAGES.** If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse, state registered domestic partner, or dependent child, you are entitled to claim an additional ten percent as exempt.

**BANK ACCOUNTS.** If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a

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garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including ((specified cash or)) money in a bank account up to \$200.00 for debts owed to state agencies, or up to \$500.00 for all other debts) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

Name of Court

No . . . . .

Plaintiff,

vs.

EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[ ] The account contains payments from:

- [ ] Temporary assistance for needy families, SSI, or other public assistance. I receive \$ . . . . . monthly.
- [ ] Social Security. I receive \$ . . . . . monthly.
- [ ] Veterans' Benefits. I receive \$ . . . . . monthly.
- [ ] U.S. Government Pension. I receive \$ . . . . . monthly.
- [ ] Unemployment Compensation. I receive \$ . . . . . monthly.
- [ ] Child support. I receive \$ . . . . . monthly.
- [ ] Other. Explain .....

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [ ] No money other than from above payments are in the account.
- [ ] Moneys in addition to the above payments have been deposited in the account. Explain .....

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- [ ] I claim maximum exemption.
- [ ] I am supporting another child or other children.
- [ ] I am supporting a husband, wife, or state registered domestic partner.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- [ ] Name and address of employer who is paying the benefits: .....

OTHER PROPERTY:

[ ] Describe property .....

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Print: Your name If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner

Your signature Signature of husband, wife, or state registered domestic partner

Address Address (if different from yours)

Telephone number Telephone number (if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 6. RCW 6.27.140 and 2011 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

NOTICE OF GARNISHMENT AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to

withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse, state registered domestic partner, or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including ~~((money))~~ up to \$500.00 in a bank account ~~((up to \$200.00 for debts owed to state agencies, or up to \$500.00 for all other debts))~~) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the

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plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

.....

Name of Court

.....

No . . . . .

Plaintiff,

vs.

.....

EXEMPTION CLAIM

Defendant,

.....

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[ ] The account contains payments from:

- [ ] Temporary assistance for needy families, SSI, or other public assistance. I receive \$ . . . . . monthly.
- [ ] Social Security. I receive \$ . . . . . monthly.
- [ ] Veterans' Benefits. I receive \$ . . . . . monthly.
- [ ] U.S. Government Pension. I receive \$ . . . . . monthly.
- [ ] Unemployment Compensation. I receive \$ . . . . . monthly.
- [ ] Child support. I receive \$ . . . . . monthly.
- [ ] Other. Explain .....

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [ ] No money other than from above payments are in the account.
- [ ] Moneys in addition to the above payments have been deposited in the account. Explain .....

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- [ ] I claim maximum exemption.
- [ ] I am supporting another child or other children.
- [ ] I am supporting a husband, wife, or state registered domestic partner.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- [ ] Name and address of employer who is paying the benefits: .....

OTHER PROPERTY:

- [ ] Describe property .....

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

.....

|                  |  |
|------------------|--|
| Print: Your name | If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner |
|------------------|--|

.....

|                |  |
|----------------|--|
| Your signature | Signature of husband, wife, or state registered domestic partner |
|----------------|--|

.....

.....

Address Address

(if different from yours)

.....

.....

Telephone number Telephone number

(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

NEW SECTION. **Sec. 7.** Section 6 of this act takes effect January 1, 2018."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Judiciary to Engrossed Substitute House Bill No. 1864.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "debt collection; amending RCW 6.15.010, 6.15.020, 48.18.430, 6.27.140, and 6.27.140; reenacting and amending RCW 19.16.250; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1864 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.  
 Senator Carrell spoke on final passage.  
 Senator Benton spoke against passage of the bill.

POINT OF INQUIRY

Senator Swecker: "Would Senator Kline yield to a question? Thanks Senator Kline. What happens if we don't pass the bill?"

Senator Kline: "If we don't pass the bill there will be many, many more people who are suffering bankruptcy, foreclosure, seizures of their property in law suits are going to be out in the street. You're going to have to understand that these are the dollar

values that have historically been in Washington statutes probably since about 1889 that allow in lawsuits certain dollar amount, typically the tools of the trade, your books, your personal effects, your separate dollar amounts, clothing, a carriage, now a day's an automobile. Those set dollar amounts set that are exempt from seizure to allow you some dignity in bankruptcy. Those figures have been increased over the course of years. This bill does that. It simply allows approximately the consumer price index increase more or less for each of these accounts. I think what the good Senator from the Twenty-second is talking about is this. There was a fiscal note on this bill and the fiscal note had only to do with state agencies. There is no fiscal note when we simply involve this in private litigation. The fiscal note was because of the Department of L & I. When it goes to collect from a worker often has a small account and this would have been a little bit of a burden if we expanded the amount of that account that is protected. For that very reason and for that only reason this bill was amended, simply to avoid a fiscal note. If we lay this bill down what we will be doing for another year is requiring ordinary people, everyone of our constituents going through a foreclosure or bankruptcy or a seizure, simply be out on the street. I don't think we want to do that. I don't like this exemption for L & I anymore than anybody else does quite frankly. I don't feel like the state should be treated better than a private litigant. The state ought to be treated like any other litigant. But we're in fiscal situation now in which the collection of dollars even in small amounts apparently makes a difference to our committees on Ways & Means. Alright, don't do the bill. Fine. We're hurting our citizens who have private losses. With that I urge the passage of the bill as imperfect as it is."

Senator Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1864 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1864 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Holmquist Newbry, Morton, Parlette, Schoesler, Sheldon and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1421, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Lytton, Moscoso, Van De Wege, Green, Sells, Blake, Sullivan, Eddy, Fitzgibbon, Frockt, Dunshee, Ryu, Upthegrove, Kenney, Reykdal and Tharinger)

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Providing authority to create a community forest trust.

The measure was read the second time.

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Substitute House Bill No. 1421 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1421.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1421 and the bill passed the Senate by the following vote: Yeas, 39; Nays, 10; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Delvin, Holmquist Newbry, Honeyford, King, Pflug, Roach, Schoesler and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1421, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5907, by Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove

Implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

The measure was read the second time.

MOTION

On motion of Senator Kohl-Welles, Substitute Senate Bill No. 5907 was not substituted for Senate Bill No. 5907 and the substitute bill was not adopted.

MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Holmquist Newbry be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** It is the intent of the legislature to promote safe state correctional facilities. Following the tragic murder of officer Jayme Biendl, the governor and department of corrections requested the national institute of corrections to review safety procedures at the Monroe reformatory. While the report found the Monroe reformatory is a safe institution, it recommends

changes that would enhance safety. The legislature recognizes that operating safe institutions requires ongoing efforts to address areas where improvements can be made to enhance the safety of state correctional facilities. This act addresses ways to increase safety at state correctional facilities and implements changes recommended in the report of the national institute of corrections.

**NEW SECTION. Sec. 2.** (1) The department shall establish a statewide security advisory committee to conduct comprehensive reviews of the department's total confinement security-related policies and procedures.

(2) The statewide security advisory committee shall make recommendations to the secretary regarding methods to provide consistent application of the policies and procedures regarding security issues in total confinement correctional facilities.

(3) The statewide security advisory committee shall include a balance of institutional staff including, but not limited to, custody staff. At a minimum, the statewide security advisory committee shall include:

(a) The director of prisons or his or her designee;

(b) A nonsupervisory classified employee and/or sergeant from each local advisory committee of a major facility and one nonsupervisory classified employee and/or sergeant representative from a minimum facility;

(c) A senior-ranking security custody staff member from each major correctional facility and a senior-ranking custody staff member from a minimum correctional facility;

(d) A senior-ranking community corrections officer; and

(e) A delegate from the union that represents department employees located at correctional facilities.

(4) The statewide security advisory committee shall develop guidelines to establish local security advisory committees for each total confinement correctional facility within the department. The chair of each local security advisory committee shall be the captain at a major facility and the lieutenant at a minimum security facility. The local security advisory committee should consist of a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff.

(5) The department shall report back to the governor and appropriate committees of the legislature by November 1, 2011, and annually thereafter. The report shall include:

(a) Recommendations raised by both the statewide and local security advisory committees;

(b) Recommendations, if any, for improving the ability of nonsupervisory classified employees to provide input on safety concerns including labor and industries mandated safety committees and the inclusion of safety issues in collective bargaining;

(c) Actions taken by the department as a result of recommendations by the statewide and local security advisory committees; and

(d) Recommendations for additional resources or legislation to address security concerns in total confinement correctional facilities.

(6) The department shall report back to the governor and the appropriate committees of the legislature by November 1, 2011, on issues related to safety within community corrections. The department shall engage employees from all levels of the community corrections division in preparing the report.

**NEW SECTION. Sec. 3.** (1) The department shall establish multidisciplinary teams at each total confinement correctional facility that will evaluate offenders' placements in inmate job assignments and custody promotions. The teams at each facility shall determine suitable placements based on the offender's risk, behavior, or other factors considered by the team.

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(2) At a minimum, each team shall have representation from a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff.

**NEW SECTION. Sec. 4.** (1) The department shall develop training curriculum regarding staff safety issues at total confinement correctional facilities. At a minimum, the training shall address the following issues:

- (a) Security routines;
- (b) Physical plant layout;
- (c) Offender movement and program area coverage; and
- (d) Situational awareness and de-escalation techniques.

(2) The department shall seek the input of both the statewide security and local advisory committees in developing the curriculum.

(3) The department shall deliver such training to applicable correctional staff at in-service training by July 1, 2012.

**NEW SECTION. Sec. 5.** (1) The department may pilot the use of body alarms and proximity cards within available resources.

(2) The department shall hire a consultant to study the feasibility of implementing a statewide system for staff safety, utilizing body alarms and proximity cards for staff within the department's total confinement correctional facilities and report findings and recommendations to the governor and appropriate committees of the legislature by November 1, 2011. At a minimum, the report shall include:

- (a) Recommendations for the use of body alarms by security level;
- (b) Recommendations for specific positions that should require the use of body alarms;
- (c) The information technological and infrastructure requirements needed for body alarms and proximity cards;
- (d) The training requirements for body alarms;
- (e) Lessons learned from any pilot project the department may implement in the interim;
- (f) The estimated cost of the alarms and proximity cards and needed supporting infrastructure, staffing, and training requirements.

(3) The consultant shall seek the input of both the statewide and local security advisory committees in preparing his or her report.

**NEW SECTION. Sec. 6.** (1) The department shall hire a consultant to study the deployment of video monitoring cameras within the department to make recommendations regarding statewide standards for the positioning and use of video monitoring cameras in total confinement correctional facilities and report findings and recommendations to the governor and appropriate committees of the legislature by November 1, 2011. At a minimum, the report shall include:

- (a) Recommendations for the use of video monitoring cameras by security level;
- (b) Recommendations for specific locations within a total confinement correctional facility which would benefit from the use of video monitoring cameras;
- (c) The information technological and infrastructure requirements needed for effective use of video monitoring cameras;
- (d) Recommendations for how video monitoring cameras would best be deployed in current total confinement correctional facilities;
- (e) Recommendations about how video monitoring cameras should be incorporated into future prison construction to insure consistency in camera use system-wide;
- (f) The estimated cost of the video monitoring cameras, supporting infrastructure needed, and staffing required by the total confinement correctional facility.

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(2) The consultant shall seek the input of both the statewide and local security advisory committees in preparing his or her report.

**NEW SECTION. Sec. 7.** (1) The department shall develop a comprehensive plan for the use of oleoresin capsicum aerosol products, commonly referred to as pepper spray, as a security measure available for staff at total confinement correctional facilities.

(2) The department may initiate a pilot project, within available funds, to expand the deployment of oleoresin capsicum aerosol products within total confinement correctional facilities.

(3) The department's plan for the deployment of oleoresin capsicum aerosol products to staff shall include findings, if any, from the pilot project, recommendations regarding which facility's use should be limited to, what the training requirements should be, the estimated costs, and an implementation schedule.

(4) The department shall seek the input of both the statewide and local security advisory committees in developing its plan.

(5) The department shall report its plan, including costs, to the governor and appropriate committees of the legislature by November 1, 2011.

**NEW SECTION. Sec. 8.** Sections 2 through 7 of this act are each added to chapter 72.09 RCW."

Senators Kohl-Welles, Holmquist Newbry and Conway spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Holmquist Newbry to Senate Bill No. 5907.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "safety;" strike the remainder of the title and insert "adding new sections to chapter 72.09 RCW; and creating a new section."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Senate Bill No. 5907 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Holmquist Newbry, Carrell and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5907.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5907 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

ENGROSSED SENATE BILL NO. 5907, having received the constitutional majority, was declared passed. There being no

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objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

On motion of Senator Eide the Senate immediately considered Engrossed Substitute Senate Bill No. 5844.

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt).

Concerning financing local government infrastructure.  
Revised for 1st Substitute: Financing local government infrastructure.

The bill was read on Third Reading.

Senators Kilmer and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5844.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5844 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Holmquist Newbry, Honeyford, Roach, Schoesler and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 1:39 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, April 11, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINETY SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, April 11, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Kohl-Welles and McAuliffe.

The Sergeant at Arms Color Guard consisting of Pages Julie Fulton and Michael Kastama, presented the Colors. Pastor Stan Jacobson of Grace Lutheran Church of Des Moines offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5929 by Senators Keiser and Becker

AN ACT Relating to enrollment in state purchased medical programs by children ineligible for federally financed care; amending RCW 74.09.470; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5930 by Senators Zarelli, Murray and Baumgartner

AN ACT Relating to budget sustainability; and adding a new section to chapter 43.88 RCW.

Referred to Committee on Ways & Means.

SB 5931 by Senators Baumgartner and Zarelli

AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government; amending RCW 43.17.010, 43.17.020, 42.17A.705, 42.17.2401, 43.19.011, 43.19.025, 43.19.035, 43.19.125, 43.19.180, 43.19.185, 43.19.190, 43.19.1905, 43.19.19052, 43.19.1906, 43.19.1908, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.19191, 43.19.1920, 43.19.19201, 43.19.1921, 43.19.1932, 43.19.200, 43.19.450, 43.19.455, 43.19.500, 43.19.501, 43.19.530, 43.19.534, 43.19.538, 43.19.539, 43.19.560, 43.19.565, 43.19.585, 43.19.600, 43.19.610, 43.19.620, 43.19.635, 43.19.646, 43.19.663, 43.19.685, 43.19.702, 43.19.704, 43.19.708, 43.19.710, 19.27.070, 19.27A.140, 39.34.055, 39.35.030, 39.35C.010, 39.35D.020, 43.19A.010, 43.19A.022, 39.32.035, 43.01.225, 43.82.120, 43.82.125, 43.99H.070, 73.24.020, 1.08.039, 28A.300.040, 28B.10.029, 40.06.030, 43.08.061, 41.06.020, 41.06.076, 41.06.080, 41.06.093, 41.06.110, 41.06.120, 41.06.142, 41.06.152, 41.06.167, 41.06.169, 41.06.170, 41.06.220, 41.06.260, 41.06.270, 41.06.280, 41.06.285, 41.06.350, 41.06.395, 41.06.400,

41.06.410, 41.06.420, 41.06.476, 41.06.490, 41.06.510, 41.06.530, 34.05.030, 41.04.340, 41.04.385, 41.04.395, 41.04.670, 41.04.680, 41.04.685, 41.04.720, 41.04.770, 41.07.020, 41.07.030, 41.60.015, 41.80.005, 41.80.020, 42.16.010, 42.17.370, 43.01.040, 43.01.135, 43.03.028, 43.03.120, 43.03.130, 43.06.013, 43.06.410, 43.06.425, 43.33A.100, 43.130.060, 43.131.090, 48.37.060, 49.46.010, 49.74.020, 49.74.030, 49.90.010, 50.13.060, 28A.345.060, 28A.400.201, 34.12.100, 36.21.011, 41.04.020, 41.04.460, 41.60.050, 41.68.030, 41.68.040, 41.68.050, 47.28.251, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.360, 43.41.370, 43.41.380, 43.41.110, 4.92.006, 4.92.040, 4.92.130, 4.92.150, 4.92.160, 4.92.210, 4.92.270, 4.92.280, 10.92.020, 48.62.021, 48.64.010, 39.29.011, 39.29.016, 39.29.018, 39.29.025, 39.29.055, 39.29.065, 39.29.075, 39.29.090, 39.29.100, 39.29.110, 39.29.120, 43.88.580, 43.105.080, 43.105.320, 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, 43.105.400, 41.07.030, 43.991.040, 43.105.835, 43.105.290, 28A.650.015, 40.14.020, 42.17.460, 42.17.467, 42.17.469, 42.17.471, 42.17A.060, 43.88.092, 43.105.410, 43.105.020, 43.105.047, 43.105.052, 43.19.190, 43.105.057, 43.105.060, 19.34.231, 19.34.420, 46.20.157, 2.36.054, 29A.08.760, 43.63A.550, and 41.80.020; reenacting and amending RCW 41.06.133, 41.06.150, 41.04.665, 42.17A.110, 49.46.010, 39.29.068, 39.94.040, 39.29.040, and 41.06.070; adding new sections to chapter 43.19 RCW; adding new sections to chapter 41.06 RCW; adding new sections to chapter 43.41 RCW; adding new sections to chapter 43.330 RCW; adding new sections to chapter 43.105 RCW; adding a new section to chapter 41.80 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.41.280, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.350, 43.41.360, 43.105.080, 43.105.320, 43.105.410, 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, 43.105.400, 43.105.052, 43.105.172, 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and 43.105.835; decodifying RCW 43.19.123, 41.06.136, 43.31.086, 41.80.900, 41.80.901, 41.80.902, 41.80.903, and 41.80.904; repealing RCW 43.19.010, 43.19.1923, 43.19.1925, 43.19.590, 43.19.595, 43.19.615, 43.19.675, 43.19.680, 43.78.010, 43.78.020, 43.78.030, 43.78.040, 43.78.050, 43.78.070, 43.78.080, 43.78.090, 43.78.100, 43.78.105, 43.78.110, 43.78.170, 15.24.085, 15.62.190, 16.67.170, 40.04.030, 40.07.050, 41.06.030, 41.06.111, 41.06.130, 41.06.139, 41.06.480, 41.07.900, 43.105.300, 43.105.360, 43.105.005, 43.105.013, 43.105.019, 43.105.032, 43.105.041, 43.105.095, 43.105.105, 43.105.160, 43.105.170, 43.105.180, 43.105.190, 43.105.200, 43.105.210, 43.105.330, 43.105.805, 43.105.815, and 43.105.820; repealing 2010 c 271 s 301; providing effective dates; providing expiration dates; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

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On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8650.

The motion by Senator Keiser carried and the resolution was adopted by voice vote.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

INTRODUCTION OF SPECIAL GUESTS

MOTION

Senator Keiser moved adoption of the following resolution:

The President welcomed and introduced Dave Plummer, Safety and Health Committee, Washington State Labor Council; Sue Tellesbo, Department of Federation of State Employees; Judy Schurke, Director, Washington Labor and Industries; Vickie Kennedy, Chief Policy Advisor, Department of Labor and Industries; and Tamara Jones, Assistant Director for Legislative and Government Affairs, Department of Labor and Industries who were seated in the gallery.

SENATE RESOLUTION  
8650

By Senators Keiser, Kohl-Welles, Holmquist Newbry, King, Conway, Pridemore, Tom, Nelson, Shin, Kilmer, McAuliffe, Sheldon, Eide, Haugen, Harper, Regala, Fraser, White, Rockefeller, Ranker, Kline, Chase, Prentice, Murray, and Roach

MOTION

At 10:22 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

WHEREAS, On April 28, 1971, the United States created the Occupational Safety and Health Administration, an agency created for the sole purpose of protecting workers from injury and death; aptly, April 28th has been observed in the United States as Workers' Memorial Day; and

AFTERNOON SESSION

The Senate was called to order at 2:58 p.m. by President Owen.

WHEREAS, Since 1989, Workers' Memorial Day has been recognized throughout the State of Washington, throughout the nation, and around the globe as a day to mourn and show reverence to those who have perished as a result of work-related accidents; and

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

WHEREAS, Annually in Washington State, as many as 100 women and men's lives are claimed by illness, disease, and traumatic injuries obtained on the job; and

MESSAGE FROM THE HOUSE

April 9, 2011

WHEREAS, In 2010, Washington State saw a dramatic rise in the number of occupational fatalities from the previous year with a total of 86 reported fatalities; nearly half of these tragic events involve machinery or motor vehicles; and

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5500.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

WHEREAS, The sudden, unexpected, and at times violent, nature of these events leaves behind a wake of immense pain and suffering for the families, friends, and colleagues of the fallen; and

MESSAGE FROM THE HOUSE

April 9, 2011

WHEREAS, The emotional impact and financial toll of extreme economic hardship due to associated medical and funeral costs, a loss of household income, and any unpaid debts leave an indelible mark upon those left behind; and

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5526.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

WHEREAS, While Workers' Memorial Day is a paramount opportunity to mourn such loss, it is not merely a day to grieve loved ones that have been victim to occupational hazards, it is also a day to reflect on the often preventable nature of these injuries, illnesses, diseases, and fatalities; and

MESSAGE FROM THE HOUSE

April 9, 2011

WHEREAS, Workers' Memorial Day is a chance for business, labor, and government to reflect on how continued cooperation and diligent prevention efforts can significantly reduce workplace catastrophes; and

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5011,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5020,

SENATE BILL NO. 5033,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5068,

SENATE BILL NO. 5076,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5105,

SENATE BILL NO. 5117,

SUBSTITUTE SENATE BILL NO. 5168,

WHEREAS, Observing Workers' Memorial Day gives our communities and Washington State an opportunity to join together to pay our respects to the fallen and to rededicate ourselves to the mission of safe and healthy work environments for all;

NOW, THEREFORE, BE IT RESOLVED, That the Senate honor Workers' Memorial Day as a day to remember those who have fallen on the job and those who have suffered as a result; and

BE IT FURTHER RESOLVED, That the Senate commemorate the 22nd anniversary of Workers' Memorial Day.

Senators Keiser, Ericksen, Conway, Kohl-Welles, Becker and Shin spoke in favor of adoption of the resolution.

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SENATE BILL NO. 5172,  
 SENATE BILL NO. 5241,  
 SUBSTITUTE SENATE BILL NO. 5300,  
 SUBSTITUTE SENATE BILL NO. 5352,  
 SUBSTITUTE SENATE BILL NO. 5374,  
 SUBSTITUTE SENATE BILL NO. 5386,  
 SENATE BILL NO. 5395,  
 SUBSTITUTE SENATE BILL NO. 5442,  
 SENATE BILL NO. 5463,  
 SENATE BILL NO. 5482,  
 SUBSTITUTE SENATE BILL NO. 5546,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5555,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5585,  
 SENATE BILL NO. 5589,  
 SENATE BILL NO. 5633,  
 SUBSTITUTE SENATE BILL NO. 5635,  
 SUBSTITUTE SENATE BILL NO. 5664,  
 SUBSTITUTE SENATE BILL NO. 5788,  
 SUBSTITUTE SENATE BILL NO. 5797,  
 SUBSTITUTE SENATE BILL NO. 5800,  
 SENATE BILL NO. 5849.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5018,  
 SENATE BILL NO. 5045,  
 SUBSTITUTE SENATE BILL NO. 5070,  
 SUBSTITUTE SENATE BILL NO. 5359,  
 SUBSTITUTE SENATE BILL NO. 5364,  
 SUBSTITUTE SENATE BILL NO. 5423,  
 SUBSTITUTE SENATE BILL NO. 5428,  
 SUBSTITUTE SENATE JOINT MEMORIAL NO. 8004.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1024,  
 HOUSE BILL NO. 1074,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1153,  
 SUBSTITUTE HOUSE BILL NO. 1169,  
 ENGROSSED HOUSE BILL NO. 1171,  
 HOUSE BILL NO. 1190,  
 HOUSE BILL NO. 1191,

ENGROSSED HOUSE BILL NO. 1223,  
 HOUSE BILL NO. 1239,  
 SUBSTITUTE HOUSE BILL NO. 1266,  
 HOUSE BILL NO. 1340,  
 SUBSTITUTE HOUSE BILL NO. 1402,  
 HOUSE BILL NO. 1432,  
 SUBSTITUTE HOUSE BILL NO. 1438,  
 HOUSE BILL 1477,  
 SUBSTITUTE HOUSE BILL NO. 1495,  
 SUBSTITUTE HOUSE BILL NO. 1565,  
 SUBSTITUTE HOUSE BILL NO. 1595,  
 SUBSTITUTE HOUSE BILL NO. 1596,  
 SUBSTITUTE HOUSE BILL NO. 1614,  
 ENGROSSED HOUSE BILL NO. 1703,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,  
 SUBSTITUTE HOUSE BILL NO. 1966.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## MOTION

On motion of Senator White, Senator McAuliffe was excused.

## MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

SECOND READING  
 CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9036, Betti Fujikado, as a member of the Board of Trustees, Western Washington University, be confirmed.

Senator Prentice spoke in favor of the motion.

## APPOINTMENT OF BETTI FUJIKADO

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9036, Betti Fujikado as a member of the Board of Trustees, Western Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9036, Betti Fujikado as a member of the Board of Trustees, Western Washington University and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kohl-Welles

Excused: Senators Delvin and McAuliffe

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Gubernatorial Appointment No. 9036, Betti Fujikado, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Western Washington University.

MOTION

On motion of Senator White, Senator Kohl-Welles was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kilmer moved that Gubernatorial Appointment No. 9095, Robert Ryan, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator White, Senator Kastama was excused.

APPOINTMENT OF ROBERT RYAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9095, Robert Ryan as a member of the Board of Trustees, Tacoma Community College District No. 22.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9095, Robert Ryan as a member of the Board of Trustees, Tacoma Community College District No. 22 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kastama, Kohl-Welles and McAuliffe

Gubernatorial Appointment No. 9095, Robert Ryan, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

SIGNED BY THE PRESIDENT

The President signed:

- SUBSTITUTE HOUSE BILL NO. 1024,
- HOUSE BILL NO. 1074,
- SECOND SUBSTITUTE HOUSE BILL NO. 1153,
- SUBSTITUTE HOUSE BILL NO. 1169,
- ENGROSSED HOUSE BILL NO. 1171,
- HOUSE BILL NO. 1190,
- HOUSE BILL NO. 1191,
- ENGROSSED HOUSE BILL NO. 1223,
- HOUSE BILL NO. 1239,
- SUBSTITUTE HOUSE BILL NO. 1266,
- HOUSE BILL NO. 1340,
- SUBSTITUTE HOUSE BILL NO. 1402,
- HOUSE BILL NO. 1432,

- SUBSTITUTE HOUSE BILL NO. 1438,
- HOUSE BILL NO. 1477,
- SUBSTITUTE HOUSE BILL NO. 1495,
- SUBSTITUTE HOUSE BILL NO. 1565,
- SUBSTITUTE HOUSE BILL NO. 1595,
- SUBSTITUTE HOUSE BILL NO. 1596,
- SUBSTITUTE HOUSE BILL NO. 1614,
- ENGROSSED HOUSE BILL NO. 1703,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1731,
- SUBSTITUTE HOUSE BILL NO. 1966.

SECOND READING

ENGROSSED HOUSE BILL NO. 1775, by Representatives Goodman and Kagi

Encouraging juvenile restorative justice programs.

The measure was read the second time.

MOTION

Senator Harper moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.020 and 2010 c 181 s 10 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

(18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred

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for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(26) "Restorative justice" means practices, policies, and programs, informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

(27) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((27))~~ (28) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((28))~~ (29) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((29))~~ (30) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((30))~~ (31) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((31))~~ (32) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((32))~~ (33) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((33))~~ (34) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((34))~~ (35) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((35))~~ (36) "Youth court" means a diversion unit under the supervision of the juvenile court.

**Sec. 2.** RCW 13.40.080 and 2004 c 120 s 3 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars;

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(f) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete restitution to a victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims

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named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(17) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

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Committee on Human Services & Corrections to Engrossed House Bill No. 1775.

The motion by Senator Harper carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "and amending RCW 13.40.020 and 13.40.080."

MOTION

On motion of Senator Harper, the rules were suspended, Engrossed House Bill No. 1775 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1775 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1775 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED HOUSE BILL NO. 1775 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1516, by House Committee on Transportation (originally sponsored by Representatives Morris, Armstrong, Rolfes, Clibborn, Fitzgibbon, Liias, Maxwell, Appleton, Sells, Eddy and Smith)

Concerning the performance of state ferry system management.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the Washington state ferry system has been plagued with declining ridership, increased operating costs, and poor on-time performance

during peak periods. The legislature intends to give the Washington state ferry system management the tools to change that and, furthermore, intends to hold management accountable to do so.

**Sec. 2.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, (~~working conditions~~) and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees' retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall make decisions regarding working conditions to best suit the operational needs of the state and may not bargain its own decision or the effects of a decision for any working condition other than shift bidding, scheduling leave time, and grievance procedures, provided that the grievance procedures do not expand the scope of grievances beyond the interpretation and application of terms permissible under this chapter. The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, must include, but not be limited to, the following:

- (a) Assigning employees to work stations, vessels, or terminals;
- (b) Directing promotions;
- (c) Directing who will be laid off in the event of a layoff action, bumping rights, or layoff options;
- (d) Directing staffing levels;
- (e) Providing for training; and
- (f) Directing the use of part-time shifts.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages(~~(,)~~) or hours(~~(, and terms and conditions of employment)~~) and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2012, all captains of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of

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personnel pursuant to RCW 41.06.500. Salary increases for captains must be directly related to the performance of their responsibilities.

(2) The captain, also known as the master of a vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

(a) Ensuring the safe navigation of the vessel and its crew and passengers;

(b) Following all applicable federal, state, and agency policies and regulations;

(c) Supervising crew in performance, operations, training, security, and environmental protection; and

(d) Overseeing all aspects of vessel operations including, but not limited to:

(i) Vessel arrivals and departures;

(ii) Schedule adherence;

(iii) Customer service;

(iv) Cost containment; and

(v) Fuel efficiency.

(3) Effective January 1, 2013, all chief engineers and terminal supervisors of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of personnel pursuant to RCW 41.06.500. Salary increases for chief engineers and terminal supervisors must be directly related to the performance of their responsibilities.

(4) The chief engineer, also known as a staff engineer, is the engineering department head and reports directly to the captain. The chief engineer's duties include, but are not limited to:

(a) Overseeing all aspects of engineering propulsion, electrical, and machinery components;

(b) Ensuring safe and efficient engineering plant operations;

(c) Advising the captain of factors affecting the vessel's operation from an engineering perspective;

(d) Supervising the conduct of engineering watchstanders and directing work and maintenance routines;

(e) Following federal, state, and agency policies and regulations; and

(f) Overseeing all fueling to ensure efficient and environmentally safe operations.

(5) The terminal supervisor is the ultimate authority and has responsibility for the entire operations at that ferry terminal. The terminal supervisor's duties include, but are not limited to:

(a) Overseeing all aspects of dock-side terminal operations;

(b) Coordinating with the captain in arrival and departure procedures;

(c) Supervising the conduct of ticket sellers and traffic and loading attendants and directing selling, loading, and traffic work and routines; and

(d) Following federal, state, and agency policies and regulations.

(6) With each biennial budget submittal, the department shall include recommendations for distributing any appropriations the legislature may provide for incentive pay for vessel captains, chief engineers, or terminal supervisors.

(7) Any employee who is a captain, chief engineer, or terminal supervisor may not belong to a collective bargaining unit.

(8) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

**Sec. 4.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; ~~((¶))~~

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment; or

(6) Is a captain or chief engineer of a Washington state ferry vessel, or a terminal supervisor of a Washington state ferry terminal.

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under RCW 41.80.001 and 41.80.010 through 41.80.130 and chapter 47.64 RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 47.64 RCW to read as follows:

Washington state ferry system management must meet with its union employees twice a year and encourage an open and direct exchange of ideas and concerns between line employees and management.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Using state fiscal year 2010 as a basis, Washington state ferry system management shall develop targets for the performance measures listed under this subsection. These targets must be developed in collaboration with the office of financial management and presented to the transportation committees of the legislature by September 30, 2011, along with an implementation plan for achieving these targets by June 30, 2013:

(a) Number of riders per service hour;

(b) Terminal and vessel operating costs, not including fuel, per service hour;

(c) Fuel consumption per service hour; and

(d) Peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions. On-time is defined as within ten minutes of the scheduled time. Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measures in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site.

(3) The joint legislative audit and review committee shall work with the department in determining baseline data for the performance measures in subsection (1) of this section and shall determine whether Washington state ferry system management has met the performance measures in subsection (1) of this section and report its findings to the transportation committees of the legislature by September 30, 2013.

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(4) If the joint legislative audit and review committee determines that Washington state ferry system management has not met the targets developed in subsection (1) of this section, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the targets in this section within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in section 6(1) of this act.

**Sec. 8.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of

employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees'))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market

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value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only with the approval of the employee organization. The costs of arbitrators shall be shared equally by the parties.

Ferry system employees shall follow ~~((either))~~ the grievance procedures provided in a collective bargaining agreement, or if ~~((no))~~ such procedures are ~~((so))~~ not provided, shall submit the grievances to the ~~((marine employees'))~~ commission ~~((as provided in RCW 47.64.280))~~.

**Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

**Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or

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committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) ~~((All employees of the marine employees' commission;~~

~~((z)))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aaa)))~~ (z) The manager of the energy facility site evaluation council;

~~((bbb)))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((ccc)))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to

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executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

- (a) The salary increase can be paid within existing resources; and
- (b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 13.** (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these

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shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 14.** The joint transportation committee shall conduct a study of the management structure at the Washington state ferries. The study results must make recommendations on changes to the organizational structure that will result in more efficient operations and a more balanced management organization structure scaled to the workforce. The study results must be presented to the transportation committees of the legislature by September 30, 2011.

**NEW SECTION. Sec. 15.** The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

**NEW SECTION. Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senator Haugen spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Prentice to the committee striking amendment be adopted:

On page 2, line 37, after "July 1," strike "2012" and insert "2013"

On page 3, line 22, after "January 1," strike "2013" and insert "2014"

On page 6, line 11 of the amendment, after "by" strike "September 30" and insert "December 31"

On page 16, line 21 of the amendment, after "by" strike "September 30" and insert "December 31"

Senators Haugen and King spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Prentice on page 2, line 37 to the committee striking amendment to Substitute House Bill No. 1516.

The motion by Senator Haugen carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation as amended to Substitute House Bill No. 1516.

The motion by Senator Haugen carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "providing tools for improving and measuring the performance of state ferry system management; amending RCW 47.64.120, 41.06.022, 47.64.011, 47.64.150, and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070; adding new sections to chapter 47.64 RCW; creating new sections; repealing RCW 47.64.080 and 47.64.280; and declaring an emergency."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1516 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, King and Prentice spoke in favor of passage of the bill.

Senators Nelson and Keiser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1516 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1516 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Eide, Ericksen, Fain, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Kohl-Welles, Litzow, Morton, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Chase, Conway, Harper, Keiser, Kilmer, Kline, Murray, Nelson, Ranker and Roach

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1516 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5742, by Senators Haugen, Ranker and Shin

Concerning the administration and distribution of Washington state ferry system revenue. Revised for 1st Substitute: Providing funding and cost saving measures for the Washington state ferry system.

#### MOTION

On motion of Senator Haugen, Substitute Senate Bill No. 5742 was substituted for Senate Bill No. 5742 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen, King and Ranker be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read as follows:

((There is hereby created in the motor vehicle fund)) (1) The Puget Sound ferry operations account ((to the credit of which shall be deposited all moneys directed by law to be deposited therein. All moneys deposited in this account shall be expended pursuant to appropriations only for reimbursement of the motor vehicle fund for any state moneys, other than insurance proceeds, expended

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therefrom for alternate transportation services instituted as a result of the destruction of the Hood Canal bridge, and)) is created in the motor vehicle fund.

(2) The following funds must be deposited into the account:

(a) All moneys directed by law;

(b) All revenues generated from ferry fares; and

(c) All revenues generated from commercial advertising, concessions, parking, and leases as allowed under RCW 47.60.140.

(3) Moneys in the account may be spent only after appropriation.

(4) Expenditures from the account may be used only for the maintenance and operation of the Washington state ferries ((including the Hood Canal bridge, supplementing as required the revenues available from the Washington state ferry system)).

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The capital vessel replacement account is created in the motor vehicle fund. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer shall not transfer any moneys from the capital vessel replacement account.

**Sec. 3.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) By September 1st of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

(6) The commission may not raise fares until the fare rules contain pricing policies developed under RCW 47.60.290, or September 1, 2009, whichever is later.

(7) The commission shall impose a vessel replacement surcharge of twenty-five cents on every ferry fare sold, including multiride and monthly pass fares. In the event that fares are collected in one

direction only, the surcharge is fifty cents on every ferry fare sold. This surcharge must be clearly indicated to ferry passengers and drivers and, if possible, on the fare media itself.

**Sec. 4.** RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW; PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013.

**Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

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(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local

leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

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(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 7.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 8.** RCW 47.64.210 and 2007 c 160 s 2 are each amended to read as follows:

In the ~~((absence of an impasse))~~ event there is no agreement between the parties ((or the failure of either party to utilize its procedures)) by August 1st in the even-numbered year preceding the biennium, either party may request the commission to appoint an impartial and disinterested person to act as mediator. It is the function of the mediator to bring the parties together to effectuate a settlement of the dispute, but the mediator shall not compel the parties to agree.

**Sec. 9.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees

will be established by the ~~((marine employees))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market

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value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 10.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only (~~(with the approval)~~) by mutual agreement of the employee organization and management. The costs of arbitrators shall be shared equally by the parties.

Ferry system employees shall follow ((either)) the grievance procedures provided in a collective bargaining agreement((, or if no such procedures are so provided, shall submit the grievances to the marine employees' commission as provided in RCW 47.64.280)).

**Sec. 11.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

**Sec. 12.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or

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committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) ~~((All employees of the marine employees' commission;~~

~~(z)))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aaa)))~~ (z) The manager of the energy facility site evaluation council;

~~((bbb)))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((eee)))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to

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executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 13.** (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

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**NEW SECTION. Sec. 14.** RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19 are each repealed.

**Sec. 15.** RCW 39.04.320 and 2009 c 197 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) through (d) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(b)(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.

(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after July 1, 2009, for all public works by the department of transportation estimated to cost two million dollars or more and for all public works by the Washington state ferries estimated to cost five million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(c)(i) This section does not apply to contracts advertised for bid before January 1, 2008, for any public works by a school district, or to any project funded in whole or in part by bond issues approved before July 1, 2007.

(ii) For contracts advertised for bid on or after January 1, 2008, for all public works by a school district estimated to cost three million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2009, for all public works by a school district estimated to cost two million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after January 1, 2010, for all public works by a school district estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(d)(i) For contracts advertised for bid on or after January 1, 2010, for all public works by a four-year institution of higher education estimated to cost three million dollars or more, all specifications must require that no less than ten percent of the labor hours be performed by apprentices.

(ii) For contracts advertised for bid on or after January 1, 2011, for all public works by a four-year institution of higher education estimated to cost two million dollars or more, all specifications must require that no less than twelve percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after January 1, 2012, for all public works by a four-year institution of higher education estimated to cost one million dollars or more, all specifications must require that no less than fifteen percent of the labor hours be performed by apprentices.

(2) Awarding entities may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of RCW 39.04.300 and 39.04.310 and this section; or

(d) Other criteria the awarding entity deems appropriate, which are subject to review by the office of the governor.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4) This section applies to public works contracts awarded by the state, to public works contracts awarded by school districts, and to public works contracts awarded by state four-year institutions of higher education. However, this section does not apply to contracts awarded by state agencies headed by a separately elected public official.

(5)(a) The department of general administration must provide information and technical assistance to affected agencies and collect the following data from affected agencies for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries shall assist the department of general administration in providing information and technical assistance.

(6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project. The committee shall provide a report to the legislature by January 1, 2008, on the effects of the apprentice labor requirement on transportation projects and on the availability of apprentice labor and programs statewide.

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of general administration and the department of labor and industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft."

Senators Haugen, King and Ranker spoke in favor of adoption of the striking amendment.

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The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen, King and Ranker to Substitute Senate Bill No. 5742.

The motion by Senator Haugen carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "amending RCW 47.60.530, 47.60.315, 82.08.0255, 82.12.0256, 47.64.011, 47.64.210, 47.64.150, 41.58.060, and 39.04.320; reenacting and amending RCW 43.84.092, 47.64.090, and 41.06.070; adding a new section to chapter 47.60 RCW; creating a new section; and repealing RCW 47.64.280."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute Senate Bill No. 5742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

Senator Conway spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5742.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Chase, Conway, Holmquist Newbry, Keiser, Kline, Roach and Stevens  
Absent: Senator Kohl-Welles

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Haugen: "Well, thank you Mr. President. There is one thing that I forgot to mention and one thing that I want to say is thank you to the Chairman of the Ways and Means. It's so nice to have a man, a person that is chairman of Ways and Means who actually understands the transportation budgets and understands how long we've struggled so much with the whole issues of ferries. One thing that is no little issue and that beginning the year 2013 we will no longer collect sales, no longer will we have to pay sales tax on the gas tax. But it's a huge plus, it's just a fact that Senator Murray actually did chair the Transportation Committee like myself and understands how frustrating this is and I will tell you to a person who lives in a ferry district the fact

that we've had to pay a sales tax on our gasoline has been something that has been difficult for us to understand or to even explain. There is a reason behind that because we have a motor vehicle excise tax which was a very generous tax. It was its way to the general fund to get some money from that revenue so that day is over. This is a new day and this is going to be a new time for ferries. Thank you very much."

#### MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5742 was immediately transmitted to the House of Representatives.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737, by House Committee on Health Care & Wellness (originally sponsored by Representatives Short, Seaquist and Schmick)

Concerning the department of social and health services' audit program for pharmacy payments.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended to read as follows:

(1) The legislature finds and declares it to be in the public interest and for the protection of the health and welfare of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the providing of medical, dental, and other health services to recipients of public assistance and medically indigent persons. In order to effectively accomplish such purpose and to assure that the recipient of such services receives such services as are paid for by the state of Washington, the acceptance by the recipient of such services, and by practitioners of reimbursement for performing such services, shall authorize the secretary of the department of social and health services or his designee, to inspect and audit all records in connection with the providing of such services.

(2) It is the intent of the legislature that the regulatory and inspection program authorized in this section shall include a systematic method to gather data for program improvement.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Audits under this chapter of the records of pharmacies licensed under chapter 18.64 RCW are subject to the following:

(a) An initial audit may not commence earlier than thirty days prior to the date on which written notice of the audit is given to the pharmacy. The notice must be provided to the physical location at which the audit will be conducted and to the principal office or place of business of the pharmacy, if different, and must include the name, office address, and telephone number of any contractor conducting the audit pursuant to a contract with the department. Audit findings resulting from audit work that is commenced before the thirty-day period may not be used in any audit findings;

(b) An audited pharmacy may use the written records of a hospital, physician, or other authorized pharmacy to validate the audited pharmacy's record; and

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(c) The pharmacy must have at least ninety days from the date on which the draft audit findings were delivered to the pharmacy to respond with additional documentation or other relevant information. Extensions of these time periods shall be granted for good cause.

(2) This section does not apply to an audit that is based on an investigation for fraudulent or abusive practices under RCW 74.09.210.

(3) For the purposes of this section, "allowable cost" means a medical cost that is:

(a) Covered by the state plan and waivers;

(b) Supported by the medical records indicating that the services were provided and consistent with the medical diagnosis, when special circumstances as required in the billing instructions require such documentation;

(c) Properly coded; and

(d) Paid at the rate allowed by the state plan.

NEW SECTION. Sec. 3. The secretary of the department of social and health services may adopt rules as necessary to implement this act.

NEW SECTION. Sec. 4. Section 2 of this act applies retroactively to audits commenced by the department of social and health services under chapter 74.09 RCW on or after April 1, 2011.

NEW SECTION. Sec. 5. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Bill No. 1737.

The motion by Senator Keiser carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "payments;" strike the remainder of the title and insert "amending RCW 74.09.200; adding a new section to chapter 74.09 RCW; and creating new sections."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1737 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1969, by Representatives Hasegawa and Springer

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies.

The measure was read the second time.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen be adopted:

On page 2, line 19, after "districts" insert "in a county with a population of one million five hundred thousand or more"

On page 2, line 24, after "district" insert "in a county with a population of one million five hundred thousand or more"

On page 4, line 12, after "~~shall~~" insert "that have a population of one million five hundred thousand or more"

On page 6, line 12, after "districts" insert "in a county with a population of one million five hundred thousand or more"

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Ericksen, the amendment by Senator Ericksen on page 2, line 19 to Engrossed House Bill No. 1969 was withdrawn.

#### MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen be adopted:

On page 2, line 19, after "districts" insert "in a county with a population of seven hundred seventy-five thousand or more"

On page 2, line 24, after "district" insert "in a county with a population of seven hundred seventy-five thousand or more"

On page 4, line 12, after "~~shall~~" insert "that have a population of seven hundred seventy-five thousand or more"

On page 6, line 12, after "districts" insert "in a county with a population of seven hundred seventy-five thousand or more"

Senators Ericksen, Fain and Pridemore spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 2, line 19 to Engrossed House Bill No. 1969.

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The motion by Senator Ericksen carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed House Bill No. 1969 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and Fain spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1969 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1969 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Holmquist Newbry and Stevens

Excused: Senators Delvin and McAuliffe

ENGROSSED HOUSE BILL NO. 1969 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1089, by House Committee on Higher Education (originally sponsored by Representative McCoy)

Regarding instructional materials provided in a specialized format.

The measure was read the second time.

MOTION

Senator Tom moved that the following committee striking amendment by the Committee on Higher Education & Workforce Development be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the knowledge, skill, and ability to succeed both academically and later in a chosen profession are accumulated through myriad sources, including instructional materials. Therefore, it is the intent of the legislature to ensure that students provided with instructional materials pursuant to RCW 28B.10.916 be permitted to retain those materials if they so desire.

**Sec. 2.** RCW 28B.10.916 and 2004 c 46 s 1 are each amended to read as follows:

(1) An individual, firm, partnership or corporation that publishes or manufactures instructional materials for students attending any public or private institution of higher education in the state of Washington shall provide to the public or private institution of higher education, for use by students attending the institution, any instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the public or private institution of higher education. Computer files or electronic versions of printed instructional materials shall be provided; video materials must be captioned or accompanied by transcriptions of spoken text; and audio materials must be accompanied by transcriptions. These supplemental materials shall be provided to the public or private institution of higher education at no additional cost and in a timely manner, upon receipt of a written request as provided in subsection (2) of this section.

(2) A written request for supplemental materials must:

(a) Certify that a student with a print access disability attending or registered to attend a public or participating private institution of higher education has purchased the instructional material or the public or private institution of higher education has purchased the instructional material for use by a student with a print access disability;

(b) Certify that the student has a print access disability that substantially prevents him or her from using standard instructional materials;

(c) Certify that the instructional material is for use by the student in connection with a course in which he or she is registered or enrolled at the public or private institution of higher education; and

(d) Be signed by the coordinator of services for students with disabilities at the public or private institution of higher education or by the college or campus official responsible for monitoring compliance with the Americans with disabilities act of 1990 (42 U.S.C. 12101 et seq.) at the public or private institution of higher education.

(3) An individual, firm, partnership or corporation specified in subsection (1) of this section may also require that, in addition to the requirements in subsection (2) of this section, the request include a statement signed by the student agreeing to both of the following:

(a) He or she will use the instructional material provided in specialized format solely for his or her own educational purposes; and

(b) He or she will not copy or duplicate the instructional material provided in specialized format for use by others.

(4) A public or private institution of higher education that provides a specialized format version of instructional material pursuant to this section may not require that the student return the specialized format version of the instructional material, except that if the institution has determined that it is not required to allow the student to retain the material under the Americans with disabilities act or other applicable laws, and the material was translated or transcribed into a specialized format at the expense of the institution and the cost to reproduce a copy of the translation or transcription is greater than one hundred dollars, the institution may require that the student return the specialized format version.

(5) If a public or private institution of higher education provides a student with the specialized format version of an instructional material, the media must be copy-protected or the public or private institution of higher education shall take other reasonable precautions to ensure that students do not copy or distribute specialized format versions of instructional materials in violation of the copyright revision((s)) act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((5))~~ (6) For purposes of this section:

(a) "Instructional material or materials" means textbooks and other materials that are required or essential to a student's success in

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a postsecondary course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course in consultation with the official making the request in accordance with guidelines issued pursuant to subsection ~~((9))~~ (10) of this section. The term specifically includes both textual and nontextual information.

(b) "Print access disability" means a condition in which a person's independent reading of, reading comprehension of, or visual access to materials is limited or reduced due to a sensory, neurological, cognitive, physical, psychiatric, or other disability recognized by state or federal law. The term is applicable, but not limited to, persons who are blind, have low vision, or have reading disorders or physical disabilities.

(c) "Structural integrity" means all instructional material, including but not limited to the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, graphs, charts, illustrations, pictures, equations, formulas, and bibliographies. Structural order of material shall be maintained. Structural elements, such as headings, lists, and tables must be identified using current markup and tools. If good faith efforts fail to produce an agreement between the publisher or manufacturer and the public or private institution of higher education, as to an electronic format that will preserve the structural integrity of instructional materials, the publisher or manufacturer shall provide the instructional material in a verified and valid HTML format and shall preserve as much of the structural integrity of the instructional materials as possible.

(d) "Specialized format" means Braille, audio, or digital text that is exclusively for use by blind or other persons with print access disabilities.

~~((6))~~ (7) Nothing in this section is to be construed to prohibit a public or private institution of higher education from assisting a student with a print access disability through the use of an electronic version of instructional material gained through this section or by transcribing or translating or arranging for the transcription or translation of the instructional material into specialized formats that provide persons with print access disabilities the ability to have increased independent access to instructional materials. If such specialized format is made, the public or private institution of higher education may share the specialized format version of the instructional material with other students with print access disabilities for whom the public or private institution of higher education is authorized to request electronic versions of instructional material. The addition of captioning to video material by a Washington public or private institution of higher education does not constitute an infringement of copyright.

~~((7))~~ (8) A specialized format version of instructional materials developed at one public or private institution of higher education in Washington state may be shared for use by a student at another public or private institution of higher education in Washington state for whom the latter public or private institution of higher education is authorized to request electronic versions of instructional material.

~~((8))~~ (9) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the copyright revision act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((9))~~ (10) The governing boards of public and participating private institutions of higher education in Washington state shall each adopt guidelines consistent with this section for its implementation and administration. At a minimum, the guidelines shall address all of the following:

(a) The designation of materials deemed "required or essential to student success";

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(b) The determination of the availability of technology for the conversion of materials pursuant to subsection ~~((4))~~ (5) of this section and the conversion of mathematics and science materials pursuant to subsection ~~((5))~~ (6)(c) of this section;

(c) The procedures and standards relating to distribution of files and materials pursuant to this section;

(d) The guidelines shall include procedures for granting exceptions when it is determined that an individual, firm, partnership or corporation that publishes or manufactures instructional materials is not technically able to comply with the requirements of this section; and

(e) Other matters as are deemed necessary or appropriate to carry out the purposes of this section.

~~((4))~~ (11) A violation of this chapter constitutes an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, apply."

Senator Tom spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Higher Education & Workforce Development to Substitute House Bill No. 1089.

The motion by Senator Tom carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "version;" strike the remainder of the title and insert "amending RCW 28B.10.916; and creating a new section."

## MOTION

On motion of Senator Tom, the rules were suspended, Substitute House Bill No. 1089 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

## MOTION

On motion of Senator Fraser, Senator Prentice was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1089 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1089 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

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Excused: Senators Delvin, McAuliffe and Prentice  
 SUBSTITUTE HOUSE BILL NO. 1089 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1254, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Lytton, Blake, Takko, Van De Wege, Ladenburg and Rolfes)

Regarding the institute of forest resources.

The measure was read the second time.

MOTION

Senator Ranker moved that the following committee striking amendment by the Committee on Natural Resources & Marine Waters be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that there are many challenges facing the forest sector, such as climate change, loss of forest cover in rural and urban areas, forest health and fire risks, the development of environmental service markets, the enhancement of habitat and biodiversity, timber and water supply, restoration of forest ecosystems, and the economic health of forest-dependent communities that rely on the retention of working forests.

(2) The legislature further finds that these forest issues, which occur in both rural and urban environments, and the approaches taken to address the issues, transcend the expertise and mission of the University of Washington school of forest resources and the associated centers and cooperatives. While each of these centers and cooperatives contribute expertise and resources, the structure and continuity for the integrated, interdisciplinary approach needed to address these complex issues is lacking.

(3) It is the intent of the legislature for the institute of forest resources to provide the structure and continuity needed by drawing contributions from the associated centers and cooperatives into a more consolidated, collaborative, interdisciplinary, and integrated process that is responsive to the critical issues confronting the forest sector.

**Sec. 2.** RCW 76.44.070 and 2010 c 188 s 2 are each amended to read as follows:

The legislature finds that there are many issues facing the forest sector, such as climate change, forest health and fire, carbon accounting, habitat and diversity, timber and water supplies, economic competitiveness, and the economic health of forest dependent communities. Enhancing the capability to effectively address these forest issues is critical to the state of Washington. To meet this need, the University of Washington school of forest resources will continue to work with the various interests concerned with the state's forest resources, including the legislature, state and federal governments, environmental organizations, local communities, the timber industry, and tribes, to improve these entities' ability to competitively recruit, educate, and train a high quality workforce. In order to meet these goals, it is important to our state, and in particular the University of Washington, to continue to have strong undergraduate and graduate programs in forestry and natural resources to provide well-trained professionals to meet workforce needs.

**Sec. 3.** RCW 76.44.020 and 1988 c 81 s 21 are each amended to read as follows:

The institute of forest resources shall be administered and directed by the ((~~dean of the college~~) director of the school of forest resources ((~~of~~)) at the University of Washington ((~~who shall also be the director of the institute~~)).

**Sec. 4.** RCW 76.44.030 and 1979 c 50 s 5 are each amended to read as follows:

(1) The institute of forest resources shall pursue coordinated research and education related to the forest ((~~resource~~)) sector and its multiple ((~~use~~)) components, including ((~~its~~)):

(a) Forest conservation, restoration, sustainable management, and utilization; ((~~its~~))

(b) The evaluation of the economic, ecological, and societal value of forest land ((~~use and the maintenance of its~~)) in both the rural and urban environment;

(c) The manufacture and marketing of forest products, including timber products, nontimber products, environmental services, and the provision of recreation and aesthetic values.

(2) The institute of forest resources must seek to provide a framework for identifying, prioritizing, funding, and conducting interdisciplinary research critical to the forest sector and the development of integrated, synthesized information and decision support tools that improve the understanding of complex forestry issues for stakeholders, policymakers, and other interested parties.

(3) In pursuit of these objectives, the institute of forest resources is authorized to cooperate, when cooperation advances the objectives listed in this section, with other entities, including but not limited to:

(a) Universities((~~;~~));

(b) State and federal agencies((~~, industrial institutions;~~));

(c) Conservation and environmental organizations;

(d) Community and urban forestry organizations; and

(e) Domestic or foreign~~((, where such cooperation advances these objectives))~~ industrial and business institutions.

**Sec. 5.** RCW 76.44.050 and 1979 c 50 s 7 are each amended to read as follows:

(1) The institute ((is authorized to)) of forest resources may solicit ((and/or accept funds through)) gifts, grants, ((contracts, or institutional consulting arrangements for the prosecution of any research or education activity which it may undertake in pursuit of its objectives)) conveyances, bequests, and devices, including both real or personal property, in trust or otherwise, to be directed to the institute for carrying out the objectives of the institute as provided in this chapter.

(2) The institute of forest resources may solicit contracts for work, financial and in-kind contributions, and support from private industries, interest groups, federal and state sources, and other sources deemed appropriate by the director of the institute.

(3) The institute of forest resources may utilize separately appropriated funds of the University of Washington for the institute's operations and activities.

**NEW SECTION. Sec. 6.** A new section is added to chapter 76.44 RCW to read as follows:

(1) The director of the school of forest resources at the University of Washington may, at the discretion of the director, appoint and maintain an eleven-member policy advisory committee to advise the director on policies for the institute of forest resources that are consistent with the institute's objectives as provided in this chapter.

(2) If activated, the membership of the policy advisory committee must represent, to the extent possible, the various interests concerned with the institute of forest resources, including state and federal agencies, tribal governments, conservation and

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environmental organizations, urban forestry interests, rural communities, industry, and business.

(3) Members of the advisory committee may not receive any salary or other compensation for service on the advisory committee. However, each member may be compensated, at the discretion of the director of the institute, for each day in actual attendance at or traveling to and from meetings of the advisory committee in accordance with RCW 43.03.220 together with travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 7. A new section is added to chapter 76.44 RCW to read as follows:

The director of the school of forest resources at the University of Washington shall coordinate the various cooperatives and centers within the school of forest resources to promote a holistic, efficient, and integrated approach that broadens the research and outreach programs and addresses issues facing the forest sector."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources & Marine Waters to Substitute House Bill No. 1254.

The motion by Senator Ranker carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "resources;" strike the remainder of the title and insert "amending RCW 76.44.070, 76.44.020, 76.44.030, and 76.44.050; adding new sections to chapter 76.44 RCW; and creating a new section."

#### MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1254 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1254 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1254 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Prentice

SUBSTITUTE HOUSE BILL NO. 1254 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE HOUSE BILL NO. 1257, by House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Kirby and Kelley)

Adopting the investments of insurers model act.

The measure was read the second time.

#### MOTION

Senator Hobbs moved that the following committee amendment by the Committee on Financial Institutions, Housing & Insurance be not adopted:

On page 3, line 29, after "(1)" strike "Minimum" and insert "The minimum"

On page 3, line 29, after "benchmark" insert "shall be used only as authorized in this chapter in the regulation of insurer investments"

On page 4, line 4, after "section" insert "only for the purpose of regulating insurer investments"

The President declared the question before the Senate to be the motion by Senator Hobbs to not adopt the committee amendment by the Committee on Financial Institutions, Housing & Insurance to Substitute House Bill No. 1257.

The motion by Senator Hobbs carried and the committee amendment was not adopted by voice vote.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser, Hobbs and Benton be adopted:

On page 17, line 1, after "before" strike "January" and insert "July"

On page 17, line 2, after "after" strike "January" and insert "July"

On page 17, after line 37, insert the following:

NEW SECTION. Sec. 19. (1) By December 1, 2011, the insurance commissioner must submit a report to the governor and appropriate committees of the legislature, providing the following information:

(a) The estimated total dollar amount of insurance company assets affected by this act;

(b) An analysis outlining the pertinent investment changes made in this act and the reasons for such changes;

(c) An analysis detailing any projected risks to policyholders and taxpayers associated with the implementation of this act and any provisions included in this act to protect such stakeholders against such risks;

(d) A copy of proposed rules to implement this act;

(e) A general outline of any managerial and personnel modifications required in the office of the insurance commissioner to implement this act;

(f) An explanation describing why an insurance company's investment policy must be exempt from public disclosure and subpoena; and

(g) An analysis identifying other states that have: (i) Adopted this model legislation in both substantial or limited part, and the reasons for such decision; and (ii) explicitly chosen not to adopt this model legislation and the reasons for such decision.

(2) In preparing the report the commissioner shall consult with the department of financial institutions and the state investment board."

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Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 22, line 33, after "effect" strike "January" and insert "July"

Senators Fraser, Hobbs and Benton spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser, Hobbs and Benton on page 17, line 1 to Substitute House Bill No. 1257.

The motion by Senator Fraser carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "48.13 RCW;" insert "creating a new section;"

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 1257 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1257 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1257 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1257 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1923, by House Committee on Judiciary (originally sponsored by Representatives Goodman, Reykdal, Hunt, Pedersen, Roberts and Hunter)

Requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1923 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1923.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1923 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Hill, Holmquist Newbry, Honeyford, Parlette, Roach and Stevens

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1923, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295, by House Committee on Local Government (originally sponsored by Representatives Van De Wege, Hurst, Tharinger, Fitzgibbon and Liias)

Concerning the installation of residential fire sprinkler systems.

The measure was read the second time.

#### MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that fire sprinkler systems in private residences may prevent catastrophic losses of life and property, but that financial, technical, and other issues often discourage property owners from installing these protective systems.

It is the intent of the legislature to eradicate barriers that prevent the voluntary installation of sprinkler systems in private residences by promoting education regarding the effectiveness of residential fire sprinklers, and by providing financial and regulatory incentives to homeowners, builders, and water purveyors for voluntarily installing the systems. It is the further intent of the legislature to fully preserve the rulings of *Fisk v. City of Kirkland*, 164 Wn.2d 891 (2008), *Stiefel v. City of Kent*, 132 Wn. App.523 (2006), and similar cases.

**Sec. 2.** RCW 18.160.050 and 2008 c 155 s 2 are each amended to read as follows:

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(1)(a) All certificate of competency holders that desire to continue in the fire protection sprinkler business shall annually, prior to January 1<sup>st</sup>, secure from the state director of fire protection a renewal certificate of competency upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the certificate holder shall furnish the information required by the director.

(b) Failure of any certificate of competency holder to secure his or her renewal certificate of competency within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the certificate of competency.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a certificate of competency that has been suspended for failure to pay the renewal fee.

(d) A certificate of competency holder may voluntarily surrender his or her certificate of competency to the state director of fire protection and be relieved of the annual renewal fee. After surrendering the certificate of competency, he or she shall not be known as a certificate of competency holder and shall desist from the practice thereof. Within two years from the time of surrender of the certificate of competency, he or she may again qualify for a certificate of competency, without examination, by the payment of the required fee. If two or more years have elapsed, he or she shall return to the status of a new applicant.

(2)(a) All licensed fire protection sprinkler system contractors desiring to continue to be licensed shall annually, prior to January 1<sup>st</sup>, secure from the state director of fire protection a renewal license upon payment of the fee as prescribed by the state director of fire protection. Application for renewal shall be upon a form prescribed by the state director of fire protection and the license holder shall furnish the information required by the director.

(b) Failure of any license holder to secure his or her renewal license within sixty days after the due date shall constitute sufficient cause for the state director of fire protection to suspend the license.

(c) The state director of fire protection may, upon the receipt of payment of all delinquent fees including a late charge, restore a license that has been suspended for failure to pay the renewal fee.

(3) The initial certificate of competency or license fee shall be prorated based upon the portion of the year such certificate of competency or license is in effect, prior to renewal on January 1<sup>st</sup>.

(4) The fire protection contractor license fund is created in the custody of the state treasurer. All receipts from license and certificate fees and charges or from the money generated by the rules and regulations promulgated under this chapter shall be deposited into the fund. Expenditures from the fund may be used only for purposes authorized under this chapter and standards for fire protection and its enforcement, with respect to all hospitals as required by RCW 70.41.080(~~and~~); for providing assistance in identifying fire sprinkler system components that have been subject to either a recall or voluntary replacement program by a manufacturer of fire sprinkler products, a nationally recognized testing laboratory, or the federal consumer product safety commission; and for use in developing and publishing educational materials related to the effectiveness of residential fire sprinklers. Assistance shall include, but is not limited to, aiding in the identification of recalled components, information sharing strategies aimed at ensuring the consumer is made aware of recalls and voluntary replacement programs, and providing training and assistance to local fire authorities, the fire sprinkler industry, and the public. Only the state director of fire protection or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 3.** RCW 82.02.100 and 1992 c 219 s 2 are each amended to read as follows:

(1) A person required to pay a fee pursuant to RCW 43.21C.060 for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same system improvements.

(2) A person installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services.

**NEW SECTION. Sec. 4.** A new section is added to chapter 70.119A RCW to read as follows:

(1) A person or purveyor that owns, operates, or maintains a public water system shall not be liable for damages resulting from shutting off water to a residential home with an installed fire sprinkler system if the shut off is due to: (a) Routine maintenance; (b) nonpayment by the customer; or (c) a water system emergency.

(2) Any governmental or municipal corporation, including but not limited to special districts, shall be deemed to be exercising a governmental function when it acts or undertakes to supply water, within or without its corporate limits, to a residential home with an installed fire sprinkler system."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Swecker moved that the following amendment by Senator Roach to the committee striking amendment be adopted:

On page 3, line 33 of the amendment, after "maintenance" insert "or construction"

Senators Swecker and Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 3, line 33 to the committee striking amendment to Engrossed Substitute House Bill No. 1295.

The motion by Senator Swecker carried and the amendment to the committee striking was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections as amended to Engrossed Substitute House Bill No. 1295.

The motion by Senator Pridemore carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "amending RCW 18.160.050 and 82.02.100; adding a new section to chapter 70.119A RCW; and creating a new section."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute House Bill No. 1295 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senators Pridemore and Swecker spoke in favor of passage of the bill.

MOTION

On motion of Senator Rockefeller, Senator Ranker was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1295 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1295 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Benton, Ericksen, Holmquist Newbry and Honeyford

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Goodman and Stanford)

Modifying the business and occupation tax deduction for organizations providing child welfare services. Revised for 1st Substitute: Concerning a business and occupation tax deduction for amounts received with respect to child welfare services.

The measure was read the second time.

MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing child welfare services under a government-funded program.

(2) A person may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) The following definitions apply to this section:

(a) "Child welfare services" has the same meaning as provided in RCW 74.13.020; and

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431.

**NEW SECTION. Sec. 2.** This act applies to amounts received by a taxpayer on or after August 1, 2011."

Senator Kilmer spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1902.

The motion by Senator Kilmer carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; and creating a new section."

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 1902 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1902 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1902 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1052, by Representatives Pedersen, Rodne, Eddy and Moeller

Addressing the authority of shareholders and boards of directors to take certain actions under the corporation act.

The measure was read the second time.

MOTION

NINETY SECOND DAY, APRIL 11, 2011

On motion of Senator Kline, the rules were suspended, House Bill No. 1052 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1052.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1052 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hobbs

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1052, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator White, Senator Kline was excused.

## SECOND READING

HOUSE BILL NO. 1413, by Representatives Blake, Chandler, Tharinger and Hinkle

Extending the expiration date of the invasive species council and the invasive species council account from December 31, 2011, to June 30, 2017.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1413 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1413.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1413 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller,

2011 REGULAR SESSION

Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1413, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1106, by Representatives Takko, Orcutt and Blake

Authorizing disposal of property within the Seashore Conservation Area to resolve boundary disputes.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1106 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1106.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1106 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Hargrove

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1106, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1698, by Representatives Lytton, Morris, Van De Wege, Blake and Liias

Improving recreational fishing opportunities in Puget Sound and Lake Washington.

The measure was read the second time.

## MOTION

On motion of Senator Ranker, the rules were suspended, House Bill No. 1698 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

NINETY SECOND DAY, APRIL 11, 2011

2011 REGULAR SESSION

The President declared the question before the Senate to be the final passage of House Bill No. 1698.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1698 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kline and McAuliffe

HOUSE BILL NO. 1698, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5500,  
SENATE BILL NO. 5526.

## NOTICE OF RECONSIDERATION

Having voted on the prevailing side and on motion of Senator Schoesler the rules were suspended and the Senate moved to immediately reconsidered the vote by which Substitute House Bill No. 1923 passed the Senate earlier in the day.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1923 on reconsideration.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1923 on reconsideration and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Ericksen, Holmquist Newbry, Honeyford, Stevens and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1923 on reconsideration, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1586, by Representatives Seaquist, Haler, Jacks, Dammeier, Moscoso, Carlyle, Zeiger, Moeller, Probst, Kenney, Stanford, Kelley, Dahlquist and Jinkins

Regarding the provision of doctorate programs at the research university branch campuses in Washington.

The measure was read the second time.

## MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 1586 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Becker and Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1586.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1586 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1586, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1061, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Green and Kelley)

Concerning on-site wastewater treatment systems designer licensing.

The measure was read the second time.

## MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1061 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1061.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1061 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller,

NINETY SECOND DAY, APRIL 11, 2011

Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:16 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Tuesday, April 12, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SENATE JOURNAL**  
**SIXTY-SECOND LEGISLATURE**  
**STATE OF WASHINGTON**

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2010 Second Special Session Convened December 11, 2010*

*2011 Regular Session Convened January 10, 2011*

*Adjourned Sine Die April 22, 2011*

*2011 Special Session Convened April 26, 2011*

*Adjourned Sine Die May 25, 2011*

Official Record of All Senate Actions Compiled, Edited and Indexed  
Pursuant to Article II, Section 11 of the Constitution of the State of  
Washington, by Thomas Hoemann, Secretary of the Senate

**Volume 2**



Linda Jansson,  
Minute and Journal Clerk

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Lieutenant Governor Brad Owen, *President of the Senate*  
Senator Margarita Prentice, *President Pro Tempore*  
Senator Paull Shin, *Vice President Pro Tempore*

**SENATE CAUCUS OFFICERS**

**2011**

**DEMOCRATIC CAUCUS**

*Majority Leader*.....Lisa Brown  
*Majority Caucus Chair*.....Karen Fraser  
*Majority Floor Leader* .....Tracey J. Eide  
*Majority Whip* .....Scott White  
*Majority Assistant Floor Leader*.....Phil Rockefeller  
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*Republican Floor Leader*.....Mark Schoesler  
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*Republican Deputy Leader*.....Mike Carrell  
*Republican Caucus Vice Chair*.....Dan Swecker  
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*Republican Deputy Whip*.....Jerome Delvin

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*Secretary of the Senate* ..... Thomas Hoemann  
*Deputy Secretary* ..... Brad Hendrickson  
*Sergeant at Arms* ..... Jim Ruble  
*Minute and Journal Clerk* ..... Linda Jansson  
*Readers* ..... Kenneth Edmonds and Dave Whitmore

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**NINETY THIRD DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, April 12, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Holmquist Newbry and McAuliffe.

The Sergeant at Arms Color Guard consisting of Pages Kathrina Harrison and Madeline Pepple, presented the Colors. Chaplain Phil Lewis of Josephine Sunset Home of Stanwood offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 30, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LINDSAY FIKER, appointed March 30, 2011, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 4 (Skagit Valley College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 11, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

GABE P. SPENCER, appointed March 31, 2011, for the term ending June 30, 2013, as Member of the Housing Finance Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Financial Institutions, Housing & Insurance.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5167.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5367,

SENATE BILL NO. 5480.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5389.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House has passed:

SECOND SUBSTITUTE HOUSE BILL NO. 1965.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5932 by Senators Kohl-Welles, Conway, Nelson, White, Murray, Keiser, Regala, Chase, Kline and Harper

AN ACT Relating to clarifying the taxability of initiation fees and dues to provide funding for essential government services; amending RCW 82.04.4282; reenacting and amending RCW 82.04.050; making an appropriation; and providing a contingent effective date.

Referred to Committee on Ways & Means.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

2ESHB 1087 by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 19.30.030, 28B.15.068, 28B.116.050, 28C.04.535, 36.22.175, 40.14.025, 40.14.027, 41.06.022, 41.50.110, 41.60.050, 41.80.010, 41.80.020, 43.07.129, 43.08.190, 43.09.475, 43.19.501, 43.20A.725, 43.79.201, 43.79.465, 43.88.150, 43.101.200, 43.135.045, 43.185.050, 43.185C.190, 43.336.020, 46.66.080, 66.08.170, 66.08.190, 66.08.235, 67.70.260, 70.93.180, 70.105D.070, 74.13.621, 79.64.040, 79.105.150, 80.36.430, 82.08.160, 82.14.310, 82.14.320, 82.14.330, 82.14.390, 82.14.500, 82.45.060, 86.26.007, and 90.71.370; reenacting and amending RCW 41.06.070, 43.79.480, 43.155.050, 43.185A.030, and 43.330.250; amending 2011 c 5 ss 106, 107, 108, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126, 127, 128, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 301, 302, 303, 304, 305, 306, 307, 401, 402, 501, 502, 503, 504, 505, 507, 508, 607, 608, 609, 612, 613, 614, 615, 616, 617, 703, and 801 (uncodified); amending 2010 2nd sp.s. c 1 ss 101, 102, 106, 107, 108, 116, 305, and 306 (uncodified); amending 2010 1st sp.s. c 37 ss 201, 504, 509, 510, 514, 515, 516, 517, 612, 701, 702, 703, 709, 710, and 801 (uncodified); amending 2009 c 564 ss 719, 802, and 803 (uncodified); adding new sections to 2009 c 564 (uncodified); adding new sections to 2011 c 367 (uncodified); creating new sections; repealing 2010 1st sp.s. c 37 s 802 (uncodified); making appropriations; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

## MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

## MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through April 12, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through April 12, 2011 by voice vote.

## MOTION

On motion of Senator Eide, Senate Rule 20 was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION  
8653

By Senators Parlette, Kastama, Honeyford, Conway, Pridemore, Harper, Ericksen, Becker, Stevens, King, Morton, and Delvin

WHEREAS, Washington's apple industry is a major contributor to the economic health of both the state and its people; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 92nd annual Washington State Apple Blossom Festival to take place from April 28th through May 8, 2011; and

WHEREAS, The Apple Blossom Festival, which began as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state, first celebrated in 1919 when Mrs. E. Wagner organized the first Blossom Day; and

WHEREAS, The Apple Blossom Festival celebrates the importance of the apple industry in the Wenatchee Valley and its environs; and

WHEREAS, The Apple Blossom Festival recognizes three young women who by their superior and distinctive efforts have exemplified the spirit and meaning of the Apple Blossom Festival; and

WHEREAS, These three young women are selected to reign over the Apple Blossom Festival and serve as ambassadors to the outlying communities as Princesses and Queen; and

WHEREAS, Maycee McQuin has been selected to represent her community as a 2011 Apple Blossom Princess, in part for her jovial, perspicacious, and humble nature, her imagination and formative multimedia capabilities as demonstrated through her passion for capturing her high school's finest moments as the ASB Video Coordinator and the Co-Editor of the yearbook, and her involvement in extracurricular activities, including Chamber Singers and theater productions, in her school and community; and

WHEREAS, Elise Shae has been selected to represent her community as a 2011 Apple Blossom Princess, in part for her genuine, lighthearted attitude and zest for life, her commitment to academic excellence as a member of the Honor Society, and her involvement in extracurricular activities, including being the ASB Assemblies Coordinator and a member of Chamber Singers and the Hy-Land Singers; and

WHEREAS, Elenore Bastian has been selected to represent her community as the 2011 Apple Blossom Queen, in part for her assuring, witty, and kindhearted spirit, her strong academic performance and participation in extracurricular activities, including being President of Honor Society, a member of the cross-country team, captain of the girls' golf team, and an ASB Activities

NINETY THIRD DAY, APRIL 12, 2011

2011 REGULAR SESSION

Coordinator at her school, and her respectful and heartfelt love for her family, friends, and community; and

WHEREAS, These three young women all desire to share their proven talents and leadership ambition to serve their community and be an encouragement to those they encounter;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the State of Washington honor the accomplishments of the members of the Apple Blossom Festival Court and join the City of Wenatchee and the people of the State of Washington in celebrating the Washington State Apple Blossom Festival; and

BE IT FURTHER RESOLVED, That copies of this Resolution be immediately transmitted by the Secretary of the Senate to Queen Elenore Bastian, Princess Maycee McQuin, Princess Elise Shae, and the Board of Directors and Chairpeople of the Washington State Apple Blossom Festival.

Senators Parlette and Shin spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8653.

The motion by Senator Parlette carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the Apple Blossom Festival Court: Princess Elise Shae, Princess Maycee McQuinn; and Queen Elenore Bastian who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Apple Blossom Queen Elenore Bastian to address the Senate.

REMARKS BY MISS ELENORE BASTIAN

“Thank you so much for having Princess Elise and Princess Maycee and myself here today. We are so honored to tour the Capitol and speak to you now. We feel so privileged to represent the Valley on behalf of the Apple Blossom Festival. As whether you enjoy skiing on Mission Ridge, biking the loop trail along the Columbia River or hiking the enchantments, Wenatchee Valley is truly a unique place. But biased or not, I would have to say the Apple Blossom Festival really makes this valley special. We call ourselves the apple capital but it has never really been just about the apples. It is our spirit that makes us who we are. Anyone who visits Wenatchee instantly notices our strong community bond. Apple Blossom is an opportunity to highlight and celebrate our prominence in the fruit and orchard industry but to everyone who calls Wenatchee their home this festival is so much than that. Community businesses sponsor and the oh so many volunteers donate so much more than just their money and countless hours of service. Apple Blossom is a time to celebrate our history and the apple industry and spend time with our loved ones. Apple Blossom is fun, with parades, carnivals and food fair and yet Apple Blossom is also history. Wound in tradition and over flowing with community pride. Apple Blossom is an opportunity to spend time with loved ones and highlight the natural beauty of this wonderful valley. We invite you to experience this festival for yourself as words can truly not describe our wonderful celebration. So, please join us in our ninety-second Apple Blossom Festival from April 28 through May 8 and visit us online at AppleBlossom.org. See you all there.”

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Apple Blossom Festival Royalty Chaperones who were seated in the gallery.

MOTION

On motion of Senator Eide, Senators Benton, Delvin, McAuliffe, Sheldon and Swecker were excused.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING

HOUSE BILL NO. 1000, by Representatives Hurst, Stanford, Blake, Finn, Ladenburg, Goodman, Appleton, Pearson and Moeller

Concerning overseas and service voters.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic (~~facsimile~~) transmissions of the following documents:

- (1) Declarations of candidacy;
- (2) County canvass reports;
- (3) Voters' pamphlet statements;
- (4) Arguments for and against ballot measures that will appear in a voters' pamphlet;
- (5) Requests for recounts;
- (6) Certification of candidates and measures by the secretary of state;
- (7) Direction by the secretary of state for the conduct of a (~~mandatory~~) recount;
- (8) Requests for (~~absentee~~) ballots;
- (9) Any other election related document authorized by rule adopted by the secretary of state under RCW (~~29A.04.610~~) 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

((If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule.)) The secretary may by rule require that the original of any document, a copy of which is filed by (~~facsimile~~) electronic transmission under this section, also be filed by a deadline established by the secretary by rule.

Sec. 2. RCW 29A.40.070 and 2006 c 344 s 13 are each amended to read as follows:

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(1) Except where a recount or litigation ((under RCW 29A.68.011)) is pending, the county auditor ((shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor)) must mail ((absentee)) ballots to each voter ((for whom the county auditor has received a request nineteen days before the primary or election)) at least eighteen days before ((the)) each primary or election, and as soon as possible for all subsequent registration changes. ((For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days)).

(2) ((At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters.)) Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election and at least forty-five days before each primary or general election. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots (~~prescribed in subsection (1) of this section were available and~~) were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

((4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.

(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.

(6)) Failure to ((have absentee ballots available and mailed)) mail ballots as prescribed in ((subsection (1) of)) this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

**Sec. 3.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return ((#)) the ballot to the county auditor.

(2) The ((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she)) voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in

any other jurisdiction at this election((, together with a summary of the penalties for any violation of any of the provisions of this chapter)). The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and((, except as otherwise provided by law,)) it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ((return envelope must provide space for the)) voter ((to)) must indicate the date on which the ballot was voted and ((for the voter to)) sign the ((oath)) declaration. ((It)) The ballot materials must also contain a space so that the voter may include a telephone number. ((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor ((by whom it was issued)) no later than 8:00 p.m. the day of the election or primary, or ((attach sufficient first class postage, if applicable, and)) mail the ballot to the ((appropriate)) county auditor with a postmark no later than the day of the election or primary ((for which the ballot was issued).

— If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed). For overseas and service voters, the declaration must also explain that a voter may fax or e-mail a voted ballot and the signed declaration if the voter agrees to waive secrecy.

**Sec. 4.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received ((absentee)) return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ((after 8:00 p.m. of the day of the primary or election)) processing. ((Absentee ballots that are to be tabulated on an electronic vote tallying system)) Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ((Before opening a returned absentee ballot,)) The canvassing board, or its designated representatives, shall examine the postmark((, statement,)) on the return envelope and signature on the ((return envelope that contains the security envelope and absentee ballot)) declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify

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signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ~~((return envelope))~~ ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. ~~((For any absentee ballot,))~~ A variation between the signature of the voter on the ~~((return envelope))~~ ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ~~((For registered voters casting absentee ballots))~~ If the ~~postmark is missing or illegible,~~ the date on the ~~((return envelope))~~ ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot ~~((if the postmark is missing or is illegible)).~~ For overseas voters and service voters, the date on the ~~((return envelope))~~ declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot. Any overseas voter or service voter who agrees to waive secrecy may return the signed declaration and voted ballot by fax or e-mail by 8:00 p.m. on the day of the primary or election."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

#### MOTION

Senator Pridemore moved that the following amendment by Senator Pridemore to the committee striking amendment be adopted:

On page 4, beginning on line 35 of the amendment, after "~~guaranteed~~)," strike all material through "~~secrecy~~," on line 38 and insert "Service and overseas voters must be provided with instructions and a secrecy cover sheet for returning the ballot and signed declaration by fax or e-mail. A voted ballot and signed declaration returned by fax or e-mail must be received by 8:00 p.m. on the day of the election or primary."

On page 6, beginning on line 3 of the amendment, after "ballot." strike all material through "election." on line 6 and insert "Any overseas voter or service voter may return the signed declaration and voted ballot by fax or e-mail by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot."

Senator Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 4, line 35 to the committee striking amendment to House Bill No. 1000.

The motion by Senator Pridemore carried and the amendment was to the committee striking amendment adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections as amended to House Bill No. 1000.

The motion by Senator Pridemore carried and the committee striking amendment as amended was adopted by voice vote.

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#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "voters;" strike the remainder of the title and insert "and amending RCW 29A.04.255, 29A.40.070, 29A.40.091, and 29A.40.110."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, House Bill No. 1000 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1000 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1000 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Holmquist Newbry and McAuliffe

HOUSE BILL NO. 1000 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1794, by Representatives Ladenburg, Klippert and Kelley

Adding court-related employees to the assault in the third degree statute.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1794 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1794.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1794 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser,

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Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Holmquist Newbry and McAuliffe

HOUSE BILL NO. 1794, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1730, by Representatives Jinkins, Rodne, Haler and Dunshee

Concerning the authorization of bonds issued by Washington local governments.

The measure was read the second time.

#### MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed House Bill No. 1730 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1730.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1730 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Holmquist Newbry and McAuliffe

ENGROSSED HOUSE BILL NO. 1730, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1903, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney and Kelley)

Requiring background checks for all child care licensees and employees.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.215 RCW to read as follows:

Subject to appropriation, the department of early learning shall establish and maintain an individual-based or portable background check clearance registry by July 1, 2012. Any individual seeking a child care license or employment in any child care facility licensed or regulated under current law shall submit a background application on a form prescribed by the department in rule.

Sec. 2. RCW 43.215.215 and 2007 c 415 s 5 are each amended to read as follows:

(1) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(2) In order to determine the suitability of ~~((applicants))~~ individuals newly applying for an agency license, new licensees, their new employees, and other persons who newly have unsupervised access to children in care, ~~((and who have not resided in the state of Washington during the three year period before being authorized to care for children.))~~ shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b) ~~((The fingerprint criminal history record checks shall be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record.))~~ (i) Effective July 1, 2012, all individuals applying for first-time agency licenses, all new employees, and other persons who have not been previously qualified by the department to have unsupervised access to children in care must be fingerprinted and obtain a criminal history record check pursuant to this section.

(ii) Persons required to be fingerprinted and obtain a criminal record check pursuant to this section must pay for the cost of this check as follows: The fee established by the Washington state patrol for the criminal background history check, including the cost of obtaining the fingerprints; and a fee paid to the department for the cost of administering the individual-based/portable background check clearance registry. The fee paid to the department must be deposited into the individual-based/portable background check clearance account established in section 5 of this act. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.

(c) The director shall use the fingerprint criminal history record check information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose.

(e) No later than July 1, 2013, all agency licensees holding licenses prior to July 1, 2012, persons who were employees before July 1, 2012, and persons who have been qualified by the

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department before July 1, 2012, to have unsupervised access to children in care, must submit a new background application to the department. The department must require persons submitting a new background application pursuant to this subsection (2)(e) to pay a fee to the department for the cost of administering the individual-based/portable background check clearance registry. This fee must be paid into the individual-based/portable background check clearance account established in section 5 of this act. The licensee may, but need not, pay these costs on behalf of a prospective employee or reimburse the prospective employee for these costs. The licensee and the prospective employee may share these costs.

(f) The department shall issue a background check clearance card or certificate to the applicant if after the completion of a background check the department concludes the applicant is qualified for unsupervised access to children in care. The background check clearance card or certificate is valid for three years from the date of issuance. A valid card or certificate must be accepted by a potential employer as proof that the applicant has successfully completed a background check as required under this chapter.

(g) The original applicant for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care shall submit a new background check application to the department, on a form and by a date as determined by the department.

(h) The applicant and agency shall maintain on-site for inspection a copy of the background check clearance card or certificate.

(i) Individuals who have been issued a background check clearance card or certificate shall report nonconviction and conviction information to the department within twenty-four hours of the event constituting the nonconviction or conviction information.

(j) The department shall investigate and conduct a redetermination of an applicant's or licensee's background clearance if the department receives a complaint or information from individuals, a law enforcement agency, or other federal, state, or local government agency. Subject to the requirements contained in RCW 43.215.300 and 43.215.305 and based on a determination that an individual lacks the appropriate character, suitability, or competence to provide child care or early learning services to children, the department may: (i) Invalidate the background card or certificate; or (ii) suspend, modify, or revoke any license authorized by this chapter.

**Sec. 3.** RCW 43.215.010 and 2007 c 415 s 2 and 2007 c 394 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Department" means the department of early learning.

(5) "Director" means the director of the department.

(6) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(7) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

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(8) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(9) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(10) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(11) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(12) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.215 RCW to read as follows:

Effective July 1, 2011, all agency licensees shall pay the department a one-time fee established by the department. When establishing the fee, the department must consider the cost of developing and administering the registry, and shall not set a fee which is estimated to generate revenue beyond estimated costs for the development and administration of the registry. Fee revenues must be deposited in the individual-based/portable background check clearance account created in section 5 of this act and may be expended only for the costs of developing and administering the individual-based/portable background check clearance registry created in section 1 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.215 RCW to read as follows:

The individual-based/portable background check clearance account is created in the custody of the state treasurer. All fees collected pursuant to RCW 43.215.215 and section 4 of this act must be deposited in the account. Expenditures from the account may be made only for development and administration, and implementation of the individual-based/portable background check registry established in section 1 of this act. Only the director of the department of early learning or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 6.** A new section is added to chapter 43.215 RCW to read as follows:

Upon resignation or termination with or without cause of any individual working in a child care agency, the child care agency shall report to the department within twenty-four hours if it has knowledge of the following with respect to the individual:

(1) Any charge or conviction for a crime listed in WAC 170-06-0120;

(2) Any other charge or conviction for a crime that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children or care; or

(3) Any negative action as defined in RCW 43.215.010.

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**NEW SECTION. Sec. 7.** To the extent that existing resources are available, the department of early learning, the office of the superintendent of public instruction, and educational service districts shall develop a proposal to coordinate their common background check activities. The proposal shall include the development of an information sharing system, or protocol, that will operate in accord with federal regulations. These agencies shall submit their proposal to the legislature no later than December 15, 2011."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1903.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "employees;" strike the remainder of the title and insert "amending RCW 43.215.215; reenacting and amending RCW 43.215.010; adding new sections to chapter 43.215 RCW; and creating a new section."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Second Substitute House Bill No. 1903 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Stevens spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1903 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1903 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Holmquist Newbry and McAuliffe  
SECOND SUBSTITUTE HOUSE BILL NO. 1903 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1127, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Moeller and Sells)

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Addressing bargaining with certified exclusive bargaining representatives.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Holmquist Newbry be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.56.050 and 1975 1st ex.s. c 296 s 16 are each amended to read as follows:

(1) In the event that a public employer and public employees are in disagreement as to the selection of a bargaining representative, the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090.

(2) In the event that a public employer and a bargaining representative are in disagreement as to the merger of two or more bargaining units in the employer's workforce that are represented by the same bargaining representative, the commission shall be invited to intervene as is provided in RCW 41.56.060 through 41.56.090.

Sec. 2. RCW 41.56.140 and 1969 ex.s. c 215 s 1 are each amended to read as follows:

It shall be an unfair labor practice for a public employer:

(1) To interfere with, restrain, or coerce public employees in the exercise of their rights guaranteed by this chapter;

(2) To control, dominate, or interfere with a bargaining representative;

(3) To discriminate against a public employee who has filed an unfair labor practice charge;

(4) To refuse to engage in collective bargaining with the certified exclusive bargaining representative."

Senator Kohl-Welles spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Holmquist Newbry to Substitute House Bill No. 1127.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "representatives;" strike the remainder of the title and insert "and amending RCW 41.56.050 and 41.56.140."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1127 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1127 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1127 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE HOUSE BILL NO. 1127 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1040, by Representatives Pedersen, Armstrong, Kirby, Warnick, Kelley and Hunt

Regarding the use of electronic signatures and notices.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.09.085 and 2007 c 471 s 6 are each amended to read as follows:

(1) Registration under this chapter shall be effective for one year or longer, as established by the secretary.

(2) Reregistration required under RCW 19.09.075 or 19.09.079 shall be submitted to the secretary no later than the date established by the secretary by rule.

(3) Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through (9) or 19.09.079 (1) through (7).

(4) The secretary shall notify entities registered under this chapter of the need to reregister upon the expiration of their current registration. The notification (~~shall~~) may be by postal or electronic mail, sent at least sixty days prior to the expiration of their current registration. Failure to register shall not be excused by a failure of the secretary to (~~mail~~) send the notice or by an entity's failure to receive the notice.

Sec. 2. RCW 19.34.231 and 1999 c 287 s 12 are each amended to read as follows:

(1) If a signature of a unit of state or local government, including its appropriate officers or employees, is required by statute, administrative rule, court rule, or requirement of the office of financial management, that unit of state or local government (~~shall~~) may become a subscriber to a certificate issued by a licensed certification authority for purposes of conducting official public business with electronic records.

(2) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.

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(3) A unit of state government, except the secretary and the department of information services, may not act as a certification authority.

**Sec. 3.** RCW 23B.01.500 and 1989 c 165 s 16 are each amended to read as follows:

Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall send, by postal or electronic mail as elected by the domestic corporation, to each domestic corporation, at its registered office within the state, ~~((by first class mail,))~~ or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if any domestic corporation ~~((shall))~~ fails to pay its annual license fee or to file its annual report it ~~((shall be))~~ is dissolved and ceases to exist. Failure of the secretary of state to ~~((mail))~~ provide any such notice ~~((shall))~~ does not relieve a corporation from its obligations to pay the annual license fees and to file the annual reports required by this title. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

**Sec. 4.** RCW 23B.01.510 and 1990 c 178 s 3 are each amended to read as follows:

Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall send by postal or electronic mail, as elected by the foreign corporation, to each foreign corporation qualified to do business in this state, ~~((by first class mail))~~ addressed to its registered office within this state, or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if it ~~((shall))~~ fails to pay its annual license fee or to file its annual report its certificate of authority to transact business within this state may be revoked. Failure of the secretary of state to ~~((mail))~~ send any such notice ~~((shall))~~ does not relieve a corporation from its obligations to pay the annual license fees and to obtain or file the annual reports required by this title. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

**Sec. 5.** RCW 24.03.400 and 1993 c 356 s 11 are each amended to read as follows:

Not less than thirty days prior to a corporation's renewal date, or by December 1 of each year for a nonstaggered renewal, the secretary of state shall ~~((mail))~~ send to each domestic and foreign corporation, by ~~((first class mail addressed to its registered office))~~ postal or electronic mail, as elected by the domestic or foreign corporation, addressed to its registered office or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual or biennial report must be filed as required by this chapter, and stating that if it fails to file its annual or biennial report it ~~((shall be))~~ is dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to ~~((mail))~~ send any such notice ~~((shall))~~ does not relieve a corporation from its obligation to file the annual or biennial reports required by this chapter. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

Such report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, or on an annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.

If the secretary of state finds that such report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

**Sec. 6.** RCW 24.06.445 and 1993 c 356 s 23 are each amended to read as follows:

An annual or biennial report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year or on such annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates. Proof to the satisfaction of the secretary of state that the report was deposited in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the corporation's annual or biennial renewal date, shall be deemed compliance with this requirement.

If the secretary of state finds that a report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

Failure of the secretary of state to ~~((mail))~~ send any such notice shall not relieve a corporation from its obligation to file the annual reports required by this chapter.

**Sec. 7.** RCW 24.12.051 and 2009 c 437 s 14 are each amended to read as follows:

(1) Not less than thirty days prior to a corporation sole's renewal date, the secretary of state shall ~~((mail))~~ send to each corporation sole, by ~~((first class))~~ postal or electronic mail, as elected by the corporation sole, addressed to its registered office, or to an electronic address designated by the corporation sole, in a record retained by the secretary of state, a notice that its annual report must be filed as required by this chapter, and stating that if it fails to file its annual report it shall be dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to ~~((mail))~~ send the notice does not relieve a corporation sole from its obligation to file the annual reports required by this chapter. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

(2)(a) The report of a corporation sole shall be delivered to the secretary of state on an annual renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.

(b) If the secretary of state finds that the report substantially conforms to the requirements of this chapter, the secretary of state shall file that report."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 1040.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "notices;" strike the remainder of the title and insert "and amending RCW 19.09.085, 19.34.231, 23B.01.500, 23B.01.510, 24.03.400, 24.06.445, and 24.12.051."

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1040 as amended by the Senate was advanced to third

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reading, the second reading considered the third and the bill was placed on final passage.

Senators Kline and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1040 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1040 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1040 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1419, by Representatives Kagi, Roberts and Dickerson

Allowing the department of early learning and the department of social and health services to share background check information.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Stevens be adopted:

On page 9, after line 12, insert the following:

"Sec. 5. RCW 43.43.830 and 2007 c 387 s 9 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" is a judicial or administrative adjudication proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnapping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; ~~((patronizing a juvenile prostitute))~~ commercial sexual abuse of a minor; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

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(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

With regard to peer counselors, "unsupervised" does not include incidental contact with children under age sixteen at the location at which the peer counseling is taking place. "Incidental contact" means minor or casual contact with a child in an area accessible to and within visual or auditory range of others. It could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

(12) "Peer counselor" means a nonprofessional person who has equal standing with another person, providing advice on a topic about which the nonprofessional person is more experienced or knowledgeable, and who is a counselor for a peer counseling program that contracts with or is otherwise approved by the department, another state or local agency, or the court.

**Sec. 6.** RCW 43.43.832 and 2007 c 387 s 10 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's conviction record as defined in chapter 10.97 RCW.

(2) The legislature also finds that the Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's conviction record under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of

children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, ~~((48.48;))~~ 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) The director of the department of early learning shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(6) The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

(7) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion

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of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(8)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW."

Senators Hargrove and Stevens spoke in favor of adoption of the amendment.

#### POINT OF INQUIRY

Senator Carrell: "Would Senator Hargrove yield to a question? Thank you very much. My question regarding the bill has to do with the words 'peer counselor' because this isn't something that we really spent much time on. Peer counselor means at least in the Judiciary Committee, that we are dealing with somebody who has privilege. Is this an expansion of privilege within the legal sense of the word?"

Senator Hargrove: "No, Senator Carrell. That is not the intent at all. These peer counselor programs in child welfare are a best practice that has been put together and it doesn't have the legal counselor connotation there."

Senator Carrell: "I think it does. I would maybe we need to, perhaps I need to ask the good senator from the Thirty-Seventh District what you believe does peer counselor means and I believe the work that we did years ago on police and fireman where they had peer counselors that peer counselor is by using those words it means that they have."

Senator Hargrove: "Actually Senator Carrell, peer counseling is defined in the bill. You can look on page three, it says, 'Peer counseling means a nonprofessional person who has equal standing with another person, providing advice on the topic of about which the non professional person is more experienced or knowledgeable.' It does not refer to the legal definition of counselor in other parts of the bill."

Senator Carrell: "Peer counselor is by very definition somebody that has privilege against ever having to testify as to the truth in a court of law."

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Stevens on page 9, after line 12 to House Bill No. 1419.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 3 of the title, after "43.215.200," strike the remainder of the title and insert "43.215.215, 43.43.830, and 43.43.832."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 1419 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1419 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1419 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoessler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Carrell

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1419 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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## MOTION

On motion of Senator Fraser, Senator Regala was excused.

## SECOND READING

HOUSE BILL NO. 1726, by Representatives Sells, Roberts, Ormsby, Reykdal, Kenney, Miloscia, Moeller and Upthegrove

Addressing the recommendations of the vocational rehabilitation subcommittee for workers' compensation.

The measure was read the second time.

## MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1726 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1726.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1726 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, McAuliffe and Regala

HOUSE BILL NO. 1726, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1916, by Representatives Ryu, Kagi, Maxwell, Kenney and Santos

Concerning business services delivered by associate development organizations.

The measure was read the second time.

## MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be adopted:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

In carrying out its responsibilities under RCW 43.330.060 and 43.330.080, the department must establish protocols to be followed by associate development organizations and department staff for the recruitment and retention of businesses. The protocols must

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specify the circumstances under which an associate development organization is required to notify the department of its business recruitment and retention efforts and when the department must notify the associate development organization of its business recruitment and retention efforts. The protocols established may not require the release of proprietary information or the disclosure of information that a client company has requested remain confidential. The department must require compliance with the protocols in its contracts with associate development organizations.

**Sec. 2.** RCW 43.330.080 and 2009 c 151 s 10 are each amended to read as follows:

In carrying out its obligations under RCW 43.330.070, the department (~~shall~~) must provide business services training to and contract with county-designated associate development organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The business services training provided to the organizations contracted with must include, but need not be limited to, training in the fundamentals of export assistance and the services available from private and public export assistance providers in the state. The organizations contracted within each community or regional area (~~shall~~) must work closely with the department to carry out state-identified economic development priorities and must be broadly representative of community and economic interests. The organization (~~shall~~) must be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization (~~shall~~) must work with and include local governments, local chambers of commerce, workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The scope of services delivered under these contracts (~~shall~~) must include two broad areas of work:

(1) Direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance must comply with business recruitment and retention protocols established in section 1 of this act, and includes:

(a) Working with the appropriate partners throughout the county, including but not limited to, local governments, workforce development councils, port districts, community and technical colleges and higher education institutions, export assistance providers, the Washington manufacturing services, the Washington state quality award council, small business assistance programs, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services (~~in the~~) within the entire county;

(b) Providing information on state and local permitting processes, tax issues, export assistance, and other essential information for operating, expanding, or locating a business in Washington;

(c) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;

(d) Working with businesses on site location and selection assistance;

(e) Providing business retention and expansion services throughout the county, including business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses; (~~and~~)

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(f) Participating in economic development system-wide discussions regarding gaps in business start-up assistance in Washington; and

(g) Providing or facilitating the provision of export assistance through workshops or one-on-one assistance; and

(2) Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies, including cluster-based strategies, that support increased living standards and increase foreign direct investment throughout Washington. Activities include:

(a) Participation in regional planning efforts with workforce development councils involving coordinated strategies around workforce development and economic development policies and programs. Coordinated planning efforts ~~((shall))~~ must include, but not be limited to, assistance to industry clusters in the region;

(b) Participation between the contracting organization and the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in providing for the coordination of the job skills training program and the customized training program within its region;

(c) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. The department ~~((shall))~~ must consult with the Washington state economic development commission in the establishment of such uniform data as is needed to conduct a statewide systemic analysis of the state's economic development programs and expenditures. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(d) In conjunction with other governmental jurisdictions and institutions, participate in the development of a countywide economic development plan, consistent with the state comprehensive plan for economic development developed by the Washington state economic development commission.

**Sec. 3.** RCW 43.330.082 and 2009 c 518 s 15 are each amended to read as follows:

(1)(a) Contracting associate development organizations ~~((shall))~~ must provide the department with measures of their performance. Annual reports ~~((shall))~~ must include information on the impact of the contracting organization on employment, wages, tax revenue, and capital investment. Specific measures ~~((shall))~~ must be developed in the contracting process between the department and the contracting organization every two years. Except as provided in (b) of this subsection, performance measures should be consistent across regions to allow for statewide evaluation.

(b) In addition to the measures required in (a) of this subsection, contracting associate development organizations in counties with a population greater than one million five hundred thousand persons must include the following measures in reports to the department:

(i) The number of small businesses that received retention and expansion services, and the outcome of those services.

(ii) The number of businesses located outside of the boundaries of the largest city within the contracting associate development organization's region that received recruitment, retention, and expansion services, and the outcome of those services.

(2)(a) The department and contracting organizations ~~((shall))~~ must agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance ~~((shall))~~ must occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures ~~((shall))~~ must develop remediation plans to address performance

gaps. The remediation plans ~~((shall))~~ must include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding ~~((shall))~~ must be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations ~~((shall))~~ must review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department ~~((shall))~~ must report to the legislature and the Washington economic development commission by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations.

**Sec. 4.** RCW 43.330.010 and 2009 c 565 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Small business" has the same meaning as provided in RCW 39.29.006.

(7) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of commerce and local microenterprise development organizations."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Economic Development, Trade & Innovation to House Bill No. 1916.

The motion by Senator Kastama carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "organizations;" strike the remainder of the title and insert "amending RCW 43.330.080, 43.330.082, and 43.330.010; and adding a new section to chapter 43.330 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, House Bill No. 1916 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of House Bill No. 1916 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1916 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Ericksen

Excused: Senators Delvin and McAuliffe

HOUSE BILL NO. 1916 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Becker moved adoption of the following resolution:

SENATE RESOLUTION  
8655

By Senators Becker, Holmquist Newbry, Sheldon, Honeyford, Ericksen, Hill, Stevens, Swecker, Kastama, Baumgartner, Eide, Carrell, Hobbs, Litzow, Fain, and Haugen

WHEREAS, Tuesday April 12, 2011, marks the 150th anniversary of the attack on Fort Sumter, the battle that acted as the opening engagement of the American Civil War; and

WHEREAS, The warfare between the United States of America and the Confederate States of America lasted four devastating years, resulting in over 600,000 American casualties; and

WHEREAS, During the Civil War, President Abraham Lincoln reasserted our American creed with eloquence and persistence, reminded us of the values upon which this country was founded, and led us through that time of great crisis; and

WHEREAS, Following the war, a great number of Civil War veterans settled in the state of Washington or used their authority in other regions of the country to assist in guiding the state of Washington to great success; and

WHEREAS, Prior to the Civil War, Ulysses S. Grant was stationed at Fort Vancouver where he spent 15 months enjoying the splendor of Washington state and where the Grant House still stands today as a national historical site; and

WHEREAS, Isaac Stevens functioned as a major general in the Union Army, a United States Congressman, and the first governor of the Washington Territory; and

WHEREAS, George McClellan is responsible for conducting expeditions and scouting the Cascade mountain range, providing

early Washingtonians with an understanding of the state's diverse geography; and

WHEREAS, The individuals who were influential in the Civil War were also invaluable and instrumental in building the great state we reside in today;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate along with the people of Washington pause to acknowledge the 150th anniversary of the start of the Civil War and the Civil War veterans who settled in the state of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted to Sons of Union Veterans of the Civil War, Daughters of Union Veterans of the Civil War, the Puget Sound Civil War Roundtable, the Washington Civil War Association, and Secretary of State Sam Reed.

Senators Becker, Honeyford, Hargrove and Roach spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8655.

The motion by Senator Becker carried and the resolution was adopted by voice vote.

## MOTION

At 11:26 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:41 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5167,  
SENATE BILL NO. 5367,  
SENATE BILL NO. 5389,  
SENATE BILL NO. 5480.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1084, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives McCoy and Hunt)

Creating the board on geographic names.

The measure was read the second time.

## MOTION

Senator Morton moved that the following amendment by Senator Honeyford be adopted:

On page 4, after line 31, insert the following:

"NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senators Fraser and Ranker spoke against adoption of the amendment.

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Senators Honeyford, Schoesler and Carrell spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 4, after line 31 to Substitute House Bill No. 1084.

The motion by Senator Morton carried and the amendment was adopted by a rising vote.

MOTION

On motion of Senator Ranker, the rules were suspended, Substitute House Bill No. 1084 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1084 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1084 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Pflug, Prentice, Schoesler, Stevens and Zarelli

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1084 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1594, by Representatives Santos and Anderson

Concerning the membership and work of the financial education public-private partnership.

The measure was read the second time.

MOTION

Senator Eide moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.450 and 2009 c 443 s 1 are each amended to read as follows:

(1) A financial education public-private partnership is established, composed of the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed for a two-year term of service by the speaker of the house of representatives, and

one member from each caucus of the senate appointed for a two-year term of service by the president of the senate;

(b) Four representatives from the private for-profit and nonprofit financial services sector, including at least one representative from the jumpstart coalition, to be appointed for a staggered two-year term of service by the governor;

(c) Four teachers to be appointed for a staggered two-year term of service by the superintendent of public instruction, with one each representing the elementary, middle, secondary, and postsecondary education sectors;

(d) A representative from the department of financial institutions to be appointed for a two-year term of service by the director;

(e) Two representatives from the office of the superintendent of public instruction, with one involved in curriculum development and one involved in teacher professional development, to be appointed for a staggered two-year term of service by the superintendent.

(2) The chair of the partnership shall be selected by the members of the partnership from among the legislative members.

(3) One-half of the members appointed under subsections (1)(b), (c), and (e) of this section shall be appointed for a one-year term beginning August 1, 2011, and a two-year term thereafter.

(4) To the extent funds are appropriated or are available for this purpose, the partnership may hire a staff person who shall reside in the office of the superintendent of public instruction for administrative purposes. Additional technical and logistical support may be provided by the office of the superintendent of public instruction, the department of financial institutions, the organizations composing the partnership, and other participants in the financial education public-private partnership.

~~((4))~~ (5) The members of the partnership shall be appointed by August 1, ~~(2009)~~ 2011.

~~((5))~~ (6) Legislative members of the partnership shall receive per diem and travel under RCW 44.04.120.

~~((6))~~ (7) Travel and other expenses of members of the partnership shall be provided by the agency, association, or organization that member represents.

~~((7))~~ (8) This section shall be implemented to the extent funds are available.

Sec. 2. RCW 28A.300.462 and 2009 c 443 s 3 are each amended to read as follows:

(1) School districts are encouraged to voluntarily adopt the jumpstart coalition national standards in K-12 personal finance education and provide students with an opportunity to master the standards.

(2) Subject to funds appropriated specifically for this purpose, the office of the superintendent of public instruction and the financial education public-private partnership shall provide technical assistance and grants to support demonstration projects for district-wide adoption and implementation of the financial education learning standards under this section.

~~((2))~~ (3) School districts may apply on a competitive basis to participate as a demonstration project. The office and the partnership shall select up to four school districts as demonstration projects, with two districts located in eastern Washington and two districts located in western Washington, if possible.

~~((3))~~ (4) Selected districts must:

(a) Adopt the jumpstart coalition national standards in K-12 personal finance education as the essential academic learning requirements for financial education and provide students with an opportunity to master the standards;

(b) Make a commitment to integrate financial education into instruction at all grade levels and in all schools in the district;

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(c) Establish local partnerships within the community to promote financial education in the schools; and

(d) Conduct pre and posttesting of students' financial literacy.

~~((4))~~ (5) The office of the superintendent of public instruction, with the advice of the financial education public-private partnership, shall provide assistance to the demonstration projects regarding curriculum, professional development, and innovative instructional programs to implement the financial education standards.

~~((5))~~ (6) The selected districts must report findings and results of the demonstration project to the office of the superintendent of public instruction and appropriate committees of the legislature ~~((by April 30, 2014))~~ annually."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning & K-12 Education to House Bill No. 1594.

The motion by Senator Eide carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "partnership;" strike the remainder of the title and insert "and amending RCW 28A.300.450 and 28A.300.462."

#### MOTION

On motion of Senator Eide, the rules were suspended, House Bill No. 1594 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1594 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1594 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

HOUSE BILL NO. 1594 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1600, by House Committee on Education (originally sponsored by Representatives Probst, Anderson, Maxwell and Roberts)

Concerning elementary math specialists.

The measure was read the second time.

#### MOTION

On motion of Senator Harper, the rules were suspended, Substitute House Bill No. 1600 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Harper spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1600.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1600 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Honeyford

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1600, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1135, by House Committee on Environment (originally sponsored by Representatives Finn, Armstrong and Upthegrove)

Regarding refrigerants for motor vehicles.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove and others be adopted:

On page 2, line 13, after "person" strike all material through "operate" and insert "~~(shall operate)~~ may not register or license for use"

On page 2, at the beginning of line 14, before "motor" insert "new"

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove and others on page 2, line 13 to Substitute House Bill No. 1135.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

#### MOTION

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On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 1135 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.  
Senator Honeyford spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1135 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1135 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Honeyford, Morton and Schoesler

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1135 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1425, by Representative Haler

Concerning the higher education coordinating board's responsibilities with regard to health sciences and services authorities.

The measure was read the second time.

## MOTION

On motion of Senator Tom, the rules were suspended, House Bill No. 1425 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Tom spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1425.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1425 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

HOUSE BILL NO. 1425, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4404, by House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Cody, Hinkle and Frockt)

Continuing the work of the joint select committee on health reform implementation.

The measure was read the second time.

## MOTION

Senator Keiser moved that the following committee amendment by the Committee on Health & Long-Term Care be adopted:

Beginning on page 1, at the beginning of line 1, strike all material through "2014." on page 2, line 36, and insert the following:

"WHEREAS, The patient protection and affordable care act became law on March 23, 2010, enacting broad changes to every element of the nation's health care system over the course of a four-year period; and

WHEREAS, Through 2014, the federal government will be adopting numerous regulations to implement the patient protection and affordable care act that state policymakers will need to actively follow so that the state can develop the most appropriate response to the changes in the health care system for the people of the state of Washington; and

WHEREAS, The patient protection and affordable care act raises many policy considerations that states will have to review prior to implementing the act, including the creation of a health benefit exchange, the expansion of medicaid, health insurance design, the development of a dynamic health care workforce, and the role of public health and prevention efforts; and

WHEREAS, The joint select committee on health reform implementation was established in 2010 to provide a forum for public comment and expert advice on the development of Washington's response to the patient protection and affordable care act; and

WHEREAS, The joint select committee on health reform implementation expires on July 1, 2011, despite the need to continue to monitor changes to the health care system and the implementation activities of the executive branch;

NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of the state of Washington, the Senate concurring, That the joint select committee on health reform implementation continue its work; and

BE IT FURTHER RESOLVED, That the membership of the joint select committee on health reform implementation shall consist of the following: (1) The chairs of the health committees of the senate and the house of representatives, who shall serve as co-chairs; (2) four additional members of the senate, two each appointed by the leadership of the two largest caucuses in the senate; and (3) four additional members of the house of representatives, two each appointed by the leadership of the two largest caucuses in the house of representatives. The governor shall be invited to appoint, as a liaison to the joint select committee, a person who shall be a nonvoting member; and

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BE IT FURTHER RESOLVED, That the cochairs may direct the formation of advisory committees, if desired, to focus on specific topic areas, such as insurance regulation, access to and expansion of public and private programs, cost containment, and workforce issues, and may invite interested stakeholders and additional experts to advise the joint select committee on health reform implementation. The joint select committee shall establish an advisory committee to provide advice and recommendations to the department of social and health services and the health care authority in the development of its implementation plan required by chapter ... (House Bill No. 1738), Laws of 2011 to coordinate the purchase and delivery of acute care, long-term care, and behavioral health services; and

BE IT FURTHER RESOLVED, That the joint select committee on health reform implementation expires on or before June 30, 2014."

Senators Keiser, Becker and Parlette spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Health & Long-Term Care to Engrossed Substitute House Concurrent Resolution No. 4404.

The motion by Senator Keiser carried and the committee amendment was adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Concurrent Resolution No. 4404 as amended by the Senate was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

Senator Keiser spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Concurrent Resolution No. 4404 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Concurrent Resolution No. 4404 as amended by the Senate and the concurrent resolution passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Baxter

Excused: Senator Delvin

ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4404 as amended by the Senate, having received the constitutional majority, was declared passed.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1008, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Appleton and Hunt)

Changing the definition of "immediate family" for purpose of membership on the Washington citizens' commission on salaries for elected officials. Revised for 1st Substitute: Changing provisions relating to membership on the Washington citizens' commission on salaries for elected officials.

The measure was read the second time.

#### MOTION

Senator Pridemore moved that the following committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.03.305 and 2008 c 6 s 204 are each amended to read as follows:

There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of ~~((sixteen))~~ members appointed by the governor as provided in this section.

(1) ~~((Nine of the sixteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission under subsection (3) of this section. One member shall be selected from each congressional district.))~~ One registered voter from each congressional district shall be selected by the secretary of state from among those registered voters eligible to vote at the time persons are selected for appointment to serve on the commission. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office.

(2) ~~((The remaining seven of the sixteen))~~ Seven commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. ~~Except ((as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years through 1999. The terms of the members selected in 1999 shall terminate July 1, 2002, and the names of persons selected for appointment to the commission shall be forwarded to the governor not later than July 1, 2002. Of the sixteen names forwarded to the governor in 2002, the governor shall by lot select four of the persons selected~~

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~~under subsection (1) of this section and four of the persons selected under subsection (2) of this section to serve two-year terms, with the rest of the members serving four-year terms. Thereafter, except~~) as provided in subsection (6) of this section, all members shall serve four-year terms and the names of ~~((eight))~~ the persons selected for appointment to the commission shall be forwarded to the governor not later than the first day of July every two years.

(4) No person may be appointed to more than two terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

The unexcused absence of any person who is a member of the commission from two consecutive meetings of the commission shall constitute the relinquishment of that person's membership on the commission. Such a relinquishment creates a vacancy in that person's position on the commission. A member's absence may be excused by the chair of the commission upon the member's written request if the chair believes there is just cause for the absence. Such a request must be received by the chair before the meeting for which the absence is to be excused. A member's absence from a meeting of the commission may also be excused during the meeting for which the member is absent by the affirmative vote of a majority of the members of the commission present at the meeting.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or lobbyist, subject to the registration requirements of chapter 42.17 or 42.17A RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse or domestic partner, siblings, children, or dependent relative of the official ~~((employee))~~ or lobbyist whether or not living in the household of the official ~~((employee))~~ or lobbyist, and the parent, spouse or domestic partner, sibling, child, or dependent relative of the employee living in the household of the employee or who is dependent in whole or in part for his or her support upon the earnings of the state employee.

(6)(a) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided.

(b) Initial members appointed from congressional districts created after the effective date of this section shall be selected and appointed in the manner provided in subsection (1) of this section. The selection and appointment must be concluded within ninety days of the date the district is created. The term of an initial member appointed under this subsection terminates July 1st of an even-numbered year so that at no point may the terms of more than one-half plus one of the members selected under subsection (1) of this section terminate in the same year."

Senator Pridemore spoke in favor of adoption of the committee striking amendment.

#### MOTION

Senator Pridemore moved that the following amendment by Senator Pridemore to the committee striking amendment be adopted:

On page 3, line 17 of the amendment, after "relative of the employee" insert " ,"

Senator Pridemore spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pridemore on page 3,

line 17 to the committee striking amendment to Substitute House Bill No. 1008.

The motion by Senator Pridemore carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations, Tribal Relations & Elections as amended to Substitute House Bill No. 1008.

The motion by Senator Pridemore carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "officials;" strike the remainder of the title and insert "and amending RCW 43.03.305."

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1008 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Pridemore spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1008 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1008 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Baxter

Excused: Senator Delvin

SUBSTITUTE HOUSE BILL NO. 1008 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

#### SECOND READING

HOUSE BILL NO. 1418, by Representatives Rolfes, McCune, Appleton, Kirby, Kelley, Zeiger, Seaquist, Finn, Haigh, Dammeier, Angel, Jinkins, Stanford and Smith

Concerning evaluating military training and experience toward meeting certain professional licensing requirements.



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**NEW SECTION. Sec. 21.** A new section is added to chapter 67.08 RCW to read as follows:

An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state."

Senator Kohl-Welles spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Ericksen, Senator Hewitt was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce & Consumer Protection to House Bill No. 1418.

The motion by Senator Kohl-Welles carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "requirements;" strike the remainder of the title and insert "adding a new section to chapter 18.08 RCW; adding a new section to chapter 18.11 RCW; adding a new section to chapter 18.16 RCW; adding a new section to chapter 18.39 RCW; adding a new section to chapter 18.43 RCW; adding a new section to chapter 18.85 RCW; adding a new section to chapter 18.96 RCW; adding a new section to chapter 18.140 RCW; adding a new section to chapter 18.145 RCW; adding a new section to chapter 18.165 RCW; adding a new section to chapter 18.170 RCW; adding a new section to chapter 18.185 RCW; adding a new section to chapter 18.210 RCW; adding a new section to chapter 18.220 RCW; adding a new section to chapter 18.280 RCW; adding a new section to chapter 18.300 RCW; adding a new section to chapter 19.105 RCW; adding a new section to chapter 42.44 RCW; adding a new section to chapter 46.82 RCW; adding a new section to chapter 64.36 RCW; and adding a new section to chapter 67.08 RCW."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 1418 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1418 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1418 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice,

Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Hewitt and Holmquist Newbry

HOUSE BILL NO. 1418 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1570, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Chandler and Morris)

Providing notice to the department of defense before siting energy facility projects.

The measure was read the second time.

MOTION

Senator Honeyford moved that the following committee striking amendment by the Committee on Environment, Water & Energy be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.50.071 and 2010 c 152 s 3 are each amended to read as follows:

(1) The council shall receive all applications for energy facility site certification. Each applicant shall pay such reasonable costs as are actually and necessarily incurred by the council in processing an application.

(a) Each applicant shall, at the time of application submission, deposit fifty thousand dollars, or such greater amount as may be specified by the council after consultation with the applicant. Costs that may be charged against the deposit include, but are not limited to, independent consultants' costs, councilmember's wages, employee benefits, costs of a hearing examiner, costs of a court reporter, staff salaries, wages and employee benefits, goods and services, travel expenses, and miscellaneous direct expenses as arise directly from processing an application.

(b) The council may commission its own independent consultant study to measure the consequences of the proposed energy facility on the environment or any matter that it deems essential to an adequate appraisal of the site. The council shall provide an estimate of the cost of the study to the applicant and consider applicant comments.

(c) The council shall submit to each applicant a statement of such expenditures made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The applicant shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That such applicant may, at the request of the council, increase the amount of funds on deposit to cover anticipated expenses during peak periods of application processing. Any funds remaining unexpended at the conclusion of application processing shall be refunded to the applicant, or at the applicant's option, credited against required deposits of certificate holders.

(2) Each certificate holder shall pay such reasonable costs as are actually and necessarily incurred by the council for inspection and determination of compliance by the certificate holder with the terms of the certification relative to monitoring the effects of construction, operation, and site restoration of the facility.

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(a) Each certificate holder, within thirty days of execution of the site certification agreement, shall have on deposit fifty thousand dollars, or such greater amount as may be specified by the council after consultation with the certificate holder. Costs that may be charged against the deposit include, but are not limited to, those specified in subsection (1)(a) of this section as arise from inspection and determination of compliance by the certificate holder with the terms of the certification.

(b) The council shall submit to each certificate holder a statement of such expenditures actually made during the preceding calendar quarter which shall be in sufficient detail to explain such expenditures. The certificate holder shall pay the state treasurer the amount of such statement to restore the total amount on deposit to the originally established level: PROVIDED, That if the actual expenditures for inspection and determination of compliance in the preceding calendar quarter have exceeded the amount of funds on deposit, such excess costs shall be paid by the certificate holder.

(3) If an applicant or certificate holder fails to provide the initial deposit, or if subsequently required payments are not received within thirty days following receipt of the statement from the council, the council may (a) in the case of the applicant, suspend processing of the application until payment is received; or (b) in the case of a certificate holder, suspend the certification.

(4) All payments required of the applicant or certificate holder under this section are to be made to the state treasurer who shall make payments as instructed by the council from the funds submitted. All such funds shall be subject to state auditing procedures. Any unexpended portions thereof shall be returned to the applicant or certificate holder.

(5)(a) Upon receipt of an application for an energy facility site certification proposing an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts, the council shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

- (i) A description of the proposed energy plant or alternative energy resource;
- (ii) The location of the site;
- (iii) The placement of the energy plant or alternative energy resource on the site;
- (iv) The date and time by which comments must be received by the council; and
- (v) Contact information of the council and the applicant.

(b) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a site certification application is approved. The time period set forth by the council for receipt of such comments shall not extend the time period for the council's processing of the application.

(c) In order to assist local governments required to notify the United States department of defense under sections 2 through 4 of this act, the council shall post on its web site the appropriate information for contacting the United States department of defense.

**NEW SECTION. Sec. 2.** A new section is added to chapter 36.01 RCW to read as follows:

(1) Upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts, the county shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

- (a) A description of the proposed energy plant or alternative energy resource;
- (b) The location of the site;
- (c) The number and placement of the energy plant or alternative energy resource on the site;
- (d) The date and time by which comments must be received by the county; and
- (e) Contact information of the county permitting authority and the applicant.

(2) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a permit application is approved. The time period set forth by the county for receipt of such comments shall not extend the time period for the county's processing of the application.

(3) For the purpose of this section, "alternative energy resource," "energy plant," and "electrical transmission facility" shall each have the meaning set forth in RCW 80.50.020.

**NEW SECTION. Sec. 3.** A new section is added to chapter 35.63 RCW to read as follows:

(1) Upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts, the city or town shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

- (a) A description of the proposed energy plant or alternative energy resource;
- (b) The location of the site;
- (c) The placement of the energy plant or alternative energy resource on the site;
- (d) The date and time by which comments must be received by the city or town; and
- (e) Contact information of the city or town permitting authority and the applicant.

(2) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a permit application is approved. The time period set forth by the city or town for receipt of such comments shall not extend the time period for the city's processing of the application.

(3) For the purpose of this section, "alternative energy resource," "energy plant," and "electrical transmission facility" shall each have the meaning set forth in RCW 80.50.020.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35A.63 RCW to read as follows:

(1) Upon receipt of an application for a permit to site an energy plant or alternative energy resource that is connected to electrical transmission facilities of a nominal voltage of at least one hundred fifteen thousand volts, the city shall notify in writing the United States department of defense. The notification shall include, but not be limited to, the following:

- (a) A description of the proposed energy plant or alternative energy resource;
- (b) The location of the site;
- (c) The placement of the energy plant or alternative energy resource on the site;
- (d) The date and time by which comments must be received by the city; and
- (e) Contact information of the city permitting authority and the applicant.

(2) The purpose of the written notification is to provide an opportunity for the United States department of defense to comment

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upon the application, and to identify potential issues relating to the placement and operations of the energy plant or alternative energy resource, before a permit application is approved. The time period set forth by the city for receipt of such comments shall not extend the time period for the city's processing of the application.

(3) For the purpose of this section, "alternative energy resource," "energy plant," and "electrical transmission facility" shall each have the meaning set forth in RCW 80.50.020."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Environment, Water & Energy to Substitute House Bill No. 1570.

The motion by Senator Honeyford carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "projects;" strike the remainder of the title and insert "amending RCW 80.50.071; adding a new section to chapter 36.01 RCW; adding a new section to chapter 35.63 RCW; and adding a new section to chapter 35A.63 RCW."

#### MOTION

On motion of Senator Honeyford, the rules were suspended, Substitute House Bill No. 1570 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Honeyford spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1570 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1570 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Hewitt, Holmquist Newbry and Pflug

SUBSTITUTE HOUSE BILL NO. 1570 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1718, by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Moeller, Dammeier and Green)

Concerning offenders with developmental disabilities or traumatic brain injuries.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 2.28.180 and 2005 c 504 s 501 are each amended to read as follows:

(1) Counties may establish and operate mental health courts.

(2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, (~~mentally ill~~) felony and nonfelony offenders with mental illnesses and recidivism among nonviolent felony and nonfelony offenders who have developmental disabilities as defined in RCW 71A.10.020 or who have suffered a traumatic brain injury by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a mental health court program must first:

(i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for mental health court operations and associated services.

(b) Any county that establishes a mental health court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The mental health court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from psychiatric treatment or treatment related to his or her developmental disability or traumatic brain injury;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.48 RCW to read as follows:

When a jail has determined that a person in custody has or may have a developmental disability as defined in RCW 71A.10.020 or a traumatic brain injury, upon transfer of the person to a department of corrections facility or other jail facility, every reasonable effort shall be made by the transferring jail staff to communicate to receiving staff the nature of the disability, as determined by the jail and any necessary accommodation for the person as identified by the transferring jail staff."

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Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1718.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "injuries;" strike the remainder of the title and insert "amending RCW 2.28.180; and adding a new section to chapter 70.48 RCW."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1718 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1718 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1718 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Hewitt, Holmquist Newbry and Pflug

SUBSTITUTE HOUSE BILL NO. 1718 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1867, by Representatives Kelley, Rivers, Kirby and Stanford

Clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1867 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1867.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1867 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Holmquist Newbry

HOUSE BILL NO. 1867, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1909, by House Committee on Ways & Means (originally sponsored by Representatives Reykdal, Haler, Seaquist, Carlyle, Hasegawa and Kenney)

Promoting innovation at community and technology colleges.

The measure was read the second time.

## MOTION

On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 1909 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Hill spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1909.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1909 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Holmquist Newbry and Honeyford

Excused: Senator Delvin

SECOND SUBSTITUTE HOUSE BILL NO. 1909, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Liias, Kenney, Clibborn, Seaquist, Blake, Hudgins, Fitzgibbon, Darneille, Dunshee, Morris, Takko, Pettigrew, Finn, Billig, Hunter, Cody, Dickerson, Stanford, Springer, Reykdal, Haigh, Rolfes, Sells, Jacks, Appleton, Hunt, Maxwell, Ryu, Ormsby, Ladenburg, McCoy, Santos, Lytton, Moscoso, Upthegrove, Green, Hasegawa and Tharinger)

Clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage.

The measure was read the second time.

MOTION

Senator Pridemore moved that the following striking amendment by Senator Nelson be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.26.011 and 2002 c 302 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acknowledged father" means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

(2) "Adjudicated ~~(father)~~ parent" means a ~~(man)~~ person who has been adjudicated by a court of competent jurisdiction to be the ~~(father)~~ parent of a child.

(3) "Alleged ~~(father)~~ parent" means a ~~(man)~~ person who alleges himself or herself to be, or is alleged to be, the genetic ~~(father)~~ parent or a possible genetic ~~(father)~~ parent of a child, but whose ~~(paternity)~~ parentage has not been determined. The term does not include:

- (a) A presumed ~~(father)~~ parent;
- (b) A ~~(man)~~ person whose parental rights have been terminated or declared not to exist; or
- (c) A ~~(male)~~ donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

- (a) ~~(Intrauterine)~~ Artificial insemination;
- (b) Donation of eggs;
- (c) Donation of embryos;
- (d) In vitro fertilization and transfer of embryos; and
- (e) Intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Commence" means to file the petition seeking an adjudication of parentage in a superior court of this state or to serve a summons and the petition.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

(8) "Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

~~(9) "Donor" means an individual who ~~(produces eggs or sperm)~~ contributes a gamete or gametes for assisted~~

reproduction, whether or not for consideration. The term does not include:

(a) A ~~(husband)~~ person who provides ~~(sperm, or a wife who provides eggs,)~~ a gamete or gametes to be used for assisted reproduction ~~(by the wife)~~ with his or her spouse or domestic partner; or

(b) A woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in RCW 26.26.210 through 26.26.260 or 26.26.735.

~~((9))~~ (10) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of ~~(his or her)~~ the individual's ancestry or that is so identified by other information.

~~((10))~~ (11) "Gamete" means either a sperm or an egg.

(12) "Genetic testing" means an analysis of genetic markers ~~(only)~~ to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

- (a) Deoxyribonucleic acid; and
- (b) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

~~((11))~~ (13) "Man" means a male individual of any age.

~~((12))~~ (14) "Parent" means an individual who has established a parent-child relationship under RCW 26.26.101.

~~((13))~~ (15) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

~~((14) "Paternity"))~~ (16) "Parentage index" means the likelihood of ~~(paternity)~~ parentage calculated by computing the ratio between:

(a) The likelihood that the tested ~~(man)~~ person is the ~~(father)~~ parent, based on the genetic markers of the tested ~~(man)~~ person, ~~(mother)~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~(man)~~ person is the ~~(father)~~ parent of the child; and

(b) The likelihood that the tested ~~(man)~~ person is not the ~~(father)~~ parent, based on the genetic markers of the tested ~~(man)~~ person, ~~(mother)~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~(man)~~ person is not the ~~(father)~~ parent of the child and that the ~~(father)~~ parent is ~~(from)~~ of the same ethnic or racial group as the tested ~~(man)~~ person.

~~((15))~~ (17) "Physician" means a person licensed to practice medicine in a state.

(18) "Presumed ~~(father)~~ parent" means a ~~(man)~~ person who, by operation of law under RCW 26.26.116, is recognized ~~(to be)~~ as the ~~(father)~~ parent of a child until that status is rebutted or confirmed in a judicial proceeding.

~~((16))~~ (19) "Probability of ~~(paternity)~~ parentage" means the measure, for the ethnic or racial group to which the alleged ~~(father)~~ parent belongs, of the probability that the individual in question is the ~~(father)~~ parent of the child, compared with a random, unrelated ~~(man)~~ person of the same ethnic or racial group, expressed as a percentage incorporating the ~~(paternity)~~ parentage index and a prior probability.

~~((17))~~ (20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((18))~~ (21) "Signatory" means an individual who authenticates a record and is bound by its terms.

~~((19))~~ (22) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by state law.

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~~((20))~~ (23) "Support enforcement agency" means a public official or agency authorized to seek:

- (a) Enforcement of support orders or laws relating to the duty of support;
- (b) Establishment or modification of child support;
- (c) Determination of parentage; or
- (d) Location of child support obligors and their income and assets.

**Sec. 2.** RCW 26.26.021 and 2002 c 302 s 103 are each amended to read as follows:

(1) This chapter ~~((governs every))~~ applies to determinations of parentage in this state.

(2) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does not depend on:

- (a) The place of birth of the child; or
- (b) The past or present residence of the child.

(3) This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state.

(4) If a birth results under a surrogate parentage contract that is unenforceable under the law of this state, the parent-child relationship is determined as provided in RCW 26.26.101 through 26.26.116.

**Sec. 3.** RCW 26.26.041 and 2002 c 302 s 105 are each amended to read as follows:

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individuals ~~((that))~~ who could be jeopardized by disclosure of identifying information, including the address, telephone number, place of employment, social security number, and the child's day-care facility and school.

**Sec. 4.** RCW 26.26.051 and 2002 c 302 s 106 are each amended to read as follows:

(1) The provisions relating to determination of ~~((paternity may be applied))~~ parentage apply to ~~((a))~~ determinations of maternity and paternity.

(2) The provisions in this chapter apply to persons in a domestic partnership to the same extent they apply to persons in a marriage, and apply to persons of the same sex who have children together to the same extent they apply to persons of the opposite sex who have children together.

**Sec. 5.** RCW 26.26.101 and 2002 c 302 s 201 are each amended to read as follows:

~~((4))~~ The ~~((mother-child))~~ parent-child relationship is established between a child and a man or woman by:

~~((a))~~ (1) The woman's having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260;

~~((b))~~ (2) An adjudication of the ~~((woman's maternity))~~ person's parentage;

~~((c))~~ (3) Adoption of the child by the ~~((woman))~~ person;

~~((d))~~ A valid surrogate parentage contract, under which the mother is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260; or

~~((e))~~ (4) An affidavit and physician's certificate in a form prescribed by the department of health ~~((wherein the donor of ovum or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through alternative reproductive medical technology by filing the affidavit and physician's certificate with the registrar of vital statistics within ten days after the date of the child's birth))~~ pursuant to RCW 26.26.735((.

(2) The father-child relationship is established between a child and a man by:

~~((a))~~;

(5) An un rebutted presumption of the ~~((man's paternity))~~ person's parentage of the child under RCW 26.26.116;

~~((b))~~ (6) The man's having signed an acknowledgment of paternity under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged;

~~((c))~~ An adjudication of the man's paternity;

~~((d))~~ Adoption of the child by the man;

~~((e))~~ (7) The ~~((man's))~~ person's having consented to assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner under RCW 26.26.700 through 26.26.730 that resulted in the birth of the child; or

~~((f))~~ (8) A valid surrogate parentage contract, under which the father is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260.

**Sec. 6.** RCW 26.26.106 and 2002 c 302 s 202 are each amended to read as follows:

A child born to parents who are not married to each other or in a domestic partnership with each other has the same rights under the law as a child born to parents who are married to each other or who are in a domestic partnership with each other.

**Sec. 7.** RCW 26.26.111 and 2002 c 302 s 203 are each amended to read as follows:

Unless parental rights are terminated, the parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

**Sec. 8.** RCW 26.26.116 and 2002 c 302 s 204 are each amended to read as follows:

(1) In the context of a marriage or a domestic partnership, a ~~((man))~~ person is presumed to be the ~~((father))~~ parent of a child if:

(a) ~~((He))~~ The person and the mother or father of the child are married to each other or in a domestic partnership with each other and the child is born during the marriage or domestic partnership;

(b) ~~((He))~~ The person and the mother or father of the child were married to each other or in a domestic partnership with each other and the child is born within three hundred days after the marriage or domestic partnership is terminated by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity;

(c) Before the birth of the child, ~~((he))~~ the person and the mother or father of the child married each other or entered into a domestic partnership with each other in apparent compliance with law, even if the attempted marriage or domestic partnership is, or could be, declared invalid and the child is born during the invalid marriage or invalid domestic partnership or within three hundred days after its termination by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity; or

(d) After the birth of the child, ~~((he))~~ the person and the mother or father of the child have married each other or entered into a domestic partnership with each other in apparent compliance with law, whether or not the marriage or domestic partnership is, or could be declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his paternity))~~ parentage of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) The person agreed to be and is named as the child's ~~((father))~~ parent on the child's birth certificate; or

(iii) The person promised in a record to support the child as his or her own.

(2) A person is presumed to be the parent of a child if, for the first two years of the child's life, the person resided in the same household with the child and openly held out the child as his or her own.

(3) A presumption of ~~((paternity))~~ parentage established under this section may be rebutted only by an adjudication under RCW 26.26.500 through 26.26.630.

**Sec. 9.** RCW 26.26.130 and 2001 c 42 s 5 are each amended to read as follows:

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(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct (~~((the father))~~) one parent to pay the reasonable expenses of the mother's pregnancy and (~~((confinement))~~) childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the (~~((father's))~~) parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the (~~((natural parents))~~) persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the (~~((natural parent or parents))~~) persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter

26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(12) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

**Sec. 10.** RCW 26.26.150 and 1994 c 230 s 16 are each amended to read as follows:

(1) If existence of the (~~((father))~~) parent and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the (~~((father))~~) parent may be enforced in the same or other proceedings by the (~~((mother))~~) other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, (~~((confinement))~~) childbirth, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply.

**Sec. 11.** RCW 26.26.300 and 2002 c 302 s 301 are each amended to read as follows:

The mother of a child and a man claiming to be the genetic father of the child (~~((conceived as the result of his sexual intercourse with the mother))~~) may sign an acknowledgment of paternity with intent to establish the man's paternity.

**Sec. 12.** RCW 26.26.305 and 2002 c 302 s 302 are each amended to read as follows:

(1) An acknowledgment of paternity must:

(a) Be in a record;

(b) Be signed under penalty of perjury by the mother and by the man seeking to establish his paternity;

(c) State that the child whose paternity is being acknowledged:

(i) Does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) Does not have another acknowledged or adjudicated father;

(d) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the genetic testing; and

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(e) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after two years, except as provided in RCW 26.26.330.

(2) An acknowledgment of paternity is void if it:

(a) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with the state registrar of vital statistics;

(b) States that another man is an acknowledged or adjudicated father; or

(c) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(3) A presumed father may sign an acknowledgment of paternity.

**Sec. 13.** RCW 26.26.310 and 2002 c 302 s 303 are each amended to read as follows:

A presumed father of a child may sign a denial of his paternity. The denial is valid only if:

(1) An acknowledgment of paternity signed by another man is filed under RCW 26.26.320;

(2) The denial is in a record, and is signed under penalty of perjury; and

(3) The presumed father has not previously:

(a) Acknowledged his paternity, unless the previous acknowledgment has been rescinded under RCW 26.26.330 or successfully challenged under RCW 26.26.335; or

(b) Been adjudicated to be the father of the child.

**Sec. 14.** RCW 26.26.315 and 2002 c 302 s 304 are each amended to read as follows:

(1) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

(2) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(3) Subject to subsection (1) of this section, an acknowledgment and denial of paternity, if any, take effect on the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter. An acknowledgment or denial of paternity signed by a minor may be rescinded under RCW 26.26.330.

**Sec. 15.** RCW 26.26.320 and 2002 c 302 s 305 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid acknowledgment of paternity filed with the state registrar of vital statistics is equivalent to an adjudication of ~~((paternity))~~ parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid denial of paternity filed with the state registrar of vital statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all of the rights and duties of a parent.

**Sec. 16.** RCW 26.26.330 and 2004 c 111 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a signatory may rescind an acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of:

~~((+))~~ (a) Sixty days after the effective date of the acknowledgment or denial, as provided in RCW 26.26.315; or

~~((2))~~ (b) The date of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) If the signatory to an acknowledgment or denial of paternity was a minor when he signed the acknowledgment or denial, the signatory may rescind the acknowledgment or denial of paternity by commencing a court proceeding to rescind on or before the signatory's nineteenth birthday.

**Sec. 17.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to read as follows:

(1) After the period for rescission under RCW 26.26.330 has ~~((elapsed))~~ expired, a signatory of an acknowledgment or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

(a) On the basis of fraud, duress, or material mistake of fact; and

(b) Within ~~((two))~~ four years after the acknowledgment or denial is filed with the state registrar of vital statistics. In actions commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A party challenging an acknowledgment or denial of paternity has the burden of proof.

**Sec. 18.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to read as follows:

(1) Every signatory to an acknowledgment ~~((of))~~ of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(2) For the purpose of rescission of, or challenge to, an acknowledgment or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state registrar of vital statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from ~~((an))~~ the acknowledgment, including the duty to pay child support.

(4) A proceeding to rescind or to challenge an acknowledgment or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under RCW 26.26.500 through 26.26.630.

(5) At the conclusion of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court shall order the state registrar of vital statistics to amend the birth record of the child, if appropriate.

**Sec. 19.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to read as follows:

The state registrar of vital statistics may release information relating to the acknowledgment or denial of paternity~~((, not expressly sealed under a court order,))~~ to: (1) A signatory of the acknowledgment or denial ~~((or their attorneys of record))~~; (2) the courts of this or any other state; (3) the agencies of this or any other state operating a child support program under Title IV-D of the social security act; ~~((and))~~ and (4) the agencies of this or any other state involved in a dependency determination for a child named in the acknowledgment or denial of paternity.

**Sec. 20.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to read as follows:

(1) After the period for rescission of an acknowledgment of paternity provided in RCW 26.26.330 has passed, a parent executing an acknowledgment of paternity of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

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(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health insurance coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be ~~((entitled))~~ titled "In re the parenting and support of..."

(3) Before the period for a challenge to the acknowledgment or denial of paternity has elapsed under RCW 26.26.335, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No man other than the man who executed the acknowledgment of paternity is the father of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another man is adjudicated the child's father; and (c) the petitioner has provided notice of the proceeding to any other men who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of paternity under RCW 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

**Sec. 21.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to read as follows:

RCW 26.26.405 through 26.26.450 govern genetic testing of an individual ~~((only))~~ to determine parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested pursuant to an order of the court or a support enforcement agency.

**Sec. 22.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to read as follows:

(1) Except as otherwise provided in this section and RCW 26.26.410 through 26.26.630, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) A support enforcement agency may order genetic testing only if there is no presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent and no acknowledged father.

(3) If a request for genetic testing of a child is made before birth, the court or support enforcement agency may not order in utero testing.

(4) If two or more ~~((men))~~ persons are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

(5) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

**Sec. 23.** RCW 26.26.410 and 2002 c 302 s 403 are each amended to read as follows:

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The American association of blood banks, or a successor to its functions;

(b) The American society for histocompatibility and immunogenetics, or a successor to its functions; or

(c) An accrediting body designated by the United States secretary of health and human services.

(2) A specimen used in genetic testing may consist of one or more samples or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in ~~((the))~~ calculation~~((s))~~ of the probability of parentage. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(a) The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of ~~((paternity))~~ parentage using an ethnic or racial group different from that used by the laboratory.

(b) The individual objecting to the testing laboratory's initial choice shall:

(i) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another testing laboratory to perform the calculations.

(c) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(4) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a ~~((man))~~ person as the ~~((father))~~ parent of a child under RCW 26.26.420, an individual who has been tested may be required to submit to additional genetic testing.

**Sec. 24.** RCW 26.26.420 and 2002 c 302 s 405 are each amended to read as follows:

(1) Under this chapter, a ~~((man))~~ person is rebuttably identified as the ~~((father))~~ parent of a child if the genetic testing complies with this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 and the results disclose that:

(a) The ~~((man))~~ person has at least a ninety-nine percent probability of ~~((paternity))~~ parentage, using a prior probability of 0.50, as calculated by using the combined ~~((paternity))~~ parentage index obtained in the testing; and

(b) A combined ~~((paternity))~~ parentage index of at least one hundred to one.

(2) A ~~((man))~~ person identified under subsection (1) of this section as the ~~((father))~~ parent of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 which:

(a) Excludes the ~~((man))~~ person as a genetic ~~((father))~~ parent of the child; or

(b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of the child.

(3) Except as otherwise provided in RCW 26.26.445, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic ~~((father))~~ parent.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

**Sec. 25.** RCW 26.26.425 and 2002 c 302 s 406 are each amended to read as follows:

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(1) Subject to assessment of costs under RCW 26.26.500 through 26.26.630, the cost of initial genetic testing must be advanced:

- (a) By a support enforcement agency in a proceeding in which the support enforcement agency is providing services;
- (b) By the individual who made the request;
- (c) As agreed by the parties; or
- (d) As ordered by the court.

(2) In cases in which the cost is advanced by the support enforcement agency, the agency may seek reimbursement from a ~~((man))~~ person who is rebuttably identified as the ~~((father))~~ parent.

**Sec. 26.** RCW 26.26.430 and 2002 c 302 s 407 are each amended to read as follows:

(1) The court or the support enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a ~~((man))~~ person as the ~~((father))~~ parent of the child under RCW 26.26.420, the court or agency may not order additional testing unless the party provides advance payment for the testing.

(2) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

**Sec. 27.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to read as follows:

(1) If a genetic testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, a court may order the following individuals to submit specimens for genetic testing:

- (a) The parents of the man;
- (b) Brothers and sisters of the man;
- (c) Other children of the man and their mothers; and
- (d) Other relatives of the man necessary to complete genetic testing.

(2) If a specimen from the mother of a child is not available for genetic testing, the court may order genetic testing to proceed without a specimen from the mother.

(3) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

**Sec. 28.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to read as follows:

(1) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If ~~((genetic testing excludes none of the brothers as the genetic father, and))~~ each brother satisfies the requirements as the identified father of the child under RCW 26.26.420 without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

**Sec. 29.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to read as follows:

Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and 26.26.540, a proceeding to adjudicate parentage may be maintained by:

- (1) The child;
- (2) The ~~((mother of))~~ person who has established a parent-child relationship with the child;
- (3) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated;
- (4) The division of child support;

(5) An authorized adoption agency or licensed child-placing agency;

(6) A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

(7) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

**Sec. 30.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to read as follows:

The following individuals must be joined as parties in a proceeding to adjudicate parentage:

(1) The ~~((mother))~~ parent of the child who has established a parent-child relationship with the child;

(2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated; ~~((and))~~

(3) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260; and

(4) The child if required under RCW 26.26.530, 26.26.540, or 26.26.720.

**Sec. 31.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to read as follows:

A proceeding to adjudicate the parentage of a child having no presumed ~~((acknowledged))~~ or adjudicated ~~((father))~~ second parent and no acknowledged father may be commenced at any time during the life of the child, even after:

- (1) The child becomes an adult; or
- (2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has been dismissed based on the application of a statute of limitation then in effect.

**Sec. 32.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~ person with a parent-child relationship with the child, or another individual to adjudicate the parentage of a child having a presumed ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years after the birth of the child. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A proceeding seeking to disprove the ~~((father-child))~~ parent-child relationship between a child and the child's presumed ~~((father))~~ parent may be maintained at any time if the court determines that ~~((~~

~~((a)))~~ the presumed ~~((father))~~ parent and the ~~((mother of))~~ person who has a parent-child relationship with the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception ~~((and~~

~~((b))~~ The presumed father never openly treated the child as his own) and the presumed parent never held out the child as his or her own.

**Sec. 33.** RCW 26.26.535 and 2002 c 302 s 508 are each amended to read as follows:

(1) In a proceeding to adjudicate parentage under circumstances described in RCW 26.26.530 or in RCW 26.26.540, a court may deny a motion seeking an order for genetic testing of the mother or father, the child, and the presumed or acknowledged father if the court determines that:

(a) (i) The conduct of the mother or father or the presumed ~~((father))~~ or acknowledged parent estops that party from denying parentage; and

~~((b))~~ (ii) It would be inequitable to disprove the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent; or

(b) The child was conceived through assisted reproduction.

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except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

(2) In determining whether to deny a motion to seek an order for genetic testing under subsection (1)(a) of this section, the court shall consider the best interest of the child, including the following factors:

(a) The length of time between the proceeding to adjudicate parentage and the time that the presumed ~~((father))~~ or acknowledged parent was placed on notice that he or she might not be the genetic ~~((father))~~ parent;

(b) The length of time during which the presumed ~~((father))~~ or acknowledged parent has assumed the role of ~~((father))~~ parent of the child;

(c) The facts surrounding the presumed ~~((father's))~~ or acknowledged parent's discovery of his or her possible ~~((nonpaternity))~~ nonparentage;

(d) The nature of the ~~((father-child))~~ relationship between the child and the presumed or acknowledged parent;

(e) The age of the child;

(f) The harm ~~((to the child which))~~ that may result to the child if ~~((presumed paternity))~~ parentage is successfully disproved;

(g) The nature of the relationship ~~((of))~~ between the child ~~((to))~~ and any alleged ~~((father))~~ parent;

(h) The extent to which the passage of time reduces the chances of establishing the ~~((paternity))~~ parentage of another ~~((man))~~ person and a child support obligation in favor of the child; and

(i) Other factors that may affect the equities arising from the disruption of the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent or the chance of other harm to the child.

(3) In a proceeding involving the application of this section, ~~((the))~~ a minor or incapacitated child must be represented by a guardian ad litem.

(4) A denial of a motion seeking an order for genetic testing under subsection (1)(a) of this section must be based on clear and convincing evidence.

(5) If the court denies a motion seeking an order for genetic testing under subsection (1)(a) of this section, it shall issue an order adjudicating the presumed ~~((father))~~ or acknowledged parent to be the ~~((father))~~ parent of the child.

**Sec. 34.** RCW 26.26.540 and 2002 c 302 s 509 are each amended to read as follows:

(1) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity must commence any proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of ~~((that))~~ the child only within the time allowed under RCW 26.26.330 or 26.26.335.

(2) If a child has an acknowledged father or an adjudicated ~~((father))~~ parent, an individual, other than the child, who is neither a signatory to the acknowledgment nor a party to the adjudication and who seeks an adjudication of ~~((paternity))~~ parentage of the child must commence a proceeding not later than ~~((two))~~ four years after the effective date of the acknowledgment or adjudication. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(3) A proceeding under this section is subject to RCW 26.26.535.

**Sec. 35.** RCW 26.26.545 and 2002 c 302 s 510 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for: Adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child support, annulment, dissolution of marriage, dissolution of a domestic partnership, or legal separation under chapter 26.09 or

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26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW, or other appropriate proceeding.

(2) A respondent may not join ~~((the))~~ a proceeding(s) described in subsection (1) of this section with a proceeding to adjudicate parentage brought under chapter 26.21A RCW.

**Sec. 36.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to read as follows:

~~((Although))~~ A proceeding to ~~((determine))~~ adjudicate parentage may be commenced before the birth of the child, ~~((the proceeding))~~ but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

(1) Service of process;

(2) Discovery;

(3) Except as prohibited by RCW 26.26.405, collection of specimens for genetic testing; and

(4) Temporary orders authorized under RCW 26.26.590.

**Sec. 37.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to read as follows:

(1) Unless specifically required under other provisions of this chapter, a minor child is a permissible party, but is not a necessary party to a proceeding under RCW 26.26.500 through 26.26.630.

(2) If ~~((the))~~ a minor or incapacitated child is a party, or if the court finds that the interests of ~~((a minor child or incapacitated))~~ the child are not adequately represented, the court shall appoint a guardian ad litem to represent the child, subject to RCW 74.20.310 ~~((neither the child's mother or father)).~~ A parent of the child may not represent the child as guardian or ~~((otherwise))~~ in any other capacity.

**Sec. 38.** RCW 26.26.570 and 2002 c 302 s 521 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(a) Voluntarily or under an order of the court or a support enforcement agency; or

(b) Before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent or an acknowledged father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) With the consent of both the ~~((mother))~~ person with a parent-child relationship with the child and the presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent or an acknowledged father; or

(b) Under an order of the court under RCW 26.26.405.

(4) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:

(a) The amount of the charges billed; and

(b) That the charges were reasonable, necessary, and customary.

**Sec. 39.** RCW 26.26.575 and 2002 c 302 s 522 are each amended to read as follows:

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined declines to submit to genetic testing ~~((as))~~ ordered by the court, the court for

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~~that reason~~ may ~~((on that basis))~~ adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.585 and 2002 c 302 s 523 are each amended to read as follows:

**Sec. 40.** RCW 26.26.585 and 2002 c 302 s 523 are each amended to read as follows:

(1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the court finds that the admission of paternity ~~((was made under))~~ satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

**Sec. 41.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to read as follows:

This section applies to any proceeding under RCW 26.26.500 through 26.26.630.

(1) The court shall issue a temporary order for support of a child if the individual ordered to pay support:

(a) Is a presumed ~~((father))~~ parent of the child;

(b) Is petitioning to have his ~~((paternity))~~ or her parentage adjudicated or has admitted ~~((paternity))~~ parentage in pleadings filed with the court;

(c) Is identified as the father through genetic testing under RCW 26.26.420;

(d) Has declined to submit to genetic testing but is shown by clear and convincing evidence to be the father of the child; or

(e) Is ~~((the mother of))~~ a person who has established a parent-child relationship with the child.

(2) A temporary order may, on the same basis as provided in chapter 26.09 RCW, make residential provisions with regard to minor children of the parties, except that a parenting plan is not required unless requested by a parent.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or

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knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

**Sec. 42.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to read as follows:

The court shall apply the following rules to adjudicate the ~~((paternity))~~ parentage of a child:

(1) Except as provided in subsection (5) of this section, the ~~((paternity))~~ parentage of a child having a presumed ~~((acknowledged,))~~ or adjudicated ~~((father))~~ parent or an acknowledged father may be disproved only by admissible results of

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genetic testing excluding that ~~((man))~~ person as the ~~((father))~~ parent of the child or identifying another man ~~((to be))~~ as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of the child under RCW 26.26.420 must be adjudicated the father of the child.

(3) If the court finds that genetic testing under RCW 26.26.420 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, ~~((along with))~~ and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

(5) Subsections (1) through (4) of this section do not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260. The parentage of a child conceived through assisted reproduction other than via surrogacy may be disproved only by admissible evidence showing the intent of the presumed, acknowledged, or adjudicated parent and the other parent.

**Sec. 43.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to read as follows:

The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and ~~((may be challenged in another judicial or an administrative proceeding))~~ has only the effect of a dismissal without prejudice.

**Sec. 44.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to read as follows:

(1) The court shall issue an order adjudicating whether a ~~((man))~~ person alleged or claiming to be the ~~((father))~~ parent is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and age.

(3) Except as otherwise provided in subsection (4) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this section and RCW 26.26.500 through 26.26.620 and 26.26.630. The court may award attorneys' fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(5) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(6) If the order of the court is at variance with the child's birth certificate, the court shall order the state registrar of vital statistics to issue an amended birth certificate.

**Sec. 45.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a determination of parentage is binding on:

(a) All signatories to an acknowledgment or denial of paternity as provided in RCW 26.26.300 through 26.26.375; and

(b) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The determination was based on an unrescinded acknowledgment of paternity and the acknowledgment of paternity is consistent with the results of the genetic testing;

(b) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown, or in the case of a child conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260, the adjudication of parentage was based on evidence showing the intent of the parents; or

(c) The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage or domestic partnership, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100. and the final order:

(a) Expressly identifies a child as a "child of the marriage," "issue of the marriage," "child of the domestic partnership," "issue of the domestic partnership," or similar words indicating that the ~~((husband is the father))~~ spouses in the marriage or domestic partners in the domestic partnership are the parents of the child; or

(b) Provides for support of the child by one or both of the ~~((husband))~~ spouses or domestic partners unless ~~((paternity))~~ parentage is specifically disclaimed in the order.

(4) Except as otherwise provided in subsection (2) of this section, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of ~~((paternity))~~ parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, ~~((and))~~ or other judicial review.

**Sec. 46.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to read as follows:

A donor is not a parent of a child conceived by means of assisted reproduction, unless otherwise agreed in a signed record by the donor and the person or persons intending to be parents of a child conceived through assisted reproduction.

**Sec. 47.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to read as follows:

((If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in RCW 26.26.715, he is the father of a resulting child born to his wife.)) A person who provides gametes for, or consents in a signed record to assisted reproduction with another person, with the intent to be the parent of the child born, is the parent of the resulting child.

**Sec. 48.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to read as follows:

(1) ~~((A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband.))~~ Consent by a couple who intend to be parents of a child conceived by assisted reproduction must be in a record signed by both persons. This requirement does not apply to ~~((the donation of eggs for assisted reproduction by another woman))~~ a donor.

(2) Failure of the ~~((husband))~~ person to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding ~~((that the husband is the father of a child born to his wife if the wife and husband openly treated))~~ of parentage if the persons resided together in the same household with the child and openly held out the child as their own.

**Sec. 49.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, ~~((the husband of a wife))~~ a spouse or domestic partner of a woman who gives birth to a child by means of assisted reproduction,

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or a spouse or domestic partner of a man who has a child by means of assisted reproduction, may not challenge his ((paternity)) or her parentage of the child unless:

(a) Within ~~((two))~~ four years after learning of the birth of the child ~~((he))~~ the person commences a proceeding to adjudicate his ~~((paternity))~~ or her parentage. In actions commenced more than two years after the birth of the child, the child must be made a party to the action; and

(b) The court finds that ~~((he))~~ the person did not consent to the assisted reproduction, before or after birth of the child.

(2) A proceeding to adjudicate ~~((paternity))~~ parentage may be maintained at any time if the court determines that:

(a) The ~~((husband))~~ spouse or domestic partner did not provide ~~((sperm))~~ gametes for, or before or after the birth of the child consent to, assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner;

(b) The ~~((husband and the mother))~~ spouse or domestic partner and the parent of the child have not cohabited since the probable time of assisted reproduction; and

(c) The ~~((husband))~~ spouse or domestic partner never openly ~~((treated))~~ held out the child as his or her own.

(3) The limitation provided in this section applies to a marriage or domestic partnership declared invalid after assisted reproduction.

**Sec. 50.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to read as follows:

(1) If a marriage or domestic partnership is dissolved before placement of eggs, sperm, or an embryo, the former spouse or former domestic partner is not a parent of the resulting child unless the former spouse or former domestic partner consented in a signed record that if assisted reproduction were to occur after a ~~((divorce))~~ dissolution, the former spouse or former domestic partner would be a parent of the child.

(2) The consent of the former spouse or former domestic partner to assisted reproduction may be ~~((revoked))~~ withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

**Sec. 51.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to read as follows:

If ~~((a spouse))~~ an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or an embryo, the deceased ~~((spouse))~~ individual is not a parent of the resulting child unless the deceased ~~((spouse))~~ individual consented in a signed record that if assisted reproduction were to occur after death, the deceased ~~((spouse))~~ individual would be a parent of the child.

**Sec. 52.** RCW 26.26.735 and 2002 c 302 s 608 are each amended to read as follows:

((The donor of ovum provided to a licensed physician for use in the alternative reproductive medical technology process of attempting to achieve a pregnancy in a woman other than the donor is treated in law as if she were not the natural mother of a child thereafter conceived and born unless the donor and the woman who gives birth to a child as a result of the alternative reproductive medical technology procedures agree in writing that the donor is to be a parent. RCW 26.26.705 does not apply in such case. A woman who gives birth to a child conceived through alternative reproductive medical technology procedures under the supervision and with the assistance of a licensed physician is treated in law as if she were the natural mother of the child unless an agreement in writing signed by an ovum donor and the woman giving birth to the child states otherwise. An agreement pursuant to this section must be in writing and signed by the ovum donor and the woman who gives birth to the child and any other intended parent of the child. The physician shall certify the parties' signatures and the date of the

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ovum harvest, identify the subsequent medical procedures undertaken, and identify the intended parents.)) (1) An affidavit and physician's certificate may be used by intended parents to establish parentage if:

(a) The two intended parents are both female intending to be the parents of the child born through assisted reproduction pursuant to RCW 26.26.210 through 26.26.260; and

(b) One of the intended parents contributes ovum and the other intended parent gives birth to the child.

(2) The ((agreement, including the)) affidavit and certification ((referenced in RCW 26.26.030,)) must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file.

**Sec. 53.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to read as follows:

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it and to the intent that the act apply to persons of the same sex who have children together to the same extent the act applies to persons of the opposite sex who have children together.

**Sec. 54.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to read as follows:

This act may be known and cited as the uniform parentage act of 2002.

NEW SECTION. Sec. 55. Any action taken by an agency to implement the provisions of this act must be accomplished within existing resources. Any costs incurred by the administrative office of the courts for modifications to the judicial information system as a result of the provisions of this act shall be paid from the judicial information system account.

NEW SECTION. Sec. 56. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senator Nelson spoke in favor of adoption of the striking amendment.

## MOTION

Senator Benton moved that the following amendment by Senators Benton, Carrell and Swecker to the striking amendment be adopted.

Beginning on page 1, line 3 of the amendment, strike all of section 1

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 4, line 30 of the amendment, strike all of sections 4 through 6

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 6, line 17 of the amendment, strike all of sections 8 through 10

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 12, beginning on line 9 of the amendment, strike all of section 15

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 13, beginning on line 1 of the amendment, strike all of section 17

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 15, line 14 of the amendment, strike all of sections 22 through 27

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Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 19, line 16 of the amendment, strike all of sections 29 through 35

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 23, line 25 of the amendment, strike all of sections 37 through 39

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 25, line 19 of the amendment, strike all of sections 41 and 42

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 29, line 9 of the amendment, strike all of sections 44 through 54

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 35, beginning on line 1 of the title amendment, after "insert" strike the remainder of the title amendment and insert "amending RCW 26.26.021, 26.26.041, 26.26.111, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.330, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.445, 26.26.550, 26.26.585, and 26.26.620; and creating a new section."

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Nelson spoke against adoption of the amendment to the striking amendment.

Senator Pridemore demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senators Benton, Carrell and Swecker on page 1, line 3 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Benton, Carrell and Swecker and the amendment was not adopted by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hargrove, Hewitt, Holmquist Newbry, Honeyford, Kastama, King, Morton, Parlette, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom and White

Excused: Senator Delvin

#### MOTION

On motion of Senator Ericksen, Senator Parlette was excused.

#### MOTION

Senator Zarelli moved that Engrossed Second Substitute House Bill No. 1443 be made a special order of business at 4:59 p.m. today.

The President declared the question before the Senate to be the motion by Senator Zarelli and the motion failed by a rising vote.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the striking amendment be adopted:

On page 7, line 12, after "certificate;", strike "or".

On page 7, line 14, after "own", insert the following: "; or

(iv) The person resided in the same household with the child and openly held out the child as his or her own for the first two years of the child's life."

On page 7, line 15, after "(2)", beginning with "a person", strike all material through "(3)" on line 19.

Senator Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator Nelson spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 7, line 12 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Pflug failed and the striking amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Eide moved that Substitute House Bill No. 1691 be made a special order of business at 4:59 p.m. today.

The President declared the question before the Senate to be the motion by Senator Eide and the motion carried by a rising vote.

#### MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the striking amendment be adopted:

On page 7, beginning on line 15 of the amendment, after "(2)" strike all material through "(3)" on line 19

Senators Swecker, Zarelli and Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senators Nelson and Murray spoke against adoption of the amendment to the striking amendment.

Senator Swecker demanded a roll and the demand was not sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 7, line 15 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Swecker carried and the amendment to the striking amendment was adopted by a rising vote.

#### MOTION

Senator Swecker moved that the following amendment by Senator Swecker to the striking amendment be adopted:

On page 11, line 4 of the amendment, after "years" strike ", except as provided in RCW 26.26.330"

On page 12, beginning on line 6 of the amendment, after "chapter." strike all material through "26.26.330." on line 8

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Beginning on page 12, line 22 of the amendment, strike all of sections 16 and 17

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 20, beginning on line 25 of the amendment, after "than" strike all material through "action," on line 28 and insert "two years after the birth of the child."

On page 22, beginning on line 31 of the amendment, after "than" strike all material through "action," on line 34 and insert "two years after the effective date of the acknowledgment or adjudication."

On page 32, beginning on line 3 of the amendment, after "(a)" strike all material through "action" on line 7 and insert "Within two years after learning of the birth of the child ((~~he~~) the person commences a proceeding to adjudicate his ((~~paternity~~)) or her parentage"

Senators Swecker and Pridemore spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker on page 11, line 4 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Swecker carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the striking amendment be adopted:

On page 12, line 7, after "acknowledgment" strike "or denial"

On page 12, line 32 after "acknowledgment" strike "or denial"

On page 12, line 33, after "acknowledgment" strike "or denial"

On page 12, line 34, after "acknowledgment" strike "or denial"

On page 13, line 11, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

On page 20, line 28, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

On page 22, line 34, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

Senators Pflug and Pridemore spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 12, line 7 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Pflug carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug to the striking amendment be adopted:

On page 31, at the beginning of line 13 of the amendment, strike "another person" and insert "the person's spouse or domestic partner"

On page 31, beginning on line 18 of the amendment, after "Consent" strike all material through "reproduction" on line 19 and insert "to assisted reproduction by a couple in a marriage or domestic partnership"

On page 31, line 23 of the amendment, after "((~~husband~~))" strike "person" and insert "spouse or domestic partner"

On page 31, beginning on line 27 of the amendment, after "if the" strike all material through "and" on line 28 and insert "spouse or domestic partner"

Senators Pflug and Nelson spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 31, line 13 to the striking amendment to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Pflug carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Brown moved that the following amendment by Senator Brown to the striking amendment be adopted:

On page 6, beginning on line 17, strike all of Section 8 and insert the following:

"**Sec.8** RCW 26.26.116 and 2002 c 302 s 204 are each amended to read as follows:

(1) In the context of a marriage or a domestic partnership, a ((~~man~~)) person is presumed to be the ((~~father~~)) parent of a child if:

(a) ((~~He~~)) The person and the mother or father of the child are married to each other or in a domestic partnership with each other and the child is born during the marriage or domestic partnership;

(b) ((~~He~~)) The person and the mother or father of the child were married to each other or in a domestic partnership with each other and the child is born within three hundred days after the marriage or domestic partnership is terminated by death, annulment, dissolution ((~~of marriage~~)), legal separation, or declaration of invalidity;

(c) Before the birth of the child, ((~~he~~)) the person and the mother or father of the child married each other or entered into a domestic partnership with each other in apparent compliance with law, even if the attempted marriage or domestic partnership is, or could be, declared invalid and the child is born during the invalid marriage or invalid domestic partnership or within three hundred days after its termination by death, annulment, dissolution ((~~of marriage~~)), legal separation, or declaration of invalidity; or

(d) After the birth of the child, ((~~he~~)) the person and the mother or father of the child have married each other or entered into a domestic partnership with each other in apparent compliance with law, whether or not the marriage or domestic partnership is, or could be declared invalid, and ((~~he~~)) the person voluntarily asserted ((~~his paternity~~)) parentage of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) The person agreed to be and is named as the child's ((~~father~~)) parent on the child's birth certificate; or

(iii) The person promised in a record to support the child as his or her own.

(2) A person is presumed to be the parent of the child if, for the first two years of the child's life, the person resided in the same household with the child and openly held out the child as his or her own child.

(3) A presumption of ((~~paternity~~)) parentage established under this section may be rebutted only by an adjudication under RCW 26.26.500 through 26.26.630."

Senator Brown spoke in favor of adoption of the amendment to the striking amendment.

#### POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. I would ask for a ruling of scope and object that this amendment is not

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properly before the body because we have previously heard this amendment and ask for a ruling thereon.”

Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom and White

Senator Brown spoke against the point of order.

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Hargrove, Hewitt, Holmquist Newbry, Honeyford, Kastama, King, Morton, Parlette, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

**RULING BY THE PRESIDENT**

Excused: Senator Delvin

President Owen: “In ruling on the point of order by Senator Schoesler, the President has given considerable consideration to these. We had dealt with this issue actually twice and now it is being proposed to be dealt with again which would be a third time and that process could continue on until the process could never be completed. Therefore its necessary there be a substantial difference in the amendment before the amendment is considered. In this case making minor, very minor modifications does not justify interpretation as a substantial change in the amendment, therefore, the amendment is out of order and your point of order is well taken.”

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

Senators Hargrove, Pridemore, Swecker, Nelson, Pflug spoke in favor of adoption of the striking amendment as amended.

**SECOND READING**

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Nelson as amended to Engrossed Second Substitute House Bill No. 1267.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1443, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Maxwell, Dammeier, Sullivan, Pedersen, Springer, Kagi, Anderson, Pettigrew, Finn, Morris, Ladenburg, Frockt, Jinkins, Upthegrove, Clibborn, Orwall, Haigh, Jacks, Liias, Billig, Kelley and Probst)

The motion by Senator Pridemore carried and the striking amendment as amended was adopted by voice vote.

Continuing education reforms. Revised for 2nd Substitute: Concerning continuing education reforms, including implementing recommendations of the quality education council.

The measure was read the second time.

**MOTION**

**MOTION**

There being no objection, the following title amendment was adopted:

Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

On page 1, line 3 of the title, after "parentage;" strike the remainder of the title and insert "amending RCW 26.26.011, 26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.903, and 26.26.911; and creating a new section."

Strike everything after the enacting clause and insert the following:

**"PART I  
STRENGTHENING INSTRUCTION AND SUPPORT**

**MOTION**

NEW SECTION. **Sec. 101.** A new section is added to chapter 28A.655 RCW to read as follows:

On motion of Senator Pridemore, the rules were suspended, Engrossed Second Substitute House Bill No. 1267 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Before implementing revisions to the state essential academic learning requirements as authorized under RCW 28A.655.070, the superintendent of public instruction must ensure that a fairness and bias review of the revisions has been conducted, including providing an opportunity for input from the achievement gap oversight and accountability committee under RCW 28A.300.136 and from an additional diverse group of community representatives, parents, and educators to be convened by the superintendent.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1267 as amended by the Senate.

NEW SECTION. **Sec. 102.** A new section is added to chapter 28A.230 RCW to read as follows:

**ROLL CALL**

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1267 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

(1) By July 1, 2012, each school district board of directors that grants high school diplomas shall adopt a policy that defines a high school credit for purposes of meeting state and local graduation requirements. The policy may define a high school credit based on a seat-time definition, demonstrated competencies, or some combination, as long as the policy specifies the means by which the school district assures that students have gained the knowledge and skills necessary to earn a credit.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug,

(2) Each school district board of directors shall submit a copy of its policy to the state board of education.

(3) The state board of education may adopt a rule repealing the seat-time definition of a high school credit by May 31, 2012, and shall require school districts to certify annually to the board that the district has a policy to define a high school credit.

**NEW SECTION. Sec. 103.** A new section is added to chapter 28A.655 RCW to read as follows:

Within available state and federal funds for school and district improvement, the office of the superintendent of public instruction shall provide technical assistance to schools and districts specifically targeted to reduce school dropouts and improve on-time and extended high school graduation rates. The technical assistance shall be more intensive for those high schools and school districts in significant need of improvement.

**Sec. 104.** RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

|                                      |       |
|--------------------------------------|-------|
| General education average class size |       |
| Grades K-3.....                      | 25.23 |
| Grade 4.....                         | 27.00 |
| Grades 5-6.....                      | 27.00 |
| Grades 7-8.....                      | 28.53 |
| Grades 9-12.....                     | 28.74 |

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

|  |       |
|--|-------|
| Career and technical education average class size  |       |
| Approved career and technical education offered at the middle school and high school level.....                        | 26.57 |
| Skill center programs meeting the standards established by the office of the superintendent of public instruction..... | 22.76 |

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

|  | Elem<br>entary<br>Schoo<br>l | Mi<br>ddl<br>e<br>Sch<br>ool | Hig<br>h<br>Sch<br>ool |
|--|------------------------------|------------------------------|------------------------|
| Principals, assistant principals, and other certificated building-level administrators.....  |                              |                              |                        |
|  | 1.253                        | 1.3                          | 1.8                    |
|  |                              | 53                           | 80                     |
| Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs..... |                              |                              |                        |
|  | 0.663                        | 0.5                          | 0.5                    |
|  |                              | 19                           | 23                     |
| Health and social services:  |                              |                              |                        |
| School nurses.....   |                              |                              |                        |
|  | 0.076                        | 0.0                          | 0.0                    |
|  |                              | 60                           | 96                     |
| Social workers.....  |                              |                              |                        |
|  | 0.042                        | 0.0                          | 0.0                    |
|  |                              | 06                           | 15                     |
| Psychologists.....   |                              |                              |                        |
|  | 0.017                        | 0.0                          | 0.0                    |
|  |                              | 02                           | 07                     |
| Guidance counselors, a function that includes parent outreach and  |                              |                              |                        |
|  | 0.493                        | 1.1                          | 1.9                    |

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|   |       |     |     |
|---|-------|-----|-----|
| graduation advising.....  | 16    | 09  |     |
| Teaching assistance, including any aspect of educational instructional services provided by classified employees .... | 0.936 | 0.7 | 0.6 |
| Office support and other noninstructional aides .....   | 2.012 | 2.3 | 3.2 |
| Custodians.....   | 1.657 | 1.9 | 2.9 |
|   |       | 42  | 65  |
| Classified staff providing student and staff safety.....  | 0.079 | 0.0 | 0.1 |
|   |       | 92  | 41  |
| ((Parent involvement)) Family engagement coordinators .....   | 0.00  | 0.0 | 0.0 |
|   |       | 0   | 0   |

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000  
K-12 students

|  |       |
|--|-------|
| Technology .....                           | 0.628 |
| Facilities, maintenance, and grounds ..... | 1.813 |
| Warehouse, laborers, and mechanics.....    | 0.332 |

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

Per annual average  
full-time equivalent student  
in grades K-12

|   |          |
|---|----------|
| Technology .....  | \$54.43  |
| Utilities and insurance.....  | \$147.90 |
| Curriculum and textbooks.....   | \$58.44  |
| Other supplies and library materials .....                                      | \$124.07 |
| Instructional professional development for certified and classified staff ..... | \$9.04   |
| Facilities maintenance.....   | \$73.27  |
| Security and central office .....   | \$50.76  |

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average  
full-time equivalent student  
in grades K-12

|  |          |
|--|----------|
| Technology .....   | \$113.80 |
| Utilities and insurance.....   | \$309.21 |
| Curriculum and textbooks.....  | \$122.17 |
| Other supplies and library materials .....   | \$259.39 |
| Instructional professional development for certificated and classified staff ..... | \$18.89  |
| Facilities maintenance.....  | \$153.18 |
| Security and central office administration .....                                   | \$106.12 |

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution

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formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 105.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving multidistrict online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online course provider; and an appeals process. The criteria and processes shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing multidistrict online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts, except as provided in RCW 28A.250.050.

(3) Initial approval of multidistrict online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The

committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 106.** RCW 28A.250.050 and 2009 c 542 s 6 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts may not prevent students from taking individual approved online courses for credit. School districts must award credit for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved multidistrict online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

~~((3))~~ (4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020.

**Sec. 107.** RCW 28A.150.220 and 2009 c 548 s 104 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature but not before the 2014-15 school year; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

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(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, subject to a phased-in implementation of the twenty-four credits as established by the legislature. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. However, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

**Sec. 108.** RCW 28A.657.050 and 2010 c 235 s 105 are each amended to read as follows:

(1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with

administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit: ~~((and))~~

(e) Use of the state kindergarten readiness assessment process if the school is an elementary school;

(f) Use of family engagement coordinators to build relationships between families, the school, and the community to improve student achievement; and

(g) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 10, 2010, must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement to the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 109.** A new section is added to chapter 28A.655 RCW to read as follows:

To the extent permitted by federal law and regulations, the office of the superintendent of public instruction may require elementary schools receiving federal school improvement grants to use the state kindergarten readiness assessment, and may require a school to use family engagement coordinators to build relationships between families, the school, and the community to improve student achievement.

## PART II

### CLOSING THE OPPORTUNITY GAP

**Sec. 201.** RCW 28A.165.015 and 2004 c 20 s 2 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~(and)~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade eleven who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services. Beginning with the 2007-2008 school year, "participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 202.** RCW 28A.165.015 and 2009 c 548 s 702 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~(and)~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 203.** RCW 28A.165.025 and 2009 c 556 s 1 are each amended to read as follows:

(1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. The program plan

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must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in (a) through (h) of this subsection. The school district plan shall include the following:

(a) District and school-level data on reading, writing, science, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(i) Achievement goals for the students;

(ii) Roles of the student, parents, or guardians and teachers in the plan;

(iii) Communication procedures regarding student accomplishment; and

(iv) Plan reviews and adjustments processes;

(d) How state level and classroom assessments are used to inform instruction;

(e) How focused and intentional instructional strategies have been identified and implemented;

(f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

**Sec. 204.** RCW 28A.320.190 and 2009 c 578 s 2 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible ~~((eleventh and))~~ ninth through twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220~~((3))~~ (5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational

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service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the ~~((Washington))~~ state high school assessment ~~((of student learning))~~;

(c) Attendance in a public high school or public alternative school classes or at a skill center;

(d) Inclusion in remediation programs, including summer school;

(e) Language development instruction for English language learners;

(f) Online curriculum and instructional support, including programs for credit retrieval and ~~((Washington))~~ state assessment ~~((of student learning))~~ preparatory classes; and

(g) Reading improvement specialists available at the educational service districts to serve eighth~~((, eleventh, and))~~ through twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

**NEW SECTION. Sec. 205.** (1) The Washington state institute for public policy shall work with the office of the superintendent of public instruction to design and implement a research study to measure the impact on student achievement of remediation strategies funded by the learning assistance program.

(2) The objectives of the research study are to determine which remediation strategies are most effective and efficient in improving student achievement in reading, mathematics, and science; and identify outcome measures for use by policymakers in evaluating learning assistance program success. The study design shall include quantitative and qualitative methods; identify the data necessary for a high-quality study; and identify the extent that necessary data is being collected and, if not, how it could be collected, including through sampling if necessary.

(3) The institute shall submit the research study design to the quality education council and the education committees of the legislature by September 1, 2011.

(4) The institute shall submit the results of the research study to the quality education council and the education committees of the legislature by September 1, 2012.

**Sec. 206.** RCW 28A.180.090 and 2001 1st sp.s. c 6 s 2 are each amended to read as follows:

The superintendent of public instruction shall develop an evaluation system designed to measure increases in the English and academic proficiency of eligible pupils. When developing the system, the superintendent shall:

(1) Require school districts to assess potentially eligible pupils within ten days of registration using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district;

(2) Require school districts to annually assess all eligible pupils at the end of the school year using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district. Aggregated results must be posted on the web site of the office of the superintendent of public instruction for each school and school district, using the Washington state report card. The report card must include the average length of time students in

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each school and district are enrolled in the transitional bilingual instructional program, annual change in the number and percentage of students making progress in learning English, annual change in the number and percentage of students attaining English proficiency, and the number and percentage of students meeting annual targets in reading and mathematics for state and federal accountability; and

(3) Develop a system to evaluate increases in the English and academic proficiency of students who are, or were, eligible pupils. This evaluation shall include students when they are in the program and after they exit the program until they finish their K-12 career or transfer from the school district. Aggregated results from the academic assessment of students who were formerly eligible pupils under the program must be reported by school and school district using the Washington state report card. The purpose of the evaluation system is to inform schools, school districts, parents, and the state of the effectiveness of the transitional bilingual programs in school and school districts in teaching these students English and other content areas, such as mathematics and writing~~((and~~

~~((and~~ (4) ~~Report to the education and fiscal committees of the legislature by November 1, 2002, regarding the development of the systems described in this section and a timeline for the full implementation of those systems. The legislature shall approve and provide funding for the evaluation system in subsection (3) of this section before any implementation of the system developed under subsection (3) of this section may occur).~~

**NEW SECTION. Sec. 207.** A new section is added to chapter 28A.185 RCW to read as follows:

For the purposes of the program for highly capable students under this chapter, a highly capable student means a student who performs, or shows potential for performing, at significantly advanced levels when compared to others of his or her age, experience, or environment. Outstanding capabilities are seen with the student's general intellectual aptitudes, specific academic abilities, creative productivities within a specific domain, or leadership skills. Highly capable students are present in all cultural and linguistic groups and across all socioeconomic strata; coexist with all manner of disabling conditions both visible and invisible; and manifest across all areas of human endeavor.

**Sec. 208.** RCW 28A.185.020 and 2009 c 548 s 708 are each amended to read as follows:

(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The education of highly capable students may include supports and services that are in addition to those ordinarily provided as part of general education.

~~((2))~~ (2) There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on two and three hundred fourteen one-thousandths percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

~~((3))~~ (3) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.

**Sec. 209.** RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

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Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students for the purposes of the highly capable program. ~~((Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.))~~ Under the procedures, no single criterion should prevent a student's identification. However, any single criterion, if strong enough, may indicate a need for services. The rules adopted by the superintendent of public instruction must include but are not limited to consistent procedures for:

- (a) Universal screening;
- (b) Regular public notification;
- (c) Use of multiple criteria;
- (d) Involvement of qualified professionals in the identification process;
- (e) Family involvement in decision making;
- (f) Notification of parents or legal guardians;
- (g) Safeguards to reduce cultural, linguistic, socioeconomic, and gender bias, and to mitigate impacts resulting from disabilities; and
- ~~((h))~~ (h) Periodic reviews, including input from families.

(2) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.

(4) The definitions in Article II of RCW 28A.705.010 apply to subsection (2) of this section.

**Sec. 210.** RCW 28C.18.162 and 2009 c 238 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28C.18.160 and 28C.18.164 through 28C.18.168.

(1) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities. For the purposes of opportunity internships, the teaching of mathematics, science, bilingual education, special education, or English as a second language is considered a high-demand occupation.

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(2) "Low-income high school student" means a student who is enrolled in grade((s)) ten, eleven, or twelve in a public high school and who qualifies for federal free or reduced-price meals. If a student qualifies at the time the student begins participating in the opportunity internship program, the student remains eligible even if the student does not receive free or reduced-price meals thereafter. To participate in the program, the student must remain enrolled in high school until the student receives a high school diploma.

(3) "Opportunity internship consortium" means a local consortium formed for the purpose of participating in the opportunity internship program and which may be composed of a local workforce development council, economic development council, area high schools, community or technical colleges, apprenticeship councils, preapprenticeship programs such as running start for the trades, private vocational schools licensed under chapter 28C.10 RCW, public and private four-year institutions of higher education, employers in targeted industries, and labor organizations. Partnerships of high schools, teacher preparation programs, and community-based organizations offering the program under RCW 28A.415.370 may be considered opportunity internship consortia.

(4) "Opportunity internship graduate" means a low-income high school student who successfully completes an opportunity internship program and graduates from high school.

(5) "Postsecondary program of study" means an undergraduate or graduate certificate, apprenticeship, or degree program.

(6) "Preapprenticeship" means a program of at least ninety hours and not more than one hundred eighty hours in length that provides practical experience, education, preparation, and the development of skills that would be beneficial for entry into state-approved apprenticeship programs, including but not limited to construction industry structure and the construction process; orientation to state-approved apprenticeship; tools of the various trades and safe handling of power tools; and industry standards of safety, responsibility, and craft excellence.

(7) "Targeted industry" means a business or industry identified by a local workforce development council as having high-demand occupations that require candidates to have completed a postsecondary program of study.

**Sec. 211.** RCW 28A.660.042 and 2007 c 396 s 6 are each amended to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created.

(2)(a) Except as provided under subsection (3) of this section, participation is limited to paraeducators without a college degree who have at least three years of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in two years or less and become eligible for a mathematics, special education, or English as a second language endorsement via route one in the alternative routes to teacher certification program provided in this chapter.

~~((2))~~ (b) Entry requirements for candidates under this subsection (2) include district or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee.

(3) Subject to the availability of funds for the pipeline for paraeducators conditional scholarship program under RCW 28A.660.050, after qualified candidates under subsection (2) of this section have been accepted, individuals who participated in one of the recruiting Washington teachers grant programs under RCW 28A.415.370 may participate in the pipeline for paraeducators conditional scholarship program if the individual meets the criteria for the scholarship under RCW 28A.660.050.

**Sec. 212.** RCW 28A.660.050 and 2010 c 235 s 505 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified ~~((paraeducators))~~ individuals as provided by RCW 28A.660.042. Paraeducators who apply for the program under RCW 28A.660.042(2) shall receive first priority in scholarship awards. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in middle level mathematics or science, or both; and

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(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**Sec. 213.** RCW 28A.660.040 and 2010 c 235 s 504 are each amended to read as follows:

Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the teacher preparation program must both agree that the teacher candidate has successfully completed the program.

(1) Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees or former participants in the recruiting Washington teachers program who enter through the pipeline for paraeducators conditional scholarship program under RCW 28A.660.042 who are seeking residency teacher certification with endorsements in mathematics, special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored

internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam.

(3) Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

(4) Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

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(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**PART III  
SUPPORTING EDUCATION PROFESSIONALS**

NEW SECTION. **Sec. 301.** The legislature intends to continue development and implementation of revised teacher and principal evaluation systems according to the schedule in RCW 28A.405.100, including supporting the work of those school districts developing and piloting the revised evaluation systems.

**Sec. 302.** RCW 28A.400.201 and 2010 c 236 s 7 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

- (a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group or a technical subgroup of individuals with knowledge and expertise in professional development and mentoring formed by the working group shall conduct a comprehensive analysis of educator professional development and mentoring needs for principals, teachers, educational staff associates, and classified staff. The analysis must include professional development needs in the following specific areas:

- (a) Cultural competency;
- (b) Competency in language acquisition; and
- (c) Science, technology, engineering, and mathematics instruction.

(6) The working group shall also examine current barriers and possible strategies, including incentives, to recruit and retain diverse teachers and teachers with knowledge and skills in science, technology, engineering, and mathematics.

(7) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

~~((6))~~ (8) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**PART IV  
MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec. 401.** Sections 104, 107, 202, and 208 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 402.** Section 201 of this act expires September 1, 2011.

NEW SECTION. **Sec. 403.** If specific funding in the amount of at least seven hundred fifty thousand dollars for the purposes of this act, referencing this act by bill or chapter number, is not provided and appropriated to local school districts by June 30, 2011, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "council;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.250.020, 28A.250.050, 28A.150.220, 28A.657.050, 28A.165.015, 28A.165.015, 28A.165.025, 28A.320.190, 28A.180.090, 28A.185.020, 28A.185.030, 28C.18.162, 28A.660.042, 28A.660.050, 28A.660.040, and 28A.400.201; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.185 RCW; creating new sections; providing an effective date; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Murray to not adopt the committee striking

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amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator Murray carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Tom moved that the following committee striking amendment by the Committee on Early Learning & K-12 Education be not adopted:

Strike everything after the enacting clause and insert the following:

"PART I STRENGTHENING INSTRUCTION AND SUPPORT

NEW SECTION. Sec. 101. A new section is added to chapter 28A.655 RCW to read as follows:

Before implementing revisions to the state essential academic learning requirements as authorized under RCW 28A.655.070, the superintendent of public instruction must ensure that a fairness and bias review of the revisions has been conducted, including providing an opportunity for input from the achievement gap oversight and accountability committee under RCW 28A.300.136 and from an additional diverse group of community representatives, parents, and educators to be convened by the superintendent.

NEW SECTION. Sec. 102. A new section is added to chapter 28A.230 RCW to read as follows:

(1) By July 1, 2012, each school district board of directors that grants high school diplomas shall adopt a policy that defines a high school credit for purposes of meeting state and local graduation requirements. The policy may define a high school credit based on a seat-time definition, demonstrated competencies, or some combination, as long as the policy specifies the means by which the school district assures that students have gained the knowledge and skills necessary to earn a credit.

(2) Each school district board of directors shall submit a copy of its policy to the state board of education.

(3) The state board of education may adopt a rule repealing the seat-time definition of a high school credit by May 31, 2012, and shall require school districts to certify annually to the board that the district has a policy to define a high school credit.

NEW SECTION. Sec. 103. A new section is added to chapter 28A.655 RCW to read as follows:

Within available state and federal funds for school and district improvement, the office of the superintendent of public instruction shall provide technical assistance to schools and districts specifically targeted to reduce school dropouts and improve on-time and extended high school graduation rates. The technical assistance shall be more intensive for those high schools and school districts in significant need of improvement.

Sec. 104. RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and

regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that the schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

|                   |       |
|-------------------|-------|
| General education |       |
| average           |       |
| class size        |       |
| Grades K-3.....   | 25.23 |
| Grade 4.....      | 27.00 |
| Grades 5-6.....   | 27.00 |
| Grades 7-8.....   | 28.53 |
| Grades 9-12.....  | 28.74 |

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom

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teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size

Approved career and technical education offered at the middle school and high school level.....26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction .....22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

Table with 4 columns: Staff Type, Elem, Mi, Hig. Rows include Principals, assistant principals, and other certificated building-level administrators; Teacher librarians; Health and social services (School nurses, Social workers, Psychologists); Guidance counselors; Teaching assistance; Office support; Custodians; Classified staff providing student and staff safety; ((Parent involvement)) Family engagement coordinators.

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students
Technology .....0.628
Facilities, maintenance, and grounds .....1.813
Warehouse, laborers, and mechanics .....0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central

administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

Table with 2 columns: Item, Amount. Rows include Per annual average full-time equivalent student in grades K-12 (Technology \$54.43, Utilities and insurance \$147.90, Curriculum and textbooks \$58.44, Other supplies and library materials \$124.07, Instructional professional development for certified and classified staff \$9.04, Facilities maintenance \$73.27, Security and central office \$50.76).

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Table with 2 columns: Item, Amount. Rows include Per annual average full-time equivalent student in grades K-12 (Technology \$113.80, Utilities and insurance \$309.21, Curriculum and textbooks \$122.17, Other supplies and library materials \$259.39, Instructional professional development for certificated and classified staff \$18.89, Facilities maintenance \$153.18, Security and central office administration \$106.12).

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 105.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving multidistrict online providers; a process for monitoring and if necessary rescinding the

approval of courses or programs offered by an online course provider; and an appeals process. The criteria and processes shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing multidistrict online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts, except as provided in RCW 28A.250.050.

(3) Initial approval of multidistrict online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 106.** RCW 28A.250.050 and 2009 c 542 s 6 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to

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the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts may not prevent students from taking individual approved online courses for credit. School districts must award credit for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved multidistrict online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

~~((3))~~ (4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020.

**Sec. 107.** RCW 28A.150.220 and 2009 c 548 s 104 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature but not before the 2014-15 school year; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, subject to a phased-in implementation of the twenty-four credits as established by the legislature. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. However, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

**Sec. 108.** RCW 28A.657.050 and 2010 c 235 s 105 are each amended to read as follows:

(1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of

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districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; ~~((and))~~

(e) Use of the state kindergarten readiness assessment process if the school is an elementary school;

(f) Use of family engagement coordinators to build relationships between families, the school, and the community to improve student achievement; and

(g) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 10, 2010, must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

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(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 109.** A new section is added to chapter 28A.655 RCW to read as follows:

To the extent permitted by federal law and regulations, the office of the superintendent of public instruction may require elementary schools receiving federal school improvement grants to use the state kindergarten readiness assessment, and may require a school to use family engagement coordinators to build relationships between families, the school, and the community to improve student achievement.

## PART II

### CLOSING THE OPPORTUNITY GAP

**Sec. 201.** RCW 28A.165.015 and 2004 c 20 s 2 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~((and))~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade eleven who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services. Beginning with the 2007-2008 school year, "participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 202.** RCW 28A.165.015 and 2009 c 548 s 702 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~(and)~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 203.** RCW 28A.165.025 and 2009 c 556 s 1 are each amended to read as follows:

(1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in (a) through (h) of this subsection. The school district plan shall include the following:

(a) District and school-level data on reading, writing, science, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(i) Achievement goals for the students;

(ii) Roles of the student, parents, or guardians and teachers in the plan;

(iii) Communication procedures regarding student accomplishment; and

(iv) Plan reviews and adjustments processes;

(d) How state level and classroom assessments are used to inform instruction;

(e) How focused and intentional instructional strategies have been identified and implemented;

(f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

**Sec. 204.** RCW 28A.320.190 and 2009 c 578 s 2 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible ~~((eleventh and))~~ ninth through twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220~~((3))~~ (5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the ~~((Washington))~~ state high school assessment ~~((of student learning))~~;

(c) Attendance in a public high school or public alternative school classes or at a skill center;

(d) Inclusion in remediation programs, including summer school;

(e) Language development instruction for English language learners;

(f) Online curriculum and instructional support, including programs for credit retrieval and ~~((Washington))~~ state assessment ~~((of student learning))~~ preparatory classes; and

(g) Reading improvement specialists available at the educational service districts to serve eighth~~((, eleventh, and))~~ through twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and

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those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

**NEW SECTION. Sec. 205.** (1) The Washington state institute for public policy shall work with the office of the superintendent of public instruction to design and implement a research study to measure the impact on student achievement of remediation strategies funded by the learning assistance program.

(2) The objectives of the research study are to determine which remediation strategies are most effective and efficient in improving student achievement in reading, mathematics, and science; and identify outcome measures for use by policymakers in evaluating learning assistance program success. The study design shall include quantitative and qualitative methods; identify the data necessary for a high-quality study; and identify the extent that necessary data is being collected and, if not, how it could be collected, including through sampling if necessary.

(3) The institute shall submit the research study design to the quality education council and the education committees of the legislature by September 1, 2011.

(4) The institute shall submit the results of the research study to the quality education council and the education committees of the legislature by September 1, 2012.

**Sec. 206.** RCW 28A.180.090 and 2001 1st sp.s. c 6 s 2 are each amended to read as follows:

The superintendent of public instruction shall develop an evaluation system designed to measure increases in the English and academic proficiency of eligible pupils. When developing the system, the superintendent shall:

(1) Require school districts to assess potentially eligible pupils within ten days of registration using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district;

(2) Require school districts to annually assess all eligible pupils at the end of the school year using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district. Aggregated results must be posted on the web site of the office of the superintendent of public instruction for each school and school district, using the Washington state report card. The report card must include the average length of time students in each school and district are enrolled in the transitional bilingual instructional program, annual change in the number and percentage of students making progress in learning English, annual change in the number and percentage of students attaining English proficiency, and the number and percentage of students meeting annual targets in reading and mathematics for state and federal accountability; and

(3) Develop a system to evaluate increases in the English and academic proficiency of students who are, or were, eligible pupils. This evaluation shall include students when they are in the program and after they exit the program until they finish their K-12 career or transfer from the school district. Aggregated results from the academic assessment of students who were formerly eligible pupils under the program must be reported by school and school district using the Washington state report card. The purpose of the evaluation system is to inform schools, school districts, parents, and the state of the effectiveness of the transitional bilingual programs in school and school districts in teaching these students English and other content areas, such as mathematics and writing

~~(4) Report to the education and fiscal committees of the legislature by November 1, 2002, regarding the development of the systems described in this section and a timeline for the full~~

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~~implementation of those systems. The legislature shall approve and provide funding for the evaluation system in subsection (3) of this section before any implementation of the system developed under subsection (3) of this section may occur).~~

**NEW SECTION. Sec. 207.** A new section is added to chapter 28A.185 RCW to read as follows:

For the purposes of the program for highly capable students under this chapter, a highly capable student means a student who performs, or shows potential for performing, at significantly advanced levels when compared to others of his or her age, experience, or environment. Outstanding capabilities are seen with the student's general intellectual aptitudes, specific academic abilities, creative productivities within a specific domain, or leadership skills. Highly capable students are present in all cultural and linguistic groups and across all socioeconomic strata; coexist with all manner of disabling conditions both visible and invisible; and manifest across all areas of human endeavor.

**Sec. 208.** RCW 28A.185.020 and 2009 c 548 s 708 are each amended to read as follows:

(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The education of highly capable students may include supports and services that are in addition to those ordinarily provided as part of general education.

(2) There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on two and three hundred fourteen one-thousandths percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

~~((2))~~ (3) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.

**Sec. 209.** RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students for the purposes of the highly capable program. ~~(Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.)~~ Under the procedures, no single criterion should prevent a student's identification. However, any single criterion, if strong enough, may indicate a need for services. The

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rules adopted by the superintendent of public instruction must include but are not limited to consistent procedures for:

- (a) Universal screening;
- (b) Regular public notification;
- (c) Use of multiple criteria;
- (d) Involvement of qualified professionals in the identification process;
- (e) Family involvement in decision making;
- (f) Notification of parents or legal guardians;
- (g) Safeguards to reduce cultural, linguistic, socioeconomic, and gender bias, and to mitigate impacts resulting from disabilities; and
- (h) Periodic reviews, including input from families.

(2) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be developed or provided by using funds allocated by the superintendent of public instruction for that purpose.

(4) The definitions in Article II of RCW 28A.705.010 apply to subsection (2) of this section.

**Sec. 210.** RCW 28C.18.162 and 2009 c 238 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28C.18.160 and 28C.18.164 through 28C.18.168.

(1) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities. For the purposes of opportunity internships, the teaching of mathematics, science, bilingual education, special education, or English as a second language is considered a high-demand occupation.

(2) "Low-income high school student" means a student who is enrolled in grade((s)) ten, eleven, or twelve in a public high school and who qualifies for federal free or reduced-price meals. If a student qualifies at the time the student begins participating in the opportunity internship program, the student remains eligible even if the student does not receive free or reduced-price meals thereafter. To participate in the program, the student must remain enrolled in high school until the student receives a high school diploma.

(3) "Opportunity internship consortium" means a local consortium formed for the purpose of participating in the opportunity internship program and which may be composed of a local workforce development council, economic development council, area high schools, community or technical colleges, apprenticeship councils, preapprenticeship programs such as running start for the trades, private vocational schools licensed under chapter 28C.10 RCW, public and private four-year institutions of higher education, employers in targeted industries, and labor organizations. Partnerships of high schools, teacher preparation programs, and community-based organizations offering the program under RCW 28A.415.370 may be considered opportunity internship consortia.

(4) "Opportunity internship graduate" means a low-income high school student who successfully completes an opportunity internship program and graduates from high school.

(5) "Postsecondary program of study" means an undergraduate or graduate certificate, apprenticeship, or degree program.

(6) "Preapprenticeship" means a program of at least ninety hours and not more than one hundred eighty hours in length that provides practical experience, education, preparation, and the development of skills that would be beneficial for entry into state-approved apprenticeship programs, including but not limited to construction industry structure and the construction process; orientation to state-approved apprenticeship; tools of the various trades and safe handling of power tools; and industry standards of safety, responsibility, and craft excellence.

(7) "Targeted industry" means a business or industry identified by a local workforce development council as having high-demand occupations that require candidates to have completed a postsecondary program of study.

**Sec. 211.** RCW 28A.660.042 and 2007 c 396 s 6 are each amended to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created.

(2)(a) Except as provided under subsection (3) of this section, participation is limited to paraeducators without a college degree who have at least three years of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in two years or less and become eligible for a mathematics, special education, or English as a second language endorsement via route one in the alternative routes to teacher certification program provided in this chapter.

((2)) (b) Entry requirements for candidates under this subsection (2) include district or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee.

(3) Subject to the availability of funds for the pipeline for paraeducators conditional scholarship program under RCW 28A.660.050, after qualified candidates under subsection (2) of this section have been accepted, individuals who participated in one of the recruiting Washington teachers grant programs under RCW 28A.415.370 may participate in the pipeline for paraeducators conditional scholarship program if the individual meets the criteria for the scholarship under RCW 28A.660.050.

**Sec. 212.** RCW 28A.660.050 and 2010 c 235 s 505 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

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(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified (~~paraeducators~~) individuals as provided by RCW 28A.660.042. Paraeducators who apply for the program under RCW 28A.660.042(2) shall receive first priority in scholarship awards. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of

Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**Sec. 213.** RCW 28A.660.040 and 2010 c 235 s 504 are each amended to read as follows:

Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the teacher preparation program must both agree that the teacher candidate has successfully completed the program.

(1) Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees or former participants in the recruiting Washington teachers program who enter through the pipeline for paraeducators conditional scholarship program under RCW 28A.660.042 who are seeking residency teacher certification with endorsements in mathematics, special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam.

(3) Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application.

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When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

(4) Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**PART III**

**SUPPORTING EDUCATION PROFESSIONALS**

**NEW SECTION. Sec. 301.** The legislature intends to continue development and implementation of revised teacher and principal evaluation systems according to the schedule in RCW 28A.405.100, including supporting the work of those school districts developing and piloting the revised evaluation systems.

**Sec. 302.** RCW 28A.400.201 and 2010 c 236 s 7 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model

cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group or a technical subgroup of individuals with knowledge and expertise in professional development and mentoring formed by the working group shall conduct a comprehensive analysis of educator professional development and mentoring needs for principals, teachers, educational staff associates, and classified staff. The analysis must include professional development needs in the following specific areas:

(a) Cultural competency;

(b) Competency in language acquisition; and

(c) Science, technology, engineering, and mathematics instruction.

(6) The working group shall also examine current barriers and possible strategies, including incentives, to recruit and retain diverse teachers and teachers with knowledge and skills in science, technology, engineering, and mathematics.

(7) The working group shall include representatives of the

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department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

((6)) (8) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

#### PART IV MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 401. Sections 104, 107, 202, and 208 of this act take effect September 1, 2011.

NEW SECTION. Sec. 402. Section 201 of this act expires September 1, 2011."

On page 1, line 2 of the title, after "council;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.250.020, 28A.250.050, 28A.150.220, 28A.657.050, 28A.165.015, 28A.165.015, 28A.165.025, 28A.320.190, 28A.180.090, 28A.185.020, 28A.185.030, 28C.18.162, 28A.660.042, 28A.660.050, 28A.660.040, and 28A.400.201; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.185 RCW; creating new sections; providing an effective date; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Tom to not adopt the committee striking amendment by the Committee on Early Learning & K-12 Education to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator Tom carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Tom moved that the following striking amendment by Senators Tom and Litzow be adopted:

Strike everything after the enacting clause and insert the following:

#### "PART I STRENGTHENING INSTRUCTION AND SUPPORT

NEW SECTION. Sec. 101. A new section is added to chapter 28A.655 RCW to read as follows:

Before implementing revisions to the state essential academic learning requirements as authorized under RCW 28A.655.070, the superintendent of public instruction must ensure that a fairness and bias review of the revisions has been conducted, including providing an opportunity for input from the achievement gap oversight and accountability committee under RCW 28A.300.136 and from an additional diverse group of community representatives, parents, and educators to be convened by the superintendent.

NEW SECTION. Sec. 102. A new section is added to chapter 28A.230 RCW to read as follows:

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(1) By July 1, 2012, each school district board of directors that grants high school diplomas shall adopt a policy that defines a high school credit for purposes of meeting state and local graduation requirements. The policy may define a high school credit based on a seat-time definition, demonstrated competencies, or some combination, as long as the policy specifies the means by which the school district assures that students have gained the knowledge and skills necessary to earn a credit.

(2) Each school district board of directors shall submit a copy of its policy to the state board of education.

(3) The state board of education may adopt a rule repealing the seat-time definition of a high school credit by May 31, 2012, and shall require school districts to certify annually to the board that the district has a policy to define a high school credit.

NEW SECTION. Sec. 103. A new section is added to chapter 28A.655 RCW to read as follows:

Within available state and federal funds for school and district improvement, the office of the superintendent of public instruction shall provide technical assistance to schools and districts specifically targeted to reduce school dropouts and improve on-time and extended high school graduation rates. The technical assistance shall be more intensive for those high schools and school districts in significant need of improvement.

Sec. 104. RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from

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the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

|                                      |       |
|--------------------------------------|-------|
| General education average class size |       |
| Grades K-3 .....                     | 25.23 |
| Grade 4 .....                        | 27.00 |
| Grades 5-6 .....                     | 27.00 |
| Grades 7-8 .....                     | 28.53 |
| Grades 9-12 .....                    | 28.74 |

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

|   |       |
|---|-------|
| Career and technical education average class size   |       |
| Approved career and technical education offered at the middle school and high school level .....                        | 26.57 |
| Skill center programs meeting the standards established by the office of the superintendent of public instruction ..... | 22.76 |

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

|  | Elem<br>entary<br>School | Mi<br>ddl<br>e Sch<br>ool | Hig<br>h Sch<br>ool |
|--|--------------------------|---------------------------|---------------------|
| Principals, assistant principals, and other certificated building-level administrators ..... | 1.253                    | 1.3                       | 1.8                 |
|  |                          | 53                        | 80                  |

|   |       |     |     |
|---|-------|-----|-----|
| Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs ..... | 0.663 | 0.5 | 0.5 |
| Health and social services:   |       |     |     |

|                      |       |     |     |
|----------------------|-------|-----|-----|
| School nurses .....  | 0.076 | 0.0 | 0.0 |
|                      |       | 60  | 96  |
| Social workers ..... | 0.042 | 0.0 | 0.0 |
|                      |       | 06  | 15  |
| Psychologists .....  | 0.017 | 0.0 | 0.0 |
|                      |       | 02  | 07  |

|   |       |     |     |
|---|-------|-----|-----|
| Guidance counselors, a function that includes parent outreach and graduation advising ..... | 0.493 | 1.1 | 1.9 |
|   |       | 16  | 09  |

|   |       |     |     |
|---|-------|-----|-----|
| Teaching assistance, including any aspect of educational instructional services provided by classified employees .... | 0.936 | 0.7 | 0.6 |
| Office support and other noninstructional aides .....   | 2.012 | 2.3 | 3.2 |
|   |       | 25  | 69  |
| Custodians .....  | 1.657 | 1.9 | 2.9 |
|   |       | 42  | 65  |

|  |       |     |     |
|--|-------|-----|-----|
| Classified staff providing student and staff safety .....  | 0.079 | 0.0 | 0.1 |
|  |       | 92  | 41  |
| ((Parent involvement) Family engagement coordinators ..... | 0.00  | 0.0 | 0.0 |
|  |       | 0   | 0   |

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

|  |       |
|--|-------|
| Staff per 1,000 K-12 students              |       |
| Technology .....                           | 0.628 |
| Facilities, maintenance, and grounds ..... | 1.813 |
| Warehouse, laborers, and mechanics .....   | 0.332 |

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

|   |          |
|---|----------|
| Per annual average full-time equivalent student in grades K-12                  |          |
| Technology .....  | \$54.43  |
| Utilities and insurance .....   | \$147.90 |
| Curriculum and textbooks .....  | \$58.44  |
| Other supplies and library materials .....                                      | \$124.07 |
| Instructional professional development for certified and classified staff ..... | \$9.04   |
| Facilities maintenance .....  | \$73.27  |
| Security and central office .....   | \$50.76  |

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations

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shall be adjusted annually for inflation as specified in the omnibus appropriations act:

|  |          |
|--|----------|
| Per annual average full-time equivalent student in grades K-12                     |          |
| Technology .....   | \$113.80 |
| Utilities and insurance.....   | \$309.21 |
| Curriculum and textbooks.....  | \$122.17 |
| Other supplies and library materials .....   | \$259.39 |
| Instructional professional development for certificated and classified staff ..... | \$18.89  |
| Facilities maintenance.....  | \$153.18 |
| Security and central office administration .....                                   | \$106.12 |

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and

reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 105.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving multidistrict online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online course provider; and an appeals process. The criteria and processes shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest association of accredited schools or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing multidistrict online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts, except as provided in RCW 28A.250.050.

(3) Initial approval of multidistrict online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the

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initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 106.** RCW 28A.250.050 and 2009 c 542 s 6 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts may not prevent students from taking individual approved online courses for credit. School districts must award credit for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved multidistrict online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

~~((3))~~ (4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020.

**Sec. 107.** RCW 28A.150.220 and 2009 c 548 s 104 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature but not before the 2014-15 school year; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, subject to a phased-in implementation of the twenty-four credits as established by the legislature. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

(4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. However, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

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(7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

**Sec. 108.** RCW 28A.657.050 and 2010 c 235 s 105 are each amended to read as follows:

(1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; ~~((and))~~

(e) Use of the state kindergarten readiness assessment process if the school is an elementary school;

(f) Use of family engagement coordinators to build relationships between families, the school, and the community to improve student achievement; and

(g) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after June 10, 2010, must reopen the agreement, or negotiate an addendum, if needed, to

make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school

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improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 109.** A new section is added to chapter 28A.655 RCW to read as follows:

To the extent permitted by federal law and regulations, the office of the superintendent of public instruction may require elementary schools receiving federal school improvement grants to use the state kindergarten readiness assessment, and may require a school to use family engagement coordinators to build relationships between families, the school, and the community to improve student achievement.

**PART II  
CLOSING THE OPPORTUNITY GAP**

**Sec. 201.** RCW 28A.165.015 and 2004 c 20 s 2 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~((and))~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade eleven who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services. Beginning with the 2007-2008 school year, "participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 202.** RCW 28A.165.015 and 2009 c 548 s 702 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout this chapter.

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, ~~((and))~~ mathematics, and science as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade

level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

**Sec. 203.** RCW 28A.165.025 and 2009 c 556 s 1 are each amended to read as follows:

(1) A participating school district shall submit the district's plan for using learning assistance funds to the office of the superintendent of public instruction for approval, to the extent required under subsection (2) of this section. The program plan must identify the program activities to be implemented from RCW 28A.165.035 and implement all of the elements in (a) through (h) of this subsection. The school district plan shall include the following:

(a) District and school-level data on reading, writing, science, and mathematics achievement as reported pursuant to chapter 28A.655 RCW and relevant federal law;

(b) Processes used for identifying the underachieving students to be served by the program, including the identification of school or program sites providing program activities;

(c) How accelerated learning plans are developed and implemented for participating students. Accelerated learning plans may be developed as part of existing student achievement plan process such as student plans for achieving state high school graduation standards, individual student academic plans, or the achievement plans for groups of students. Accelerated learning plans shall include:

(i) Achievement goals for the students;

(ii) Roles of the student, parents, or guardians and teachers in the plan;

(iii) Communication procedures regarding student accomplishment; and

(iv) Plan reviews and adjustments processes;

(d) How state level and classroom assessments are used to inform instruction;

(e) How focused and intentional instructional strategies have been identified and implemented;

(f) How highly qualified instructional staff are developed and supported in the program and in participating schools;

(g) How other federal, state, district, and school resources are coordinated with school improvement plans and the district's strategic plan to support underachieving students; and

(h) How a program evaluation will be conducted to determine direction for the following school year.

(2) If a school district has received approval of its plan once, it is not required to submit a plan for approval under RCW 28A.165.045 or this section unless the district has made a significant change to the plan. If a district has made a significant change to only a portion of the plan the district need only submit a description of the changes made and not the entire plan. Plans or descriptions of changes to the plan must be submitted by July 1st as required under this section. The office of the superintendent of public instruction shall establish guidelines for what a "significant change" is.

**Sec. 204.** RCW 28A.320.190 and 2009 c 578 s 2 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible ~~((eleventh and))~~ ninth through twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who need additional assistance in order to have the opportunity for a successful entry into high school. The

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program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program and to the extent funds are available for that purpose, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220~~((3))~~ (5).

(3) Under the extended learning opportunities program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the ~~((Washington))~~ state high school assessment ~~((of student learning))~~;

(c) Attendance in a public high school or public alternative school classes or at a skill center;

(d) Inclusion in remediation programs, including summer school;

(e) Language development instruction for English language learners;

(f) Online curriculum and instructional support, including programs for credit retrieval and ~~((Washington))~~ state assessment ~~((of student learning))~~ preparatory classes; and

(g) Reading improvement specialists available at the educational service districts to serve eighth~~((, eleventh, and))~~ through twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

**NEW SECTION. Sec. 205.** (1) The Washington state institute for public policy shall work with the office of the superintendent of public instruction to design and implement a research study to measure the impact on student achievement of remediation strategies funded by the learning assistance program.

(2) The objectives of the research study are to determine which remediation strategies are most effective and efficient in improving student achievement in reading, mathematics, and science; and identify outcome measures for use by policymakers in evaluating learning assistance program success. The study design shall include quantitative and qualitative methods; identify the data necessary for a high-quality study; and identify the extent that necessary data is being collected and, if not, how it could be collected, including through sampling if necessary.

(3) The institute shall submit the research study design to the quality education council and the education committees of the legislature by September 1, 2011.

(4) The institute shall submit the results of the research study to the quality education council and the education committees of the legislature by September 1, 2012.

**Sec. 206.** RCW 28A.180.090 and 2001 1st sp.s. c 6 s 2 are each amended to read as follows:

The superintendent of public instruction shall develop an evaluation system designed to measure increases in the English and academic proficiency of eligible pupils. When developing the system, the superintendent shall:

(1) Require school districts to assess potentially eligible pupils within ten days of registration using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district;

(2) Require school districts to annually assess all eligible pupils at the end of the school year using an English proficiency assessment or assessments as specified by the superintendent of public instruction. Results of these assessments shall be made available to both the superintendent of public instruction and the school district. Aggregated results must be posted on the web site of the office of the superintendent of public instruction for each school and school district, using the Washington state report card. The report card must include the average length of time students in each school and district are enrolled in the transitional bilingual instructional program, annual change in the number and percentage of students making progress in learning English, annual change in the number and percentage of students attaining English proficiency, and the number and percentage of students meeting annual targets in reading and mathematics for state and federal accountability; and

(3) Develop a system to evaluate increases in the English and academic proficiency of students who are, or were, eligible pupils. This evaluation shall include students when they are in the program and after they exit the program until they finish their K-12 career or transfer from the school district. Aggregated results from the academic assessment of students who were formerly eligible pupils under the program must be reported by school and school district using the Washington state report card. The purpose of the evaluation system is to inform schools, school districts, parents, and the state of the effectiveness of the transitional bilingual programs in school and school districts in teaching these students English and other content areas, such as mathematics and writing~~((and~~

~~((Report to the education and fiscal committees of the legislature by November 1, 2002, regarding the development of the systems described in this section and a timeline for the full implementation of those systems. The legislature shall approve and provide funding for the evaluation system in subsection (3) of this section before any implementation of the system developed under subsection (3) of this section may occur)).~~

**NEW SECTION. Sec. 207.** A new section is added to chapter 28A.185 RCW to read as follows:

For the purposes of the program for highly capable students under this chapter, a highly capable student means a student who performs, or shows potential for performing, at significantly advanced levels when compared to others of his or her age, experience, or environment. Outstanding capabilities are seen with the student's general intellectual aptitudes, specific academic abilities, creative productivities within a specific domain, or leadership skills. Highly capable students are present in all cultural and linguistic groups and across all socioeconomic strata; coexist with all manner of disabling conditions both visible and invisible; and manifest across all areas of human endeavor.

**Sec. 208.** RCW 28A.185.020 and 2009 c 548 s 708 are each amended to read as follows:

(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. The education of highly capable students may include supports and services that are in addition to those ordinarily provided as part of general education.

(2) There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single

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method. Instead, the legislature intends to allocate funding based on two and three hundred fourteen one-thousandths percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

~~((2))~~ (3) Supplementary funds provided by the state for the program for highly capable students under RCW 28A.150.260 shall be categorical funding to provide services to highly capable students as determined by a school district under RCW 28A.185.030.

**Sec. 209.** RCW 28A.185.030 and 2009 c 380 s 4 are each amended to read as follows:

Local school districts may establish and operate, either separately or jointly, programs for highly capable students. Such authority shall include the right to employ and pay special instructors and to operate such programs jointly with a public institution of higher education. Local school districts which establish and operate programs for highly capable students shall adopt identification procedures and provide educational opportunities as follows:

(1) In accordance with rules adopted by the superintendent of public instruction, school districts shall implement procedures for nomination, assessment and selection of their most highly capable students for the purposes of the highly capable program. ~~((Nominations shall be based upon data from teachers, other staff, parents, students, and members of the community. Assessment shall be based upon a review of each student's capability as shown by multiple criteria intended to reveal, from a wide variety of sources and data, each student's unique needs and capabilities. Selection shall be made by a broadly based committee of professionals, after consideration of the results of the multiple criteria assessment.))~~ Under the procedures, no single criterion should prevent a student's identification. However, any single criterion, if strong enough, may indicate a need for services. The rules adopted by the superintendent of public instruction must include but are not limited to consistent procedures for:

- (a) Universal screening;
- (b) Regular public notification;
- (c) Use of multiple criteria;
- (d) Involvement of qualified professionals in the identification process;
- (e) Family involvement in decision making;
- (f) Notification of parents or legal guardians;
- (g) Safeguards to reduce cultural, linguistic, socioeconomic, and gender bias, and to mitigate impacts resulting from disabilities; and
- (h) Periodic reviews, including input from families.

(2) When a student, who is a child of a military family in transition, has been assessed or enrolled as highly capable by a sending school, the receiving school shall initially honor placement of the student into a like program.

(a) The receiving school shall determine whether the district's program is a like program when compared to the sending school's program; and

(b) The receiving school may conduct subsequent assessments to determine appropriate placement and continued enrollment in the program.

(3) Students selected pursuant to procedures outlined in this section shall be provided, to the extent feasible, an educational opportunity which takes into account each student's unique needs and capabilities and the limits of the resources and program options available to the district, including those options which can be

developed or provided by using funds allocated by the superintendent of public instruction for that purpose.

(4) The definitions in Article II of RCW 28A.705.010 apply to subsection (2) of this section.

**Sec. 210.** RCW 28C.18.162 and 2009 c 238 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 28C.18.160 and 28C.18.164 through 28C.18.168.

(1) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities. For the purposes of opportunity internships, the teaching of mathematics, science, bilingual education, special education, or English as a second language is considered a high-demand occupation.

(2) "Low-income high school student" means a student who is enrolled in grade((s)) ten, eleven, or twelve in a public high school and who qualifies for federal free or reduced-price meals. If a student qualifies at the time the student begins participating in the opportunity internship program, the student remains eligible even if the student does not receive free or reduced-price meals thereafter. To participate in the program, the student must remain enrolled in high school until the student receives a high school diploma.

(3) "Opportunity internship consortium" means a local consortium formed for the purpose of participating in the opportunity internship program and which may be composed of a local workforce development council, economic development council, area high schools, community or technical colleges, apprenticeship councils, preapprenticeship programs such as running start for the trades, private vocational schools licensed under chapter 28C.10 RCW, public and private four-year institutions of higher education, employers in targeted industries, and labor organizations. Partnerships of high schools, teacher preparation programs, and community-based organizations offering the program under RCW 28A.415.370 may be considered opportunity internship consortia.

(4) "Opportunity internship graduate" means a low-income high school student who successfully completes an opportunity internship program and graduates from high school.

(5) "Postsecondary program of study" means an undergraduate or graduate certificate, apprenticeship, or degree program.

(6) "Preapprenticeship" means a program of at least ninety hours and not more than one hundred eighty hours in length that provides practical experience, education, preparation, and the development of skills that would be beneficial for entry into state-approved apprenticeship programs, including but not limited to construction industry structure and the construction process; orientation to state-approved apprenticeship; tools of the various trades and safe handling of power tools; and industry standards of safety, responsibility, and craft excellence.

(7) "Targeted industry" means a business or industry identified by a local workforce development council as having high-demand occupations that require candidates to have completed a postsecondary program of study.

**Sec. 211.** RCW 28A.660.042 and 2007 c 396 s 6 are each amended to read as follows:

(1) The pipeline for paraeducators conditional scholarship program is created.

(2)(a) Except as provided under subsection (3) of this section, participation is limited to paraeducators without a college degree who have at least three years of classroom experience. It is anticipated that candidates enrolled in this program will complete their associate of arts degree at a community and technical college in two years or less and become eligible for a mathematics, special education, or English as a second language endorsement via route

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one in the alternative routes to teacher certification program provided in this chapter.

((2)) (b) Entry requirements for candidates under this subsection (2) include district or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee.

(3) Subject to the availability of funds for the pipeline for paraeducators conditional scholarship program under RCW 28A.660.050, after qualified candidates under subsection (2) of this section have been accepted, individuals who participated in one of the recruiting Washington teachers grant programs under RCW 28A.415.370 may participate in the pipeline for paraeducators conditional scholarship program if the individual meets the criteria for the scholarship under RCW 28A.660.050.

**Sec. 212.** RCW 28A.660.050 and 2010 c 235 s 505 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified ~~((paraeducators))~~ individuals as provided by RCW 28A.660.042. Paraeducators who apply for the program under RCW 28A.660.042(2) shall receive first priority in scholarship awards. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and

educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**Sec. 213.** RCW 28A.660.040 and 2010 c 235 s 504 are each amended to read as follows:

Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the teacher preparation program must both agree that the teacher candidate has successfully completed the program.

(1) Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees or former participants in the recruiting Washington teachers program who enter through the pipeline for paraeducators conditional scholarship program under RCW 28A.660.042 who are seeking residency teacher certification with endorsements in mathematics, special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in

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two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam.

(3) Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

(4) Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership

programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam.

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

### PART III SUPPORTING EDUCATION PROFESSIONALS

NEW SECTION. **Sec. 301.** The legislature intends to continue development and implementation of revised teacher and principal evaluation systems according to the schedule in RCW 28A.405.100, including supporting the work of those school districts developing and piloting the revised evaluation systems.

**Sec. 302.** RCW 28A.400.201 and 2010 c 236 s 7 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall consider how a new compensation system should reward educational attainment, years of service, performance as measured by the four-tier evaluation system described in RCW 28A.405.100, service in high-demand fields, and national board for professional teaching standards certification. The working group shall also make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to eliminate or phase out grandfathered salaries for certificated, classified, and administrative employees to accomplish salary equalization over a set number of years; (~~and~~)

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(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule; and

(g) How to use school-based incentives to encourage and reward school-wide improvements.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group or a technical subgroup of individuals with knowledge and expertise in professional development and mentoring formed by the working group shall conduct a comprehensive analysis of educator professional development and mentoring needs for principals, teachers, educational staff associates, and classified staff. The analysis must include professional development needs in the following specific areas:

(a) Cultural competency;

(b) Competency in language acquisition; and

(c) Science, technology, engineering, and mathematics instruction.

(6) The working group shall also examine current barriers and possible strategies, including incentives, to recruit and retain diverse teachers and teachers with knowledge and skills in science, technology, engineering, and mathematics.

(7) The working group shall include four legislators, with one member from each of the major caucuses in the house of representatives appointed by the speaker of the house of representatives; and one member from each of the major caucuses in the senate appointed by the president of the senate. Additional members shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

~~((6))~~ (8) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**PART IV  
PERFORMANCE-BASED REDUCTION IN FORCE DUE  
TO ENROLLMENT  
DECLINE OR REVENUE LOSS**

NEW SECTION. Sec. 401. A new section is added to chapter 28A.405 RCW to read as follows:

(1) When reductions in the workforce occur due to enrollment decline or revenue loss, the employment contracts of any certificated classroom teacher must be nonrenewed in the following manner within each particular certification or endorsement area. Certificated classroom teachers who received the lowest evaluation rating, as described in RCW 28A.405.100 must have their contracts nonrenewed first.

(2) The board of directors of each school district shall adopt a written policy governing procedures for the nonrenewal of employment contracts for certificated classroom teachers as provided for in subsection (1) of this section.

(3) Any school district whose board policies or locally bargained agreement outlines recall rights for certificated classroom teachers must recall staff in the reverse order contracts were nonrenewed as provided for in subsection (1) of this section.

(4) All collective bargaining agreements and other contracts entered into between a school district and an employee bargaining unit or an employee after the effective date of this section, as well as bargaining agreements existing on the effective date of this section, but renewed or extended after the effective date of this section, must be consistent with this section.

**PART V  
STAFFING PLACEMENTS**

NEW SECTION. Sec. 501. A new section is added to chapter 28A.405 RCW to read as follows:

Any policy adopted by a school district board of directors after the effective date of this section under RCW 28A.150.230 or in a locally bargained agreement must contain provisions that prohibit assignment of a certificated classroom teacher to a school in the lowest tier of the state board of education's accountability index, unless agreed to by the hiring principal and, if applicable to local policy, the school-based entity charged with hiring decisions.

**PART VI  
MISCELLANEOUS PROVISIONS**

NEW SECTION. Sec. 601. Sections 104, 107, 202, and 208 of this act take effect September 1, 2011.

NEW SECTION. Sec. 602. Sections 401 and 501 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 603. Section 201 of this act expires September 1, 2011."

**MOTION**

Senator McAuliffe moved that the following amendment by Senator McAuliffe to the striking amendment be adopted:

On page 1, line 20 of the amendment, after "requirements." insert "The Washington state school directors' association in consultation with the state board of education shall develop a model policy that districts may choose to adopt to satisfy the policy requirements."

Senators McAuliffe and Litzow spoke in favor of adoption of the amendment to the striking amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 1, line 20 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator McAuliffe carried and the amendment to the striking amendment was adopted by voice vote.

## MOTION

Senator McAuliffe moved that the following amendment by Senator McAuliffe to the striking amendment be adopted:

On page 19, after line 38 of the amendment, insert the following:

**"NEW SECTION. Sec. 204.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the graduating class of 2013 and through no later than the graduating class of 2016, students may graduate from high school without earning a certificate of academic achievement or a certificate of individual achievement if they:

(a) Have not successfully met the science standard on the statewide high school science assessment, an approved objective alternative assessment, or an alternate assessment developed for eligible special education students;

(b) Have successfully met the state standard in the other content areas required for a certificate under RCW 28A.655.061 or 28A.155.045;

(c) Have met all other state and school district graduation requirements; and

(d) Successfully earn one high school science credit or career and technical course equivalent, including courses offered at skill centers, after the student's tenth grade year intended to increase the student's science proficiency toward meeting or exceeding the science standards assessed on the statewide high school science assessment of student learning.

(2) This section expires August 31, 2016.

**Sec. 205.** RCW 28A.655.061 and 2010 c 244 s 1 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the ~~((Washington)) statewide student~~ assessments ~~((of student learning))~~, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the ~~((Washington)) statewide student~~ assessment ~~((of student learning))~~ for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045, section 204 of this act, or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school ~~((Washington)) statewide student~~ assessments ~~((of student learning))~~ shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more

content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the ~~((Washington)) statewide student~~ assessment ~~((of student learning))~~ at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the ~~((Washington)) statewide student~~ assessment ~~((of student learning))~~ or the objective alternative assessments in order to earn a certificate of academic achievement. ~~((The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.))~~ The superintendent shall not implement any high school level science end-of-course assessments.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the ~~((Washington)) statewide student~~ assessment ~~((of student learning))~~ up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the ~~((Washington)) statewide student~~ assessment ~~((of student learning))~~ up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the statewide high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the statewide assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the ~~((Washington)) statewide student~~ assessments ~~((of student learning))~~ and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those

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authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the ~~((Washington)) statewide student assessment ((of student learning))~~. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the ~~((Washington)) statewide student assessment ((of student learning))~~. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the ~~((Washington)) statewide student assessment ((of student learning))~~. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the ~~((Washington)) statewide student assessment ((of student learning))~~.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection. Student learning plans are required for eighth grade students who were not successful on any or all of the content areas of the state assessment during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the

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primary language of the family. The plan shall include the following information as applicable:

- (a) The student's results on the state assessment;
- (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;
- (c) Any credit deficiencies;
- (d) The student's attendance rates over the previous two years;
- (e) The student's progress toward meeting state and local graduation requirements;
- (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;
- (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;
- (h) The alternative assessment options available to students under this section and RCW 28A.655.065;
- (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and
- (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

**Sec. 206.** RCW 28A.155.045 and 2007 c 354 s 3 are each amended to read as follows:

Beginning with the graduating class of 2008, students served under this chapter, who are not appropriately assessed by the high school Washington assessment system as defined in RCW 28A.655.061, even with accommodations, may earn a certificate of individual achievement. The certificate may be earned using multiple ways to demonstrate skills and abilities commensurate with their individual education programs. The determination of whether the high school assessment system is appropriate shall be made by the student's individual education program team. Except as provided in RCW 28A.655.0611 and section 204 of this act, for these students, the certificate of individual achievement is required for graduation from a public high school, but need not be the only requirement for graduation. When measures other than the high school assessment system as defined in RCW 28A.655.061 are used, the measures shall be in agreement with the appropriate educational opportunity provided for the student as required by this chapter. The superintendent of public instruction shall develop the guidelines for determining which students should not be required to participate in the high school assessment system and which types of assessments are appropriate to use.

When measures other than the high school assessment system as defined in RCW 28A.655.061 are used for high school graduation purposes, the student's high school transcript shall note whether that student has earned a certificate of individual achievement.

Nothing in this section shall be construed to deny a student the right to participation in the high school assessment system as defined in RCW 28A.655.061, and, upon successfully meeting the high school standard, receipt of the certificate of academic achievement."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators McAuliffe and Litzow spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 19, after line 38 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator McAuliffe carried and the amendment to the striking amendment was adopted by voice vote.

The measure was read the second time.

MOTION

MOTION

Senator Chase moved that the following amendment by Senator Chase to the striking amendment be adopted:

On page 32, after line 28, insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 28A.400 RCW to read as follows:

"The legislature recognizes that well-trained teachers in a class with a ratio of one teacher to every ten students and not more than sixteen students in a classroom is the best indicator that the students will be academically successful. In light of the fact that class size varies across and among schools, the revised teacher and principal evaluation systems should take class sizes and teacher/student ratios into account and not penalize a teacher or principal where the class size is larger than the numbers indicated above."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 37, line 8 of the title, after "RCW", insert "adding a new section to chapter 28A.400;"

Senators Chase, McAuliffe and Conway spoke in favor of adoption of the amendment to the striking amendment.

Senators Tom, Litzow and Schoesler spoke against adoption of the amendment to the striking amendment.

Senator Eide demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 32, after line 28 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Chase and the amendment was not adopted by the following vote: Yeas, 20; Nays, 27; Absent, 1; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Harper, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Shin and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hargrove, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Absent: Senator Hatfield

Excused: Senator Delvin

SPECIAL ORDER OF BUSINESS

The President called the Senate to order and announced that time for the special order of business, Substitute House Bill No. 1691 had arrived.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1691, by House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Anderson, Springer, Eddy, Ryu, Morris and Stanford)

Concerning embalmers.

Senator Harper moved that the following amendment by Senator Harper and others be adopted:

On page 2, after line 5, insert the following:

**"Sec. 2.** RCW 68.50.160 and 2010 c 274 s 602 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The designated agent of the decedent as directed through a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition.

(b) The surviving spouse or state registered domestic partner.

~~((b))~~ (c) The majority of the surviving adult children of the decedent.

~~((c))~~ (d) The surviving parents of the decedent.

~~((d))~~ (e) The majority of the surviving siblings of the decedent.

~~((e))~~ (f) A person acting as a representative of the decedent under the signed authorization of the decedent.)

(f) A court-appointed guardian for the person at the time of the person's death.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through ~~((e))~~ (f) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment shall have the right to rely on an authority to bury or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the human remains. In the event any government agency or charitable organization provides the funds for the disposition of any human remains ~~((and the government agency elects to provide funds for cremation only))~~, the cemetery authority or funeral establishment

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may not be held criminally or civilly liable for cremating the human remains.

(6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent."

Senator Harper spoke in favor of adoption of the amendment.

#### MOTION

On motion of Senator White, Senator Hatfield was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senator Harper and others on page 2, after line 5 to Substitute House Bill No. 1691.

The motion by Senator Harper carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "68.50.070" insert "and 68.50.160"

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Substitute House Bill No. 1691 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pridemore and McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1691 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1691 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Hatfield

SUBSTITUTE HOUSE BILL NO. 1691 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Senate resumed of consideration of Engrossed Second Substitute Senate Bill No. 1443.

#### MOTION

Senator Nelson moved that the following amendment by Senator Nelson to the striking amendment be adopted:

On page 35, after line 20 of the amendment, insert the following:

"NEW SECTION. Sec. 401. The legislature finds that in order for Washington schools to be great places to teach and learn - where all kids and educators succeed - schools must build cultures where all students thrive. The legislature intends to respect teachers, principals, local school districts, and parents first by empowering them to create that culture together, and then by helping them retain the teachers and principals who are crucial to that culture. In particular, these policies support practices with a track record of closing the achievement gap. This is done by:

(1) Ensuring that teachers who do the best work are the ones who keep their jobs when budgets need to be cut, by basing reduction in force policies on the evaluations the legislature has outlined for measuring teacher performance. Since the loss of teachers through layoffs already impacts student learning, there is an urgent need to conduct layoffs in a way that retains the most effective teachers. Educators deserve to be recognized for their ability to help students learn and children deserve the very best and brightest teachers;

(2) Increasing the authority of school boards to replace principals if more than two certificated classroom teachers have received the lowest evaluation rating, as described in RCW 28A.405.100, in any school by nonrenewal of their employment contracts, in accordance with the terms of section 402 of this act, the principal and vice principal within thirty days of a reduction in force;

(3) Providing the office of the superintendent of public instruction the authority to recall school board members if more than two certificated classroom teachers have received the lowest evaluation rating, as described in RCW 28A.405.100, in any school within the school district and their contracts have been nonrenewed; and

(4) Requiring a home evaluation by the department of social and health services for any child that is receiving unsatisfactory evaluations."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 36, after line 8 of the amendment, insert the following:

"(5) Any principal of a school in which more than two teachers are nonrenewed, in accordance with the provisions of subsection (1) of this section, shall be terminated within thirty days of the nonrenewal of the teacher contracts.

(6) Any vice principal of a school in which more than two certificated classroom teachers' contracts are nonrenewed, in accordance with the provisions of subsection (1) of this section, shall be terminated within thirty days of the reduction in force.

(7) The office of the superintendent of public instruction may recall any school board member of a district in which two or more certificated classroom teachers in a school are nonrenewed in accordance with subsection (1) of this section."

Senator Nelson spoke in favor of adoption of the amendment to the striking amendment.

Senators Tom and Litzow spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson to the striking amendment on page 35, after line 20 to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator Nelson failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

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Senator McAuliffe moved that the following amendment by Senator McAuliffe to the striking amendment be adopted:

On page 35, line 25, after "teacher" insert "and principal"

On page 35, line 27, after "teachers" insert "and principals"

On page 35, line 32, after "teachers" insert "and principals"

On page 35, line 35, after "teachers" insert "and principals"

Senators McAuliffe, Tom and Litzow spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 35, line 25 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator McAuliffe carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller to the striking amendment be adopted:

On page 35, line 26 after "area" insert the following:

" , unless the teacher is in an initial sixty school day probationary period established under 28A.405.100"

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators Rockefeller, Tom, Litzow, Shin and Conway spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 35, line 26 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator Rockefeller carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator McAuliffe moved that the following amendment by Senator McAuliffe to the striking amendment be adopted:

On page 36, after line 8 of the amendment, insert the following:

"(5) This section applies only to school districts that use a two-tiered or satisfactory/unsatisfactory teacher or principal evaluation system and not to districts that are piloting or implementing a four-tiered evaluation system.

(6) This section expires August 31, 2013."

On page 37, line 9 of the title amendment, after "providing" strike "an expiration date" and insert "expiration dates"

Senator McAuliffe spoke in favor of adoption of the amendment to the striking amendment.

Senators Tom and Litzow spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 36, after line 8 to the striking amendment to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator McAuliffe failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Nelson moved that the following amendment by Senator Nelson to the striking amendment be adopted:

On page 36, after line 19 of the amendment, insert the following:

### "PART VI HOME STUDIES

NEW SECTION. Sec. 601. A new section is added to chapter 28A.320 RCW to read as follows:

Whenever a student receives an unsatisfactory evaluation as evidenced by consistent performance below grade level in one or more subjects or repeated violations of the school's code of conduct, the district shall, in collaboration with the department of social and health services, conduct a home study to determine whether the child's home environment is a significant contributing factor in the child's school performance. The home study required under this section shall include a criminal background check of the child's parent or parents, and if the child was born via a surrogacy contract, the home study also shall include a mental health evaluation of the child's parent or parents. A home study shall be required annually under this section until the district and the department of social and health services find that the results of the home study required under this section do not raise significant concerns about the physical and mental well-being of the child.

NEW SECTION. Sec. 602. A new section is added to chapter 74.13 RCW to read as follows:

The department shall collaborate with a school district requesting a home study, and the mental health evaluation if applicable, under section 601 of this act. The costs of the home study shall be shared equally between the department, the school district, and the parent or parents of the child." Renumber the remaining part and sections consecutively and correct any internal references accordingly.

On page 37, line 8 of the title amendment, after "28A.405 RCW;" insert "adding a new section to chapter 28A.320 RCW; adding a new section to chapter 74.13 RCW;"

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Nelson, the amendment by Senator Nelson on page 36, line 19 to the striking amendment to Engrossed Second Substitute House Bill No. 1443 was withdrawn.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Tom and Litzow as amended to Engrossed Second Substitute House Bill No. 1443.

The motion by Senator Tom carried and the striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendments were adopted:

On page 1, line 2 of the title, after "council;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.250.020, 28A.250.050, 28A.150.220, 28A.657.050, 28A.165.015, 28A.165.015, 28A.165.025, 28A.320.190, 28A.180.090, 28A.185.020, 28A.185.030, 28C.18.162, 28A.660.042, 28A.660.050, 28A.660.040, and 28A.400.201; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.185 RCW; adding new sections to chapter 28A.405 RCW;

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creating new sections; providing an effective date; providing an expiration date; and declaring an emergency."

On page 37, line 4 of the title amendment, after "28A.165.025," insert "28A.655.061, 28A.155.045,"

On page 37, line 9 of the title amendment, strike "an expiration date" and insert "expiration dates"

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Second Substitute House Bill No. 1443 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Hobbs, Shin, Litzow, Roach, Baumgartner and Rockefeller spoke in favor of passage of the bill.

Senators McAuliffe, Brown, Chase, Conway and Ranker spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1443 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1443 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hargrove, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Kline, Litzow, Morton, Parlette, Pflug, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Harper, Keiser, Kilmer, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala and White

Excused: Senators Delvin and Hatfield

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1443 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:51 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, April 13, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINETY FOURTH DAY

MORNING SESSION

BARBARA BAKER, Chief Clerk

Senate Chamber, Olympia, Wednesday, April 13, 2011

MOTION

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Delvin.

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION OF SPECIAL GUESTS

INTRODUCTION AND FIRST READING

The President welcomed and introduced former Secretary of State, Ralph Munro who was seated at the rostrum.

SB 5933 by Senators Tom, Sheldon, Hobbs, Ericksen and Litzow

The Sergeant at Arms Color Guard consisting of United States Navy Fire Controlman 2nd Class Kevin Buckley and Damage Control Fireman Amanda Bragg, presented the Colors.

AN ACT Relating to enhancing state revenues by reforming laws regulating the distribution and sale of spirits and wine; amending RCW 66.24.360, 82.08.150, 66.08.050, 66.08.060, 66.20.010, 66.20.160, 66.24.310, 66.24.380, 66.28.030, 66.24.440, 66.24.540, 66.24.590, 66.28.040, 66.28.060, 66.28.070, 66.28.170, 66.28.180, 66.28.190, 66.28.280, 43.19.19054, 66.08.020, 66.08.026, 66.08.030, 66.24.145, 66.24.160, 66.28.060, 66.32.010, 66.44.120, 66.44.140, 66.44.150, 66.44.340, 19.126.010, and 19.126.040; reenacting and amending RCW 66.04.010 and 19.126.020; adding new sections to chapter 66.24 RCW; adding new sections to chapter 66.28 RCW; creating new sections; repealing RCW 66.08.070, 66.08.075, 66.08.160, 66.08.165, 66.08.166, 66.08.167, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.100, 66.16.110, 66.16.120, and 66.28.045; providing an effective date; and declaring an emergency.

Navy Band Northwest solo vocalist musician 3<sup>rd</sup> Class Sarah Reasner performed the National Anthem.

Chaplain Captain Jim Puttler of the United States Navy offered the prayer

Referred to Committee on Labor, Commerce & Consumer Protection.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

SB 5934 by Senators Rockefeller, Ranker, Chase, Fraser and Nelson

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The Speaker has signed:

SENATE JOINT RESOLUTION NO. 8205.  
and the same is herewith transmitted.

AN ACT Relating to funding and administering the processing of water rights permits and applications including limiting the review period in making tentative determinations and modifying relinquishment; amending RCW 90.03.260, 90.03.470, 90.03.650, 90.03.380, 90.03.380, 90.44.100, 90.44.100, and 90.14.140; reenacting and amending RCW 90.14.140; adding new sections to chapter 90.03 RCW; creating a new section; providing effective dates; and providing an expiration date.

BARBARA BAKER, Chief Clerk

Referred to Committee on Ways & Means.

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5278.  
and the same is herewith transmitted.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

E2SHB 1965 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Jinkins, Frockt and Kenney)

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2026.  
and the same is herewith transmitted.

AN ACT Relating to public and private partnership in addressing adverse childhood experiences; amending RCW 13.40.462, 43.121.100, 43.215.146, 43.215.147, 43.70.555, 74.14A.060, and 70.190.040; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 70 RCW; creating a new section; recodifying RCW 70.190.040; repealing RCW 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060,

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43.121.070, 43.121.080, 43.121.110, 43.121.120,  
43.121.130, 43.121.140, 43.121.150, 43.121.160,  
43.121.185, 43.121.910, 70.190.005, 70.190.010,  
70.190.020, 70.190.100, 70.190.110, 70.190.120,  
70.190.130, 70.190.150, 70.190.920, and 74.14C.050; and  
providing effective dates.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Senate Bill No. 5934 which was referred to the Committee on Ways & Means.

#### REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen of the Senate, as I had stated earlier, we have the great privilege of hosting the United State Navy with the men and women of the United States Navy here at the State Capital. Here with us today are a number of very distinguished individuals that have joined us but first, before I introduce the men and women that have joined us in the gallery, it would be a great privilege for the Senate to hear from Rear Admiral Douglas Biesel, Commander, Navy Region Northwest and so Ladies and Gentlemen please help me welcome Rear Admiral Biesel."

#### REMARKS BY REAR ADMIRAL DOUGLAS BIESEL

Admiral Douglas Biesel: "Good morning Mr. President, Ladies and Gentlemen of the Senate. Thank you for providing me the opportunity to speak to you today. It is a distinct honor and privilege. As Chaplain Putter mentioned the Navy has been operating in Puget Sound for one-hundred seventy years, more than a decade before Washington was even a territory. It was as obvious in 1841 as it is today in 2011, the Pacific Northwest connects the 'United States to some of our nation's greatest opportunities and some of our most difficult challenges and where the United States' opportunities and challenges are, there too you will find the United States Navy. The Navy's role in this state, founding, growth and defenses is a matter of record. That role continues today. We project power to keep the homeland secure, we protect the sea lanes to enable our nations international trade much of which transits through Washington State's ports. We provide a total of 5.8 billion dollars to the economy, 3.9 billion of that is in our salaries, in pay and 1.9 billion is in goods and services. The state has a skilled and diverse populous, it values its military service and we're very grateful for that. The support for the military is strong. Many of Washington's best and brightest choose to serve in the United States Navy and many of the Navy's best and brightest choose to serve in Washington. It's our home too whether we're here for one tour or many. That's why those of us that take many of our responsibilities very seriously. As an example, in the area of environmental responsibility is part of our national defense. For instance, Environmental Protection Agency, the Governor of Washington, the Secretary of Navy, the Chief of Naval Operations and even the President have officially recognized Navy Region Northwest efforts with dozens of awards in environmental and energy initiatives in recent years. That's also why, in addition to our service overseas. Navy sailors and civilians serve in our local communities. They give back to Washington State by donating their time and their money to countless civic, education and

non-profit organizations in need. Through mutual aid agreements our Navy Region Northwest fire and emergency services personnel respond on an average of twice a day to directly help the civilian communities around their bases. As an example at up at Naval Air Station Whidbey Island we have a search and rescue crew with two Navy helicopters. They on average respond to more than twenty local calls for assistance annually throughout this region. Trained to rescue fellow service members from combat zones, stormy seas and alpine peaks, their skills and equipment are vital to saving lives when disasters strikes here at home. I'd like to introduce you to some of these special sailors today, part of this navy search and rescue crew have accomplished one of the most difficult and dangerous helicopter rescues in northwest history. So, if I could up to your left and as I call out your name could you please stand: Lt. Brandon Sheets; Lt. Scott Ziener; Chief Petty Officer Jeremiah Wilcons; Petty Officer Andrew Werth, Petty Officer Brian Kasey; Petty Officer Richmond Roy. Last August a young hiker fell from a cliff into a canyon of the Skokomish River. The canyons depth prevented retrieval by a local first aid teams. In fact, she fell about sixty feet into the water and broke her hip and ruptured her spleen. The canyon depth prevented retrieval by local first aid teams and the steel bridge above the girls location made air rescue seem impossible but the Mason County Sherriff called for the United States Navy. The helicopter crew of six from Whidbey Island were dispatched. After arrival on the scene and assessing the situation Lt. Sheets, the pilot and mission commander, maneuvered his Nighthawk helicopter under the steel bridge that spanned the canyon. Petty Officer Roy then repelled from the helicopter to the river bank below with Lt. Ziener keeping the helicopter steady. Petty Officer Roy then secured the injured girl and had her hoisted aboard the helo. But due to that narrow canyon Lt. Sheets was not able to turn that helicopter around. He literally had to back that helicopter out underneath the bridge into open air. Of course that's all in a day's work for these Navy Search and Rescue team. That young girl today I understand is experiencing a strong recovery. She was initially taken to Harborview Medical Center and I would like to applaud these great young sailors for their heroic aides that they do every day. Thank you very much, please be seated. Again to keep doing all that we do for this state and this nation the Navy relies on our integration with Washington's transportation system, schools, and most of all, our importantly political leadership here in this state. From our relief operations in Japan to Haiti, to our anti piracy efforts in the Indian Ocean, to fight against terrorists in Afghanistan and of course our work here at home. We literally could not do it without all of your support. Again thank you for providing such great support to our Navy's sailors, their families and as all of you know our great veterans that have served this nation. Again you have made Washington State a state of choice for many that have served this great nation. Again, thank you, God Bless you and God Bless the United States, the Navy and Washington state. Thank you."

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Navy, Captain Mark Olson, Commanding Officer, Naval Base Kitsap; Captain Jay Johnson, Commanding Officer, Naval Air Station Whidbey Island; Captain Pete Dawson, Prospective Commanding Officer, Naval Base Kitsap; Captain Ron Reis, Commanding Officer, USS John C. Stennis; Captain Mark Brouker, Commanding Officer, Naval Hospital Bremerton; Captain Kim Dolan, Commanding Officer, Fleet Industrial Supply Center Puget Sound; Captain Steve Iwanowicz,

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Commanding Officer, Naval Undersea Warfare Center, Keyport; Commander Steve Richards, Commanding Officer, Naval Recruiting District Seattle and Command Master Chief Petty Officer Dave Bisson, Command Master Chief, Naval Region Northwest and the Navy Search and Rescue crew who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Haugen: “Thank you Mr. President. Well I want to acknowledge this wonderful group of sailors who are here today. I will tell you that I am very proud to represent Whidbey Island Base and these young men, they’re extraordinary individuals. This is, was a really interesting story they told us on this rescue but I can tell you there are many stories that can be told time and time again. From the time I was a young girl I knew you always had the Navy there to help you when you was really stranded and, being surrounded by water, we saw many, many rescues. Nothing quite as exciting as this but certainly one that you knew you would be safe. I think we often forget how important our Navy neighbors are. In my area, they are the largest employer on the island. But more than anything else they are really good neighbors, their kids go to our schools, the parents are part of the volunteers. One of the things that people don’t realize that often time those sailors who are often a long ways from home will go out and work within the schools and work with community as community volunteers doing many major projects. I think the thing that’s really always amazing to me because I love Washington State but how many of them come here and find out what a wonderful state and then stay here and become our leaders in our community. We have several who have been elected at local levels in my area. They are truly an important part of the State of Washington. I think a lot of us fear what might happen when we have an earthquake but I can tell you, I feel very comfortable knowing that my military base is just across the pond from where I look at them and I know they are going to be a part of us helping us when that happens. I just want to say again how proud I am to represent the Whidbey Island Base. I think many of us in this family have had members of our family service as military. I have brothers who were sailors, every time I look at one of those young men, I always think that could have been my brother so I always try to treat them like I would my brother. I urge that all of us think about all the people out there protecting us at this time and the families left behind because I think that’s another part of the military that realizes that families that are left behind. When I visit the schools on Whidbey Island and see how many students that their fathers are gone. It’s really kind of, you think boy, you don’t realize how difficult it is for those parents who are left alone, single parent and often time it’s a man because the mother is deployed so they are special neighbors and I am proud to represent them.”

PERSONAL PRIVILEGE

Senator Sheldon: “Thank you Mr. President. It’s a great day to be here today and honor these young sailors and service men from all over. I want to especially thank the Search and Rescue team on behalf of the Mason County Commission which I serve as a member. I remember that day in August. I’ve been up to the high steel bridge, of course it’s one of the most narrow canyons and impressive places you see as you drive up into our Olympic National Forrest. But when we have an emergency in a thousand square miles in Mason County and our Sheriff’s Office, the average response time is forty-five minutes. Just to get to that spot and with our budget reductions and the equipment we have,

we have to rely on you and you did the job. It was an event that was captured on film for our local television and transmitted all over the world. Everyone in the country had an opportunity that next morning to see the shots from a helicopter, a news helicopter above your helicopter looking down into that canyon and part of your helicopter was obstructed by the bridge that was between those two helicopters. It was an incredible feed, one that you probably know as routine because you do it all the time and my hats off to you. Everyone in this chamber appreciates your efforts and the risk you take to keep us safe. So, thank from all the people of Mason County as well that never know when they might need your help but you’re always ready to serve. Thank you.”

PERSONAL PRIVILEGE

Senator Rockefeller: “Thank you very much Mr. President. It’s an honor indeed to welcome and acknowledge representatives from the U. S. Navy here today. In Kitsap County where my legislative district is located we’re proud to be the home of the Bangor Station of Keyport and we also are close to and consider ourselves part of the larger community of Navy personnel who serve at the Puget Sound Naval Shipyard. All of which are now part of Naval Base Kitsap and we are grateful to be the state of choice of the U. S. Navy for one-hundred forty years and we trust that that will continue and be an enduring relationship. The Navy is a great neighbor, every member of the Navy is part of our community, we welcome them, we cherish them, we value what they do at home and abroad. The U. S. Navy probably carries out more multiple mission support in U. S. interests at home and abroad than any other brand of the military service and they provide and make sure that our ceilings open to international commerce, they engage in and support military operations around the world, they provide relief operations-most recently in Japan, they provide relief and assistance in rescue operations as we heard this morning here in our own state, the list goes on. They are the most versatile service I think in the United States of America and we’re grateful that they are a part of our community. I am pleased to stand here and honor them today. Thank you.”

PERSONAL PRIVILEGE

Senator Swecker: “Thank you Mr. President. Well, at the invitation, with Secretary Munro a few weeks ago I got to go to Bremerton and have dinner with Admiral Biesel and his wife Ruth. They live in a restored home at the Puget Sound Naval Shipyard and it’s important to note that the Navy is doing incredible things to restore many of these historic residence that exists there and that actually formed a private public partnership to go ahead and find the resources to restore these at little or no cost to the government. While we were there, he reminded me that the Navy is anticipating building a remissions loading dock or wharf at Kitsap Base and it’s about a five hundred million dollar project and would have huge benefits to our state in terms of employment and additional personnel from the military. One of the facts that he mentioned is, that they will be reimbursing the state in what the calls in lieu of mitigation which it means they will give us mitigation dollars and there will be discretion for the state about how these are used to restore Puget Sound and they will be forming partnerships with people for Puget Sound perhaps and other organizations to come up with plans so what the potential kinds of things that could be done is some of these dollars might be for example be used to clean up the septic tanks that are polluting Puget Sound. That is just an example the kinds of projects that could be done. I am enthusiastic about this project, I am enthusiastic about its potential beneficial impacts for

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the state of Washington and for construction employment and for future employment of the citizens so, I appreciate the Navy. I'm glad they are here. Thank you."

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator King moved adoption of the following resolution:

SENATE RESOLUTION  
8654

By Senators King, Holmquist Newbry, and Honeyford

WHEREAS, In May 1911, there was an explosive outbreak of Typhoid fever in Yakima County; and

WHEREAS, A subsequent investigation into the cause of the outbreak by the Surgeon General of the United States Public Health Service and Marine-Hospital Service revealed that the illnesses were linked directly to poor sanitation and contamination of shallow wells; and

WHEREAS, In response to the findings, the federal agencies recommended the formation of a single agency to take on the issues of sanitation, sewage disposal and well location and construction throughout the entire county to prevent similar outbreaks in the future; and

WHEREAS, In June 1911, the Yakima County Health District was formed to serve that purpose; and

WHEREAS, The Yakima Health District's continuing mission is to provide prevention, education and disease control services, and to promote, protect, and enhance the health and safety of all in partnership with the people of Yakima County; and

WHEREAS, The Yakima Health District will celebrate its 100th anniversary in June of 2011, and is planning a centennial celebration to help promote healthy habits to combat current health challenges and look toward ways to shape a healthier, happier, and safer Yakima;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the Yakima Health District for its century of service to the people of Yakima County and to Washington State, and let it be known that the men and women who work for the Yakima Health District truly live by their motto, "Prevention is our business"; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Yakima Health District and its employees, the offices of Yakima County, and the Yakima Herald Republic.

Senators King, Honeyford and Keiser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8654.

The motion by Senator King carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Dennis Klukan, Administrator, Yakima Public Health District and Mary Selecky, Secretary of the Department of Health, State of Washington who were seated in the gallery.

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INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Frontier Communications Denise Baumbach President, West Region; Greg Stephens, Sr. Vice President and General Manager for WA and Steve Crosby, Sr. Vice President Government Affairs and Public Relations and Frontier Communications Washington State regional managers who were seated in the gallery.

## MOTION

At 10:41 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:03 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5656 with the following amendment(s): 5656-S.E AMH ENGR H2383.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. SHORT TITLE. This chapter shall be known and cited as the "Washington state Indian child welfare act."

NEW SECTION. Sec. 2. APPLICATION. This chapter shall apply in all child custody proceedings as that term is defined in this chapter. Whenever there is a conflict between chapter 13.32A, 13.34, 13.36, 26.10, or 26.33 RCW, the provisions of this chapter shall apply.

NEW SECTION. Sec. 3. INTENT. The legislature finds that the state is committed to protecting the essential tribal relations and best interests of Indian children by promoting practices designed to prevent out-of-home placement of Indian children that is inconsistent with the rights of the parents, the health, safety, or welfare of the children, or the interests of their tribe. Whenever out-of-home placement of an Indian child is necessary in a proceeding subject to the terms of the federal Indian child welfare act and in this chapter, the best interests of the Indian child may be served by placing the Indian child in accordance with the placement priorities expressed in this chapter. The legislature further finds that where placement away from the parent or Indian custodian is necessary for the child's safety, the state is committed to a placement that reflects and honors the unique values of the child's tribal culture and is best able to assist the Indian child in establishing, developing, and maintaining a political, cultural, social, and spiritual relationship with the child's tribe and tribal community.

It is the intent of the legislature that this chapter is a step in clarifying existing laws and codifying existing policies and practices. This chapter shall not be construed to reject or eliminate current policies and practices that are not included in its provisions.

The legislature further intends that nothing in this chapter is intended to interfere with policies and procedures that are derived from agreements entered into between the department and a tribe or

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tribes, as authorized by section 109 of the federal Indian child welfare act. The legislature finds that this chapter specifies the minimum requirements that must be applied in a child custody proceeding and does not prevent the department from providing a higher standard of protection to the right of any Indian child, parent, Indian custodian, or Indian child's tribe.

It is also the legislature's intent that the department's policy manual on Indian child welfare, the tribal-state agreement, and relevant local agreements between individual federally recognized tribes and the department should serve as persuasive guides in the interpretation and implementation of the federal Indian child welfare act, this chapter, and other relevant state laws.

**NEW SECTION. Sec. 4. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Active efforts" means the following:

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and diligent efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

(iii) In any termination of parental rights proceeding regarding an Indian child under chapter 13.34 RCW in which the department or supervising agency provided services to the parent, parents, or Indian custodian, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs ordered by the court or identified in the department or supervising agency's individual service and safety plan beyond simply providing referrals to such services.

(b) In any foster care placement or termination of parental rights proceeding in which the petitioner does not otherwise have a statutory or contractual duty to directly provide services to, or procure services for, the parent or Indian custodian, "active efforts" means a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in services capable of meeting the criteria set out in (a) of this subsection.

(2) "Best interests of the Indian child" means the use of practices in accordance with the federal Indian child welfare act, this chapter, and other applicable law, that are designed to accomplish the following: (a) Protect the safety, well-being, development, and stability of the Indian child; (b) prevent the unnecessary out-of-home placement of the Indian child; (c) acknowledge the right of Indian tribes to maintain their existence and integrity which will promote the stability and security of their children and families; (d) recognize the value to the Indian child of establishing, developing, or maintaining a political, cultural, social, and spiritual relationship with the Indian child's tribe and tribal community; and (e) in a proceeding under this chapter where out-of-home placement is necessary, to prioritize placement of the Indian child in accordance with the placement preferences of this chapter.

(3) "Child custody proceeding" includes:

(a) "Foster care placement" which means any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home, institution, or with a relative, guardian, conservator, or suitable other person where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) "Termination of parental rights" which means any action resulting in the termination of the parent-child relationship;

(c) "Preadoptive placement" which means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights but before or in lieu of adoptive placement; and

(d) "Adoptive placement" which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

These terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a dissolution proceeding of custody to one of the parents.

(4) "Court of competent jurisdiction" means a federal court, or a state court that entered an order in a child custody proceeding involving an Indian child, as long as the state court had proper subject matter jurisdiction in accordance with this chapter and the laws of that state, or a tribal court that had or has exclusive or concurrent jurisdiction pursuant to 25 U.S.C. Sec. 1911.

(5) "Department" means the department of social and health services and any of its divisions. "Department" also includes supervising agencies as defined in RCW 74.13.020(12) with which the department entered into a contract to provide services, care, placement, case management, contract monitoring, or supervision to children subject to a petition filed under chapter 13.34 or 26.33 RCW.

(6) "Indian" means a person who is a member of an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. Sec. 1606.

(7) "Indian child" means an unmarried and unemancipated Indian person who is under eighteen years of age and is either: (a) A member of an Indian tribe; or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(8) "Indian child's family" or "extended family member" means an individual, defined by the law or custom of the child's tribe, as a relative of the child. If the child's tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent, even following termination of the marriage.

(9) "Indian child's tribe" means a tribe in which an Indian child is a member or eligible for membership.

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(10) "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child, or to whom the parent has transferred temporary care, physical custody, and control of an Indian child.

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. Sec. 1602(c).

(12) "Member" and "membership" means a determination by an Indian tribe that a person is a member or eligible for membership in that Indian tribe.

(13) "Parent" means a biological parent or parents of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent" does not include an unwed father whose paternity has not been acknowledged or established under chapter 26.26 RCW or the applicable laws of other states.

(14) "Secretary of the interior" means the secretary of the United States department of the interior.

(15) "Tribal court" means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

(16) "Tribal customary adoption" means adoption or other process through the tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent and through which the nonparent is vested with the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

**NEW SECTION. Sec. 5. DETERMINATION OF INDIAN STATUS.** Any party seeking the foster care placement of, termination of parental rights over, or the adoption of a child must make a good faith effort to determine whether the child is an Indian child. This shall be done by consultation with the child's parent or parents, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child's possible membership or eligibility for membership in an Indian tribe to determine if the child is an Indian child, and by contacting any Indian tribe in which the child may be a member or may be eligible for membership. Preliminary contacts for the purpose of making a good faith effort to determine a child's possible Indian status, do not constitute legal notice as required by section 7 of this act.

**NEW SECTION. Sec. 6. JURISDICTION.** (1) An Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, the tribe has expressly declined to exercise its exclusive jurisdiction, or the state is exercising emergency jurisdiction in strict compliance with section 14 of this act.

(2) If an Indian child is already a ward of a tribal court at the start of the child custody proceeding, the Indian tribe may retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

**NEW SECTION. Sec. 7. NOTICE.** (1) In any involuntary child custody proceeding seeking the foster care placement of, or the termination of parental rights to, a child in which the petitioning party or the court knows, or has reason to know, that the child is or

may be an Indian child as defined in this chapter, the petitioning party shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by certified mail, return receipt requested, and by use of a mandatory Indian child welfare act notice. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the secretary of the interior by registered mail, return receipt requested, in accordance with the regulations of the bureau of Indian affairs. The secretary of the interior has fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe. The parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for the proceeding.

(2) The determination of the Indian status of a child shall be made as soon as practicable in order to serve the best interests of the Indian child and protect the interests of the child's tribe.

(3)(a) A written determination by an Indian tribe that a child is a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is an Indian child;

(b) A written determination by an Indian tribe that a child is not a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is not a member or eligible for membership in that tribe. Such determinations are presumptively those of the tribe where submitted in the form of a tribal resolution, or signed by or testified to by the person(s) authorized by the tribe's governing body to speak for the tribe, or by the tribe's agent designated to receive notice under the federal Indian child welfare act where such designation is published in the federal register;

(c) Where a tribe provides no response to notice under section 7 of this act, such nonresponse shall not constitute evidence that the child is not a member or eligible for membership. Provided, however, that under such circumstances the party asserting application of the federal Indian child welfare act, or this chapter, will have the burden of proving by a preponderance of the evidence that the child is an Indian child.

(4)(a) Where a child has been determined not to be an Indian child, any party to the proceeding, or an Indian tribe that subsequently determines the child is a member, may, during the pendency of any child custody proceeding to which this chapter or the federal Indian child welfare act applies, move the court for redetermination of the child's Indian status based upon new evidence, redetermination by the child's tribe, or newly conferred federal recognition of the tribe.

(b) This subsection (4) does not affect the rights afforded under 25 U.S.C. Sec. 1914.

**NEW SECTION. Sec. 8. TRANSFER OF JURISDICTION.** (1) In any proceeding for the foster care placement of, or termination of parental rights to, an Indian child who is not domiciled or residing within the reservation of the Indian child's tribe, the court shall, in the absence of good cause to the contrary, transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the motion of any of the following persons:

- (a) Either of the child's parents;
- (b) The child's Indian custodian;
- (c) The child's tribe; or
- (d) The child, if age twelve or older.

The transfer shall be subject to declination by the tribe. The tribe shall have seventy-five days to affirmatively respond to a motion or order transferring jurisdiction to the tribal court. A failure of the tribe to respond within the seventy-five day period shall be construed as a declination to accept transfer of the case.

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(2) If the child's tribe has not formally intervened, the moving party shall serve a copy of the motion and all supporting documents on the tribal court to which the moving party seeks transfer.

(3) If either of the Indian child's parents objects to transfer of the proceeding to the Indian child's tribe, the court shall not transfer the proceeding.

(4) Following entry of an order transferring jurisdiction to the Indian child's tribe:

(a) Upon receipt of an order from a tribal court accepting jurisdiction, the state court shall dismiss the child custody proceeding without prejudice.

(b) Pending receipt of such tribal court order, the state court may conduct additional hearings and enter orders which strictly comply with the requirements of the federal Indian child welfare act and this chapter. The state court shall not enter a final order in any child custody proceeding, except an order dismissing the proceeding and returning the Indian child to the care of the parent or Indian custodian from whose care the child was removed, while awaiting receipt of a tribal court order accepting jurisdiction, or in the absence of a tribal court order or other formal written declination of jurisdiction.

(c) If the Indian child's tribe declines jurisdiction, the state court shall enter an order vacating the order transferring jurisdiction and proceed with adjudication of the child custody matter in strict compliance with the federal Indian child welfare act, this chapter, and any applicable tribal-state agreement.

**NEW SECTION. Sec. 9. INTERVENTION.** The Indian child, the Indian child's tribe or tribes, and the Indian custodian have the right to intervene at any point in any child custody proceeding involving the Indian child.

**NEW SECTION. Sec. 10. FULL FAITH AND CREDIT.** The state shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to Indian child custody proceedings.

**NEW SECTION. Sec. 11. RIGHT TO COUNSEL.** In any child custody proceeding under this chapter in which the court determines the Indian child's parent or Indian custodian is indigent, the parent or Indian custodian shall have the right to court-appointed counsel. The court may, in its discretion, appoint counsel for the Indian child upon a finding that the appointment is in the best interests of the Indian child.

**NEW SECTION. Sec. 12. RIGHT TO ACCESS TO EVIDENCE.** Each party to a child custody proceeding involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the proceeding may be based.

**NEW SECTION. Sec. 13. EVIDENTIARY REQUIREMENTS.** (1) A party seeking to effect an involuntary foster care placement of or the involuntary termination of parental rights to an Indian child shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(2) No involuntary foster care placement may be ordered in a child custody proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For purposes of this subsection, any harm that may result from interfering with the bond or attachment between the foster parent and the child shall not be the sole basis or primary reason for continuing the child in foster care.

(3) No involuntary termination of parental rights may be ordered in a child custody proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt,

including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For the purposes of this subsection, any harm that may result from interfering with the bond or attachment that may have formed between the child and a foster care provider shall not be the sole basis or primary reason for termination of parental rights over an Indian child.

(4)(a) For purposes of this section, "qualified expert witness" means a person who provides testimony in a proceeding under this chapter to assist a court in the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child. In any proceeding in which the child's Indian tribe has intervened pursuant to section 9 of this act or, if the department is the petitioner and the Indian child's tribe has entered into a local agreement with the department for the provision of child welfare services, the petitioner shall contact the tribe and ask the tribe to identify a tribal member or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices. The petitioner shall notify the child's Indian tribe of the need to provide a "qualified expert witness" at least twenty days prior to any evidentiary hearing in which the testimony of the witness will be required. If the child's Indian tribe does not identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner may proceed to identify such a witness pursuant to (b) of this subsection.

(b) In any proceeding in which the child's Indian tribe has not intervened or entered into a local agreement with the department for the provision of child welfare services, or a child's Indian tribe has not responded to a request to identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner shall provide a "qualified expert witness" who meets one or more of the following requirements in descending order of preference:

(i) A member of the child's Indian tribe or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices for this purpose;

(ii) Any person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe;

(iii) Any person having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe; or

(iv) A professional person having substantial education and experience in the area of his or her specialty.

(c) When the petitioner is the department or a supervising agency, the currently assigned department or agency caseworker or the caseworker's supervisor may not testify as a "qualified expert witness" for purposes of this section. Nothing in this section shall bar the assigned department or agency caseworker or the caseworker's supervisor from testifying as an expert witness for other purposes in a proceeding under this chapter. Nothing in this section shall bar other department or supervising agency employees with appropriate expert qualifications or experience from testifying as a "qualified expert witness" in a proceeding under this chapter. Nothing in this section shall bar the petitioner or any other party in a proceeding under this chapter from providing additional witnesses or expert testimony, subject to the approval of the court, on any issue before the court including the determination of whether the continued custody of the child by, or return of the child to, the

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parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child.

**NEW SECTION. Sec. 14. EMERGENCY REMOVAL OF AN INDIAN CHILD.** (1) Notwithstanding any other provision of federal or state law, nothing shall be construed to prevent the department or law enforcement from the emergency removal of an Indian child who is a resident of or is domiciled on an Indian reservation, but is temporarily located off the reservation, from his or her parent or Indian custodian or the emergency placement of such child in a foster home, under applicable state law, to prevent imminent physical damage or harm to the child.

(2) The department or law enforcement agency shall ensure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of the federal Indian child welfare act and this chapter to transfer the child to the jurisdiction of the appropriate Indian tribe or restore the child to the child's parent or Indian custodian, if appropriate.

(3) When the nature of the emergency allows, the department must notify the child's tribe before the removal has occurred. If prior notification is not possible, the department shall notify the child's tribe by the quickest means possible. The notice must contain the basis for the Indian child's removal, the time, date, and place of the initial hearing, and the tribe's right to intervene and participate in the proceeding. This notice shall not constitute the notice required under section 7 of this act for purposes of subsequent dependency, termination of parental rights, or adoption proceedings.

**NEW SECTION. Sec. 15. CONSENT.** (1) If an Indian child's parent or Indian custodian voluntarily consents to a foster care placement of the child or to termination of parental rights, the consent is not valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court must also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent for release of custody given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) An Indian child's parent or Indian custodian may withdraw consent to a voluntary foster care placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or Indian custodian.

(3) In a voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of an order terminating parental rights or a final decree of adoption, and the child shall be returned to the parent.

(4) After the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress. Upon a finding that such consent was obtained through fraud or duress the court shall vacate the decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under this section unless otherwise allowed by state law.

**NEW SECTION. Sec. 16. IMPROPER REMOVAL OF AN INDIAN CHILD.** If a petitioner in a child custody proceeding under this chapter has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian

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unless returning the child to the parent or Indian custodian would subject the child to substantial and immediate danger or threat of such danger.

**NEW SECTION. Sec. 17. REMOVAL OF INDIAN CHILD FROM ADOPTIVE OR FOSTER CARE PLACEMENT.** (1) If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, the biological parent or prior Indian custodian may petition to have the child returned to their custody and the court shall grant the request unless there is a showing by clear and convincing evidence that return of custody to the biological parent or prior Indian custodian is not in the best interests of the Indian child.

(2) If an Indian child is removed from a foster care placement or a preadoptive or adoptive home for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

**NEW SECTION. Sec. 18. PLACEMENT PREFERENCES.** (1) When an emergency removal, foster care placement, or preadoptive placement of an Indian child is necessary, a good faith effort will be made to place the Indian child:

(a) In the least restrictive setting;  
 (b) Which most approximates a family situation;  
 (c) Which is in reasonable proximity to the Indian child's home; and

(d) In which the Indian child's special needs, if any, will be met.  
 (2) In any foster care or preadoptive placement, a preference shall be given, in absence of good cause to the contrary, to the child's placement with one of the following:

(a) A member of the child's extended family.  
 (b) A foster home licensed, approved, or specified by the child's tribe.

(c) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(d) A child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(e) A non-Indian child foster care agency approved by the child's tribe.

(f) A non-Indian family that is committed to:  
 (i) Promoting and allowing appropriate extended family visitation;

(ii) Establishing, maintaining, and strengthening the child's relationship with his or her tribe or tribes; and

(iii) Participating in the cultural and ceremonial events of the child's tribe.

(3) In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

(a) Extended family members;  
 (b) An Indian family of the same tribe as the child;  
 (c) An Indian family that is of a similar culture to the child's tribe;

(d) Another Indian family; or  
 (e) Any other family which can provide a suitable home for an Indian child, such suitability to be determined in consultation with the Indian child's tribe or, in proceedings under chapter 13.34 RCW where the Indian child is in the custody of the department or a supervising agency and the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

(4) Notwithstanding the placement preferences listed in subsections (2) and (3) of this section, if a different order of

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placement preference is established by the child's tribe, the court or agency effecting the placement shall follow the order of preference established by the tribe so long as the placement is in the least restrictive setting appropriate to the particular needs of the child.

(5) Where appropriate, the preference of the Indian child or his or her parent shall be considered by the court. Where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(6) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties.

(7) Nothing in this section shall prevent the department or the court from placing the child with a parent to effectuate a permanent plan regardless of the parent's relationship to the child's tribe.

**NEW SECTION. Sec. 19. COMPLIANCE.** The department, in consultation with Indian tribes, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the federal Indian child welfare act and this chapter. These standards and procedures and the monitoring methods shall also be integrated into the department's child welfare contracting and contract monitoring process.

**NEW SECTION. Sec. 20. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Sec. 21.** RCW 13.32A.152 and 2004 c 64 s 5 are each amended to read as follows:

(1) Whenever a child in need of services petition is filed by: (a) A youth pursuant to RCW 13.32A.150; (b) the child or the child's parent pursuant to RCW 13.32A.120; or (c) the department pursuant to RCW 13.32A.140, the filing party shall have a copy of the petition served on the parents of the youth. Service shall first be attempted in person and if unsuccessful, then by certified mail with return receipt.

(2) Whenever a child in need of services petition is filed by a youth or parent pursuant to RCW 13.32A.150, the court shall immediately notify the department that a petition has been filed.

~~(3)((a) Whenever) When a child in need of services petition is filed by the department, and the court or the petitioning party knows or has reason to know that an Indian child is involved, the (petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.~~

~~(b) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court)) provisions of chapter 13.--- RCW (the new chapter created in section 35 of this act) apply.~~

**Sec. 22.** RCW 13.34.030 and 2010 1st sp.s. c 8 s 13, 2010 c 272 s 10, and 2010 c 94 s 6 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or

responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a

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remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medical aid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ((25 U.S.C. Sec. 1903(4))) section 4 of this act.

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has

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entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

**Sec. 23.** RCW 13.34.040 and 2004 c 64 s 3 are each amended to read as follows:

(1) Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child and requesting that the superior court deal with such child as provided in this chapter. There shall be no fee for filing such petitions.

(2) In counties having paid probation officers, these officers shall, to the extent possible, first determine if a petition is reasonably justifiable. Each petition shall be verified and contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of the alleged dependent child.

(3) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)) chapter 13.--- RCW (the new chapter created in section 35 of this act) shall apply.

(4) Every order or decree entered under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the federal Indian child welfare act and chapter 13.--- RCW (the new chapter created in section 35 of this act) have been satisfied.

**Sec. 24.** RCW 13.34.065 and 2009 c 520 s 22, 2009 c 491 s 1, 2009 c 477 s 3, and 2009 c 397 s 2 are each reenacted and amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

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(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act, whether the provisions of the federal Indian child welfare act or chapter 13,--- RCW (the new chapter created in section 35 of this act) apply, and whether

there is compliance with the federal Indian child welfare act and chapter 13,--- RCW (the new chapter created in section 35 of this act), including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders

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regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 25.** RCW 13.34.070 and 2004 c 64 s 4 are each amended to read as follows:

(1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. When the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances exist.

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To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or her right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him or her to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he or she may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:  
VIOLATION OF THIS ORDER  
IS SUBJECT TO PROCEEDING  
FOR CONTEMPT OF COURT  
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department employee.

(10)((a)) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child as defined in section 4 of this act is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall ~~((be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner~~

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~~has reason to know may be affiliated with the child.~~

~~—(b) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.) comply with section 7 of this act.~~

**Sec. 26.** RCW 13.34.105 and 2010 c 180 s 3 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties;

(f) To represent and be an advocate for the best interests of the child; ~~(and)~~

(g) To inform the child, if the child is twelve years old or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel, pursuant to RCW 13.34.100(6). The guardian ad litem shall report to the court that the child was notified of this right and indicate the child's position regarding appointment of counsel. The guardian ad litem shall report to the court his or her independent recommendation as to whether appointment of counsel is in the best interest of the child; and

(h) In the case of an Indian child as defined in section 4 of this act, know, understand, and advocate the best interests of the Indian child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

**Sec. 27.** RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in this subsection (1)(b). The court shall consider the child's existing relationships and attachments when determining placement.

(2) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in ~~((RCW 13.34.250 and in 25 U.S.C. Sec. 1915))~~ section 18 of this act.

(3) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or

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provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(7) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 28.** RCW 13.34.132 and 2000 c 122 s 16 are each amended to read as follows:

A court may order that a petition seeking termination of the parent and child relationship be filed if the following requirements are met:

(1) The court has removed the child from his or her home pursuant to RCW 13.34.130;

(2) Termination is recommended by the department or the supervising agency;

(3) Termination is in the best interests of the child; and

(4) Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interests of the child. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) Conviction of the parent of attempting, soliciting, or conspiring to commit a crime listed in (a), (b), (c), or (d) of this subsection;

(f) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(g) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim. In the case of a parent of an Indian child, as defined in ~~((the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903)))~~ section 4 of this act, the court shall also consider tribal efforts to assist the parent in completing treatment and make it possible for the child to return home;

(h) An infant under three years of age has been abandoned;

(i) Conviction of the parent, when a child has been born of the offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest under RCW 9A.64.020.

**Sec. 29.** RCW 13.34.136 and 2009 c 520 s 28 and 2009 c 234 s 5 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the

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department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in section 4 of this act; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(5)~~) (6), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services

which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(5)~~) (6), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(~~(3)~~) (4). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

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**Sec. 30.** RCW 13.34.190 and 2010 c 288 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter an order terminating all parental rights to a child only if the court finds that:

(a)(i) The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence; or

(ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are established beyond a reasonable doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When an infant has been abandoned, as defined in RCW 13.34.030, and the abandonment has been proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

(iii) The allegation under RCW 13.34.180(2) is established beyond a reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.132 exist; or

(iv) The allegation under RCW 13.34.180(3) is established beyond a reasonable doubt; and

(b) Such an order is in the best interests of the child.

(2) The provisions of chapter 13.--- RCW (the new chapter created in section 35 of this act) must be followed in any proceeding under this chapter for termination of the parent-child relationship of an Indian child as defined in ((25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child)) section 4 of this act.

**Sec. 31.** RCW 26.10.034 and 2004 c 64 s 1 are each amended to read as follows:

(1)((~~1~~)) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)), chapter 13.--- RCW (the new chapter created in section 35 of this act) shall apply.

((b) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(c) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.)

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice ((requirements)) and evidentiary requirements under the federal Indian child welfare act

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and chapter 13.--- RCW (the new chapter created in section 35 of this act) have been satisfied.

**Sec. 32.** RCW 26.33.040 and 2004 c 64 s 2 are each amended to read as follows:

(1)(a) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)), chapter 13.--- RCW (the new chapter created in section 35 of this act) shall apply.

(b) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice, consent, and evidentiary requirements ((and evidentiary requirements)) under the federal Indian child welfare act, chapter 13.--- RCW (the new chapter created in section 35 of this act), and this section have been satisfied.

(c) In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether an Indian child ((as defined under the Indian child welfare act, 25 U.S.C. Sec. 1903,)) is involved.

(d) Whenever the court or the petitioning party knows or has reason to know that an Indian child is involved in any termination, relinquishment, or placement proceeding under this chapter, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(e) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

(f) No termination, relinquishment, or placement proceeding shall be held until at least ten days after receipt of notice by the tribe. If the tribe requests, the court shall grant the tribe up to twenty additional days to prepare for such proceeding.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the ((Soldiers and Sailors)) federal servicemembers civil relief act of ((1940)) 2004, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the ((Soldiers and Sailors)) federal servicemembers civil relief act of ((1940)) 2004 does or does not apply.

**Sec. 33.** RCW 26.33.240 and 1987 c 170 s 8 are each amended to read as follows:

(1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report.

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The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of ~~((25 U.S.C. Sec. 1915))~~ section 18 of this act or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child.

**Sec. 34.** RCW 74.13.350 and 2004 c 183 s 4 are each amended to read as follows:

It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of an out-of-home placement may be needed. It is the intent of the legislature that, when the sole reason for the out-of-home placement is the child's developmental disability, such services be offered by the department to these children and their families through a voluntary placement agreement. In these cases, the parents shall retain legal custody of the child.

As used in this section, "voluntary placement agreement" means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a licensed facility. Under the terms of this agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed ~~((in writing before the court and filed with the court as provided in RCW 13.34.245))~~ in accordance with section 15 of this act. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

As used in this section, "out-of-home placement" and "out-of-home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.

Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination under RCW 13.04.030(1)(b) is required. The permanency planning hearings shall review whether the child's best interests are served by

continued out-of-home placement and determine the future legal status of the child.

The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.

Nothing in this section shall prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

It is the intent of the legislature that the department undertake voluntary out-of-home placement in cases where the child's developmental disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child, and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home. If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW.

Nothing in this section prohibits the department from seeking support from parents of a child, including a child with a developmental disability if the child has been placed into care as a result of an action under chapter 13.34 RCW, when state or federal funds are expended for the care and maintenance of that child or when the department receives an application for services from the physical custodian of the child, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents.

**NEW SECTION. Sec. 35.** Sections 1 through 20 of this act constitute a new chapter in Title 13 RCW.

**NEW SECTION. Sec. 36.** RCW 13.34.250 (Preference characteristics when placing Indian child in foster care home) and 1979 c 155 s 53 are each repealed."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656 and ask the House to recede therefrom.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:  
The House passed SECOND SUBSTITUTE SENATE BILL NO. 5662 with the following amendment(s): 5662-S2 AMH DUNS H2558.1

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Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 39.04 RCW to read as follows:

(1) The department of general administration must conduct a survey to determine which states provide a preference for its resident contractors bidding on public works projects, and provide details on the type of preference, the amount of the preference, and how the preference is applied. The survey must be completed by November 1, 2011, and by December 1, 2011, the department must submit a report to the appropriate committees of the legislature on the results of the survey. The report must also include recommendations necessary to implement the intent of this section and section 2 of this act.

(2) The department of general administration must distribute the results of the survey, along with the requirements of this section and section 2 of this act, to all state and local agencies with the authority to procure public works. The department may adopt rules and procedures to implement the reciprocity requirements in subsection (3) of this section or may determine that such rules and procedures are not necessary to implement the intent of this section and section 2 of this act.

(3) In any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This subsection does not take effect until the department of general administration has adopted the rules and procedures for reciprocity under subsection (2) of this section.

(4) A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

(a) Is from a state with a percentage bid preference; and

(b) At the time of bidding on a public works project, does not have a physical office located in Washington.

(5) The state of residence for a nonresident contractor shall be the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

(6) This section does not apply to public works procured pursuant to RCW 39.04.155 or 39.04.280, or any other procurement where competitive bidding is exempt.

**NEW SECTION. Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5662 and ask the House to recede therefrom.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Second Substitute Senate Bill No. 5662 and ask the House to recede therefrom.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Second Substitute Senate Bill No. 5662 and asked the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5836 with the following amendment(s): 5836-S AMH TR H2488.1

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 46.61.165 and 1999 c 206 s 1 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles ((~~or~~)); (b) private motor vehicles carrying no fewer than a specified number of passengers; or (c) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle lane fails to meet department of transportation standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes

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should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

**Sec. 2.** RCW 47.04.290 and 2008 c 257 s 1 are each amended to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by: Auto transportation companies regulated under chapter 81.68 RCW ((and)); passenger charter carriers regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; private, nonprofit transportation providers regulated under chapter 81.66 RCW((, that intend to provide or already provide regularly scheduled service at that lot)); and private employer transportation service vehicles, provided that such use does not interfere with the efficiency, reliability, and safety of public transportation operations. The accommodation must be in the form of an agreement between the applicable local transit agency and the private ((transit)) transportation provider ((regulated under chapter 81.68 or 81.66 RCW)). The transit agency may require that the agreement include provisions to recover actual costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private ((transit)) transportation provider's use does not unduly burden the transit agency. The transit agency may consider benefits to its public transportation system when establishing an amount to charge for the use of the park and ride lot and its related facilities. If the agreement includes provisions to recover actual costs, the private transportation provider is responsible to remit the full actual costs of park and ride lot use to the appropriate transit agency. No accommodation is required, and any agreement may be terminated, if the park and ride lot is at or exceeds ninety percent capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday for two consecutive months. Additionally, any agreement may be terminated if the private transportation provider violates any policies guiding the terms of use of the park and ride lot. The transit agency may reserve the authority to designate which pick-up and drop-off zones of the park and ride lot may be used by the private transportation provider.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties.

(3) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

(4) For the purposes of this section, "private transportation provider" means:

(a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW, except marked or unmarked stretch limousines and

stretch sport utility vehicles as defined under department of licensing rules; and chapter 81.66 RCW; and

(b) An entity providing private employer transportation service.

**Sec. 3.** RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to read as follows:

(1) Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of (a) public transportation vehicles, (b) privately owned buses, ((c)) (c) private motor vehicles carrying not less than a specified number of passengers, or (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are reserved pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) Highway authorities of the state, counties, or incorporated cities and towns may prohibit the use of limited access facilities by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle travel lane fails to meet department standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours for two consecutive months.

(4)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (3) of this section, to apply for the use of limited access facilities that are reserved for the exclusive or preferential use of public transportation vehicles.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(5) The department must convene a stakeholder process that includes interested public and private transportation providers, which must develop standard permit forms, clear explanations of

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permit rate calculations, and standard indemnification provisions that may be used by all local authorities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.04 RCW to read as follows:

When designing portions of a highway that are intended to be used as portions reserved for the exclusive or preferential use of public transportation vehicles, state and local jurisdictions shall consider whether the design will safely accommodate private transportation provider vehicles that may be authorized to use the reserved portions under RCW 46.61.165 and 47.52.025 without interfering with the efficiency, reliability, and safety of public transportation operations.

NEW SECTION. **Sec. 5.** If any part of this act is found to be in conflict with mitigation requirements under the state environmental policy act (chapter 43.21C RCW) or the national environmental policy act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts with federal requirements that are a condition or part of the allocation of federal funds to the state or local facilities, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or local authorities."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5836 and ask the House to recede therefrom.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5836 and ask the House to recede therefrom.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5836 and asked the House to recede therefrom.

#### MOTION

At 12:08 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, April 14, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, April 14, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Delvin and Honeyford.

The Sergeant at Arms Color Guard consisting of Pages Tristan Mailloux and Alyssa Walker, presented the Colors. Pastor Tom Niewulis, Jr. of Walnut Grove Community Church of Vancouver offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 13, 2011

E2SHB 1738 Prime Sponsor, Committee on Ways & Means: Changing the designation of the medicaid single state agency. Reported by Committee on Ways & Means

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Health & Long-Term Care.

April 13, 2011

SHB 2017 Prime Sponsor, Committee on Ways & Means: Concerning the master license service program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

April 13, 2011

HB 2019 Prime Sponsor, Representative Dunshee: Concerning the deposit of the additional cigarette tax. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget

Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ELIZABETH K. JENSEN, appointed March 30, 2011, for the term ending January 19, 2015, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041,
- SUBSTITUTE HOUSE BILL NO. 1051,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071,
- SUBSTITUTE HOUSE BILL NO. 1136,
- SUBSTITUTE HOUSE BILL NO. 1145,
- SECOND SUBSTITUTE HOUSE BILL NO. 1163,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202,
- SUBSTITUTE HOUSE BILL NO. 1211,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220,

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SUBSTITUTE HOUSE BILL NO. 1254,  
HOUSE BILL NO. 1290,  
HOUSE BILL NO. 1306,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1315,  
SUBSTITUTE HOUSE BILL NO. 1329,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367,  
HOUSE BILL NO. 1407,  
ENGROSSED HOUSE BILL NO. 1409,  
SUBSTITUTE HOUSE BILL NO. 1422,  
SUBSTITUTE HOUSE BILL NO. 1431,  
HOUSE BILL NO. 1455,  
HOUSE BILL NO. 1465,  
SUBSTITUTE HOUSE BILL NO. 1467,  
HOUSE BILL NO. 1473,  
HOUSE BILL NO. 1479,  
SUBSTITUTE HOUSE BILL NO. 1485,  
SUBSTITUTE HOUSE BILL NO. 1493,  
SUBSTITUTE HOUSE BILL NO. 1502.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1506,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509,  
ENGROSSED HOUSE BILL NO. 1517,  
HOUSE BILL NO. 1521,  
SUBSTITUTE HOUSE BILL NO. 1538,  
SUBSTITUTE HOUSE BILL NO. 1567,  
HOUSE BILL NO. 1582,  
SUBSTITUTE HOUSE BILL NO. 1697,  
SUBSTITUTE HOUSE BILL NO. 1710,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721,  
HOUSE BILL NO. 1770,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1776.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

## INTRODUCTION AND FIRST READING

SB 5935 by Senator Hargrove

AN ACT Relating to adoption support payments; amending RCW 74.13A.025, 74.13A.050, and 74.13A.060; reenacting and amending RCW 74.13A.020; adding a new section to chapter 74.13A RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways &amp; Means.

SB 5936 by Senators Honeyford, Ericksen, Carrell, Swecker and Schoesler

AN ACT Relating to the Washington State Bar Association; adding new sections to chapter 2.44 RCW; creating a new section; recodifying RCW 2.48.180, 2.48.190, and 2.48.200; and repealing RCW 2.48.010, 2.48.020, 2.48.021, 2.48.030, 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070, 2.48.080, 2.48.090, 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150, 2.48.160, 2.48.165, 2.48.166, 2.48.170, 2.48.210, 2.48.220, and 2.48.230.

Referred to Committee on Judiciary.

SB 5937 by Senator Shin

AN ACT Relating to a temporary sales and use tax rate increase to provide funding for essential government services; amending RCW 82.08.020; reenacting and amending RCW 82.08.064; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways &amp; Means.

SB 5938 by Senators Hargrove and Zarelli

AN ACT Relating to the disability lifeline programs; amending RCW 74.04.005, 43.330.175, and 43.185C.060; reenacting and amending RCW 74.09.035 and 43.84.092; adding new sections to chapter 74.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways &amp; Means.

SB 5939 by Senator McAuliffe

AN ACT Relating to copayments for the early childhood education and assistance program; amending RCW 43.215.410 and 43.215.425; adding a new section to chapter 43.215 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways &amp; Means.

SB 5940 by Senators Hobbs, Ericksen, Keiser, Tom, Kastama and Zarelli

AN ACT Relating to implementation of reforms to school employee benefits purchasing consistent with recommendations of the state auditor's performance review; amending RCW 28A.400.280; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways &amp; Means.

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SB 5941 by Senators Eide, Regala, Rockefeller and Kline

AN ACT Relating to judicial branch funding; amending RCW 3.62.020, 12.40.020, 36.18.018, and 43.79.505; reenacting and amending RCW 3.62.060 and 36.18.020; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5942 by Senators Hewitt and Zarelli

AN ACT Relating to the warehousing and distribution of spirits, including the lease and modernization of the state's spirits warehousing and distribution facilities and related operations; amending RCW 66.08.050 and 66.08.070; adding a new chapter to Title 66 RCW; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5943 by Senators Prentice and Zarelli

AN ACT Relating to transition services for people with developmental disabilities; amending RCW 71A.10.020, 71A.20.010, 71A.20.020, 71A.18.040, and 71A.20.080; adding new sections to chapter 71A.20 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SB 5944 by Senators Murray, White, Regala, Prentice, Rockefeller, Fraser, Harper, Ranker, Conway, Nelson, Kohl-Welles, Kline and Chase

AN ACT Relating to revenue increases for purposes of imposing a supermajority voting requirement in the legislature; amending RCW 43.135.034; creating a new section; and providing for submission of this act to a vote of the people.

Referred to Committee on Ways & Means.

SB 5945 by Senators Rockefeller, Prentice, Eide, Kohl-Welles, Harper, Nelson, White, Ranker, Kline, Murray, Chase, Fraser, Conway, Keiser, Shin and Regala

AN ACT Relating to modifying excise tax laws to provide funding for essential government services; amending RCW 82.04.4281, 82.04.4292, 82.04.240, 82.04.2404, 82.04.260, 82.04.263, 82.04.272, 82.04.290, 82.04.2905, 82.04.2906, 82.04.2907, 82.04.2908, and 82.04.294; reenacting and amending RCW 82.04.250, 82.04.2909, and 82.32.790; creating a new section; and providing contingent effective dates.

Referred to Committee on Ways & Means.

SB 5946 by Senators Ranker, White, Rockefeller, Harper, Conway, Kohl-Welles, Fraser, Prentice, Hargrove, Kline, Chase and Nelson

AN ACT Relating to strengthening compliance measures for the collection of excise taxes from corporate officers

responsible for tax payments to provide funding for essential government services; amending RCW 82.32.145; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

SB 5947 by Senators Eide, Conway, Kohl-Welles, Rockefeller, Ranker, Shin, Nelson, White, Murray, Kline and Chase

AN ACT Relating to repealing certain tax exemptions to provide funding for essential government services; creating a new section; and repealing RCW 82.08.0272, 82.12.0272, 82.08.910, 82.12.910, 82.08.920, and 82.12.920.

Referred to Committee on Ways & Means.

SJM 8009 by Senators Regala and Nelson

Requesting respectfully for adoption of the federal main street fairness act.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2026 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells and Reykdal)

AN ACT Relating to creating the industrial insurance rainy day account; amending RCW 51.16.035 and 51.44.100; reenacting and amending RCW 43.84.092; and adding new sections to chapter 51.44 RCW.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION  
8656

By Senators Eide and Schoesler

WHEREAS, The Red Hat Society was founded in 1998 by Sue Ellen Cooper of Fullerton, California, who was inspired by "Warning," a poem by Jenny Joseph that opens with the line, "When I am an old woman I shall wear purple with a red hat that doesn't go and doesn't suit me"; and

WHEREAS, The Red Hat Society was created as a social outlet for women at least 50 years old; and

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WHEREAS, The motto of The Red Hat Society is "Red Hatters Matter," to promote the value of older women in society and reshape the way they are viewed in today's culture; and

WHEREAS, Women of The Red Hat Society are from all areas of life: Mothers, grandmothers, homemakers, entrepreneurs, teachers, retirees, and senators, as well as women who are single, married, or widowed; and

WHEREAS, There are more than one million members of The Red Hat Society worldwide; and

WHEREAS, The Washington State Senate recognizes the value provided by the social support given by the organization; and

WHEREAS, The Senate also recognizes that men need the same support and social interaction or perhaps even more than the fairer sex; and

WHEREAS, The legislature strives in its activities to be inclusive of all individuals from all walks of life, including men;

NOW, THEREFORE, BE IT RESOLVED, That in celebrating the womanhood of our State Senators, we also celebrate the maturity and graceful aging of our male colleagues 50 years and older through admission into our society of blossoming through shared suffering; and

BE IT FURTHER RESOLVED, That admission into this exclusive society is reserved to a basis of temporary trial pending good behavior and high spirits; and

BE IT FURTHER RESOLVED, That male members of the society must wear both cowboy hats and red ties as a symbol of their commitment to solidarity and support of their colleagues; and

BE IT FURTHER RESOLVED, That the Washington State Senate shall celebrate Red Hat - or Tie - Day and that its members celebrate by having fun; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate and to the Federal Way, Shades of Ruby, chapter of the Red Hat Society.

Senators Eide, Regala and King spoke in favor of adoption of the resolution.

#### POINT OF ORDER

Senator Swecker: "Mr. President, I wonder if the good Senator from the Twenty-Third District is violating our dress code by wearing a non-red hat?"

#### REPLY BY THE PRESIDENT

President Owen: "Which Senator would that be, Senator Rockefeller? I don't know if you've noticed this over the years, he's been here quite a while. He is not a woman?"

#### PERSONAL PRIVILEGE

Senator Rockefeller: "Mr. President, I'm glad you noticed that. I have a red feather I think here on the side of this cowboy hat. Mr. President, with the response to the resolution by Senator Eide and others I just have a couple of things I'd like to say. 'When I'm an old man, I shall wear a red tie and a cowboy hat that I find nifty. No matter how old I am I'm not a day above fifty. I take heed of the red-hatted ladies on this floor, ever youthful, active and engaged and these delightful women lead with passion and heart but if you don't dance you'll be up staged so fifty years young has proven it's perks, wisdom and insight and seniority. We're no jerks, but none of this would really truly matter without the leading presence of all these red-hatters.' So I want to offer them congratulations. It's a pleasure to serve here with you."

#### PERSONAL PRIVILEGE

Senator Haugen: "Thank you Mr. President. Well, I miss our good friend, Senator McCaslin who always wore his red hat. It's interesting to me to see that Spokane has another personality that likes red hats also although his isn't as interesting as our former colleague, Senator McCaslin but I do think it looks very charming on him and so we're really happy to see that Spokane still has some humor left. Thank you Mr. President."

#### PERSONAL PRIVILEGE

Senator Baumgartner: "I'd just like to say most interpreted this as crimson hat day. It would note that be that be there red or be they crimson, they're much better looking than purple hats. Thank you Mr. President. Go Cougs."

Senator McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8656.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced students from Randers Christian Free School in Randers, Denmark led by Bent Anderson and Camilla Poulsen who were seated in the gallery with Shani, daughter of the Lt. Governor and CammiAnn, the Lt. Governor's granddaughter who were also seated in the gallery.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MOTION

On motion of Senator Ericksen, Senators Benton, Delvin and Honeyford were excused.

#### MOTION

On motion of Senator White, Senator Hobbs was excused.

#### MESSAGE FROM THE HOUSE

April 5, 2011

#### MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000 with the following amendment(s): 5000-S2.E AMH KLIP H2512.2

On page 3, beginning on line 11, after "after" strike "a registered tow truck operator has been dispatched" and insert "the police officer contacted the police dispatcher requesting a registered tow truck operator" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5000.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5000.

#### MOTION

On motion of Senator Ericksen, Senators Hill, Holmquist Newbry and Roach were excused.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5000 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5000, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5000, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Delvin and Honeyford

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5021 with the following amendment(s): 5021-S.E AMH SGTA H2305.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that timely and full disclosure of election campaign funding and expenditures is essential to a well-functioning democracy in which Washington's voters can judge for themselves what is appropriate based on ideologies, programs, and policies. Long-term voter engagement and confidence depends on the public knowing who is funding the multiple and targeted messages distributed during election campaigns.

The legislature also finds that recent events have revealed the need for refining certain elements of our state's election campaign finance laws that have proven inadequate in preventing efforts to hide information from voters. The legislature intends, therefore, to promote greater transparency for the public by enhancing penalties

for violations; regulating the formation of, and contributions between, political committees; and reducing the expenditure thresholds for purposes of mandatory electronic filing and disclosure.

**Sec. 2.** RCW 42.17A.005 and 2010 c 204 s 101 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Agency" includes all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency.

(3) "Authorized committee" means the political committee authorized by a candidate, or by the public official against whom recall charges have been filed, to accept contributions or make expenditures on behalf of the candidate or public official.

(4) "Ballot proposition" means any "measure" as defined by RCW 29A.04.091, or any initiative, recall, or referendum proposition proposed to be submitted to the voters of the state or any municipal corporation, political subdivision, or other voting constituency from and after the time when the proposition has been initially filed with the appropriate election officer of that constituency before its circulation for signatures.

(5) "Benefit" means a commercial, proprietary, financial, economic, or monetary advantage, or the avoidance of a commercial, proprietary, financial, economic, or monetary disadvantage.

(6) "Bona fide political party" means:

(a) An organization that has been recognized as a minor political party by the secretary of state;

(b) The governing body of the state organization of a major political party, as defined in RCW 29A.04.086, that is the body authorized by the charter or bylaws of the party to exercise authority on behalf of the state party; or

(c) The county central committee or legislative district committee of a major political party. There may be only one legislative district committee for each party in each legislative district.

(7) "Candidate" means any individual who seeks nomination for election or election to public office. An individual seeks nomination or election when he or she first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote his or her candidacy for office;

(b) Announces publicly or files for office;

(c) Purchases commercial advertising space or broadcast time to promote his or her candidacy; or

(d) Gives his or her consent to another person to take on behalf of the individual any of the actions in (a) or (c) of this subsection.

(8) "Caucus political committee" means a political committee organized and maintained by the members of a major political party in the state senate or state house of representatives.

(9) "Commercial advertiser" means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

(10) "Commission" means the agency established under RCW 42.17A.100.

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(11) "Compensation" unless the context requires a narrower meaning, includes payment in any form for real or personal property or services of any kind. For the purpose of compliance with RCW 42.17A.710, "compensation" does not include per diem allowances or other payments made by a governmental entity to reimburse a public official for expenses incurred while the official is engaged in the official business of the governmental entity.

(12) "Continuing political committee" means a political committee that is an organization of continuing existence not established in anticipation of any particular election campaign.

(13)(a) "Contribution" includes:

(i) A loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, transfer of funds between political committees, or anything of value, including personal and professional services for less than full consideration;

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, the person or persons named on the candidate's or committee's registration form who direct expenditures on behalf of the candidate or committee, or their agents;

(iii) The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, or other form of political advertising or electioneering communication prepared by a candidate, a political committee, or its authorized agent;

(iv) Sums paid for tickets to fund-raising events such as dinners and parties, except for the actual cost of the consumables furnished at the event.

(b) "Contribution" does not include:

(i) Standard interest on money deposited in a political committee's account;

(ii) Ordinary home hospitality;

(iii) A contribution received by a candidate or political committee that is returned to the contributor within five business days of the date on which it is received by the candidate or political committee;

(iv) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(v) An internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

(vi) The rendering of personal services of the sort commonly performed by volunteer campaign workers, or incidental expenses personally incurred by volunteer campaign workers not in excess of fifty dollars personally paid for by the worker. "Volunteer services," for the purposes of this subsection, means services or labor for which the individual is not compensated by any person;

(vii) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made must be reported as an in-kind contribution and counts towards any applicable contribution limit of the person providing the facility;

(viii) Legal or accounting services rendered to or on behalf of:

(A) A political party or caucus political committee if the person paying for the services is the regular employer of the person rendering such services; or

(B) A candidate or an authorized committee if the person paying for the services is the regular employer of the individual rendering

the services and if the services are solely for the purpose of ensuring compliance with state election or public disclosure laws; or

(ix) The performance of ministerial functions by a person on behalf of two or more candidates or political committees either as volunteer services defined in (b)(vi) of this subsection or for payment by the candidate or political committee for whom the services are performed as long as:

(A) The person performs solely ministerial functions;

(B) A person who is paid by two or more candidates or political committees is identified by the candidates and political committees on whose behalf services are performed as part of their respective statements of organization under RCW 42.17A.205; and

(C) The person does not disclose, except as required by law, any information regarding a candidate's or committee's plans, projects, activities, or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available from campaign reports filed with the commission, or otherwise engage in activity that constitutes a contribution under (a)(ii) of this subsection.

A person who performs ministerial functions under this subsection (13)(b)(ix) is not considered an agent of the candidate or committee as long as he or she has no authority to authorize expenditures or make decisions on behalf of the candidate or committee.

(c) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. Such a contribution must be reported as an in-kind contribution at its fair market value and counts towards any applicable contribution limit of the provider.

(14) "Depository" means a bank, mutual savings bank, savings and loan association, or credit union doing business in this state.

(15) "Elected official" means any person elected at a general or special election to any public office, and any person appointed to fill a vacancy in any such office.

(16) "Election" includes any primary, general, or special election for public office and any election in which a ballot proposition is submitted to the voters. An election in which the qualifications for voting include other than those requirements set forth in Article VI, section 1 (Amendment 63) of the Constitution of the state of Washington shall not be considered an election for purposes of this chapter.

(17) "Election campaign" means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a ballot proposition.

(18) "Election cycle" means the period beginning on the first day of January after the date of the last previous general election for the office that the candidate seeks and ending on December 31st after the next election for the office. In the case of a special election to fill a vacancy in an office, "election cycle" means the period beginning on the day the vacancy occurs and ending on December 31st after the special election.

(19)(a) "Electioneering communication" means any broadcast, cable, or satellite television or radio transmission, United States postal service mailing, billboard, newspaper, or periodical that:

~~((a))~~ (i) Clearly identifies a candidate for a state, local, or judicial office either by specifically naming the candidate, or identifying the candidate without using the candidate's name;

~~((b))~~ (ii) Is broadcast, transmitted, mailed, erected, distributed, or otherwise published within sixty days before any election for that office in the jurisdiction in which the candidate is seeking election; and

~~((c))~~ (iii) Either alone, or in combination with one or more communications identifying the candidate by the same sponsor

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during the sixty days before an election, has a fair market value of ~~((five))~~ one thousand dollars or more.

~~((20))~~ (b) "Electioneering communication" does not include:

~~((a))~~ (i) Usual and customary advertising of a business owned by a candidate, even if the candidate is mentioned in the advertising when the candidate has been regularly mentioned in that advertising appearing at least twelve months preceding his or her becoming a candidate;

~~((b))~~ (ii) Advertising for candidate debates or forums when the advertising is paid for by or on behalf of the debate or forum sponsor, so long as two or more candidates for the same position have been invited to participate in the debate or forum;

~~((c))~~ (iii) A news item, feature, commentary, or editorial in a regularly scheduled news medium that is:

~~((A))~~ (A) Of primary interest to the general public;

~~((B))~~ (B) In a news medium controlled by a person whose business is that news medium; and

~~((C))~~ (C) Not a medium controlled by a candidate or a political committee;

~~((D))~~ (iv) Slate cards and sample ballots;

~~((E))~~ (v) Advertising for books, films, dissertations, or similar works ~~((A))~~ (A) written by a candidate when the candidate entered into a contract for such publications or media at least twelve months before becoming a candidate, or ~~((B))~~ (B) written about a candidate;

~~((F))~~ (vi) Public service announcements;

~~((G))~~ (vii) A mailed internal political communication primarily limited to the members of or contributors to a political party organization or political committee, or to the officers, management staff, or stockholders of a corporation or similar enterprise, or to the members of a labor organization or other membership organization;

~~((H))~~ (viii) An expenditure by or contribution to the authorized committee of a candidate for state, local, or judicial office; or

~~((I))~~ (ix) Any other communication exempted by the commission through rule consistent with the intent of this chapter.

~~((21))~~ (20) "Expenditure" includes a payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. "Expenditure" also includes a promise to pay, a payment, or a transfer of anything of value in exchange for goods, services, property, facilities, or anything of value for the purpose of assisting, benefiting, or honoring any public official or candidate, or assisting in furthering or opposing any election campaign. For the purposes of this chapter, agreements to make expenditures, contracts, and promises to pay may be reported as estimated obligations until actual payment is made. "Expenditure" shall not include the partial or complete repayment by a candidate or political committee of the principal of a loan, the receipt of which loan has been properly reported.

~~((22))~~ (21) "Final report" means the report described as a final report in RCW 42.17A.235(2).

~~((23))~~ (22) "General election" for the purposes of RCW 42.17A.405 means the election that results in the election of a person to a state or local office. It does not include a primary.

~~((24))~~ (23) "Gift" has the definition in RCW 42.52.010.

~~((25))~~ (24) "Immediate family" includes the spouse or domestic partner, dependent children, and other dependent relatives, if living in the household. For the purposes of the definition of "intermediary" in this section, "immediate family" means an individual's spouse or domestic partner, and child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of the individual and the spouse or the domestic partner of any such person and a child, stepchild, grandchild, parent, stepparent, grandparent, brother, half brother, sister, or half sister of

the individual's spouse or domestic partner and the spouse or the domestic partner of any such person.

~~((26))~~ (25) "Incumbent" means a person who is in present possession of an elected office.

~~((27))~~ (26) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of eight hundred dollars or more. A series of expenditures, each of which is under eight hundred dollars, constitutes one independent expenditure if their cumulative value is eight hundred dollars or more.

~~((28))~~ (27)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family, or an association to which the individual belongs.

(b) A treasurer or a candidate is not an intermediary for purposes of the committee that the treasurer or candidate serves.

(c) A professional fund-raiser is not an intermediary if the fund-raiser is compensated for fund-raising services at the usual and customary rate.

(d) A volunteer hosting a fund-raising event at the individual's home is not an intermediary for purposes of that event.

~~((29))~~ (28) "Legislation" means bills, resolutions, motions, amendments, nominations, and other matters pending or proposed in either house of the state legislature, and includes any other matter that may be the subject of action by either house or any committee of the legislature and all bills and resolutions that, having passed both houses, are pending approval by the governor.

~~((30))~~ (29) "Legislative office" means the office of a member of the state house of representatives or the office of a member of the state senate.

~~((31))~~ (30) "Lobby" and "lobbying" each mean attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state administrative procedure act, chapter 34.05 RCW. Neither "lobby" nor "lobbying" includes an association's or other organization's act of communicating with the members of that association or organization.

~~((32))~~ (31) "Lobbyist" includes any person who lobbies either in his or her own or another's behalf.

~~((33))~~ (32) "Lobbyist's employer" means the person or persons by whom a lobbyist is employed and all persons by whom he or she is compensated for acting as a lobbyist.

~~((34))~~ (33) "Ministerial functions" means an act or duty carried out as part of the duties of an administrative office without exercise of personal judgment or discretion.

~~((35))~~ (34) "Participate" means that, with respect to a particular election, an entity:

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(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication in support of or opposition to a candidate;

(c) Endorses a candidate before contributions are made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed before a contribution is made by a subsidiary corporation or local unit with respect to that candidate or that candidate's opponent; or

(e) Directly or indirectly collaborates or consults with a subsidiary corporation or local unit on matters relating to the support of or opposition to a candidate, including, but not limited to, the amount of a contribution, when a contribution should be given, and what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

~~((36))~~ (35) "Person" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency however constituted, candidate, committee, political committee, political party, executive committee thereof, or any other organization or group of persons, however organized.

~~((37))~~ (36) "Political advertising" includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((38))~~ (37) "Political committee" means any person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

~~((39))~~ (38) "Primary" for the purposes of RCW 42.17A.405 means the procedure for nominating a candidate to state or local office under chapter 29A.52 RCW or any other primary for an election that uses, in large measure, the procedures established in chapter 29A.52 RCW.

~~((40))~~ (39) "Public office" means any federal, state, judicial, county, city, town, school district, port district, special district, or other state political subdivision elective office.

~~((41))~~ (40) "Public record" has the definition in RCW 42.56.010.

~~((42))~~ (41) "Recall campaign" means the period of time beginning on the date of the filing of recall charges under RCW 29A.56.120 and ending thirty days after the recall election.

~~((43))~~ (42)(a) "Sponsor" for purposes of an electioneering communications, independent expenditures, or political advertising means the person paying for the electioneering communication, independent expenditure, or political advertising. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(b) "Sponsor," for purposes of a political committee, means any person, except an authorized committee, to whom any of the following applies:

(i) The committee receives eighty percent or more of its contributions either from the person or from the person's members, officers, employees, or shareholders;

(ii) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(43) "Sponsored committee" means a committee, other than an authorized committee, that has one or more sponsors.

(44) "State office" means state legislative office or the office of governor, lieutenant governor, secretary of state, attorney general, commissioner of public lands, insurance commissioner, superintendent of public instruction, state auditor, or state treasurer.

(45) "State official" means a person who holds a state office.

(46) "Surplus funds" mean, in the case of a political committee or candidate, the balance of contributions that remain in the possession or control of that committee or candidate subsequent to the election for which the contributions were received, and that are in excess of the amount necessary to pay remaining debts incurred by the committee or candidate with respect to that election. In the case of a continuing political committee, "surplus funds" mean those contributions remaining in the possession or control of the committee that are in excess of the amount necessary to pay all remaining debts when it makes its final report under RCW 42.17A.255.

(47) "Treasurer" and "deputy treasurer" mean the individuals appointed by a candidate or political committee, pursuant to RCW 42.17A.210, to perform the duties specified in that section.

**Sec. 3.** RCW 42.17A.205 and 2010 c 205 s 1 and 2010 c 204 s 402 are each reenacted and amended to read as follows:

(1) Every political committee shall file a statement of organization with the commission. The statement must be filed within two weeks after organization or within two weeks after the date the committee first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier. A political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election campaign shall file a statement of organization within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

(2) The statement of organization shall include but not be limited to:

(a) The name and address of the committee;

(b) The names and addresses of all related or affiliated committees or other persons, and the nature of the relationship or affiliation;

(c) The names, addresses, and titles of its officers; or if it has no officers, the names, addresses, and titles of its responsible leaders;

(d) The name and address of its treasurer and depository;

(e) A statement whether the committee is a continuing one;

(f) The name, office sought, and party affiliation of each candidate whom the committee is supporting or opposing, and, if the committee is supporting the entire ticket of any party, the name of the party;

(g) The ballot proposition concerned, if any, and whether the committee is in favor of or opposed to such proposition;

(h) What distribution of surplus funds will be made, in accordance with RCW 42.17A.430, in the event of dissolution;

(i) The street address of the place and the hours during which the committee will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17A.235;

(j) Such other information as the commission may by regulation prescribe, in keeping with the policies and purposes of this chapter;

(k) The name, address, and title of any person who authorizes expenditures or makes decisions on behalf of the candidate or committee; and

(l) The name, address, and title of any person who is paid by or is a volunteer for a candidate or political committee to perform ministerial functions and who performs ministerial functions on behalf of two or more candidates or committees.

(3) No two political committees may have the same name.

(4) Any material change in information previously submitted in

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a statement of organization shall be reported to the commission within the ten days following the change.

(5) As used in this section, the "name" of a sponsored committee must include the name of the person that is the sponsor of the committee. If more than one person meets the definition of sponsor, the name of the committee must include the name of at least one sponsor, but may include the names of other sponsors. A person may sponsor only one political committee for the same elected office or same ballot measure per election cycle.

**Sec. 4.** RCW 42.17A.245 and 2010 c 204 s 410 are each amended to read as follows:

(1) Each candidate or political committee that expended ~~((ten))~~ five thousand dollars or more in the preceding year or expects to expend ~~((ten))~~ five thousand dollars or more in the current year shall file all contribution reports and expenditure reports required by this chapter by the electronic alternative provided by the commission under RCW 42.17A.055. The commission may make exceptions on a case-by-case basis for candidates whose authorized committees lack the technological ability to file reports using the electronic alternative provided by the commission.

(2) Failure by a candidate or political committee to comply with this section is a violation of this chapter.

**NEW SECTION. Sec. 5.** A new section is added to chapter 42.17A RCW to read as follows:

A political committee may make a contribution to another political committee only when the contributing political committee has received contributions of ten dollars or more each from at least ten persons registered to vote in Washington state.

**Sec. 6.** RCW 42.17A.750 and 2010 c 204 s 1001 are each amended to read as follows:

(1) In addition to the penalties in subsection (2) of this section, and any other remedies provided by law, one or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

~~((+))~~ (a) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty days of the finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

~~((2))~~ (b) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying. The imposition of a sanction shall not excuse the lobbyist from filing statements and reports required by this chapter.

~~((3))~~ (c) A person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each violation. However, a person or entity who violates RCW 42.17A.405 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

~~((4))~~ (d) A person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each delinquency continues.

~~((5))~~ (e) A person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount not reported as required.

~~((6))~~ (f) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

(2) The commission may refer the following violations for criminal prosecution:

(a) A person who, with actual malice, violates a provision of this chapter is guilty of a misdemeanor under chapter 9.92 RCW;

(b) A person who, within a five-year period, with actual malice, violates three or more provisions of this chapter is guilty of a gross misdemeanor under chapter 9.92 RCW; and

(c) A person who, with actual malice, procures or offers any false or forged document to be filed, registered, or recorded with the commission under this chapter is guilty of a class C felony under chapter 9.94A RCW.

**Sec. 7.** RCW 42.17A.755 and 2010 c 204 s 1002 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such a determination.

(2) The commission, in cases where it chooses to determine whether an actual violation has occurred, shall hold a hearing pursuant to the administrative procedure act, chapter 34.05 RCW, to make a determination. Any order that the commission issues under this section shall be pursuant to such a hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17A.105.

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17A.750 ~~((2) through (5))~~ (1) (b) through (e). ~~((No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed four thousand two hundred))~~ The commission may assess a penalty in an amount not to exceed ten thousand dollars.

(5) The commission has the authority to waive a fine for a first-time violation. A second violation of the same rule by the same person or individual, regardless if the person or individual committed the violation for a different political committee, shall result in a fine. Succeeding violations of the same rule shall result in successively increased fines.

(6) An order issued by the commission under this section shall be subject to judicial review under the administrative procedure act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17A.760.

**NEW SECTION. Sec. 8.** This act takes effect January 1, 2012.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5021

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Senators Pridemore and Swecker spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5021.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5021 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5021, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5021, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Delvin and Honeyford

ENGROSSED SUBSTITUTE SENATE BILL NO. 5021, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5034 with the following amendment(s): 5034-S2 AMH ENVI H2155.2

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes the critical importance of infrastructure to the development of industrial, commercial, and residential properties and finds that infill development is often limited by the lack of infrastructure. The legislature further finds that in many areas, public funding to extend infrastructure is not available. It is the purpose of this act to allow private utilities to provide infrastructure needed for economic development in a manner that minimizes development sprawl.

**Sec. 2.** RCW 80.04.010 and 1995 c 243 s 2 are each amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

(1) "Automatic location identification" means a system by which information about a caller's location, including the seven-digit number or ten-digit number used to place a 911 call or a different seven-digit number or ten-digit number to which a return call can be made from the public switched network, is forwarded to a public safety answering point for display.

(2) "Automatic number identification" means a system that allows for the automatic display of the seven-digit or ten-digit number used to place a 911 call.

(3) "Commission" means the utilities and transportation commission.

(4) "Commissioner" means one of the members of such commission.

(5) "Competitive telecommunications company" means a telecommunications company which has been classified as such by the commission pursuant to RCW 80.36.320.

(6) "Competitive telecommunications service" means a service which has been classified as such by the commission pursuant to RCW 80.36.330.

(7) "Corporation" includes a corporation, company, association or joint stock association.

(8) "Person" includes an individual, a firm or partnership.

(9) "Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

(10) "Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

(11) "Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(12) "Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

(13) "LATA" means a local access transport area as defined by the commission in conformance with applicable federal law.

(14) "Private telecommunications system" means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. "Private telecommunications system" does not include a system offered for hire, sale, or resale to the general public.

(15) "Private shared telecommunications services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to interexchange telecommunications companies.

(16) "Private switch automatic location identification service" means a service that enables automatic location identification to be

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provided to a public safety answering point for 911 calls originating from station lines served by a private switch system.

(17) "Radio communications service company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide radio communications service, radio paging, or cellular communications service for hire, sale, or resale.

(18) "Telecommunications company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

(19) "Noncompetitive telecommunications service" means any service which has not been classified as competitive by the commission.

(20) "Facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telecommunications company to facilitate the provision of telecommunications service.

(21) "Telecommunications" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

(22) "Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

(23)(a) "Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state(~~(= AND PROVIDED FURTHER, That such),~~ ~~The~~ measurement of customers or revenues (~~(shall)~~ ~~must~~ include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(b) For purposes of commission jurisdiction (~~(it shall)~~), "water company" does not include any water system serving less than one hundred customers where the average annual gross revenue per customer does not exceed three hundred dollars per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.05 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce(~~(= AND PROVIDED FURTHER, That such),~~ ~~The~~ measurement of customers or revenues (~~(shall)~~ ~~must~~ include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(c) "Control" (~~(as used herein shall be)~~) is defined by the commission by rule and (~~(shall)~~) does not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

(d) "Water company" also includes, for auditing purposes only, nonmunicipal water systems which are referred to the commission pursuant to an administrative order from the department, or the city or county as provided in RCW 80.04.110. (~~(However,)~~)

(e) Water companies exempt from commission regulation (~~(shall be)~~) are subject to the provisions of chapter 19.86 RCW. A water company cannot be removed from regulation except with the approval of the commission. Water companies subject to regulation may petition the commission for removal from regulation

if the number of customers falls below one hundred or the average annual revenue per customer falls below three hundred dollars. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

(24) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

(25) "Public service company" includes every gas company, electrical company, telecommunications company, wastewater company, and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

(26) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

(27) "Department" means the department of health.

(~~The term~~) (28) "Service" is used in this title in its broadest and most inclusive sense.

(29)(a) "Wastewater company" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers that owns or proposes to develop and own a system of sewerage that is designed for a peak flow of twenty- seven thousand to one hundred thousand gallons per day if treatment is by a large on-site sewerage system, or to serve one hundred or more customers.

(b) For purposes of commission jurisdiction, wastewater company does not include: (i) Municipal, county, or other publicly owned systems of sewerage; or (ii) wastewater company service to customers outside of an urban growth area as defined in RCW 36.70A.030.

(30) "System of sewerage" means collection, treatment, and disposal facilities and services for sewerage, or storm or surface water run-off.

NEW SECTION. Sec. 3. A new section is added to chapter 80.28 RCW to read as follows:

(1) A wastewater company may not own or develop a system of sewerage for the purpose of providing service for compensation without first having obtained from the commission a certificate declaring that the public convenience and necessity requires such service.

(2) Issuance of the certificate of public convenience and necessity must be determined on, but not limited to, the following factors:

(a) A comprehensive business plan detailing the design, construction, operation, and maintenance of the proposed service system;

(b) Demonstration of sufficient financial resources to properly operate and maintain the proposed system, and to replace and upgrade capital assets;

(c) The need to develop a new stand alone system instead of connecting to an existing system;

(d) A statement of prior experience, if any, in such field by the petitioner, set out in an affidavit or declaration;

(e) A certification from the municipal corporation that it is not willing and able to provide the sewerage services being proposed; and

(f) A certification from the municipal corporation that the company's proposed service is consistent with the locally approved general sewer plan.

(3) The commission may, after providing notice and an opportunity for public comment, issue certificates, or for good cause shown refuse to issue them, or issue them for the partial exercise only of the privilege sought, and may attach to the exercise of the

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rights granted such terms and conditions as, in its judgment, the public convenience and necessity may require.

(4) No certificate may be transferred to any private or nonprofit entity unless authorized by the commission.

(5)(a) Prior to the commission approving a wastewater company to provide new service or extend existing service, the wastewater company must file and continuously maintain in effect, a bond, or equivalent surety as determined by the commission, with the commission to ensure that there are sufficient funds to:

(i) Design, construct, operate, and maintain the proposed system;

(ii) Replace and upgrade capital assets as required by federal or state law or by order of the department of health or department of ecology; and

(iii) Allow additional connections to the system, if approved by the department of health or the department of ecology.

(b) The bond, or its equivalent surety, is payable under this section to the commission upon:

(i) An order under section 5 of this act to transfer a system or systems of sewerage to a capable wastewater company;

(ii) Notice that the wastewater company does not intend to renew the bond or its equivalent surety or has failed to renew the bond or its equivalent surety; or

(iii) A petition by the commission under section 6, 13, or 14 of this act to place a wastewater company in receivership.

(c) The commission must hold the payment in trust until an acquiring wastewater company is designated under section 5 of this act or a receiving entity is designated under section 6, 13, or 14 of this act, at which point the funds will be made available to the company or entity to expend as directed by the commission.

(6) For purposes of issuing certificates under this chapter, the commission may adopt rules to implement this section.

(7) A wastewater company must obtain commission approval before expanding an existing system beyond the approved capacity set forth in its certificate or acquiring new systems, either by construction or purchase.

**NEW SECTION. Sec. 4.** A new section is added to chapter 80.04 RCW to read as follows:

(1) Every wastewater company subject to regulation by the commission must, on or before the date specified by the commission for filing annual reports under RCW 80.04.080, pay to the commission a regulatory fee.

(2) The commission must assess such regulatory fees in amounts sufficient for the commission to recover the commission's actual and reasonable costs of supervising and regulating wastewater companies.

(3) Any payment of a fee assessed under this section made after the due date must include a late fee of two percent of the amount due.

(4) Delinquent fees accrue interest at the rate of one percent per month.

(5) The provisions of RCW 80.04.030, 80.04.040, and 80.04.050 apply to regulatory fees for wastewater companies.

(6) The commission is authorized and empowered to adopt and issue rules and regulations to implement this section, including establishing the methodologies and procedures for developing, assessing, and collecting fees under this section.

**NEW SECTION. Sec. 5.** A new section is added to chapter 80.28 RCW to read as follows:

(1) If the commission determines, after providing notice and opportunity for a hearing in the manner required for complaints under RCW 80.04.110, that a wastewater company is unfit to provide wastewater service on any system of sewerage, under its ownership, the commission may order the transfer of any such system or systems to a capable wastewater company.

(2) In determining whether a wastewater company is unfit to provide wastewater service on a system of sewerage in consultation with the department of health or the department of ecology as appropriate to the agencies' jurisdiction, the commission may consider the company's technical and managerial expertise to operate the system of sewerage, the company's financial soundness and the company's willingness and ability to make ongoing investments necessary to maintain compliance with statutory and regulatory standards for the safety, adequacy, efficiency, and reasonableness of the service provided.

(3) Before ordering the transfer of a system of sewerage owned by a wastewater company that is unfit to provide service, the commission must first determine that:

(a) Alternatives to the transfer are impractical or not economically feasible;

(b) The acquiring wastewater company is willing and able to acquire the system or systems of sewerage, financially sound, and has the technical and managerial expertise to own and operate the system or systems of sewerage in compliance with applicable statutory and regulatory standards; and

(c) Rates paid by existing customers served by the acquiring wastewater company will not increase unreasonably because of the acquisition of the system of sewerage or because of expenditures that may be necessary to assure compliance with applicable statutory and regulatory standards for the safety, adequacy, efficiency, and reasonableness of the service provided.

(4) The sale price for the unfit wastewater company's system or systems of sewerage assets must be determined by agreement between the unfit wastewater company and the acquiring capable wastewater company subject to a finding by the commission that the agreed price is reasonable. A price is deemed reasonable if it does not exceed the original cost of plant in service, minus accumulated depreciation, minus contributions in aid to construction. If the unfit wastewater company and the acquiring capable wastewater company are unable to agree on the sale price or the commission finds that the agreed sale price is not reasonable, the acquiring capable wastewater company may initiate a condemnation proceeding in superior court in the manner provided by chapter 8.04 RCW to determine the compensation to be paid by the acquiring capable wastewater company for the failed system or systems of sewerage assets.

(5) The capable wastewater company acquiring an unfit wastewater company's system or systems shall have the same immunity from liability as wastewater companies assuming substandard systems as set forth in RCW 80.28.275.

(6) The commission must provide copies of the notice required by subsection (1) of this section to the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, and all proximate public entities providing wastewater utility service.

(7) Any capable wastewater company approved by the commission to acquire the system or systems of sewerage of an unfit wastewater company must submit to the commission, for approval, a financial plan, including a timetable, for bringing the acquired system of sewerage assets into compliance with applicable statutory and regulatory standards. The acquiring capable wastewater company must also provide a copy of the plan to the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, and other state or local agency as the commission may direct. The commission must give the department of health or the department of ecology, as appropriate to the agencies' jurisdiction, adequate opportunity to comment on the plan and must consider any comments submitted in deciding whether or not to approve the plan.

(8) The legislature grants to any private entity the power of eminent domain, for exercise only under the circumstances

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described in this section. However, a private entity must obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use. This subsection does not limit eminent domain authority granted by any other provision of law.

**NEW SECTION. Sec. 6.** A new section is added to chapter 80.28 RCW to read as follows:

(1) The commission may petition the Thurston county superior court pursuant to chapter 7.60 RCW to place a wastewater company in receivership. The petition must include the names of one or more qualified candidates for receiver who have consented to assume operation of the system of sewerage. The petition must also include a list of interested and qualified individuals, municipal corporations, and wastewater companies with experience in providing wastewater service and a history of satisfactory operation of a system of sewerage. If no other entity is willing and able to be appointed as the receiver, the court must appoint the county or other municipal corporation whose geographic boundaries include, in whole or in part, the system of sewerage at issue. The municipal corporation may designate one of its agencies or divisions to operate the system, or it may contract with another entity to operate the system. The department of health or department of ecology, whichever has jurisdiction, must provide regulatory oversight for managing the system of sewerage.

(2) In any petition for receivership under subsection (1) of this section, the commission must recommend that the court grant the receiver full authority to act in the best interests of the customers served by the system of sewerage. The receiver must assess the capability, in conjunction with the department of health or ecology, whichever has jurisdiction, and local government, for the system to operate in compliance with health and safety standards. The receiver must report to the court and the commission its recommendations for the company's future operation of the system, including the formation of a water-sewer district or other public entity, or ownership by another existing wastewater company capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate official allege an immediate and serious danger to residents constituting an emergency, the court must set the matter for hearing within three days and may appoint a temporary receiver ex parte upon the strength of such petition and affidavit pending a full evidentiary hearing, which must be held within fourteen days after receipt of the petition.

(4) If the court imposes a bond upon a receiver, the amount must reasonably relate to the level of operating revenue generated by, and the capital value of, the wastewater company. Any receiver appointed pursuant to this section may not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders, subject to the provisions of law governing clean water as referenced by the commission by rule.

(5) The court must authorize the receiver to impose reasonable assessments on the customers of the system of sewerage to recover expenditures for improvements necessary for the public health and safety.

(6) The commission must develop a plan for transfer of the system of sewerage to a new operator and submit its plan to the court. The commission must develop the plan after notice to, and an opportunity to participate by, the receiver, the municipal corporations whose geographic boundaries, in whole or in part, include the system of sewerage at issue, and the public. The commission must complete the plan no later than twelve months after appointment of a receiver.

(a) If the commission finds that no private entity is able or willing to take over the system of sewerage and decides the system of sewerage should be taken over by a municipal corporation whose geographic boundaries include the system of sewerage at issue, in whole or in part, the commission must provide its findings to the court and the court may issue an order to that effect. If the court orders a municipal corporation to take over the system of sewerage, the municipal corporation must promptly institute negotiations to purchase the system. If, within six months of the court's order, the negotiations fail or otherwise do not result in a purchase, the municipal corporation must promptly initiate a condemnation proceeding to acquire the system. The court must terminate the receivership once the purchase is complete.

(b) If the commission decides the system of sewerage should be taken over by a private entity, such as an individual or business, the commission must provide its findings to the court and the court may issue an order to that effect. If the court orders a private entity to take over the system of sewerage, the private entity must promptly institute negotiations to purchase the system. If, within six months of the court's order, the negotiations fail or otherwise do not result in a purchase, the private entity must promptly exercise its power of eminent domain granted by the legislature in subsection (9) of this section to acquire the system. The court must terminate the receivership once the purchase is complete.

(7) Other than pursuant to subsection (6)(a) and (b) of this section, the court may not terminate the receivership, and order the return of the system to the owners, unless the commission approves that action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, a condemnation proceeding is commenced to acquire the system of sewerage, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court has the authority to approve the appraisal and to modify the appraisal based on any information provided at an evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, is final and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order the system's ownership to be transferred upon payment of the approved appraised value.

(9) The legislature grants any municipal corporation, and any private entity the power of eminent domain under the circumstances described in this section. However, a private entity must obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use. This subsection does not limit eminent domain authority granted by any other provision of law.

**Sec. 7.** RCW 80.04.110 and 1995 c 376 s 12 are each amended to read as follows:

(1)(a) Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of the attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any

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provision of ~~((law))~~ this title, Title 81 RCW, or of any order or rule of the commission ~~((= PROVIDED, That))~~.

(b) No complaint ~~((shall))~~ may be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, wastewater company, or telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water, wastewater company services, or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service ~~((= PROVIDED, FURTHER, That))~~.

(c) When two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission ~~((shall have))~~ has power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as ~~((shall be))~~ is found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it ~~((shall be))~~ is proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

(2) All matters upon which complaint may be founded may be joined in one hearing, and no motion ~~((shall))~~ may be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided ~~((= PROVIDED,))~~. However, all grievances to be inquired into ~~((shall))~~ must be plainly set forth in the complaint. No complaint ~~((shall))~~ may be dismissed because of the absence of direct damage to the complainant.

(3) Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which ~~((shall))~~ must be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing ~~((shall))~~ may not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. The commission shall enter its final order with respect to a complaint filed by any entity or person other than the commission within ten months from the date of filing of the complaint, unless the date is extended for cause. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission. Such rules may include the requirement that a complainant use informal processes before filing a formal complaint.

(4)(a) The commission ~~((shall))~~ may, as appropriate, audit a nonmunicipal water system upon receipt of an administrative order from the department, or the city or county in which the water system is located, finding that the water delivered by a system does not meet state board of health standards adopted under RCW 43.20.050(2)(a)

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or standards adopted under chapters 70.116 and 70.119A RCW, and the results of the audit ~~((shall))~~ must be provided to the requesting department, city, or county. However, the number of nonmunicipal water systems referred to the commission in any one calendar year shall not exceed twenty percent of the water companies subject to commission regulation as defined in RCW 80.04.010.

(b) Every nonmunicipal water system referred to the commission for audit under this section shall pay to the commission an audit fee in an amount, based on the system's twelve-month audited period, equal to the fee required to be paid by regulated companies under RCW 80.24.010.

(5) Any customer or purchaser of service from a water system or company that is subject to commission regulation may file a complaint with the commission if he or she has reason to believe that the water delivered by the system to the customer does not meet state drinking water standards under chapter 43.20 or 70.116 RCW. The commission shall investigate such a complaint, and shall request that the state department of health or local health department of the county in which the system is located test the water for compliance with state drinking water standards, and provide the results of such testing to the commission. The commission may decide not to investigate the complaint if it determines that the complaint has been filed in bad faith, or for the purpose of harassment of the water system or company, or for other reasons has no substantial merit. The water system or company shall bear the expense for the testing. After the commission has received the complaint from the customer and during the pendency of the commission investigation, the water system or company ~~((shall))~~ may not take any steps to terminate service to the customer or to collect any amounts alleged to be owed to the company by the customer. The commission may issue an order or take any other action to ensure that no such steps are taken by the system or company. The customer may, at the customer's option and expense, obtain a water quality test by a licensed or otherwise qualified water testing laboratory, of the water delivered to the customer by the water system or company, and provide the results of such a test to the commission. If the commission determines that the water does not meet state drinking water standards, it shall exercise its authority over the system or company as provided in this title, and may, where appropriate, order a refund to the customer on a pro rata basis for the substandard water delivered to the customer, and shall order reimbursement to the customer for the cost incurred by the customer, if any, in obtaining a water quality test.

**Sec. 8.** RCW 80.04.160 and 1961 c 14 s 80.04.160 are each amended to read as follows:

The commission is hereby authorized and empowered to adopt, promulgate and issue rules and regulations covering the transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity, wastewater company services, and water, and any and all services concerning the same, or connected therewith; and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this title. Such rules and regulations ~~((shall))~~ must be promulgated and issued by the commission on its own motion, and ~~((shall))~~ must be served on the public service company affected thereby as other orders of the commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of them, improper, unjust, unreasonable, or contrary to law, may within twenty days from the date of service of such order upon it file objections thereto with the commission, specifying the particular grounds of such objections. The commission shall, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. The commission ~~((shall have))~~ has, and it is hereby given, power to

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adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings (~~(--PROVIDED--)~~). However, no person desiring to be present at such hearing ((shall)) may be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of the commission.

**Sec. 9.** RCW 80.04.250 and 1991 c 122 s 2 are each amended to read as follows:

(1) The commission (~~(shall have)~~) has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state and shall exercise such power whenever it (~~(shall))~~ deems such valuation or determination necessary or proper under any of the provisions of this title. In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.

(2) The commission (~~(shall have)~~) has the power to make revaluations of the property of any public service company from time to time.

(3) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice (~~(shall))~~ must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

**Sec. 10.** RCW 80.04.500 and 1985 c 450 s 13 are each amended to read as follows:

Nothing in this title (~~(shall))~~ authorizes the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any telecommunications line, gas plant, electrical plant, system of sewerage, or water system owned and operated by any city or town, or to make or enforce any order relating to the safety of any telecommunications line, electrical plant, system of sewerage, or water system owned and operated by any city or town, but all other provisions enumerated herein (~~(shall))~~ apply to public utilities owned by any city or town.

**Sec. 11.** RCW 80.28.010 and 2008 c 299 s 35 are each amended to read as follows:

(1) All charges made, demanded or received by any gas company, electrical company, wastewater company, or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient. Reasonable charges necessary to cover the cost of administering the collection of voluntary donations for the purposes of supporting the development and implementation of evergreen community management plans and ordinances under RCW 80.28.300 (~~(shall))~~ must be deemed as prudent and necessary for the operation of a utility.

(2) Every gas company, electrical company, wastewater company, and water company shall furnish and supply such service, instrumentalities and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable.

(3) All rules and regulations issued by any gas company, electrical company, wastewater company, or water company, affecting or pertaining to the sale or distribution of its product or service, (~~(shall))~~ must be just and reasonable.

(4) Utility service for residential space heating shall not be terminated between November 15 through March 15 if the customer:

(a) Notifies the utility of the inability to pay the bill, including a security deposit. This notice should be provided within five business days of receiving a payment overdue notice unless there are extenuating circumstances. If the customer fails to notify the utility within five business days and service is terminated, the customer can, by paying reconnection charges, if any, and fulfilling the requirements of this section, receive the protections of this chapter;

(b) Provides self-certification of household income for the prior twelve months to a grantee of the department of (~~(community, trade, and economic development))~~ commerce, which administers federally funded energy assistance programs. The grantee shall determine that the household income does not exceed the maximum allowed for eligibility under the state's plan for low-income energy assistance under 42 U.S.C. 8624 and shall provide a dollar figure that is seven percent of household income. The grantee may verify information provided in the self-certification;

(c) Has applied for home heating assistance from applicable government and private sector organizations and certifies that any assistance received will be applied to the current bill and future utility bills;

(d) Has applied for low-income weatherization assistance to the utility or other appropriate agency if such assistance is available for the dwelling;

(e) Agrees to a payment plan and agrees to maintain the payment plan. The plan will be designed both to pay the past due bill by the following October 15<sup>th</sup> and to pay for continued utility service. If the past due bill is not paid by the following October 15, the customer (~~(shall))~~ is not ((be)) eligible for protections under this chapter until the past due bill is paid. The plan (~~(shall))~~ may not require monthly payments in excess of seven percent of the customer's monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter during November 15 through March 15. A customer may agree to pay a higher percentage during this period, but shall not be in default unless payment during this period is less than seven percent of monthly income plus one-twelfth of any arrearage accrued from the date application is made and thereafter. If assistance payments are received by the customer subsequent to implementation of the plan, the customer shall contact the utility to reformulate the plan; and

(f) Agrees to pay the moneys owed even if he or she moves.

(5) The utility shall:

(a) Include in any notice that an account is delinquent and that service may be subject to termination, a description of the customer's duties in this section;

(b) Assist the customer in fulfilling the requirements under this section;

(c) Be authorized to transfer an account to a new residence when a customer who has established a plan under this section moves from one residence to another within the same utility service area;

(d) Be permitted to disconnect service if the customer fails to honor the payment program. Utilities may continue to disconnect service for those practices authorized by law other than for nonpayment as provided for in this subsection. Customers who qualify for payment plans under this section who default on their payment plans and are disconnected can be reconnected and maintain the protections afforded under this chapter by paying reconnection charges, if any, and by paying all amounts that would have been due and owing under the terms of the applicable payment plan, absent default, on the date on which service is reconnected; and

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(e) Advise the customer in writing at the time it disconnects service that it will restore service if the customer contacts the utility and fulfills the other requirements of this section.

(6) A payment plan implemented under this section is consistent with RCW 80.28.080.

(7) Every gas company and electrical company shall offer residential customers the option of a budget billing or equal payment plan. The budget billing or equal payment plan shall be offered low-income customers eligible under the state's plan for low-income energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without limiting availability to certain months of the year, without regard to the length of time the customer has occupied the premises, and without regard to whether the customer is the tenant or owner of the premises occupied.

(8) Every gas company, electrical company, wastewater company, and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product, or provision of its services, as will be efficient and safe to its employees and the public.

(9) An agreement between the customer and the utility, whether oral or written, (~~shall~~) does not waive the protections afforded under this chapter.

(10) In establishing rates or charges for water service, water companies as defined in RCW 80.04.010 may consider the achievement of water conservation goals and the discouragement of wasteful water use practices.

**Sec. 12.** RCW 80.28.020 and 1961 c 14 s 80.28.020 are each amended to read as follows:

Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company, wastewater company, or water company, for gas, electricity, wastewater company services, or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.

**Sec. 13.** RCW 80.28.030 and 1989 c 207 s 4 are each amended to read as follows:

(1) Whenever the commission (~~shall~~) finds, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, the quality of wastewater company services, or the purity, quality, volume, and pressure of water, supplied by any gas company, electrical company, wastewater company, or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it shall order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, in the operation of the services and facilities of wastewater companies, or in the storage, distribution or supply of water, or in the methods employed by such gas company, electrical company, wastewater company, or water company, as will in its judgment be efficient, adequate, just and reasonable. Failure of a water company to comply with state board of health standards adopted under RCW 43.20.050(2)(a) or department standards adopted under chapter 70.116 RCW for purity, volume, and pressure (~~shall be~~) is prima facie evidence that the water supplied is insufficient, impure, inadequate, or inefficient. Failure of a wastewater company to comply with standards and permit conditions adopted and implemented under chapter 70.118B or 90.48 RCW for treatment and disposal of sewerage, is prima facie

evidence that the system of sewerage is insufficient, inadequate, or inefficient.

(2) In ordering improvements in the storage, distribution, or supply of water, the commission shall consult and coordinate with the department of health. In the event that a water company fails to comply with an order of the commission (~~in a timely fashion~~) within the deadline specified in the order, the commission may request that the department petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

(3) In ordering improvements to the system of sewerage, the commission shall consult and coordinate with the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. In the event that a wastewater company fails to comply with an order of the commission within the deadline specified in the order, the commission may petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

**Sec. 14.** RCW 80.28.040 and 1989 c 207 s 5 are each amended to read as follows:

(1) Whenever the commission (~~shall~~) finds, after hearing, that any rules, regulations, measurements or the standard thereof, practices, acts or services of any such gas company, electrical company, wastewater company, or water company are unjust, unreasonable, improper, insufficient, inefficient or inadequate, or that any service which may be reasonably demanded is not furnished, the commission shall fix the reasonable rules, regulations, measurements or the standard thereof, practices, acts or service to be thereafter furnished, imposed, observed and followed, and shall fix the same by order or rule.

(2) In ordering improvements to the service of any water company, the commission shall consult and coordinate with the department of health. In the event that a water company fails to comply with an order of the commission within the deadline specified in the order, the commission may request that the department petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

(3) In ordering improvements to the service of any system of sewerage, the commission shall consult and coordinate with the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. In the event that a wastewater company fails to comply with an order of the commission within the deadline specified in the order, the commission may petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

**Sec. 15.** RCW 80.28.050 and 1961 c 14 s 80.28.050 are each amended to read as follows:

Every gas company, electrical company, wastewater company, and water company shall file with the commission and shall print and keep open to public inspection schedules in such form as the commission may prescribe, showing all rates and charges made, established or enforced, or to be charged or enforced, all forms of contract or agreement, all rules and regulations relating to rates, charges or service, used or to be used, and all general privileges and facilities granted or allowed by such gas company, electrical company, wastewater company, or water company.

**Sec. 16.** RCW 80.28.060 and 2008 c 181 s 402 are each amended to read as follows:

(1) Unless the commission otherwise orders, no change (~~shall~~) may be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by a gas company, electrical company, wastewater company, or water company in compliance with the requirements of RCW 80.28.050 except after thirty days' notice to

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the commission and publication for thirty days, which notice ~~((shall))~~ must plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect and all proposed changes ~~((shall))~~ must be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Proposed changes may be suspended by the commission within thirty days or before the stated effective date of the proposed change, whichever is later. The commission, for good cause shown, may allow changes without requiring the thirty days' notice by duly filing, in such manner as it may direct, an order specifying the changes so to be made and the time when it ~~((shall))~~ takes effect. All such changes ~~((shall))~~ must be immediately indicated upon its schedules by the company affected. When any change is made in any rate or charge, form of contract or agreement, or any rule or regulation relating to any rate or charge or service, or in any general privilege or facility, the effect of which is to increase any rate or charge, then in existence, attention ~~((shall))~~ must be directed on the copy filed with the commission to such increase by some character immediately preceding or following the item in such schedule, such character to be in form as designated by the commission.

(2) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule, and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

**Sec. 17.** RCW 80.28.080 and 1985 c 427 s 2 are each amended to read as follows:

(1)(a) ~~Except as provided otherwise in this subsection, no~~ gas company, electrical company, wastewater company, or water company ~~((shall))~~ may charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time, nor ~~((shall))~~ may any such company directly or indirectly refund or remit in any manner or by any device any portion of the rates or charges so specified, or furnish its product at free or reduced rates except to its employees and their families, and its officers, attorneys, and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes ~~((= PROVIDED, That the term)),~~

For the purposes of this subsection (1):

(i) "Employees" ~~((as used in this paragraph shall))~~ includes furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such company; and ~~((the term))~~

(ii) "Families(=)" ~~((as used in this paragraph, shall))~~ includes the families of those persons named in this proviso, the families of persons killed or dying in the service, also the families of persons killed, and the surviving spouse prior to remarriage, and the minor children during minority of persons who died while in the service of any of the companies named in this ~~((paragraph: PROVIDED FURTHER, That))~~ subsection (1).

(b) Water companies may furnish free or at reduced rates water for the use of the state, or for any project in which the state is interested ~~((= AND PROVIDED FURTHER, That)),~~

(c) Gas companies, electrical companies, wastewater companies, and water companies may charge the defendant for treble damages awarded in lawsuits successfully litigated under RCW 80.28.240.

(2) No gas company, electrical company, wastewater company, or water company ~~((shall))~~ may extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are regularly and uniformly extended to all persons and corporations under like circumstances.

**Sec. 18.** RCW 80.28.090 and 1961 c 14 s 80.28.090 are each amended to read as follows:

No gas company, electrical company, wastewater company, or water company ~~((shall))~~ may make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

**Sec. 19.** RCW 80.28.100 and 1961 c 14 s 80.28.100 are each amended to read as follows:

No gas company, electrical company, wastewater company, or water company ~~((shall))~~ may, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity, wastewater company services, or water, or for any service rendered or to be rendered, or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like or contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

**Sec. 20.** RCW 80.28.110 and 1990 c 132 s 5 are each amended to read as follows:

Every gas company, electrical company, wastewater company, or water company, engaged in the sale and distribution of gas, electricity or water or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity, wastewater company services, and water as demanded, except that a water company ~~((shall))~~ may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70.116 RCW and wastewater companies may not provide services contrary to the approved general sewer plan.

**Sec. 21.** RCW 80.28.120 and 1961 c 14 s 80.28.120 are each amended to read as follows:

Every gas, water, wastewater, or electrical company owning, operating or managing a plant or system for the distribution and sale of gas, water or electricity, or the provision of wastewater company services to the public for hire ~~((shall be))~~ is, and ~~((be))~~ is held to be, a public service company as to such plant or system and as to all gas, water, wastewater company services, or electricity distributed or furnished therefrom, whether such gas, water, wastewater company services, or electricity be sold wholesale or retail or be distributed wholly to the general public or in part as surplus gas, water, wastewater company services, or electricity to manufacturing or industrial concerns or to other public service companies or municipalities for redistribution. Nothing in this title ~~((shall))~~ may be construed to prevent any gas company, electrical company or water company from continuing to furnish its product or the use of its lines, equipment or service under any contract or contracts in force on June 7, 1911, at the rates fixed in such contract or contracts ~~((= PROVIDED, That)),~~ However, the commission ~~((shall have))~~ has power, in its discretion, to direct by order that such contract or contracts ~~((shall))~~ be terminated by the company party thereto and thereupon such contract or contracts ~~((shall))~~ must be terminated by such company as and when directed by such order.

**Sec. 22.** RCW 80.28.130 and 1961 c 14 s 80.28.130 are each amended to read as follows:

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Whenever the commission (~~shall~~) finds, after hearing had upon its own motion or upon complaint, that repairs or improvements, to, or changes in, any gas plant, electrical plant, system of sewerage, or water system ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for manufacturing, distributing or supplying gas, electricity, wastewater company services, or water, the commission may enter an order directing that such reasonable repairs, improvements, changes, additions or extensions of such gas plant, electrical plant, system of sewerage, or water system be made.

**Sec. 23.** RCW 80.28.185 and 1989 c 207 s 6 are each amended to read as follows:

The commission may develop and enter into an agreement with a county to carry out the regulatory functions of this chapter with regard to water companies or wastewater companies located within the boundary of that county. The duration of the agreement, the duties to be performed, and the remuneration to be paid by the commission are subject to agreement by the commission and the county.

**Sec. 24.** RCW 80.28.240 and 1989 c 11 s 30 are each amended to read as follows:

(1) A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to:

(a) Divert, or cause to be diverted, utility services by any means whatsoever;

(b) Make, or cause to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility;

(c) Prevent any utility meter or other device used in determining the charge for utility services from accurately performing its measuring function by tampering or by any other means;

(d) Tamper with any property owned or used by the utility to provide utility services; or

(e) Use or receive the direct benefit of all or a portion of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of the utility.

(2) In any civil action brought under this section, the utility may recover from the defendant as damages three times the amount of actual damages, if any, plus the cost of the suit and reasonable attorney's fees, plus the costs incurred on account of the bypassing, tampering, or unauthorized reconnection, including but not limited to costs and expenses for investigation, disconnection, reconnection, service calls, and expert witnesses.

(3) Any damages recovered under this section in excess of the actual damages sustained by the utility may be taken into account by the utilities and transportation commission or other applicable rate-making agency in establishing utility rates.

(4) As used in this section:

(a) "Customer" means the person in whose name a utility service is provided;

(b) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility;

(c) "Person" means any individual, partnership, firm, association, or corporation or government agency;

(d) "Reconnection" means the commencement of utility service to a customer or other person after service has been lawfully disconnected by the utility;

(e) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing the normal or customary function;

(f) "Utility" means any electrical company, gas company, wastewater company, or water company as those terms are defined in RCW 80.04.010, and includes any electrical, gas, system of sewerage, or water system operated by any public agency; and

(g) "Utility service" means the provision of electricity, gas, water, wastewater company services, or any other service or commodity furnished by the utility for compensation.

**Sec. 25.** RCW 80.28.270 and 1991 c 101 s 2 are each amended to read as follows:

The commission's jurisdiction over the rates, charges, practices, acts or services of any water company (~~shall~~) or wastewater company includes any aspect of line extension, service installation, or service connection. If the charges for such services are not set forth by specific amount in the company's tariff filed with the commission pursuant to RCW 80.28.050, the commission shall determine the fair, just, reasonable, and sufficient charge for such extension, installation, or connection. In any such proceeding in which there is no specified tariffed rate, the burden (~~shall be~~) is on the company to prove that its proposed charges are fair, just, reasonable, and sufficient.

**Sec. 26.** RCW 80.28.275 and 1994 c 292 s 9 are each amended to read as follows:

A water company or a wastewater company assuming responsibility for a water system or system of sewerage that is not in compliance with state or federal requirements (~~for public drinking water systems~~), and its agents and employees, are immune from lawsuits or causes of action, based on noncompliance with state or federal requirements (~~for public drinking water systems~~), which predate the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water company or wastewater company has submitted and is complying with a plan and schedule of improvements approved by the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. This immunity (~~shall~~) expires on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith and is subject to the provisions of law governing clean water as referenced by the commission by rule.

**Sec. 27.** RCW 7.60.025 and 2010 c 212 s 4 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, during the pendency of any action to foreclose upon any lien against or for forfeiture of any interest in real or personal property, or after notice of a trustee's sale has been given under RCW 61.24.040, or after notice of forfeiture has been given under RCW 61.30.040, on application of any person, when the

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interest in the property that is the subject of foreclosure or forfeiture of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action, the notice of trustee's sale or notice of forfeiture is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property;

(c) After judgment, in order to give effect to the judgment;

(d) To dispose of property according to provisions of a judgment dealing with its disposition;

(e) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(f) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(g) Upon an attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction, or where the abandoned property's owner has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(h) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(i) In an action against any person who is not an individual if the object of the action is the dissolution of that person, or if that person has been dissolved, or if that person is insolvent or is not generally paying the person's debts as those debts become due unless they are the subject of bona fide dispute, or if that person is in imminent danger of insolvency;

(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which a general assignment for the benefit of creditors has been made;

(k) In quo warranto proceedings under chapter 7.56 RCW;

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) Under RCW 19.40.071(3), in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under RCW 24.03.271, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30.44.100, 30.44.270, and 30.56.030, in the case of a bank or trust company or, under and subject to RCW 32.24.070 through 32.24.090, in the case of a mutual savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW;

(ff) Under RCW 64.34.364(10), in an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW 70.95A.050(3), in aid of the enforcement of payment or performance of municipal bonds issued with respect to facilities used to abate, control, or prevent pollution;

(ii) Upon the application of the department of social and health services under RCW 74.42.580, in cases involving nursing homes;

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(jj) Upon the application of the utilities and transportation commission under RCW 80.28.040, with respect to a water company or wastewater company that has failed to comply with an order of such commission within the time deadline specified therein;

(kk) Under RCW 87.56.065, in connection with the dissolution of an irrigation district;

(ll) Upon application of the attorney general or the department of licensing, in any proceeding that either of them are authorized by statute to bring to enforce Title 18 or 19 RCW; the securities act of Washington, chapter 21.20 RCW; the Washington commodities act, chapter 21.30 RCW; the land development act, chapter 58.19 RCW; or under chapter 64.36 RCW relating to the regulation of timeshares;

(mm) Upon application of the director of financial institutions in any proceeding that the director of financial institutions is authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

(nn) In such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

(2) The superior courts of this state shall appoint as receiver of property located in this state a person who has been appointed by a federal or state court located elsewhere as receiver with respect to the property specifically or with respect to the owner's property generally, upon the application of the person or of any party to that foreign proceeding, and following the appointment shall give effect to orders, judgments, and decrees of the foreign court affecting the property in this state held by the receiver, unless the court determines that to do so would be manifestly unjust or inequitable. The venue of such a proceeding may be any county in which the person resides or maintains any office, or any county in which any property over which the receiver is to be appointed is located at the time the proceeding is commenced.

(3) At least seven days' notice of any application for the appointment of a receiver (~~(shall)~~ must be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also (~~(shall)~~ must be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases (~~(shall)~~ must reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

**Sec. 28.** RCW 36.94.110 and 1967 c 72 s 11 are each amended to read as follows:

After adoption of the sewerage and/or water general plan, all municipal corporations and private utilities within the plan area shall abide by and adhere to the plan for the future development of their

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systems. A municipal corporation or private utility, including a wastewater company as defined in RCW 80.04.010, may petition for amendments to the plan. Whenever the governing authority of any county or counties or any municipal corporation deems it to be for the public interest to amend the sewerage and/or water general plan for such county or counties, notice (~~(shall)~~ must be filed with the board or boards of county commissioners. Upon such notice, the board or boards shall initiate consideration of any amendment requested relating to the plan and proceed as provided in this chapter for the adoption of an original plan.

**NEW SECTION. Sec. 29.** (1) The commission may adopt rules to implement this act before July 1, 2012, to ensure that this act is implemented on its effective date.

(2)(a) The commission may collect payments from wastewater companies and other private entities that have notified the commission of their willingness to cover the costs of the rule making. The commission must issue a notice of intent to adopt rules that includes a request that wastewater companies or other private entities notify the commission of their intent to participate in the cost recovery mechanism.

(b) Upon receipt of the statements of intent to participate in the cost recovery mechanism, the commission must proportionately divide among the companies or private entities the anticipated cost of the rule making and send the parties an invoice.

(c) Upon receipt of sufficient funds to pay for the rule making, the commission must commence the rule-making process.

(3) The commission is not required to engage in rule making until it has collected sufficient payments to cover the projected costs of the rule making.

(4) The commission must provide a refund for any overpayment of the costs at the conclusion of the rule making.

(5) Between the conclusion of the rule making and June 30, 2013, the commission may collect from applicants for a certificate of public convenience and necessity a portion of the costs of rule making and provide proportionate refunds to the parties that had previously paid for the costs of rule making.

**NEW SECTION. Sec. 30.** Nothing in this act supersedes federal, state, or local government requirements to obtain a wastewater discharge permit or a large on-site sewerage system operating permit or other permits or licenses required by law in the state of Washington.

**NEW SECTION. Sec. 31.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 32.** Except for section 29 of this act, this act takes effect July 1, 2012."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5034.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5034.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5034 by voice vote.

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The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5034, as amended by the House.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5035, as amended by the House.

ROLL CALL

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5034, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

The Secretary called the roll on the final passage of Senate Bill No. 5035, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Holmquist Newbry and Stevens

Voting nay: Senator Holmquist Newbry

Excused: Senators Benton and Delvin

Excused: Senators Brown, Delvin, Hewitt and Zarelli

SECOND SUBSTITUTE SENATE BILL NO. 5034, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SENATE BILL NO. 5035, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

MESSAGE FROM THE HOUSE

On motion of Senator Carrell, Senators Hewitt and Zarelli were excused.

April 7, 2011

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5035 with the following amendment(s): 5035 AMH JUDI H2194.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 59.20 RCW to read as follows:

(1) A landlord shall provide a written receipt for any payment made by a tenant in the form of cash.

(2) A landlord shall provide, upon the request of a tenant, a written receipt for any payments made by the tenant in a form other than cash."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator White moved that the Senate concur in the House amendment(s) to Senate Bill No. 5035.

The President declared the question before the Senate to be the motion by Senator White that the Senate concur in the House amendment(s) to Senate Bill No. 5035.

MOTION

On motion of Senator White, Senator Brown was excused.

The motion by Senator White carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5035 by voice vote.

MR. PRESIDENT:

The House passed SUBSTITUE SENATE BILL NO. 5036 with the following amendment(s): 5036-S AMH APPG H2449.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 88.02.640 and 2010 c 161 s 1028 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

| FEE  | AMOUN<br>T                     | AUTHORITY                               | DISTRIBUTIO<br>N               |
|--|--------------------------------|---|--------------------------------|
| (a) Dealer temporary permit                      | \$5.00                         | RCW 88.02.800(2)                        | General fund                   |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsections (3) and (4) of this section | Subsection (3) of this section |
| (c) Duplicate registration                       | \$1.25                         | RCW 88.02.590(1)(c)                     | General fund                   |
| (d) Filing                                       | RCW 46.17.005                  | RCW 46.17.005                           | RCW 46.68.440                  |
| (e) License plate technology                     | RCW 46.17.015                  | RCW 46.17.015                           | RCW 46.68.400                  |
| (f) License service                              | RCW 46.17.025                  | RCW 46.17.025                           | RCW 46.68.220                  |
| (g) Nonresident vessel permit                    | \$25.00                        | RCW 88.02.620(3)                        | Subsection (6) of this section |
| (h) Registration                                 | \$10.50                        | RCW 88.02.560(2)                        | General fund                   |

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|                           |         |                     |              |
|---------------------------|---------|---------------------|--------------|
| (i) Replacement decal     | \$1.25  | RCW 88.02.595(1)(c) | General fund |
| (j) Title application     | \$5.00  | RCW 88.02.515       | General fund |
| (k) Transfer              | \$1.00  | RCW 88.02.560(7)    | General fund |
| (l) Vessel visitor permit | \$30.00 | RCW 88.02.610(3)    | General fund |

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) ~~(Until June 30, 2012,)~~ The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the ~~((freshwater))~~ aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) ~~((On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100.))~~ If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollars ~~of the derelict vessel and invasive species removal fee~~ that is deposited into the derelict vessel removal account as authorized in (a)(iv) of this subsection must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

**Sec. 2.** RCW 43.21A.667 and 2009 c 564 s 933 are each amended to read as follows:

(1) The ~~((freshwater))~~ aquatic algae control account is created in the state treasury. Moneys directed to the account from RCW ~~((88.02.050))~~ 88.02.640 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the ~~((freshwater))~~ aquatic algae control account may be appropriated to the department to develop a freshwater and saltwater aquatic algae control program and may be used to establish contingency funds for emergent issues. Funds must be expended as follows:

(a) As grants to cities, counties, tribes, special purpose districts, and state agencies: (i) To manage excessive freshwater and saltwater nuisance algae, with priority for the treatment of lakes in which harmful algal blooms have occurred within the past three years; and ((during the 2009-2011 fiscal biennium to provide grants)) (ii) for ((sea lettuce research)) freshwater and saltwater nuisance algae monitoring and removal ((to assist Puget Sound communities that are impacted by hyperblooms of sea lettuce)); and

(b) To provide technical assistance to applicants and the public about aquatic algae control.

(3) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

(4) For the purposes of this section, "saltwater nuisance algae" means native invasive algae (sea lettuce), nonnative invasive algae, and algae producing harmful toxins.

**Sec. 3.** RCW 43.43.400 and 2007 c 350 s 1 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:

(a) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under RCW 77.08.010 ~~((49) through (54))~~ (28), (40), (44), (58), and (59), aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(b) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(2) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from RCW ~~((88.02.050))~~ 88.02.640 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(3) Funds in the aquatic invasive species enforcement account may be appropriated to the Washington state patrol and the department of fish and wildlife to develop an aquatic invasive species enforcement program for recreational and commercial watercraft, which includes equipment used to transport the watercraft and auxiliary equipment such as attached or detached outboard motors. Funds must be expended as follows:

(a) By the Washington state patrol, to inspect recreational and commercial watercraft that are required to stop at port of entry weigh stations managed by the Washington state patrol. The watercraft must be inspected for the presence of aquatic invasive species; and

(b) By the department of fish and wildlife to:

(i) Establish random check stations, to inspect recreational and commercial watercraft as provided for in RCW 77.12.879(3);

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(ii) Inspect or delegate inspection of recreational and commercial watercraft. If the department conducts the inspection, there will be no cost to the person requesting the inspection;

(iii) Provide training to all department employees that are deployed in the field to inspect recreational and commercial watercraft; and

(iv) Provide an inspection receipt verifying that the watercraft is not contaminated after the watercraft has been inspected at a check station or has been inspected at the request of the owner of the recreational or commercial watercraft. The inspection receipt is valid until the watercraft is used again.

(4) The Washington state patrol and the department of fish and wildlife shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.

**Sec. 4.** RCW 77.12.879 and 2009 c 333 s 22 are each amended to read as follows:

(1) The aquatic invasive species prevention account is created in the state treasury. Moneys directed to the account from RCW (~~88.02.050~~) 88.02.640 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Funds in the aquatic invasive species prevention account may be appropriated to the department to develop an aquatic invasive species prevention program for recreational and commercial watercraft. Funds must be expended as follows:

(a) To inspect recreational and commercial watercraft;

(b) To educate general law enforcement officers on how to enforce state laws relating to preventing the spread of aquatic invasive species;

(c) To evaluate and survey the risk posed by recreational and commercial watercraft in spreading aquatic invasive species into Washington state waters;

(d) To evaluate the risk posed by float planes in spreading aquatic invasive species into Washington state waters; and

(e) To implement an aquatic invasive species early detection and rapid response plan. The plan must address the treatment and immediate response to the introduction to Washington waters of aquatic invasive species. Agency and public review of the plan must be conducted under chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would have a probable significant adverse environmental impact, a detailed statement under chapter 43.21C RCW must be prepared on the plan.

(3) Funds in the aquatic invasive species enforcement account created in RCW 43.43.400 may be appropriated to the department and Washington state patrol to develop an aquatic invasive species enforcement program for recreational and commercial watercraft. The department shall provide training to Washington state patrol employees working at port of entry weigh stations, and other local law enforcement employees, on how to inspect recreational and commercial watercraft for the presence of aquatic invasive species. A person who enters Washington by road transporting any commercial or recreational watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department must have in his or her possession valid documentation that the watercraft has been inspected and found free of aquatic invasive species. The department is authorized to require persons transporting recreational and commercial watercraft to stop at check stations. Check stations must be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner. Any person stopped at a check station who possesses a recreational or

commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, must bear the expense for any necessary impoundment, transportation, cleaning, and decontamination of the watercraft. Any person stopped at a check station who possesses a recreational or commercial watercraft that has been used in any designated aquatic invasive species state or foreign country as defined by rule of the department, or that is contaminated with aquatic invasive species, is exempt from the criminal penalties found in RCW 77.15.253 and 77.15.290, and forfeiture under RCW 77.15.070, if that person complies with all department directives for the proper decontamination of the watercraft and equipment.

(4) The department shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5036.

Senators Ranker and Morton spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5036.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5036 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5036, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5036, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 8; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Becker, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Benton, Carrell, Ericksen, Holmquist Newbry, Honeyford, Morton and Stevens

Excused: Senators Brown, Delvin, Hewitt and Zarelli

SUBSTITUTE SENATE BILL NO. 5036, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 4, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5042 with the following amendment(s): 5042-S AMH JUDI H2184.3

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Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.34.020 and 2010 c 133 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(4) "Department" means the department of social and health services.

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(6) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or

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trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(7) "Financial institution" has the same meaning as in RCW 30.22.040 and 30.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(8) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(9) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(10) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(11) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(12) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(13) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(14) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(15) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

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(16) "Vulnerable adult" includes a person:

- (a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or
- (b) Found incapacitated under chapter 11.88 RCW; or
- (c) Who has a developmental disability as defined under RCW 71A.10.020; or
- (d) Admitted to any facility; or
- (e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or
- (f) Receiving services from an individual provider; or
- (g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

**Sec. 2.** RCW 74.34.067 and 2007 c 312 s 2 are each amended to read as follows:

(1) Where appropriate, an investigation by the department may include a private interview with the vulnerable adult regarding the alleged abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the vulnerable adult or adults harmed, and, consistent with the protection of the vulnerable adult shall interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(3) The department may conduct ongoing case planning and consultation with: (a) Those persons or agencies required to report under this chapter or submit a report under this chapter; (b) consultants designated by the department; and (c) designated representatives of Washington Indian tribes if client information exchanged is pertinent to cases under investigation or the provision of protective services. Information considered privileged by statute and not directly related to reports required by this chapter must not be divulged without a valid written waiver of the privilege.

(4) The department shall prepare and keep on file a report of each investigation conducted by the department for a period of time in accordance with policies established by the department.

(5) If the department has reason to believe that the vulnerable adult has suffered from abandonment, abuse, financial exploitation, neglect, or self-neglect, ~~((abandonment, or financial exploitation,))~~ and lacks the ability or capacity to consent, and needs the protection of a guardian, the department may bring a guardianship action under chapter 11.88 RCW.

(6) When the investigation is completed and the department determines that an incident of abandonment, abuse, financial exploitation, neglect, or self-neglect has occurred, the department shall inform the vulnerable adult of their right to refuse protective services, and ensure that, if necessary, appropriate protective services are provided to the vulnerable adult, with the consent of the vulnerable adult. The vulnerable adult has the right to withdraw or refuse protective services.

(7) The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. If the department has information that abandonment, abuse, financial exploitation, or neglect is criminal or is placing a vulnerable adult on tribal property at potential risk of personal or financial harm, the department may notify tribal law enforcement or another tribal representative specified by the tribe. Upon receipt of the notification, the tribe may assume jurisdiction of the matter. Neither the department nor its employees may participate in the investigation after the tribe assumes jurisdiction. The department, its officers, and its

employees are not liable for any action or inaction of the tribe or for any harm to the alleged victim, the person against whom the allegations were made, or other parties that occurs after the tribe assumes jurisdiction. Nothing in this section limits the department's jurisdiction and authority over facilities or entities that the department licenses or certifies under federal or state law.

(8) The department may photograph a vulnerable adult or their environment for the purpose of providing documentary evidence of the physical condition of the vulnerable adult or his or her environment. When photographing the vulnerable adult, the department shall obtain permission from the vulnerable adult or his or her legal representative unless immediate photographing is necessary to preserve evidence. However, if the legal representative is alleged to have abused, neglected, abandoned, or exploited the vulnerable adult, consent from the legal representative is not necessary. No such consent is necessary when photographing the physical environment.

~~((8))~~ (9) When the investigation is complete and the department determines that the incident of abandonment, abuse, financial exploitation, or neglect has occurred, the department shall inform the facility in which the incident occurred, consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.34 RCW to read as follows:

(1) When the department opens an investigation of a report of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, the department shall, at the time of the interview of the vulnerable adult who is an alleged victim, provide a written statement of the rights afforded under this chapter and other applicable law to alleged victims or legal guardians. This statement must include the department's name, address, and telephone number and may include other appropriate referrals. The statement must be substantially in the following form:

"You are entitled to be free from abandonment, abuse, financial exploitation, and neglect. If there is a reason to believe that you have experienced abandonment, abuse, financial exploitation, or neglect, you have the right to:

(a) Make a report to the department of social and health services and law enforcement and share any information you believe could be relevant to the investigation, and identify any persons you believe could have relevant information.

(b) Be free from retaliation for reporting or causing a report of abandonment, abuse, financial exploitation, or neglect.

(c) Be treated with dignity and addressed with respectful language.

(d) Reasonable accommodation for your disability when reporting, and during investigations and administrative proceedings.

(e) Request an order that prohibits anyone who has abandoned, abused, financially exploited, or neglected you from remaining in your home, having contact with you, or accessing your money or property.

(f) Receive from the department of social and health services information and appropriate referrals to other agencies that can advocate, investigate, or take action.

(g) Be informed of the status of investigations, proceedings, court actions, and outcomes by the agency that is handling any case in which you are a victim.

(h) Request referrals for advocacy or legal assistance to help with safety planning, investigations, and hearings.

(i) Complain to the department of social and health services, formally or informally, about investigations or proceedings, and receive a prompt response."

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(2) This section shall not be construed to create any new cause of action or limit any existing remedy.

**NEW SECTION. Sec. 4.** RCW 74.34.021 (Vulnerable adult--Definition) and 1999 c 336 s 6 are each repealed."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5042.

Senators Keiser and Becker spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5042.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5042 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5042, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5042, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Brown, Delvin, Hewitt and Zarelli

SUBSTITUTE SENATE BILL NO. 5042, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5061 with the following amendment(s): 5061.E AMH CLIB H2511.1; 5061.E AMH TR H1934.2

On page 40, after line 23, insert the following:

"**Sec. 49.** RCW 46.16A.405 and 2010 c 161 s 437 are each amended to read as follows:

This chapter applies to the following:

(1) Campers are considered vehicles for the purposes of vehicle registration and license plate display, except for campers held as part of a manufacturer's or dealer's inventory that:

(a) Are unoccupied at all times;

(b) Have been issued a dated demonstration permit that is valid for no more than seventy-two hours. The permit must be carried in the vehicle on which the camper is mounted; and

(c) Are mounted on a properly registered vehicle.

(2) Mopeds are considered vehicles for the purposes of vehicle registration and license plate display. The department, county auditor or other agent, or subagent appointed by the director shall charge the fee required under RCW 46.17.200(1)(a) when issuing an original moped license plate. Mopeds are exempt from personal property taxes and vehicle excise taxes imposed under chapter 82.44 RCW.

(3) Wheelchair conveyances are considered vehicles for the purposes of vehicle registration and license plate display. Wheelchair conveyances that do not meet braking equipment requirements described in RCW 46.37.340 must be registered as mopeds.

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title.

On page 44, after line 33, insert the following:

"**Sec. 55.** RCW 46.17.200 and 2010 c 161 s 518 are each amended to read as follows:

(1) In addition to all other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge:

(a) The following license plate fees for each license plate, unless the owner or type of vehicle is exempt from payment:

| FEE TYPE                     | FEE           | DISTRIBUTION         |
|------------------------------|---------------|----------------------|
| Reflectivity                 | \$ 2.00       | RCW 46.68.070        |
| Replacement                  | \$ 10.00      | RCW 46.68.070        |
| Replacement,<br>motorcycle   | \$ 2.00       | RCW 46.68.070        |
| <u>Original issue, moped</u> | <u>\$1.50</u> | <u>RCW 46.68.070</u> |

(b) A license plate retention fee, as required under RCW 46.16A.200(10)(a)(iii), of twenty dollars if the owner wishes to retain the current license plate number upon license plate replacement, unless the owner or type of vehicle is exempt from payment. The twenty dollar fee must be deposited in the multimodal transportation account created in RCW 47.66.070.

(c) A ten dollar license plate transfer fee, as required under RCW 46.16A.200(8)(a), when transferring standard issue license plates from one vehicle to another, unless the owner or type of vehicle is exempt from payment. The ten dollar license plate transfer fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(d) Former prisoner of war license plates, as described in RCW 46.18.235, may be transferred to a replacement vehicle upon payment of a five dollar license plate fee, in addition to any other fee required by law.

(2) The department may, upon request, provide license plates that have been used and returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per license plate to cover costs or recovery for postage and handling. The department may waive the fee for license plates used in educational projects and may, by rule, provide standards for the fee waiver and restrictions on the number of license plates provided to any one person. The fee must be deposited in the motor vehicle fund created in RCW 46.68.070."

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title.

On page 74, at the beginning of line 7, strike "(1)" and insert "(((4)))"

On page 74, after line 22, strike all of subsection (2) and insert the following:

"(((2) The vehicle identification number inspection fee created in RCW 46.17.130 must be credited as follows:

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(a) Fifteen dollars to the state patrol highway account created in RCW 46.68.030; and  
 (b) Fifty dollars to the motor vehicle fund created in RCW 46.68.070.)"

On page 76, line 25, after "section" insert "in the custody of the state treasurer"

On page 46, after line 25, insert the following:

"Sec. 58. RCW 46.17.315 and 2010 c 161 s 524 are each amended to read as follows:

(1) Before accepting an application for a motor vehicle base plated in the state of Washington that is subject to highway inspections and compliance reviews by the Washington state patrol under RCW 46.32.080 or the international registration plan if base plated in a foreign jurisdiction, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a sixteen dollar commercial vehicle safety enforcement fee in addition to any other fees and taxes required by law. The sixteen dollar fee:

(a) Must be apportioned for those vehicles operating interstate and registered under the international registration plan;

(b) Does not apply to trailers; and

(c) Is not refundable when the motor vehicle is no longer subject to RCW 46.32.080.

(2) The department may deduct an amount equal to the cost of administering the program. All remaining fees must be deposited with the state treasurer and credited to the state patrol highway account of the motor vehicle fund created in RCW 46.68.070."

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title.

On page 49, line 10, after "\$" strike "~~(25.00)~~" and insert "25.00"

On page 49, line 11, strike "30.00"

On page 51, line 26, after "organizations," strike "the department," and insert "~~((the department))~~"

On page 56, line 35, after "plates" insert "under subsection (2)(b) of this section"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5061.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5061.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5061 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5061, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5061, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline,

Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Delvin, Hewitt and Zarelli

ENGROSSED SENATE BILL NO. 5061, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5171 with the following amendment(s): 5171-S.E2 AMH ENGR H2266.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 29A.04.255 and 2004 c 266 s 5 are each amended to read as follows:

The secretary of state or a county auditor shall accept and file in his or her office electronic (~~((facsimile))~~) transmissions of the following documents:

(1) Declarations of candidacy;

(2) County canvass reports;

(3) Voters' pamphlet statements;

(4) Arguments for and against ballot measures that will appear in a voters' pamphlet;

(5) Requests for recounts;

(6) Certification of candidates and measures by the secretary of state;

(7) Direction by the secretary of state for the conduct of a (~~((mandatory))~~) recount;

(8) Requests for (~~((absentee))~~) ballots;

(9) Any other election related document authorized by rule adopted by the secretary of state under RCW (~~((29A.04.610))~~) 29A.04.611.

The acceptance by the secretary of state or the county auditor is conditional upon the document being filed in a timely manner, being legible, and otherwise satisfying the requirements of state law or rules with respect to form and content.

(If the original copy of a document must be signed and a copy of the document is filed by facsimile transmission under this section, the original copy must be subsequently filed with the official with whom the facsimile was filed. The original copy must be filed by a deadline established by the secretary by rule.) The secretary may by rule require that the original of any document, a copy of which is filed by (~~((facsimile))~~) electronic transmission under this section, also be filed by a deadline established by the secretary by rule.

Sec. 2. RCW 29A.04.311 and 2006 c 344 s 1 are each amended to read as follows:

(~~((Nominating))~~) Primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the (~~((third))~~) first Tuesday of the preceding August.

Sec. 3. RCW 29A.04.321 and 2009 c 413 s 2 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide

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general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- ~~((e))~~ (d) The day of the primary as specified by RCW 29A.04.311; or
- ~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((and (b)))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection 2)~~((e) or)~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection 2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to the dates set forth in subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections ~~((except for those elections held pursuant to a home rule charter adopted under Article XI, section 4 of the state Constitution))~~. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

**Sec. 4.** RCW 29A.04.330 and 2009 c 413 s 4, 2009 c 144 s 3, and 2009 c 413 s 3 are each reenacted and amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is

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a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and

(d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, may call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The second Tuesday in February;
- (b) The third Tuesday in April until January 1, 2013;
- (c) The fourth Tuesday in April on or after January 1, 2013;
- ~~((e))~~ (d) The day of the primary election as specified by RCW 29A.04.311; or
- ~~((d))~~ (e) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((and (b)))~~ through (c) of this section must be presented to the county auditor at least ~~((forty-five))~~ forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection 2)~~((e) or)~~ (d) of this section must be presented to the county auditor ~~((at least eighty-four days prior to the election date))~~ no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection 2)(e) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through ~~((d))~~ (e) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection 2)~~((e) and)~~ (d) and (e) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

**Sec. 5.** RCW 29A.16.040 and 2004 c 266 s 10 are each amended to read as follows:

The county legislative authority of each county in the state hereafter formed shall, at their first session, divide their respective counties into election precincts and establish the boundaries of the precincts. The county auditor shall thereupon designate the voting place for each such precinct or whether the precinct is a vote by mail precinct.

(1) Precinct boundaries may be altered at any time as long as sufficient time exists prior to a given election for the necessary procedural steps to be honored. Except as permitted under subsection (5) of this section, no precinct ~~((boundaries))~~ changes may be ~~((changed))~~ made during the period starting ~~((on the thirtieth))~~ fourteen days prior to the first day for candidates to file for the primary election and ending with the day of the general election.

(2) The county legislative authority may establish by ordinance a limitation on the maximum number of active registered voters in each precinct within its jurisdiction. The limitation may be different for precincts based upon the method of voting used for

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such precincts and the number may be less than the number established by law, but in no case may the number exceed that authorized by law.

(3) Precincts in which voting machines or electronic voting devices are used may contain as many as nine hundred active registered voters. The number of poll-site ballot counting devices at each polling place is at the discretion of the auditor. The number of devices must be adequate to meet the expected voter turnout.

(4) On petition of twenty-five or more voters resident more than ten miles from any polling site, the county legislative authority shall establish a separate voting precinct therefor.

(5) The county auditor shall temporarily adjust precinct boundaries when a city or town annexes unincorporated territory to the city or town, or whenever unincorporated territory is incorporated as a city or town. The adjustment must be made as soon as possible after the approval of the annexation or incorporation. The temporary adjustment must be limited to the minimum changes necessary to accommodate the addition of the territory to the city or town, or to establish the eligible voters within the boundaries of the new city or town, and remains in effect only until precinct boundary modifications reflecting the annexation or incorporation are adopted by the county legislative authority.

(6) In determining the number of active registered voters for the purposes of this section, persons who are ongoing absentee voters under RCW 29A.40.040 shall not be counted. Nothing in this subsection may be construed as altering the vote tallying requirements of RCW 29A.60.230.

**Sec. 6.** RCW 29A.24.040 and 2006 c 344 s 5 are each amended to read as follows:

A candidate may file his or her declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW 29A.24.031 (1) through (4).

(2) Electronic filing may begin at 9:00 a.m. the first (~~Monday in June~~) day of the filing period and continue through 4:00 p.m. the (~~following Friday~~) last day of the filing period.

((3) In case of special filing periods established in this chapter, electronic filings may be accepted beginning at 9:00 a.m. on the first day of the special filing period through 4:00 p.m. the last day of the special filing period.))

**Sec. 7.** RCW 29A.24.050 and 2006 c 344 s 6 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer (~~(no earlier than the first Monday in June)~~) beginning the Monday two weeks before Memorial day and (no later than) ending the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

**Sec. 8.** RCW 29A.24.131 and 2004 c 271 s 115 are each amended to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the close of business on the (~~Thursday~~) Monday following the last day for candidates to file under RCW 29A.24.050 by filing, with the officer with whom the declaration of candidacy was filed, a signed request that his or her name not be printed on the

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ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under this title. (~~The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the ballots for that precinct have not been printed. The filing officer may permit the withdrawal of a filing for any elected office of a city, town, or special district at the request of the candidate at any time before a primary if the primary ballots for that city, town, or special district have not been ordered.~~) No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

**Sec. 9.** RCW 29A.24.141 and 2004 c 271 s 162 are each amended to read as follows:

A void in candidacy (~~(for a nonpartisan office)~~) occurs when an election (~~(for such office, except for the short term,)~~) has been scheduled and no valid declaration of candidacy has been filed for the position or all persons filing such valid declarations of candidacy have died or been disqualified.

**Sec. 10.** RCW 29A.24.171 and 2006 c 344 s 7 are each amended to read as follows:

(Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three-day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the eleventh Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.)) (1) If, prior to the first day of the regular filing period, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term for which a successor must be elected at the next general election, filings for that office shall be accepted during the regular filing period. The filing officer shall provide notice of the vacancy and filing period to newspapers, radio, and television in the county, and online. The position shall appear on the primary and general election ballots unless no primary is required or unless a candidate for superior court judge is entitled to a certificate of election pursuant to Article 4, section 29 of the state Constitution.

(2) If, on the first day of the regular filing period or later, a vacancy occurs in an office that is not scheduled to appear on the general election ballot, leaving an unexpired term, the election of the successor shall occur at the next succeeding general election that the office is allowed by law to have an election.

**Sec. 11.** RCW 29A.24.181 and 2006 c 344 s 8 are each amended to read as follows:

(Filings for a nonpartisan office (~~other than judge of the supreme court or superintendent of public instruction~~)) (1) If a void in candidacy occurs following the regular filing period and deadline to withdraw, but prior to the day of the primary, filings for that office shall be reopened for a period of three normal business days, such three-day period to be fixed by the (~~(election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other~~

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~~means as may now or hereafter be provided by law, when:~~

~~—(1) A void in candidacy for such nonpartisan office occurs on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election; or~~

~~—(2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten day period immediately following the last day allotted for a candidate to withdraw; or~~

~~—(3) A vacancy occurs in any nonpartisan office on or after the eleventh Tuesday prior to a primary but prior to the eleventh Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.~~

~~The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.)) filing officer. The filing officer shall provide notice of the special filing period to newspapers, radio, and television in the county, and online. The candidate receiving a plurality of the votes cast for that office in the general election is deemed elected.~~

(2) This section does not apply to voids in candidacy in the office of precinct committee officer, which are filled by appointment pursuant to RCW 29A.28.071.

**Sec. 12.** RCW 29A.24.191 and 2006 c 344 s 9 are each amended to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when(:

~~—(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the eleventh Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;~~

~~—(2) Except as otherwise specified in RCW 29A.24.181, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the eleventh Tuesday prior to a primary;~~

~~—(3) In other elections for nonpartisan office)) a void in candidacy occurs ((or a vacancy occurs involving an unexpired term to be filled on or after the eleventh Tuesday prior to an election)) following the special three day filing period required by RCW 29A.24.181.~~

**Sec. 13.** RCW 29A.24.311 and 2004 c 271 s 117 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day ~~((before the primary or election))~~ ballots must be mailed according to RCW 29A.40.070. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.091.

Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by major political parties pursuant to RCW 29A.28.021 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if the manner in which the write-in is done does not make the office or position clear.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

**Sec. 14.** RCW 29A.28.041 and 2006 c 344 s 12 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the ((special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists)) primary at least seventy days after issuance of the writ, and fixing a date for the election at least seventy days after the date of the primary. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than ~~((six))~~ eight months before a state general election and before the ~~((second Friday following the))~~ close of the filing period for that general election, the special primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the ~~((second Friday following the))~~ close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. ~~((The last day of the filing period shall not be later than the sixth Tuesday before the primary at which major political party candidates are to be nominated.))~~ The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the ~~((second Friday following the))~~ close of the filing period, a special primary~~((; special))~~ and vacancy election~~((; and the minor party and independent candidate conventions))~~ to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

**Sec. 15.** RCW 29A.36.010 and 2005 c 2 s 12 are each reenacted and amended to read as follows:

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~~((On or before the day following the last day allowed for candidates to withdraw under RCW 29A.24.130))~~ Not later than the Tuesday following the regular filing period, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party preference or independent designation as shown on filed declarations.

**Sec. 16.** RCW 29A.40.070 and 2006 c 344 s 13 are each amended to read as follows:

(1) Except where a recount or litigation ((under RCW 29A.68.011)) is pending, the county auditor ((shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor)) must mail ((absentee)) ballots to each voter ((for whom the county auditor has received a request nineteen days before the primary or election)) at least eighteen days before ((the)) each primary or election, and as soon as possible for all subsequent registration changes. ((For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days)).

(2) ((At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters.)) Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each special election and at least forty-five days before each primary or general election. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots ~~((prescribed in subsection (1) of this section were available and))~~ were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

~~((4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.~~

(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.

(6)) Failure to ((have absentee ballots available and mailed)) mail ballots as prescribed in ((subsection (1) of)) this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

**Sec. 17.** RCW 29A.40.091 and 2010 c 125 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to seal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter

must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return ~~((#))~~ the ballot to the county auditor.

(2) The ((instructions that accompany a ballot for a partisan primary must include instructions for voting the applicable ballot style, as provided in chapter 29A.36 RCW. The voter's name and address must be printed on the larger return envelope, which must also contain a declaration by the voter reciting his or her qualifications and stating that he or she)) voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election((, together with a summary of the penalties for any violation of any of the provisions of this chapter)). The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she has been convicted of a felony and has not had his or her voting rights restored; and((, except as otherwise provided by law,)) it is illegal to cast a ballot or sign a return envelope on behalf of another voter. The ((return envelope must provide space for the)) voter ((to)) must indicate the date on which the ballot was voted and ((for the voter to)) sign the ((oath)) declaration. ((It)) The ballot materials must also contain a space so that the voter may include a telephone number. ((A summary of the applicable penalty provisions of this chapter must be printed on the return envelope immediately adjacent to the space for the voter's signature. The signature of the voter on the return envelope must affirm and attest to the statements regarding the qualifications of that voter and to the validity of the ballot. The return envelope may provide secrecy for the voter's signature and optional telephone number.))

(3) For overseas and service voters, the signed declaration on the return envelope constitutes the equivalent of a voter registration for the election or primary for which the ballot has been issued. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor ~~((by whom it was issued))~~ no later than 8:00 p.m. the day of the election or primary, or ~~((attach sufficient first class postage, if applicable, and))~~ mail the ballot to the ~~((appropriate))~~ county auditor with a postmark no later than the day of the election or primary ~~((for which the ballot was issued.~~

~~— If the county auditor chooses to forward ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor. This explanation may be provided on the ballot envelope, on an enclosed insert, or printed directly on the ballot itself. If the information is not included, the envelope must clearly indicate that the ballot is not to be forwarded and that return postage is guaranteed)).~~ Service and overseas voters must be provided with instructions and a secrecy cover sheet for returning the ballot and signed declaration by fax or e-mail. A voted ballot and signed declaration returned by fax or e-mail must be received by 8:00 p.m. on the day of the election or primary.

**Sec. 18.** RCW 29A.40.110 and 2009 c 369 s 40 are each amended to read as follows:

(1) The opening and subsequent processing of return envelopes for any primary or election may begin upon receipt. The tabulation of absentee ballots must not commence until after 8:00 p.m. on the day of the primary or election.

(2) All received ~~((absentee))~~ return envelopes must be placed in secure locations from the time of delivery to the county auditor until their subsequent opening. After opening the return envelopes, the county canvassing board shall place all of the ballots in secure storage until ~~((after 8:00 p.m. of the day of the primary or election))~~

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~~processing. ((Absentee ballots that are to be tabulated on an electronic vote tallying system))~~ Ballots may be taken from the inner envelopes and all the normal procedural steps may be performed to prepare these ballots for tabulation.

(3) ~~((Before opening a returned absentee ballot,))~~ The canvassing board, or its designated representatives, shall examine the postmark ~~((statement,))~~ on the return envelope and signature on the ~~((return envelope that contains the security envelope and absentee ballot))~~ declaration before processing the ballot. The ballot must either be received no later than 8:00 p.m. on the day of the primary or election, or must be postmarked no later than the day of the primary or election. All personnel assigned to verify signatures must receive training on statewide standards for signature verification. Personnel shall verify that the voter's signature on the ~~((return envelope))~~ ballot declaration is the same as the signature of that voter in the registration files of the county. Verification may be conducted by an automated verification system approved by the secretary of state. ~~((For any absentee ballot,))~~ A variation between the signature of the voter on the ~~((return envelope))~~ ballot declaration and the signature of that voter in the registration files due to the substitution of initials or the use of common nicknames is permitted so long as the surname and handwriting are clearly the same.

(4) ~~((For registered voters casting absentee ballots))~~ If the postmark is missing or illegible, the date on the ~~((return envelope))~~ ballot declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot ~~((if the postmark is missing or is illegible))~~. For overseas voters and service voters, the date on the ~~((return envelope))~~ declaration to which the voter has attested determines the validity, as to the time of voting, for that ~~((absentee))~~ ballot. Any overseas voter or service voter may return the signed declaration and voted ballot by fax or e-mail by 8:00 p.m. on the day of the primary or election, and the county auditor must use established procedures to maintain the secrecy of the ballot.

**Sec. 19.** RCW 29A.56.030 and 2006 c 344 s 15 are each amended to read as follows:

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than ~~((sixty))~~ seventy-five days before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29A.72.230 and 29A.72.240.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least ~~((fifty-two))~~ sixty-seven days before the presidential preference primary, executes and files with the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary

ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

**Sec. 20.** RCW 29A.60.190 and 2006 c 344 s 16 are each amended to read as follows:

(1) Except as provided by subsection ~~((3))~~ (2) of this section, ~~((fifteen))~~ fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. The county canvassing board must complete the canvass and certify the results of the April 17, 2012, special election ten days after election day. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

(2) ~~((At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.~~

~~(3))~~ On or before the thirtieth day after an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, the canvassing board shall complete the canvass and certify the results.

**Sec. 21.** RCW 29A.60.190 and 2006 c 344 s 17 are each amended to read as follows:

~~((1) Fifteen))~~ Fourteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ~~((absentee))~~ ballot that was returned before ~~((the closing of the polls))~~ 8:00 p.m. on the day of the special election, general election, or primary, and each ~~((absentee))~~ ballot bearing a postmark on or before the date of the ~~((primary or))~~ special election, general election, or primary and received ~~((on or before the date on which the primary or election is certified))~~ no later than the day before certification, must be included in the canvass report.

~~((2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.))~~

**Sec. 22.** RCW 29A.60.240 and 2003 c 111 s 1524 are each amended to read as follows:

The secretary of state shall, as soon as possible but in any event not later than ~~((the third Tuesday))~~ seventeen days following the primary, canvass and certify the returns of all primary elections as to candidates for state offices, United States senators and representatives in Congress, and all other candidates whose district extends beyond the limits of a single county.

**Sec. 23.** RCW 29A.64.011 and 2004 c 271 s 177 are each amended to read as follows:

An officer of a political party or any person for whom votes were cast in a primary who ~~((was not declared nominated))~~ did not qualify for the general election may file a written application for a recount of the votes or a portion of the votes cast at that primary for all persons for whom votes were cast for ~~((nomination to))~~ that office.

An officer of a political party or any person for whom votes were cast at any election may file a written application for a recount of the votes or a portion of the votes cast at that election for all candidates for election to that office.

Any group of five or more registered voters may file a written application for a recount of the votes or a portion of the votes cast

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upon any question or issue. They shall designate one of the members of the group as chair and shall indicate the voting residence of each member of the group.

An application for a recount of the votes cast for an office or on a ballot measure must be filed with the officer with whom filings are made for the jurisdiction.

An application for a recount must specify whether the recount will be done manually or by the vote tally system. A recount done by the vote tally system must use programming that recounts and reports only the office or ballot measure in question. The county shall also provide for a test of the logic and accuracy of that program.

An application for a recount must be filed within ~~((three))~~ two business days after the county canvassing board or secretary of state has declared the official results of the primary or election for the office or issue for which the recount is requested.

This chapter applies to the recounting of votes cast by paper ballots and to the recounting of votes recorded on ballots counted by a vote tally system.

**Sec. 24.** RCW 29A.64.030 and 2005 c 243 s 20 are each amended to read as follows:

An application for a recount shall state the office for which a recount is requested and whether the request is for all or only a portion of the votes cast in that jurisdiction of that office. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29A.64.081.

The county canvassing board shall determine the date, time, and place or places at which the recount will be conducted. Not less than ~~((two days))~~ one day before the date of the recount, the county auditor shall ~~((mail a notice of the time and place of the recount to))~~ notify the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office of the date, time, and place of the recount. ~~((The county auditor shall also notify the affected parties by either telephone, fax, e mail, or other electronic means at the time of mailing. At least three attempts must be made over a two day period to notify the affected parties or until the affected parties have received the notification. Each attempt to notify affected parties must request a return response indicating that the notice has been received.))~~ Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

**Sec. 25.** RCW 29A.68.011 and 2007 c 374 s 3 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the official certification of the election.

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than ~~((the second Friday))~~ two days following the closing of the filing period ~~((for nominations))~~ for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

**Sec. 26.** RCW 29A.76.010 and 2003 c 111 s 1901 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) No later than eight months after its receipt of federal decennial census data, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. The municipal corporation, county, or

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district shall hold at least one public hearing on the redistricting plan at least one week before adoption of the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within ~~((forty-five))~~ fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

**Sec. 27.** RCW 42.12.040 and 2006 c 344 s 29 and 2005 c 2 s 15 are each reenacted and amended to read as follows:

(1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the ~~((eleventh Tuesday prior to the primary for the next general election following the occurrence of the vacancy.))~~ first day of the regular filing period, the position must be open for filing during the regular filing period as provided in RCW 29A.24.171 and a successor shall be elected ((to that office at that)) at the general election. Except during the last year of the term of office, if such a vacancy occurs on or after the ~~((eleventh Tuesday prior to the primary for that general election))~~ first day of the regular filing period, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW 29A.04.133 and shall continue through the term for which he or she was elected.

**Sec. 28.** RCW 42.12.070 and 1994 c 223 s 1 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new

appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in ~~((RCW 29.15.190 and 29.21.410))~~ chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected ~~((that occurs twenty-eight or more days after the occurrence of the vacancy))~~. If needed, special filing periods shall be authorized as provided in ~~((RCW 29.15.170 and 29.15.180))~~ chapter 29A.24 RCW for qualified persons to file for the vacant office. A primary shall be held to ~~((nominate))~~ qualify candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected. The person elected shall take office immediately and serve the remainder of the unexpired term.

If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW ~~((29.04.135))~~ 29A.04.133 and shall service both the remainder of the unexpired term and the succeeding term.

**NEW SECTION. Sec. 29.** The following acts or parts of acts are each repealed:

(1) RCW 29A.04.310 (Primaries) and 2005 c 2 s 8, 2003 c 111 s 143, 1977 ex.s. c 361 s 29, 1965 ex.s. c 103 s 6, & 1965 c 9 s 29.13.070;

(2) RCW 29A.24.151 (Notice of void in candidacy) and 2004 c 271 s 163;

(3) RCW 29A.24.161 (Filings to fill void in candidacy--How made) and 2004 c 271 s 164;

(4) RCW 29A.36.011 (Certifying primary candidates) and 2004 c 271 s 124; and

(5) RCW 29A.40.150 (Overseas, service voters) and 2009 c 415 s 12, 2006 c 206 s 7, 2005 c 245 s 1, 2003 c 111 s 1015, 1993 c 417 s 7, 1987 c 346 s 19, & 1983 1st ex.s. c 71 s 8.

**NEW SECTION. Sec. 30.** The following acts or parts of acts are each repealed:

(1) RCW 29A.24.210 (Vacancy in partisan elective office--Special filing period) and 2005 c 2 s 10 & 2003 c 111 s 621; and

(2) RCW 29A.24.211 (Vacancy in partisan elective office--Special filing period) and 2006 c 344 s 10 & 2004 c 271 s 116.

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NEW SECTION. **Sec. 31.** Section 21 of this act takes effect July 1, 2013.

NEW SECTION. **Sec. 32.** Section 20 of this act expires July 1, 2013.

NEW SECTION. **Sec. 33.** Except for sections 10 through 12, 21, 27, 28, and 30 of this act, this act takes effect January 1, 2012.

NEW SECTION. **Sec. 34.** Sections 10 through 12, 27, 28, and 30 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5171.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5171.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5171 by voice vote.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5171, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5171, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Delvin, Hewitt and Zarelli

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5171, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5065 with the following amendment(s): 5065-S AMH JUDI H2219.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 16.52.011 and 2009 c 287 s 1 are each amended to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

(2) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Abandons" means the knowing or reckless desertion of an animal by its owner or the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care.

(b) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(c) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(d) "Animal control officer" means any individual employed, contracted, or appointed pursuant to RCW 16.52.025 by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in ~~((f))~~ (g) of this subsection and RCW 16.52.025.

(e) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(f) "Food" means food or feed appropriate to the species for which it is intended.

(g) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under RCW 16.52.025.

~~((g))~~ (h) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

~~((h))~~ (i) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species and that is sufficient to provide a reasonable level of nutrition for the animal and is easily accessible to the animal.

~~((i))~~ (j) "Necessary water" means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal.

(k) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

~~((j))~~ (l) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

~~((k))~~ (m) "Similar animal" means ~~((an animal classified in the same genus))~~: (i) For a mammal, another animal that is in the same taxonomic order; or (ii) for an animal that is not a mammal, another animal that is in the same taxonomic class.

~~((l))~~ (n) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

**Sec. 2.** RCW 16.52.015 and 2003 c 53 s 110 are each amended to read as follows:

(1) Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

(2) Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning

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the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Washington.

(3) Animal control officers have the following enforcement powers when enforcing this chapter:

(a) The power to issue citations based on probable cause to offenders for civil infractions and misdemeanor and gross misdemeanor violations of this chapter or RCW 9.08.070 through 9.08.078 or ~~((81.56.120))~~ 81.48.070;

(b) The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or ~~((81.56.120))~~ 81.48.070. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

(c) The power to carry nonfirearm protective devices for personal protection;

(d) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or ~~((81.56.120))~~ 81.48.070, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or ~~((81.56.120))~~ 81.48.070, a law enforcement agency officer may arrest the alleged offender.

**Sec. 3.** RCW 16.52.085 and 2009 c 287 s 2 are each amended to read as follows:

(1) If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated this chapter or ~~((owns or possesses))~~ a person owns, cares for, or resides with an animal in violation of an order issued under RCW 16.52.200~~((3))~~ (4) and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or

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suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care. When a court has prohibited the owner from owning ~~((or possessing))~~, caring for, or residing with a similar animal under RCW 16.52.200~~((3))~~ (4), the agency having custody of the animal may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.

(5) If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court of the county where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

(6) In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

(7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

**Sec. 4.** RCW 16.52.200 and 2009 c 287 s 3 are each amended to read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur. ~~((If forfeiture is ordered, the owner))~~

(4) Any person convicted of animal cruelty shall be prohibited from owning ~~((or))~~, caring for, or residing with any similar animals for a period of time as follows:

(a) Two years for a first conviction of animal cruelty in the second degree under RCW 16.52.207;

(b) Permanently for a first conviction of animal cruelty in the first degree under RCW 16.52.205;

(c) Permanently for a second or subsequent conviction of animal cruelty, except as provided in subsection ~~((4))~~ (5) of this section.

~~((4))~~ (5) If a person has no more than two convictions of animal cruelty and each conviction is for animal cruelty in the

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second degree, the person may petition the sentencing court in which the most recent animal cruelty conviction occurred, for a restoration of the right to own or possess a similar animal five years after the date of the second conviction. In determining whether to grant the petition, the court shall consider, but not be limited to, the following:

- (a) The person's prior animal cruelty in the second degree convictions;
- (b) The type of harm or violence inflicted upon the animals;
- (c) Whether the person has completed the conditions imposed by the court as a result of the underlying convictions; ~~((and))~~
- (d) Whether the person complied with the prohibition on owning, caring for, or residing with similar animals; and
- (e) Any other matters the court finds reasonable and material to consider in determining whether the person is likely to abuse another animal.

The court may delay its decision on forfeiture under subsection (3) of this section until the end of the probationary period.

~~((5))~~ (6) In addition to fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

~~((6))~~ (7) If convicted, the defendant shall also pay a civil penalty of one thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

~~((7))~~ (8) If a person violates the prohibition on owning, caring for, or residing with similar animals under subsection (4) of this section, that person:

- (a) Shall pay a civil penalty of one thousand dollars for the first violation;
  - (b) Shall pay a civil penalty of two thousand five hundred dollars for the second violation; and
  - (c) Is guilty of a gross misdemeanor for the third and each subsequent violation.
- (9) As a condition of the sentence imposed under this chapter or RCW 9.08.070 through 9.08.078, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

**Sec. 5.** RCW 16.52.207 and 2007 c 376 s 1 are each amended to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

- (a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;
- (b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or
- (c) Abandons the animal and (i) as a result of being abandoned, the animal suffers bodily harm; or (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

~~(3)((4))~~ Animal cruelty in the second degree ~~((under subsection (1), (2)(a), or (2)(b) of this section))~~ is a gross misdemeanor.

~~((b))~~ Animal cruelty in the second degree under subsection (2)(c) of this section is a gross misdemeanor.)

(4) In any prosecution of animal cruelty in the second degree under subsection (1) or (2)(a) of this section, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5065.

Senator Carrell spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5065.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5065 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5065, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No 5065, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Delvin, Hewitt and Zarelli

SUBSTITUTE SENATE BILL NO. 5065, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5098 with the following amendment(s): 5098-S.E AMH ENGR H2394.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.56.230 and 2010 c 106 s 102 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

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(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2) Personal information, including but not limited to, addresses, telephone numbers, personal electronic mail addresses, social security numbers, emergency contact and date of birth information for a participant in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs. Emergency contact information may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

~~((3))~~ (4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

~~((4))~~ (5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

~~((5))~~ (6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093; and

~~((6))~~ (7) Documents and related materials and scanned images of documents and related materials used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicaid."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5098.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5098.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5098 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5098, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5098, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford,

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Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senator Holmquist Newbry

Excused: Senators Delvin, Hewitt and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5098, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5122 with the following amendment(s): 5122-S.E AMH HINK MORI 073

On page 33, after line 14, insert the following:

"NEW SECTION. Sec. 18. A new section is added to chapter 48.43 RCW to read as follows:

Health care sharing ministries are not health carriers as defined in RCW 48.43.005 or insurers as defined in RCW 48.01.050. For purposes of this section, "health care sharing ministry" has the same meaning as in 26 U.S.C. Sec. 5000A."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5122.

Senators Keiser and Baxter spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5122.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5122 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5122, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5122, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner and Ericksen

Excused: Senators Delvin, Hewitt and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5122, as amended by the House, having received the constitutional

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majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Eide: “We’d just like to thank you for putting up with us and our red hats and ties. I know have decorum.”

PERSONAL PRIVILEGE

Senator Chase: “We like your tie too.”

REPLY BY THE PRESIDENT

President Owen: “Well thank you very much.”

MOTION

At 11:13 a.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 15, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**NINETY SIXTH DAY**

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MORNING SESSION

---

Senate Chamber, Olympia, Friday, April 15, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Delvin.

The Sergeant at Arms Color Guard consisting of Pages Noelle Oppenhuizen and Caleb Carlson, presented the Colors. Pastor Dan Sailer of Stanwood United Methodist Church offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 13, 2011

SB 5385 Prime Sponsor, Senator Regala: Increasing revenue to the state wildlife account. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5385 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter and Holmquist Newbry.

Passed to Committee on Rules for second reading.

April 13, 2011

SB 5622 Prime Sponsor, Senator Ranker: Concerning recreation access on state lands. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5622 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hatfield; Hewitt; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Holmquist Newbry; Honeyford and Pflug.

Passed to Committee on Rules for second reading.

April 14, 2011

SB 5846 Prime Sponsor, Senator Brown: Offering health benefit subsidies for certain retired public employees. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5846 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baxter and Hewitt.

Passed to Committee on Rules for second reading.

April 13, 2011

SHB 1312 Prime Sponsor, Committee on Health Care & Wellness: Regarding statutory changes needed to implement a waiver to receive federal assistance for certain state purchased public health care programs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 14, 2011

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- HOUSE BILL NO. 1040,
- SUBSTITUTE HOUSE BILL NO. 1084,
- SUBSTITUTE HOUSE BILL NO. 1089,
- SUBSTITUTE HOUSE BILL NO. 1103,
- HOUSE BILL NO. 1178,
- HOUSE BILL NO. 1334,
- SECOND SUBSTITUTE HOUSE BILL NO. 1405,
- HOUSE BILL NO. 1407,
- SUBSTITUTE HOUSE BILL 1663,

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SUBSTITUTE HOUSE BILL NO. 1718,  
 SUBSTITUTE HOUSE BILL NO. 1761,  
 SUBSTITUTE HOUSE BILL NO. 1783,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789,  
 SUBSTITUTE HOUSE BILL NO. 1811,  
 SUBSTITUTE HOUSE BILL NO. 1858,  
 SUBSTITUTE HOUSE BILL NO. 1861,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902.  
 and the same are herewith transmitted.

SB 5950 by Senators Roach and Conway

AN ACT Relating to nonstate pension plans offered by towns; and amending RCW 35.27.130.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 14, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1135,  
 SUBSTITUTE HOUSE BILL NO. 1170,  
 SUBSTITUTE HOUSE BILL NO. 1188,  
 SUBSTITUTE HOUSE BILL NO. 1257,  
 SUBSTITUTE HOUSE BILL NO. 1328,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634,  
 SUBSTITUTE HOUSE BILL NO. 1829,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922,  
 SUBSTITUTE HOUSE BILL NO. 1933,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5948 by Senators Pflug and Keiser

AN ACT Relating to improving transparency and containing costs for state-purchased outpatient services; amending RCW 70.41.020, 51.36.080, 84.36.840, 84.36.040, and 43.70.052; adding a new section to chapter 41.05 RCW; adding a new section to chapter 74.09 RCW; and adding a new section to chapter 70.41 RCW.

Referred to Committee on Ways & Means.

SB 5949 by Senators Chase, Prentice, Rockefeller, Kline, Keiser, Kohl-Welles, Nelson and Conway

AN ACT Relating to repealing the tax exemption on intangible property to provide funding for essential government services; creating new sections; and repealing RCW 84.36.070.

Referred to Committee on Ways & Means.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5141 with the following amendment(s): 5141 AMH TR H2188.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.510 and 2002 c 352 s 17 are each amended to read as follows:

(1) **Motorcycle instruction permit.** A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply for a motorcycle instruction permit. The department may issue a motorcycle instruction permit after the applicant has successfully passed all parts of the motorcycle examination other than the driving test. The director shall collect a fee of fifteen dollars for the motorcycle instruction permit or renewal, and deposit the fee in the motorcycle safety education account of the highway safety fund.

(2) **Effect of motorcycle instruction permit.** A person holding a motorcycle instruction permit may drive a motorcycle upon the public highways if the person has immediate possession of the permit and a valid driver's license. An individual with a motorcyclist's instruction permit may not carry passengers and may not operate a motorcycle during the hours of darkness.

(3) **Term of motorcycle instruction permit.** A motorcycle instruction permit is valid for ninety days from the date of issue.

(a) The department may issue one additional ninety-day permit.

(b) The department may issue a third motorcycle instruction permit ~~((if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency))~~ upon presentation of documented evidence that the permittee is enrolled in a motorcycle skills education program as authorized in RCW 46.81A.020 with a class start date prior to the expiration of the third permit. The department may not issue more than three motorcycle instruction permits to an applicant within a five-year period."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Senate Bill No. 5141.

Senator Haugen spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Delvin and Fain were excused.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Senate Bill No. 5141.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5141 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5141, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5141, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Hatfield and Holmquist Newbry

Excused: Senator Delvin

SENATE BILL NO. 5141, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

- ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5021,
- SECOND SUBSTITUTE SENATE BILL NO. 5034,
- SENATE BILL NO. 5035,
- SUBSTITUTE SENATE BILL NO. 5036,
- SUBSTITUTE SENATE BILL NO. 5042,
- ENGROSSED SENATE BILL NO. 5061,
- SUBSTITUTE SENATE BILL NO. 5065,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5098,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5122,
- SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5171,
- SENATE BILL NO. 5278.

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5186 with the following amendment(s): 5186-S.E AMH UPTH BARC 166

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 79A.45 RCW to read as follows:

A person is guilty of a misdemeanor if the person knowingly skis in an area or on a ski trail, owned or controlled by a ski area operator, that is closed to the public and that has signs posted indicating the closure."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186.

Senator Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5186 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5186, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5186, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Carrell and Holmquist Newbry

Excused: Senator Delvin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5186, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5192 with the following amendment(s): 5192-S AMH TAYL LESK 033; 5192-S AMH LG MOET 514

On page 5, line 31, after "amendments" strike all material through "RCW 36.70A.040" on line 32 and insert ". If the notice is for a local government that does not plan under RCW 36.70A.040, the department must, on the day the notice is published, notify the legislative authority of the applicable local government by telephone or electronic means, followed by written communication as necessary, to ensure that the local government has received the full written decision of the approval or disapproval"

On page 8, line 29 after "This" strike "must be accomplished by return receipt" and insert "shall be accomplished by return receipt requested"

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On page 9, line 15, after "filing" insert "by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Nelson moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5192.

Senators Nelson and Swecker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nelson that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5192.

The motion by Senator Nelson carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5192 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5192, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5192, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Holmquist Newbry

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5192, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House passed SUBSTITUE SENATE BILL NO. 5232 with the following amendment(s): 5232-S AMH ENGR H2268.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that consumer savings is essential, both for individuals seeking to obtain the American dream, and in order to rebuild a strong economy. The legislature further finds that for most of the last two decades, consumers have borrowed more than they have saved, with current United States savings rates under six percent. The legislature intends to encourage financial institutions to develop innovative products that create incentives to encourage consumer savings, particularly savings by low-income consumers.

**Sec. 2.** RCW 9.46.0356 and 2000 c 228 s 1 are each amended to read as follows:

(1) The legislature authorizes:

(a) A business to conduct a promotional contest of chance as

defined in this section, in this state, or partially in this state, whereby the elements of prize and chance are present but in which the element of consideration is not present;

(b) A financial institution, as defined in RCW 30.22.040, to conduct a promotional contest of chance under this section in which: (i) A drawing for an annual prize is held that includes as eligible prize recipients only those persons who deposited funds at the financial institution in a savings account, certificate of deposit, or any other savings program and retained those funds for at least twelve months in the savings account, certificate of deposit, or other savings program; and (ii) drawings for other prizes are held from time to time that include as eligible prize recipients only those persons who deposited funds at the financial institution in a savings account, certificate of deposit, or other savings program. No such contest may be conducted, either wholly or partially, by means of the internet.

(2) Promotional contests of chance under this section are not gambling as defined in RCW 9.46.0237.

(3) Promotional contests of chance shall be conducted as advertising and promotional undertakings solely for the purpose of advertising or promoting the services, goods, wares, and merchandise of a business.

(4) No person eligible to receive a prize in a promotional contest of chance under subsection (1)(a) of this section may be required to:

(a) Pay any consideration to the promoter or operator of the business in order to participate in the contest; or

(b) Purchase any service, goods, wares, merchandise, or anything of value from the business, however, for other than contests entered through a direct mail solicitation, the promoter or sponsor may give additional entries or chances upon purchase of service, goods, wares, or merchandise if the promoter or sponsor provides an alternate method of entry requiring no consideration.

(5) No person eligible to receive a prize in a promotional contest of chance under subsection (1)(b) of this section may be required to pay any consideration other than the deposit of funds, or purchase any service, goods, wares, merchandise, or anything of value from the financial institution.

(6)(a) As used in this section, "consideration" means anything of pecuniary value required to be paid to the promoter or sponsor in order to participate in a promotional contest. Such things as visiting a business location, placing or answering a telephone call, completing an entry form or customer survey, or furnishing a stamped, self-addressed envelope do not constitute consideration.

(b) Coupons or entry blanks obtained by purchase of a bona fide newspaper or magazine or in a program sold in conjunction with a regularly scheduled sporting event are not consideration.

~~((6))~~ (7) Unless authorized by the commission, equipment or devices made for use in a gambling activity are prohibited from use in a promotional contest.

~~((7))~~ (8) This section shall not be construed to permit noncompliance with chapter 19.170 RCW, promotional advertising of prizes, and chapter 19.86 RCW, unfair business practices.

**Sec. 3.** RCW 19.170.020 and 1991 c 227 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Person" means an individual, corporation, the state or its subdivisions or agencies, business trust, estate, trust, partnership, association, cooperative, or any other legal entity.

(2) "Prize" means a gift, award, travel coupon or certificate, free item, or any other item offered in a promotion that is different and distinct from the goods, service, or property promoted by a sponsor. "Prize" does not include an item offered in a promotion where all of the following elements are present:

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(a) No element of chance is involved in obtaining the item offered in the promotion;

(b) The recipient has the right to review the merchandise offered for sale without obligation for at least seven days, and has a right to obtain a full refund in thirty days for the return of undamaged merchandise;

(c) The recipient may keep the item offered in the promotion without obligation; and

(d) The recipient is not required to attend any sales presentation or spend any sum in order to receive the item offered in the promotion.

(3) "Promoter" means a person conducting a promotion.

(4) "Promotion" means an advertising program, sweepstakes, contest, direct giveaway, or solicitation directed to specific named individuals, that includes the award of or chance to be awarded a prize, but does not include a promotional contest of chance under RCW 9.46.0356(1)(b).

(5) "Offer" means a written notice delivered by hand, mail, or other print medium offering goods, services, or property made as part of a promotion to a person based on a representation that the person has been awarded, or will be awarded, a prize.

(6) "Sponsor" means a person on whose behalf a promotion is conducted to promote or advertise goods, services, or property of that person.

(7) "Simulated check" means a document that is not currency or a check, draft, note, bond, or other negotiable instrument but has the visual characteristics thereof. "Simulated check" does not include a nonnegotiable check, draft, note, or other instrument that is used for soliciting orders for the purchase of checks, drafts, notes, bonds, or other instruments and that is clearly marked as a sample, specimen, or nonnegotiable.

(8) "Continuing obligation check" means a document that is a check, draft, note, bond, or other negotiable instrument that, when cashed, deposited, or otherwise used, imposes on the payee an obligation to enter into a loan transaction. This definition does not include checks, drafts, or other negotiable instruments that are used by consumers to take advances on revolving loans, credit cards, or revolving credit accounts.

(9) "Verifiable retail value" means:

(a) A price at which a promoter or sponsor can demonstrate that a substantial number of prizes have been sold at retail in the local market by a person other than the promoter or sponsor; or

(b) If the prize is not available for retail sale in the local market, the retail fair market value in the local market of an item substantially similar in each significant aspect, including size, grade, quality, quantity, ingredients, and utility; or

(c) If the value of the prize cannot be established under (a) or (b) of this subsection, then the prize may be valued at no more than three times its cost to the promoter or sponsor.

(10) "Financial institution" means any bank, trust company, savings bank, savings and loan association, credit union, industrial loan company, or consumer finance lender subject to regulation by an official agency of this state or the United States, and any subsidiary or affiliate thereof.

**Sec. 4.** RCW 30.22.040 and 1981 c 192 s 4 are each amended to read as follows:

Unless the context of this chapter otherwise requires, the terms contained in this section have the meanings indicated.

(1) "Account" means a contract of deposit between a depositor or depositors and a financial institution; the term includes a checking account, savings account, certificate of deposit, savings certificate, share account, savings bond, and other like arrangements.

(2) "Actual knowledge" means written notice to a manager of a branch of a financial institution, or an officer of the financial

institution in the course of his employment at the branch, pertaining to funds held on deposit in an account maintained by the branch received within a period of time which affords the financial institution a reasonable opportunity to act upon the knowledge.

(3) "Individual" means a human being; "person" includes an individual, corporation, partnership, limited partnership, joint venture, trust, or other entity recognized by law to have separate legal powers.

(4) "Agent" means a person designated by a depositor or depositors in a contract of deposit or other document to have the authority to deposit and to make payments from an account in the name of the depositor or depositors.

(5) "Agency account" means an account to which funds may be deposited and from which payments may be made by an agent designated by a depositor. In the event there is more than one depositor named on an account, each depositor may designate the same or a different agent for the purpose of depositing to or making payments of funds from a depositor's account.

(6) "Single account" means an account in the name of one depositor only.

(7) "Joint account without right of survivorship" means an account in the name of two or more depositors and which contains no provision that the funds of a deceased depositor become the property of the surviving depositor or depositors.

(8) "Joint account with right of survivorship" means an account in the name of two or more depositors and which provides that the funds of a deceased depositor become the property of one or more of the surviving depositors.

(9) "Trust and P.O.D. accounts" means accounts payable on request to a depositor during the depositor's lifetime, and upon the depositor's death to one or more designated beneficiaries, or which are payable to two or more depositors during their lifetimes, and upon the death of all depositors to one or more designated beneficiaries. The term "trust account" does not include deposits by trustees or other fiduciaries where the trust or fiduciary relationship is established other than by a contract of deposit with a financial institution.

(10) "Trust or P.O.D. account beneficiary" means a person or persons, other than a codepositor, who has or have been designated by a depositor or depositors to receive the depositor's funds remaining in an account upon the death of a depositor or all depositors.

(11) "Depositor", when utilized in determining the rights of individuals to funds in an account, means an individual who owns the funds. When utilized in determining the rights of a financial institution to make or withhold payment, and/or to take any other action with regard to funds held under a contract of deposit, "depositor" means the individual or individuals who have the current right to payment of funds held under the contract of deposit without regard to the actual rights of ownership thereof by these individuals. A trust or P.O.D. account beneficiary becomes a depositor only when the account becomes payable to the beneficiary by reason of having survived the depositor or depositors named on the account, depending upon the provisions of the contract of deposit.

(12) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(13) "Depositor's funds" or "funds of a depositor" means the amount of all deposits belonging to or made for the benefit of a depositor, less all withdrawals of the funds by the depositor or by others for the depositor's benefit, plus the depositor's prorated share of any interest or dividends included in the current balance of the

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account and any proceeds of deposit life insurance added to the account by reason of the death of a depositor.

(14) "Payment(s)" of sums on deposit includes withdrawal, payment by check or other directive of a depositor or his agent, any pledge of sums on deposit by a depositor or his agent, any set-off or reduction or other disposition of all or part of an account balance, and any payments to any person under RCW 30.22.120, 30.22.140, 30.22.150, 30.22.160, 30.22.170, 30.22.180, 30.22.190, 30.22.200, and 30.22.220.

(15) "Proof of death" means a certified or authenticated copy of a death certificate, or photostatic copy thereof, purporting to be issued by an official or agency of the jurisdiction where the death purportedly occurred, or a certified or authenticated copy of a record or report of a governmental agency, domestic or foreign, that a person is dead. In either case, the proofs constitute prima facie proof of the fact, place, date, and time of death, and identity of the decedent and the status of the dates, circumstances, and places disclosed by the record or report.

(16) "Request" means a request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this chapter the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal.

(17) "Withdrawal" means payment to a person pursuant to check or other directive of a depositor.

(18) "Director" means the director of the department of financial institutions or his or her designee.

(19) "Promotional contest of chance" means a promotional contest conducted pursuant to RCW 9.46.0356(1)(b).

**NEW SECTION. Sec. 5.** A new section is added to chapter 30.22 RCW to read as follows:

(1) If approved by its board of directors, a financial institution may conduct a promotional contest of chance as permitted under RCW 9.46.0356(1)(b).

(2) A financial institution must not conduct a savings promotional contest of chance, if, in the opinion of the director:

(a) It is likely to or does adversely affect the financial institution's safety and soundness;

(b) It is administered in an unsafe and unsound or imprudent manner, or in a manner that is likely to or does result in actual or potential reputational harm to the financial institution; or

(c) It is likely to or has misled the financial institution's members, depositors, or the general public.

(3) The director may examine the conduct of a promotional contest of chance pursuant to his or her supervisory and examination powers under:

(a) Title 30 RCW, in regard to a bank;

(b) Title 32 RCW, in regard to a mutual or stock savings bank;

or

(c) Chapter 31.12 RCW, in regard to a state credit union.

(4) The director may exercise his or her full enforcement powers under the titles and chapter in subsection (3) of this section and may issue a cease and desist order for a violation of this section.

(5) A financial institution must maintain records sufficient to facilitate an audit of a promotional contest of chance, and must provide those records to the director upon request.

**Sec. 6.** RCW 31.12.402 and 2001 c 83 s 14 are each amended to read as follows:

A credit union may:

(1) Issue shares to and receive deposits from its members in accordance with RCW 31.12.416;

(2) Make loans to its members in accordance with RCW 31.12.426 and 31.12.428;

(3) Pay dividends and interest to its members in accordance with RCW 31.12.418;

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans, subject to applicable law, and recover reasonable costs and expenses, including, but not limited to, collection costs, and reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due, if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, sell, or otherwise dispose of interests in personal property and in real property in accordance with RCW 31.12.438;

(7) Deposit and invest funds in accordance with RCW 31.12.436;

(8) Borrow money, up to a maximum of fifty percent of its total shares, deposits, and net worth;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union, out-of-state credit union, or federal credit union. However, a credit union may not discount or sell all, or substantially all, of its assets without the approval of the director;

(10) Accept deposits of deferred compensation of its members;

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any agency or political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in credit unions, out-of-state credit unions, or federal credit unions and in organizations controlled by or fostering the interests of credit unions, including, but not limited to, a central liquidity facility organized under state or federal law;

(14) Pay additional dividends and interest to members, or an interest rate refund to borrowers;

(15) Enter into lease agreements, lease contracts, and lease-purchase agreements with members;

(16) Act as insurance agent or broker for the sale to members of:

(a) Group life, accident, health, and credit life and disability insurance; and

(b) Other insurance that other types of Washington state-chartered financial institutions are permitted to sell, on the same terms and conditions that these institutions are permitted to sell such insurance;

(17) Impose a reasonable service charge for the administration and processing of accounts that remain dormant for a period of time specified by the credit union;

(18) Establish and operate on-premises or off-premises electronic facilities;

(19) Enter into formal or informal agreements with another credit union for the purpose of fostering the development of the other credit union;

(20) Work with community leaders to develop and prioritize efforts to improve the areas where their members reside by making investments in the community through contributions to organizations that primarily serve either a charitable, social, welfare, or educational purpose, or are exempt from taxation pursuant to section 501(c)(3) of the internal revenue code;

(21) Limit the personal liability of its directors in accordance with provisions of its articles of incorporation that conform with RCW 23B.08.320;

(22) Indemnify its directors, supervisory committee members, officers, employees, and others in accordance with provisions of its

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articles of incorporation or bylaws that conform with RCW 23B.08.500 through 23B.08.600;

(23) Conduct a promotional contest of chance as authorized in RCW 9.46.0356(l)(b), as long as the conditions of RCW 9.46.0356(5) and section 5 of this act are complied with to the satisfaction of the director; and

~~((23))~~ (24) Exercise such incidental powers as are necessary or convenient to enable it to conduct the business of a credit union.

**Sec. 7.** RCW 30.08.140 and 1996 c 2 s 5 are each amended to read as follows:

Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

- (1) To adopt and use a corporate seal.
- (2) To have perpetual succession.
- (3) To make contracts.
- (4) To sue and be sued, the same as a natural person.

(5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation.

(6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs.

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director.

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange.

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property.

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located.

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may

authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus.

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director.

(13) To have and exercise all powers necessary or convenient to effect its purposes.

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or trust company or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank or trust company shall accept no investment responsibilities over the account unless it is granted trust powers by the director.

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank.

(16) To exercise any other power or authority permissible under applicable state or federal law conducted by out-of-state state banks with branches in Washington to the same extent if, in the opinion of the director, those powers and authorities affect the operations of banking in Washington or affect the delivery of financial services in Washington.

(17) To conduct a promotional contest of chance as authorized in RCW 9.46.0356(l)(b), as long as the conditions of RCW 9.46.0356(5) and section 5 of this act are complied with to the satisfaction of the director.

**Sec. 8.** RCW 32.08.140 and 1999 c 14 s 17 are each amended to read as follows:

Every mutual savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank.

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(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title.

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280.

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts.

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the director of all amounts so borrowed, and of all assets so pledged or hypothecated.

(6) Subject to such regulations and restrictions as the director finds to be necessary and proper, to borrow money in pursuance of a resolution, policy, or other governing document adopted by its board of trustees, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds thirty percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection.

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest.

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business.

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary.

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies.

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will.

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business.

(13) To wind up and liquidate its business in accordance with this title.

(14) To adopt and use a common seal and to alter the same at pleasure.

(15) To exercise any other power or authority permissible under applicable state or federal law exercised by other savings banks or by savings and loan associations with branches in Washington to the same extent as those savings institutions if, in the opinion of the

director, the exercise of these powers and authorities by the other savings institutions affects the operations of savings banks in Washington or affects the delivery of financial services in Washington.

(16) To exercise the powers and authorities conferred by RCW 30.04.215.

(17) To exercise the powers and authorities that may be carried on by a subsidiary of the mutual savings bank that has been determined to be a prudent investment pursuant to RCW 32.20.380.

(18) To do all other acts authorized by this title.

(19) To exercise the powers and authorities that may be exercised by an insured state bank in compliance with 12 U.S.C. Sec. 1831a.

(20) To conduct a promotional contest of chance as authorized in RCW 9.46.0356(l)(b), as long as the conditions of RCW 9.46.0356(5) and section 5 of this act are complied with to the satisfaction of the director.

**NEW SECTION. Sec. 9.** Sections 7 and 8 of this act take effect when the director of the department of financial institutions finds that a federal regulatory agency has, through federal law, regulation, or official regulatory interpretation, interpreted federal law to permit banks operating under the authority of Title 30 or 32 RCW to conduct a promotional contest of chance as defined in RCW 30.22.040."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5232.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5232.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5232 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5232, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5232, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5232, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5239 with the following amendment(s): 5239-S AMH ED H2251.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.520.020 and 1991 sp.s. c 13 s 113 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of resident full-time equivalent students enrolled in each public school district to the number of resident full-time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended.

(5) The definition of resident student for purposes of this section shall be based on rules adopted by the superintendent of public instruction, which shall consider and address the impact of alternative learning experience students on federal forest funds distribution.

NEW SECTION. Sec. 2. The superintendent of public instruction shall adopt rules to implement section 1 of this act that take effect September 1, 2011.

NEW SECTION. Sec. 3. Section 1 of this act takes effect September 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5239.

Senator Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5239.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5239 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5239, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5239, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5239, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5253 with the following amendment(s): 5253-S.E AMH ENGR H2205.E

Strike everything after the enacting clause and insert the following:

"PART I FINDINGS

NEW SECTION. Sec. 101. FINDINGS. (1) Recognizing that uncoordinated and poorly planned growth poses a threat to the environment, sustainable economic development, and the health, safety, and high quality of life enjoyed by residents of this state, the legislature passed the growth management act, chapter 36.70A RCW. The planning goals adopted through the growth management act encourage development in urban areas where public facilities and services exist or can be provided efficiently, conservation of productive forest and agricultural lands, and a reduction of sprawl.

(2) Under RCW 36.70A.090 and 43.362.005 the legislature has encouraged:

(a) The use of innovative land use management techniques, including the transfer of development rights, to meet growth management goals; and

(b) The creation of a regional transfer of development rights marketplace in the central Puget Sound to assist in conserving agricultural and forest land, as well as other lands of state or regional priority.

(3) The legislature finds that:

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(a) Local governments are in need of additional resources to provide public infrastructure to meet the needs of a growing population, and that public infrastructure is fundamental to community health, safety, and economic vitality. Investment in public infrastructure in growing urban areas supports growth management goals, encourages the redevelopment of underutilized or blighted urban areas, stimulates business activity and helps create jobs, lowers the cost of housing, promotes efficient land use, and improves residents' quality of life;

(b) Transferring development rights from agricultural and forest lands to urban areas where public facilities and services exist or can be provided efficiently and cost-effectively will ensure vibrant, economically viable communities. Directing growth to communities where people can live close to where they work or have access to transportation choices will also advance state goals regarding climate change by reducing vehicle miles traveled and by reducing fuel consumption and emissions that contribute to climate change. Directing growth to these communities will further help avoid the impacts of storm water runoff to Puget Sound by avoiding impervious surfaces associated with development in watershed uplands;

(c) A transfer of development rights marketplace is particularly appropriate for conserving agricultural and forest land of long-term commercial significance. Transferring the development rights from these lands of statewide importance to cities will help achieve a specific goal of the growth management act by keeping them in farming and forestry, thereby helping ensure these remain viable industries in counties experiencing population growth. Transferring growth from agricultural and forest land of long-term commercial significance will also reduce costs to the counties that otherwise would be responsible for the provision of infrastructure and services for development on these lands, which are generally further from existing infrastructure and services; and

(d) The state and its residents benefit from investment in public infrastructure that is associated with urban growth facilitated by the transfer of development from agricultural and forest lands of long-term commercial significance. These activities advance multiple state growth management goals and benefit the state and local economies. It is in the public interest to enable local governments to finance such infrastructure investments and to incentivize development right transfers in the central Puget Sound through this chapter.

**PART II  
DEFINITIONS**

NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(2) "Eligible county" means any county that borders Puget Sound, that has a population of six hundred thousand or more, and that has an established program for transfer of development rights.

(3) "Employment" means total employment in a county or city, as applicable, estimated by the office of financial management.

(4) "Exchange rate" means an increment of development beyond what base zoning allows that is assigned to a development right by a sponsoring city for use in a receiving area.

(5) "Local infrastructure project area" means the geographic area identified by a sponsoring city under section 601 of this act.

(6) "Local infrastructure project financing" means the use of local property tax allocation revenue distributed to the sponsoring city to pay or finance public improvement costs within the local infrastructure project area in accordance with section 701 of this act.

(7) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure project financing.

(8) "Participating taxing district" means a taxing district that:

(a) Has a local infrastructure project area wholly or partially within the taxing district's geographic boundaries; and

(b) Levies, or has levied on behalf of the taxing district, regular property taxes as defined in this section.

(9) "Population" means the population of a city or county, as applicable, estimated by the office of financial management.

(10) "Property tax allocation revenue base value" means the assessed value of real property located within a local infrastructure project area, less the property tax allocation revenue value.

(11)(a)(i) "Property tax allocation revenue value" means an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of real property in a local infrastructure project area resulting from:

(A) The placement of new construction, improvements to property, or both, on the assessment roll, where the new construction and improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(B) The cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the local infrastructure project area is created by the sponsoring city;

(C) The cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the local infrastructure project area is created by the sponsoring city.

(ii) Increases in the assessed value of real property resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.

(b) "Property tax allocation revenue value" includes an amount equal to the sponsoring city ratio multiplied by seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.

(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.

(d) There is no property tax allocation revenue value if the assessed value of real property in a local infrastructure project area has not increased as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.

(e) For purposes of this subsection, "initial year" means:

(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;

(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when the cost is treated as new construction for purposes of levying taxes for collection in the following year; and

(iii) For the cost of rehabilitation of historic property, when the cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.

(12)(a) "Public improvements" means:

(i) Infrastructure improvements within the local infrastructure project area that include:

- (A) Street, road, bridge, and rail construction and maintenance;
- (B) Water and sewer system construction and improvements;
- (C) Sidewalks, streetlights, landscaping, and streetscaping;
- (D) Parking, terminal, and dock facilities;
- (E) Park and ride facilities of a transit authority and other facilities that support transportation efficient development;
- (F) Park facilities, recreational areas, bicycle paths, and environmental remediation;

- (G) Storm water and drainage management systems;
- (H) Electric, gas, fiber, and other utility infrastructures; and

(ii) Expenditures for facilities and improvements that support affordable housing;

(iii) Providing maintenance and security for common or public areas in the local infrastructure project area; or

(iv) Historic preservation activities authorized under RCW 35.21.395.

(b) Public improvements do not include the acquisition by a sponsoring city of transferable development rights.

(13) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

(14)(a) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (i) Regular property taxes levied by port districts or public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (ii) regular property taxes levied by the state for the support of common schools under RCW 84.52.065; and (iii) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose.

(b) "Regular property taxes" do not include:

(i) Excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043; and

(ii) Property taxes that are specifically excluded through an interlocal agreement between the sponsoring local government and a participating taxing district as set forth in RCW 39.104.060(3).

(15) "Receiving areas," for purposes of this chapter, are those designated lands within local infrastructure project areas in which transferable development rights from sending areas may be used.

(16) "Receiving city" means any incorporated city with population plus employment equal to twenty-two thousand five hundred or greater within an eligible county.

(17) "Receiving city allocated share" means the total number of transferable development rights from agricultural and forest land of long-term commercial significance and rural zoned lands designated under section 303 of this act within the eligible counties allocated to a receiving city under section 305 (1) and (2) of this act.

(18) "Sending areas" means those lands within an eligible county that meet conservation criteria as described in sections 301 and 303 of this act.

(19) "Sponsoring city" means a receiving city that accepts all or a portion of its receiving city allocated share, adopts a plan for development of infrastructure within one or more proposed local infrastructure project areas in accordance with section 401 of this act, and creates one or more local infrastructure project areas, as specified in section 305(4) of this act.

(20) "Sponsoring city allocated share" means the total number of transferable development rights a sponsoring city agrees to accept, under section 305(4) of this act, from agricultural and forest land of long-term commercial significance and rural zoned lands designated under section 303 of this act within the eligible counties, plus the total number of transferable development rights transferred

to the sponsoring city from another receiving city under section 305(5) of this act.

(21) "Sponsoring city ratio" means the ratio of the sponsoring city specified portion to the sponsoring city allocated share.

(22) "Sponsoring city specified portion" means the portion of a sponsoring city allocated share which may be used within one or more local infrastructure project areas, as set forth in the sponsoring city's plan for development of infrastructure under section 401 of this act.

(23) "Taxing district" means a city or county that levies or has levied on behalf of the taxing district, regular property taxes upon real property located within a local infrastructure project area.

(24) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to one or more receiving areas for the purpose of increasing development density or intensity.

(25) "Transferable development rights" means a right to develop one or more residential units in a sending area that can be sold and transferred.

### PART III SENDING AREAS

**NEW SECTION. Sec. 301. DESIGNATION OF SENDING AREAS--INCLUSION OF AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE.** An eligible county must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas for conservation under the eligible county's program for transfer of development rights. The development rights from all such agricultural and forest land of long-term commercial significance within the eligible counties must be available for transfer to receiving cities under this chapter.

**NEW SECTION. Sec. 302. DEVELOPMENT RIGHTS FROM AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE.** (1) An eligible county must calculate the number of development rights from agricultural and forest land of long-term commercial significance that are eligible for transfer to receiving areas. An eligible county must determine transferable development rights for allocation purposes in this program by:

(a) Base zoning in effect as of January 1, 2011; or

(b) An allocation other than base zoning as reflected by an eligible county's transfer of development rights program or an interlocal agreement with a receiving city in effect as of January 1, 2011.

(2) The number of transferable development rights includes the development rights from agricultural and forest lands of long-term commercial significance that have been previously issued under the eligible county's program for transfer of development rights, but that have not as yet been utilized to increase density or intensity in a development as of January 1, 2011.

(3) The number of transferable development rights does not include development rights from agricultural and forest lands of long-term commercial significance that have previously been removed or extinguished, such as through an existing conservation easement or mitigation or habitat restoration plan, except when consistent with subsection (2) of this section.

**NEW SECTION. Sec. 303. DESIGNATION OF SENDING AREAS--INCLUSION OF RURAL ZONED LANDS UNDER CERTAIN CIRCUMSTANCES.** (1) Subject to the requirements of this section, an eligible county may designate a portion of its rural zoned lands as sending areas for conservation

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under the eligible county's program for transfer of development rights available for transfer to receiving cities under this chapter.

(2) An eligible county may designate rural zoned lands as available for transfer to receiving cities under this chapter only if, and at such time as, fifty percent or more of the total acreage of land classified as agricultural and forest land of long-term commercial significance in the county, as of January 1, 2011, has been protected through either a permanent conservation easement, ownership in fee by the county for land protection or conservation purposes, or ownership in fee by a nongovernmental land conservation organization.

(3) To be designated as available for transfer to receiving cities under this chapter, rural zoned lands must either:

(a) Be identified by the county as top conservation priorities because they:

(i) Provide ecological effectiveness in achieving water resource inventory area goals;

(ii) Provide contiguous habitat protection, are adjacent to already protected habitat areas, or improve ecological function;

(iii) Are of sufficient size and location in the landscape to yield strategic growth management benefits;

(iv) Provide improved access for regional recreational opportunity;

(v) Prevent forest fragmentation or are appropriate for forest management;

(vi) Provide flood protection or reduce flood risk; or

(vii) Have other attributes that meet natural resource preservation program priorities; or

(b) Be identified by the state or in regional conservation plans as highly important to the water quality of Puget Sound.

(4) The portion of rural zoned lands in an eligible county designated as sending areas for conservation under the eligible county's program for transfer of development rights available for transfer to receiving cities under this chapter must not exceed one thousand five hundred development rights.

**NEW SECTION. Sec. 304. DETERMINATION OF TOTAL NUMBER OF TRANSFERABLE DEVELOPMENT RIGHTS FOR AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE AND DESIGNATED RURAL ZONED LANDS.** On or before September 1, 2011, each eligible county must report to the Puget Sound regional council the total number of transferable development rights from agricultural and forest land of long-term commercial significance and designated rural zoned lands within the eligible county that may be available for allocation to receiving cities under this chapter, as determined under sections 302 and 303 of this act.

**NEW SECTION. Sec. 305. ALLOCATION AMONG LOCAL GOVERNMENTS OF TRANSFERABLE DEVELOPMENT RIGHTS FROM AGRICULTURAL AND FOREST LAND OF LONG-TERM COMMERCIAL SIGNIFICANCE AND DESIGNATED RURAL ZONED LANDS.** (1) The Puget Sound regional council must allocate among receiving cities the total number of development rights reported by eligible counties under section 304 of this act. Each receiving city allocated share must be determined by the Puget Sound regional council, in consultation with eligible counties and receiving cities, based on growth targets, determined by established growth management processes, and other relevant factors as determined by the Puget Sound regional council in conjunction with the counties and receiving cities.

(2) The Puget Sound regional council must report to each receiving city its receiving city allocated share on or before March 1, 2012.

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(3) The Puget Sound regional council must report each receiving city allocated share to the department of commerce on or before March 1, 2012.

(4) A receiving city may become a sponsoring city by accepting all or a portion of its receiving city allocated share, adopting a plan in accordance with section 401 of this act, and creating one or more local infrastructure project areas to pay or finance costs of public improvements.

(5) A receiving city may, by interlocal agreement, transfer all or a portion of its receiving city allocated share to another sponsoring city. The transferred portion of the receiving city allocated share must be included in the other sponsoring city allocated share.

#### **PART IV RECEIVING AREAS**

**NEW SECTION. Sec. 401. DEVELOPMENT PLAN FOR INFRASTRUCTURE.** (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must adopt a plan for development of public infrastructure within one or more proposed local infrastructure project areas sufficient to utilize, on an aggregate basis, a sponsoring city specified portion that is equal to or greater than twenty percent of the sponsoring city allocated share.

(2) The plan must be developed in consultation with the department of transportation and the county where the local infrastructure project area to be created is located, be consistent with any transfer of development rights policies or development regulations adopted by the sponsoring city under section 402 of this act, specify the public improvements to be financed using local infrastructure project financing under section 601 of this act, estimate the number of any transferable development rights that will be used within the local infrastructure project area or areas and estimate the cost of the public improvements.

(3) A plan adopted under this section may be revised from time to time by the sponsoring city, in consultation with the county where the local infrastructure project area or areas are located, to increase the sponsoring city specified portion.

**NEW SECTION. Sec. 402. PROGRAM FOR TRANSFER OF DEVELOPMENT RIGHTS INTO RECEIVING AREAS--REQUIREMENTS.** (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Adopt transfer of development rights policies or implement development regulations as required by subsection (2) of this section; or

(b) Make a finding that the sponsoring city will:

(i) Receive its sponsoring city specified portion within one or more local infrastructure project areas; or

(ii) Purchase its sponsoring city specified portion should the sponsoring city not be able to receive its sponsoring city specified portion within one or more local infrastructure project areas such that purchased development rights can be held in reserve by the sponsoring city and used in future development.

(2) Any adoption of transfer of development rights policies or implementation of development regulations must:

(a) Comply with chapter 36.70A RCW;

(b) Designate a receiving area or areas;

(c) Adopt incentives consistent with subsection (4) of this section for developers purchasing transferable development rights;

(d) Establish an exchange rate consistent with subsection (5) of this section; and

(e) Require that the sale of a transferable development right from agricultural or forest land of long-term commercial significance or designated rural zoned lands under section 303 of

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this act be evidenced by its permanent removal from the sending site, such as through a conservation easement on the sending site.

(3) Any adoption of transfer of development rights policies or implementation of development regulations must not be based upon a downzone within one or more receiving areas solely to create a market for the transferable development rights.

(4) Developer incentives should be designed to:

(a) Achieve the densities or intensities reasonably likely to result from absorption of the sponsoring city specified portion identified in the plan under section 401 of this act;

(b) Include streamlined permitting strategies such as by-right permitting; and

(c) Include streamlined environmental review strategies such as development and substantial environmental review of a subarea plan for a receiving area that benefits projects that use transferable development rights, with adoption as appropriate under RCW 43.21C.420 of optional elements of their comprehensive plan and optional development regulations that apply within the receiving area, adoption as appropriate of a categorical exemption for infill under RCW 43.21C.229 for a receiving area, and adoption as appropriate of a planned action under RCW 43.21C.031 for the receiving area.

(5) Each sponsoring city may determine, at its option, what developer incentives to adopt within its jurisdiction.

(6) Exchange rates should be designed to:

(a) Create a marketplace in which transferable development rights are priced at a level at which sending site landowners are willing to sell and developers are willing to buy transferable development rights;

(b) Achieve the densities or intensities anticipated by the plan adopted under section 401 of this act;

(c) Provide for translation to commodities in addition to residential density, such as building height, commercial floor area, parking ratio, impervious surface, parkland and open space, setbacks, and floor area ratio; and

(d) Allow for appropriate exemptions from other land use or building requirements.

(7) A sponsoring city must designate all agricultural and forest land of long-term commercial significance and designated rural zoned lands under section 303 of this act within the eligible counties as available sending areas.

(8) A sponsoring city, in accordance with its existing comprehensive planning and development regulation authority under chapter 36.70A RCW, and in accordance with RCW 36.70A.080, may elect to adopt an optional comprehensive plan element and optional development regulations that apply within one or more local infrastructure project areas under this chapter.

**NEW SECTION. Sec. 403. DEVELOPMENT RIGHTS AVAILABLE FOR TRANSFER TO RECEIVING CITIES.** Only development rights from agricultural and forest land of long-term commercial significance within the eligible counties as determined under section 302 of this act, and rural-zoned lands with the eligible counties designated under section 303 of this act, may be available for transfer to receiving cities in accordance with this chapter.

#### **PART V QUANTITATIVE AND QUALITATIVE PERFORMANCE MEASURES**

**NEW SECTION. Sec. 501. QUANTITATIVE AND QUALITATIVE PERFORMANCE MEASURES--REPORTING.** The eligible counties, in collaboration with sponsoring cities, must provide a report to the department of commerce by March 1st of every other year. The report must contain the following information:

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(1) The number of sponsoring cities that have adopted transfer of development rights policies and regulations incorporating transfer of development rights under this chapter, and have an interlocal agreement or have adopted the department of commerce transfer of development rights interlocal terms and conditions rule;

(2) The number of transfer of development rights transactions under this chapter using different types of transfer of development rights mechanisms;

(3) The number of acres under conservation easement under this chapter, broken out by agricultural land, forest land, and rural lands;

(4) The number of transferable development rights transferred from sending areas under this chapter;

(5) The number of transferable development rights transferred from a county into a sponsoring city under this chapter;

(6) Sponsoring city development under this chapter using transferable development rights, including:

(a) The number of total new residential units;

(b) The number of residential units created in receiving areas using transferable development rights transferred from sending areas;

(c) The amount of additional commercial floor area;

(d) The amount of additional building height;

(e) The number of required structured parking spaces reduced, if transferable development rights are specifically converted into reduced structured parking space requirements;

(f) The number of additional parking spaces allowed, if transferable development rights are specifically converted into additional receiving area parking spaces; and

(g) The amount of additional impervious surface allowed, if transferable development rights are specifically converted into receiving area impervious surfaces;

(7) The amount of the local property tax allocation revenues, if any, received in the preceding calendar year by the sponsoring city;

(8) A list of public improvements paid or financed with local infrastructure project financing;

(9) The names of any businesses locating within local infrastructure project areas as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing;

(10) The total number of permanent jobs created in the local infrastructure project area as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing;

(11) The average wages and benefits received by all employees of businesses locating within the local infrastructure project area as a result of the public improvements undertaken by the sponsoring local government and paid or financed in whole or in part with local infrastructure project financing; and

(12) The date when any indebtedness issued for local infrastructure project financing is expected to be retired.

#### **PART VI ESTABLISHMENT OF LOCAL INFRASTRUCTURE PROJECT AREAS**

**NEW SECTION. Sec. 601. CREATING A LOCAL INFRASTRUCTURE PROJECT AREA.** (1) Before adopting an ordinance or resolution creating one or more local infrastructure project areas, a sponsoring city must:

(a) Provide notice to the county assessor, county treasurer, and county within the proposed local infrastructure project area of the sponsoring city's intent to create one or more local infrastructure project areas. This notice must be provided at least one hundred eighty days in advance of the public hearing as required by (b) of this subsection;

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(b) Hold a public hearing on the proposed formation of the local infrastructure project area.

(2) A sponsoring city may create one or more local infrastructure project areas by ordinance or resolution that:

(a) Describes the proposed public improvements, identified in the plan under section 401 of this act, to be financed in each local infrastructure project area;

(b) Describes the boundaries of each local infrastructure project area, subject to the limitations in section 602 of this act; and

(c) Provides the date when the use of local property tax allocation revenues will commence and a list of the participating taxing districts.

(3) The sponsoring city must deliver a certified copy of the adopted ordinance or resolution to the county assessor, county treasurer, and each other participating taxing district within which the local infrastructure project area is located.

**NEW SECTION. Sec. 602. LIMITATIONS ON LOCAL INFRASTRUCTURE PROJECT AREAS.** The designation of any local infrastructure project area is subject to the following limitations:

(1) A local infrastructure project area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of territory not included in the local infrastructure project area;

(2) The public improvements to be financed with local infrastructure project financing must be located in the local infrastructure project area and must, in the determination of the sponsoring city, further the intent of this chapter;

(3) Local infrastructure project areas created by a sponsoring city may not comprise an area containing more than twenty-five percent of the total assessed value of taxable property within the sponsoring city at the time the local infrastructure project areas are created;

(4) The boundaries of each local infrastructure project area may not overlap and may not be changed during the time period that local infrastructure project financing is used within the local infrastructure project area, as provided under this chapter; and

(5) All local infrastructure project areas created by the sponsoring city must comprise, in the aggregate, an area that the sponsoring city determines (a) is sufficient to use the sponsoring city specified portion, unless the sponsoring city satisfies its sponsoring city allocated share under section 402(1)(b)(ii) of this act, and (b) is no larger than reasonably necessary to use the sponsoring city specified portion in projected future developments.

**NEW SECTION. Sec. 603. PARTICIPATING TAXING DISTRICTS.** Participating taxing districts must allow the use of all of their local property tax allocation revenues for local infrastructure project financing.

**PART VII  
LOCAL INFRASTRUCTURE PROJECT FINANCING  
USE OF PROPERTY TAX REVENUES TO PAY OR  
FINANCE  
COSTS OF PUBLIC IMPROVEMENTS**

**NEW SECTION. Sec. 701. ALLOCATION OF PROPERTY TAX REVENUES.** (1) Commencing in the second calendar year following the creation of a local infrastructure project area by a sponsoring city, the county treasurer must distribute receipts from regular taxes imposed on real property located in the local infrastructure project area as follows:

(a) Each participating taxing district and the sponsoring city must receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local infrastructure project area in the taxing district; and

(b) The sponsoring city must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the local infrastructure project area. However, if there is no property tax allocation revenue value, the sponsoring city may not receive any additional regular property taxes under this subsection (1)(b). The sponsoring city may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts must be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the local infrastructure project area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring city may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to pay or finance public improvement costs within the local infrastructure project area.

(2) The county assessor must determine the property tax allocation revenue value and property tax allocation revenue base value. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3)(a) The distribution of local property tax allocation revenue to the sponsoring city must cease on the date that is the earlier of:

(i) The date when local property tax allocation revenues are no longer used or obligated to pay the costs of the public improvements; or

(ii) The final termination date as determined under (b) of this subsection.

(b) The final termination date is determined as follows:

(i) Except as provided otherwise in this subsection (3)(b), if the sponsoring city certifies to the county treasurer that the local property tax threshold level 1 is met, the final termination date is ten years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(ii) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 2 is met at least six months prior to the final termination date under (b)(i) of this subsection (3), the final termination date is fifteen years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(iii) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 3 is met at least six months prior to the final termination date under (b)(ii) of this subsection (3), the final termination date is twenty years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section;

(iv) If the sponsoring city certifies to the county treasurer that the local property tax threshold level 4 is met at least six months prior to the final termination date under (b)(iii) of this subsection (3), the final termination date is twenty-five years after the date of the first distribution of local property tax allocation revenues under subsection (1) of this section.

(4) For purposes of this section:

(a) The "local property tax threshold level 1" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least twenty-five percent of the sponsoring city specified portion; or

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(ii) Acquired transferable development rights equal to at least twenty-five percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(b) The "local property tax threshold level 2" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least fifty percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least fifty percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(c) The "local property tax threshold level 3" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least seventy-five percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least seventy-five percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(d) The "local property tax threshold level 4" is met when the sponsoring city has either:

(i) Issued building permits for development within the local infrastructure project area that, on an aggregate basis, uses at least one hundred percent of the sponsoring city specified portion; or

(ii) Acquired transferable development rights equal to at least one hundred percent of the sponsoring city specified portion for use in the local infrastructure project area or for extinguishment.

(5) Any excess local property tax allocation revenues, and earnings on the revenues, remaining at the time the distribution of local property tax allocation revenue terminates must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the local infrastructure project area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(6) The allocation to local infrastructure project financing of that portion of the sponsoring city's and each participating taxing district's regular property taxes levied upon the property tax allocation revenue value within that local infrastructure project area is declared to be a public purpose of and benefit to the sponsoring city and each participating taxing district.

(7) The distribution of local property tax allocation revenues under this section may not affect or be deemed to affect the rate of taxes levied by or within any sponsoring local government and participating taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

### PART VIII

#### GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN OPTIONAL ELEMENTS

**Sec. 801.** RCW 36.70A.080 and 1990 1st ex.s. c 17 s 8 are each amended to read as follows:

(1) A comprehensive plan may include additional elements, items, or studies dealing with other subjects relating to the physical development within its jurisdiction, including, but not limited to:

- (a) Conservation;
- (b) Solar energy; and
- (c) Recreation.

(2) A comprehensive plan may include, where appropriate, subarea plans, each of which is consistent with the comprehensive plan.

(3)(a) Cities that qualify as a receiving city may adopt a comprehensive plan element and associated development

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regulations that apply within receiving areas under chapter 39---RCW (the new chapter created in section 903 of this act).

(b) For purposes of this subsection, the terms "receiving city" and "receiving area" have the same meanings as provided in section 201 of this act.

### PART IX MISCELLANEOUS

**NEW SECTION. Sec. 901.** ADMINISTRATION BY THE DEPARTMENT OF COMMERCE. The department of commerce may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of this chapter.

**NEW SECTION. Sec. 902.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 903.** Sections 101 through 701 of this act constitute a new chapter in Title 39 RCW."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5253.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5253.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5253 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5253, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5253, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Ericksen, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senator Delvin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5253, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

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April 6, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5025 with the following amendment(s): 5025-S AMH HUNS OSBO 209

On page 3, beginning on line 8, strike all of section 3

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5025.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5025.

MOTION

On motion of Senator White, Senator McAuliffe was excused.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5025 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5025, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5025, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and McAuliffe

SUBSTITUTE SENATE BILL NO. 5025, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5072 with the following amendment(s): 5072-S AMH AGNR H2258.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.23 RCW to read as follows:

The director of the department may accept, expend, and retain gifts, grants, bequests, or contributions from public or private sources to carry out the purposes and programs of the department."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5072.

Senator Hatfield spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5072.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5072 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5072, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5072, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5072, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5097 with the following amendment(s): 5097-S AMH APPH H2451.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) A number of juveniles with developmental disabilities are arrested for criminal conduct, held in places of detention pending competency evaluations and/or adjudication, tried for their offenses, and are sentenced to serve time in our juvenile justice system;

(b) The developmental disabilities of some youth who are arrested and detained are not identified or appropriately addressed;

(c) Juveniles with developmental disabilities are often confused with juveniles with mental illness. These populations are different and must be understood as distinct groups, with different reasonable accommodation needs; and

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(d) A developmental disability often stems from a mix of causes and many persons with developmental disabilities have cognitive impairments that require reasonable accommodations to assist them in understanding what is happening to them and what is expected of them when they encounter the juvenile justice system and in identifying community resources.

(2) The legislature intends to improve the ability of the juvenile justice system to better identify and provide safe, appropriate accommodations for juveniles with developmental disabilities.

**NEW SECTION. Sec. 2.** (1) Within available resources, a work group is established, to be cochaired by representatives of the developmental disabilities council, the Washington association of juvenile court administrators, and a representative of the juvenile rehabilitation administration within the department of social and health services, to address issues relating to juveniles with developmental disabilities who are confined in places of detention and juvenile correction institutions or facilities.

(2) In addition to the cochairs, the work group shall also have as members the following:

(a) A representative of the Washington association of sheriffs and police chiefs;

(b) A representative of the division of developmental disabilities within the department of social and health services;

(c) A representative of disability rights Washington;

(d) A representative of the office of the superintendent of public instruction;

(e) Consumer advocates;

(f) A representative of the Washington state defenders' association; and

(g) Representatives of other interested organizations as identified by the developmental disabilities council, the Washington association of juvenile court administrators, and the juvenile rehabilitation administration, including parents of developmentally disabled youth.

(3) By December 1, 2011, the work group shall develop recommendations and report to the appropriate committees of the legislature on the following:

(a) How to expeditiously review and determine eligibility for developmental disabilities services provided through the department of social and health services prior to a juvenile's release from detention or confinement in a juvenile correction institution or facility;

(b) The appropriate role of the department of social and health services in providing potential alternatives to confinement for persons with developmental disabilities as well as consultation and technical assistance to places of detention and juvenile correction institutions or facilities in their efforts to provide reasonable accommodations for persons with developmental disabilities who are confined in their institution or facility. The fiscal impact to the department of social and health services of providing consultation and technical assistance must be included with this recommendation;

(c) How to increase the appropriate use of the authority granted the courts under current juvenile justice act provisions, Title 13 RCW, to order alternatives to secure confinement;

(d) The establishment of new options under Title 13 RCW to divert juveniles with developmental disabilities from the juvenile justice system while maintaining public safety;

(e) The feasibility of developing and adopting law enforcement training for responding to juveniles with developmental disabilities that is analogous to the crisis intervention training currently provided to law enforcement officers for responding to alleged criminal behavior by persons with mental illness;

(f) The feasibility of adopting standardized statewide screening and application practices and forms designed to facilitate the

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application of juveniles who are likely to be eligible for medical assistance services by the division of developmental disabilities;

(g) The need for and feasibility of developing a screening tool and training for juvenile justice system staff to be used to identify persons with developmental disabilities who are detained in places of detention and facing a criminal charge.

(4) By September 1, 2012, if recommended by the work group under subsection (3) of this section, the work group shall develop:

(a) A simple screening tool that may be used by juvenile detention and correction institutions and facilities as part of the facility's intake and/or classification process and which will assist in the identification of offenders with the most common types of developmental disabilities;

(b) A model policy for the use of the screening tool;

(c) A cost-effective means to provide concise training to juvenile detention, juvenile correction, and juvenile probation and parole staff on the use of the tool;

(d) Information on best practices and training regarding appropriate accommodations for persons with developmental disabilities during their confinement; and

(e) A practical guide for families and juvenile justice staff, informed by the division of developmental disabilities, inclusive of comprehensive information about programs and services available to youth with developmental disabilities who are referred to the juvenile justice system.

**NEW SECTION. Sec. 3.** This act expires January 1, 2013."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5097.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5097.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5097 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5097, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5097, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5097, as amended by the House, having received the constitutional majority, was declared

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passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5156, as amended by the House.

MESSAGE FROM THE HOUSE

ROLL CALL

April 11, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5156 with the following amendment(s): 5156-S AMH SGTA H2281.2

On page 11, after line 15, insert the following:

"Sec. 6. RCW 66.28.290 and 2009 c 506 s 3 are each amended to read as follows:

(1) Notwithstanding any prohibitions and restrictions contained in this title, it shall be lawful for an industry member or affiliate to have a direct or indirect financial interest in another industry member or a retailer, and for a retailer or affiliate to have a direct or indirect financial interest in an industry member unless such interest has resulted or is more likely than not to result in undue influence over the retailer or the industry member or has resulted or is more likely than not to result in an adverse impact on public health and safety. The structure of any such financial interest must be consistent with subsection (2) of this section.

(2) Subject to subsection (1) of this section and except as provided in RCW 66.28.295:

(a) An industry member in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed pursuant to RCW 66.24.320 through 66.24.570 and section 1 of this act, but may not have such a license issued in its name; and

(b) A retailer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval pursuant to RCW 66.24.170, 66.24.206, 66.24.240, 66.24.244, 66.24.270(2), 66.24.200, or 66.24.250, but may not have such a license or certificate of approval issued in its name; and

(c) A supplier in whose name a license or certificate of approval has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed as a distributor or importer under this title, but such supplier may not have a license as a distributor or importer issued in its own name; and

(d) A distributor or importer in whose name a license has been issued pursuant to this title may wholly own or hold a financial interest in a separate legal entity licensed or holding a certificate of approval as a supplier under this title, but such distributor or importer may not have a license or certificate of approval as a supplier issued in its own name."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5156.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5156.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5156 by voice vote.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5156, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hargrove, Haugen, Holmquist Newbry, Morton, Prentice and Pridemore

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5156, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5457 with the following amendment(s): 5457-S.E AMH CARL MUNN 358

On page 2, line 19, after "a" strike "two-thirds" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5457 and request of the House a conference thereon.

Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5457 and request a conference thereon.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5457 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5457 and the House amendment(s) thereto: Senators Haugen, King and White.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

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On motion of Senator Eide, Senator Ranker was excused.

## MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5203 with the public regarding amendment(s): 5203-S AMH PSEP H2233.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 4.24.550 and 2008 c 98 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW ~~((9A.44.130))~~ 9A.44.128 or a kidnapping offense as defined by RCW ~~((9A.44.130))~~ 9A.44.128; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, public libraries, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall cause to be published by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. ~~((The county sheriff shall also cause to be published consistent with this subsection a current list of level III registered sex offenders, twice yearly.))~~ Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered kidnapping and sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders, level I registered sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, and all registered kidnapping offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, ~~((type of conviction,))~~ and address by hundred block.

(ii) For level II offenders, and level I sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(iii) For kidnapping offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the public that provides electronic links to county- operated web sites that offer sex offender registration information.

(6) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents ~~((at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date))~~ within a reasonable period of time after the offender registers with the agency. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local

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government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee or the department of social and health services at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee or the department of social and health services and submit its reasons supporting the change in classification. ~~((Upon implementation of subsection (5)(a) of this section, notification of the change shall also be sent to the Washington association of sheriffs and police chiefs.))~~

**Sec. 2.** RCW 9A.44.128 and 2010 c 267 s 1 are each amended to read as follows:

For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction or juvenile adjudication for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(5) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living

quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

(6) "In the community" means residing outside of confinement or incarceration for a disqualifying offense.

(7) "Institution of higher education" means any public or private institution dedicated to postsecondary education, including any college, university, community college, trade, or professional school.

(8) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection; and

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender ~~((while))~~ if residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection ~~((, unless a court in the person's state of conviction has made an individualized determination that the person should not be required to register)).~~

~~((6))~~ (9) "Lacks a fixed residence" means the person does not have a living situation that meets the definition of a fixed residence and includes, but is not limited to, a shelter program designed to provide temporary living accommodations for the homeless, an outdoor sleeping location, or locations where the person does not have permission to stay.

(10) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(d) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection;

(e) Any ~~((federal or))~~ out-of-state conviction for ~~((or))~~ an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection ~~((, unless a court in the person's state of conviction has made an individualized determination that the person should not be required to register; and~~

~~— (e) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection));~~

(f) Any federal conviction classified as a sex offense under 42 U.S.C. Sec. 16911 (SORNA);

(g) Any military conviction for a sex offense. This includes sex offenses under the uniform code of military justice, as specified by the United States secretary of defense;

(h) Any conviction in a foreign country for a sex offense if it was obtained with sufficient safeguards for fundamental fairness

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and due process for the accused under guidelines or regulations established pursuant to 42 U.S.C. Sec. 16912.

~~((7))~~ (11) "School" means a public or private school regulated under Title 28A RCW or chapter 72.40 RCW.

~~(12) "Student" means a person who is enrolled, on a full-time or part-time basis, in any ((public or private educational institution. An educational institution includes any secondary school, trade or professional institution.)) school or institution of higher education.~~

**Sec. 3.** RCW 9A.44.130 and 2010 c 267 s 2 and 2010 c 265 s 1 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection must give notice to the county sheriff of the county with whom the person is registered within three business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of higher education.

((i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within three business days prior to arriving at the school to attend classes, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within three business days prior to arriving at the institution, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within three business days prior to commencing work at the institution, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within three business days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(d)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who,

in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

~~(3))~~ (2)(a) ((The)) A person ((shall)) required to register under this section must provide the following information when registering: (i) Name and any aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) ((aliases used; (viii))) social security number; ((ix)) (viii) photograph; and ((x)) (ix) fingerprints.

~~(b) ((Any)) A person ((who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay))~~ may be required to update any of the information required in this subsection in conjunction with any address verification conducted by the county sheriff or as part of any notice required by this section.

(c) A photograph or copy of an individual's fingerprints may be taken at any time to update an individual's file.

~~((4))~~ (3)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) **OFFENDERS IN CUSTODY.** (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

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(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (~~((4))~~) (3)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (~~((4))~~) (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register within three business days of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under

this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within three business days of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within three business days of receiving notice of this registration requirement.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (~~((3)(b))~~) (2)(a) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132

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who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection ~~((4))~~ (3)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

~~((5))~~ (4)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, the person must register with that county sheriff within three business days of moving. Within three business days, the person must also provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

~~((6))~~ (5)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three business days after ceasing to have a fixed residence. The notice shall include the information required by subsection ~~((3)(b))~~ (2)(a) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections ~~((4))~~ (3)(a)(vii) or (viii) and ~~((6))~~ (5) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

~~((7))~~ (6) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of

application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within three business days of the entry of the order.

~~((8))~~ (8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

~~((9))~~ (7) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) Upon receiving notice from a registered person pursuant to RCW 9A.44.130 that the person will be attending a school or institution of higher education or will be employed with an institution of higher education, the sheriff must promptly notify the school district and the school principal or institution's department of public safety and shall provide that school or department with the person's: (a) Name and any aliases used; (b) complete residential address; (c) date and place of birth; (d) place of employment; (e) crime for which convicted; (f) date and place of conviction; (g) social security number; (h) photograph; and (i) risk level classification.

(2) A principal or department receiving notice under this subsection must disclose the information received from the sheriff as follows:

(a) If the student is classified as a risk level II or III, the principal shall provide the information received to every teacher of the student and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(b) If the student is classified as a risk level I, the principal or department shall provide the information received only to personnel who, in the judgment of the principal or department, for security purposes should be aware of the student's record.

(3) The sheriff shall notify the applicable school district and school principal or institution's department of public safety whenever a student's risk level classification is changed or the sheriff is notified of a change in the student's address.

(4) Any information received by school or institution personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

**Sec. 5.** RCW 9A.44.132 and 2010 c 267 s 3 are each amended to read as follows:

(1) A person commits the crime of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a felony sex offense ~~((as defined in that section))~~ and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) ~~((Except as provided in (b) of this subsection.))~~ The failure to register as a sex offender pursuant to this subsection is a class C felony if:

(i) It is the person's first conviction for a felony failure to register; or

(ii) The person has previously been convicted of a felony failure

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to register as a sex offender in this state or pursuant to the laws of another state.

(b) If a person has been convicted (~~(in this state)~~) of a felony failure to register as a sex offender in this state or pursuant to the laws of another state on two or more prior occasions, the failure to register under this subsection is a class B felony.

(2) A person is guilty of failure to register as a sex offender if the person has a duty to register under RCW 9A.44.130 for a sex offense other than a felony and knowingly fails to comply with any of the requirements of RCW 9A.44.130. The failure to register as a sex offender under this subsection is a gross misdemeanor.

(3) A person commits the crime of failure to register as a kidnapping offender if the person has a duty to register under RCW 9A.44.130 for a kidnapping offense and knowingly fails to comply with any of the requirements of RCW 9A.44.130.

(a) If the person has a duty to register for a felony kidnapping offense, the failure to register as a kidnapping offender is a class C felony.

(b) If the person has a duty to register for a kidnapping offense other than a felony, the failure to register as a kidnapping offender is a gross misdemeanor.

(4) Unless relieved of the duty to register pursuant to RCW 9A.44.141 and 9A.44.142, a violation of this section is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

**Sec. 6.** RCW 9A.44.141 and 2010 c 267 s 5 are each amended to read as follows:

(1) Upon the request of a person who is listed in the Washington state patrol central registry of sex offenders and kidnapping offenders, the county sheriff shall investigate whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(a) Using available records, the county sheriff shall verify that the offender has spent the requisite time in the community and has not been convicted of a disqualifying offense.

(b) If the county sheriff determines the person's duty to register has ended by operation of law, the county sheriff shall request the Washington state patrol remove the person's name from the central registry.

(2) Nothing in this subsection prevents a county sheriff from investigating, upon his or her own initiative, whether a person's duty to register has ended by operation of law pursuant to RCW 9A.44.140.

(3)(a) A person who is listed in the central registry as the result of a federal or out-of-state conviction may request the county sheriff to investigate whether the person should be removed from the registry if:

(i) A court in the person's state of conviction has made an individualized determination that the person should not be required to register; and

(ii) The person provides proof of relief from registration to the county sheriff.

(b) If the county sheriff determines the person has been relieved of the duty to register in his or her state of conviction, the county sheriff shall request the Washington state patrol remove the person's name from the central registry.

(4) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for removing or requesting the removal of a person from the central registry of sex offenders and kidnapping offenders or the failure to remove or request removal of a person within the time frames provided in RCW 9A.44.140.

**Sec. 7.** RCW 9A.44.142 and 2010 c 267 s 6 are each amended to read as follows:

(1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in RCW 9A.44.143;

(b) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; ~~(and)~~ or

(c) If the person is required to register for a federal or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(2)(a) A person may not petition for relief from registration if the person has been:

(i) Determined to be a sexually violent predator as defined in RCW 71.09.020;

(ii) Convicted as an adult of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000; or

(iii) Until July 1, 2012, convicted of one aggravated offense or more than one sexually violent offense, as defined in subsection (5) of this section, and the offense or offenses were committed on or after March 12, 2002. After July 1, 2012, this subsection (2)(a)(iii) shall have no further force and effect.

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in ~~((Thurston))~~ the county where the person is registered at the time the petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

(4)(a) The court may relieve a petitioner of the duty to register only if the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(b) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the registry, the following factors are provided as guidance to assist the court in making its determination:

(i) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(ii) Any subsequent criminal history;

(iii) The petitioner's compliance with supervision requirements;

(iv) The length of time since the charged incident(s) occurred;

(v) Any input from community corrections officers, law enforcement, or treatment providers;

(vi) Participation in sex offender treatment;

(vii) Participation in other treatment and rehabilitative programs;

(viii) The offender's stability in employment and housing;

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(ix) The offender's community and personal support system;  
 (x) Any risk assessments or evaluations prepared by a qualified professional;

(xi) Any updated polygraph examination;

(xii) Any input of the victim;

(xiii) Any other factors the court may consider relevant.

(5)(a) A person who has been convicted of an aggravated offense, or has been convicted of one or more prior sexually violent offenses or criminal offenses against a victim who is a minor, as defined in (b) of this subsection:

(i) Until July 1, 2012, may not be relieved of the duty to register;

(ii) After July 1, 2012, may petition the court to be relieved of the duty to register as provided in this section;

(iii) This provision shall apply to convictions for crimes committed on or after July 22, 2001.

(b) Unless the context clearly requires otherwise, the following definitions apply only to the federal lifetime registration requirements under this subsection:

(i) "Aggravated offense" means an adult conviction that meets the definition of 18 U.S.C. Sec. 2241, which is limited to the following:

(A) Any sex offense involving sexual intercourse or sexual contact where the victim is under twelve years of age;

(B) RCW 9A.44.040 (rape in the first degree), RCW 9A.44.073 (rape of a child in the first degree), or RCW 9A.44.083 (child molestation in the first degree);

(C) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct: RCW 9A.44.050 (rape in the second degree), RCW 9A.44.100 (indecent liberties), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), or RCW 9.68A.040 (sexual exploitation of a minor);

(D) Any of the following offenses when committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct, if the victim is twelve years of age or over but under sixteen years of age and the offender is eighteen years of age or over and is more than forty-eight months older than the victim: RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), or RCW 9A.44.089 (child molestation in the third degree);

(E) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is under twelve years of age or that is committed by forcible compulsion or by the offender administering, by threat or force or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance that substantially impairs the ability of that person to appraise or control conduct;

(F) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(G) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(i)(A) through (F) of this subsection.

(ii) "Sexually violent offense" means an adult conviction that meets the definition of 42 U.S.C. Sec. 14071(a)(1)(A), which is limited to the following:

(A) An aggravated offense;

(B) An offense that is not an aggravated offense but meets the definition of 18 U.S.C. Sec. 2242, which is limited to RCW

9A.44.050(1) (b) through (f) (rape in the second degree) and RCW 9A.44.100(1) (b) through (f) (indecent liberties);

(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, the conduct;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(ii)(A) through (D) of this subsection.

(iii) "Criminal offense against a victim who is a minor" means, in addition to any aggravated offense or sexually violent offense where the victim was under eighteen years of age, an adult conviction for the following offenses where the victim is under eighteen years of age:

(A) RCW 9A.44.060 (rape in the third degree), RCW 9A.44.076 (rape of a child in the second degree), RCW 9A.44.079 (rape of a child in the third degree), RCW 9A.44.086 (child molestation in the second degree), RCW 9A.44.089 (child molestation in the third degree), RCW 9A.44.093 (sexual misconduct with a minor in the first degree), RCW 9A.44.096 (sexual misconduct with a minor in the second degree), RCW 9A.44.160 (custodial sexual misconduct in the first degree), RCW 9A.64.020 (incest), RCW 9.68A.040 (sexual exploitation of a minor), RCW 9.68A.090 (communication with a minor for immoral purposes), or RCW 9.68A.100 (commercial sexual abuse of a minor);

(B) RCW 9A.40.020 (kidnapping in the first degree), RCW 9A.40.030 (kidnapping in the second degree), or RCW 9A.40.040 (unlawful imprisonment), where the victim is a minor and the offender is not the minor's parent;

(C) A felony with a finding of sexual motivation under RCW 9.94A.835 where the victim is a minor;

(D) An offense that is, under chapter 9A.28 RCW, an attempt or solicitation to commit such an offense; or

(E) An offense defined by federal law or the laws of another state that is equivalent to the offenses listed in (b)(iii)(A) through (D) of this subsection.

**Sec. 8.** RCW 43.43.540 and 2006 c 136 s 1 are each amended to read as follows:

(1) The county sheriff shall ~~((the))~~ forward ~~((the))~~ registration information, photographs, and fingerprints obtained pursuant to RCW 9A.44.130, including the sex offender's risk level classification and any notice of change of address, to the Washington state patrol within five working days~~((and))~~.

(2) Upon implementation of RCW 4.24.550(5)(a), the Washington state patrol ((will forward the information necessary to operate the registered sex offender web site described in RCW 4.24.550(5)(a) to the Washington association of sheriffs and police chiefs within five working days of receiving the information, including any notice of change of address or change in risk level notification. The state patrol)) shall maintain a central registry of sex offenders and kidnapping offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the offender registration, including taking the offender's fingerprints and ~~((the))~~ photograph(s)."

Correct the title.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

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MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5203.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5203.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5203 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5203, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5203, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5203, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:13 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:26 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Hewitt moved adoption of the following resolution:

SENATE RESOLUTION  
8652

By Senators Delvin, Honeyford, Hewitt, and Prentice

WHEREAS, It is the policy of the Washington State Senate to recognize and honor those individuals that have made significant contributions to the well-being of the citizens of Washington; and

WHEREAS, Blanca Gonzalez Torres was a most noble and gracious daughter of the State of Washington, born August 16, 1970, in Pasco to Abel and Belia Gonzalez, graduating from Pasco Senior High School; and

WHEREAS, While attending Pasco High, Blanca met the man who would be her lifelong husband and partner, Albert Torres, and, while both began from humble beginnings, their partnership would see them recognized by Presidents, elected officials, international entertainment and sports celebrities, and even a few state senators; and

WHEREAS, Albert and Blanca Torres and Ismael and Gracie Campos cofounded *Tu Decides*, the Tri-Cities area's first bilingual Hispanic newspaper to serve all generations of Hispanics which now distributes throughout the state; and

WHEREAS, Blanca and her sister Gracie, again partnered to create another small business, EXPO NorthWest, which holds annual expositions in Bellevue, Pasco, and Yakima to bring consumers and businesses from Hispanic and non-Hispanic communities together for the advantage and betterment of both; and

WHEREAS, Blanca's slogan, "Abriendo Puertas" / "Opening Doors," was evidence of her desire to serve as an advocate not only for the Hispanic community but also to build bridges among all cultures; and

WHEREAS, Blanca, so exemplified the servant leadership and the commitment to increased access to education valued by both Northwest University, where she was a member of the Northwest University Foundation Board, and WSU Tri-Cities, where Blanca was asked to cochair the Destination 5000 fundraising committee, that each have established scholarship programs in her name; and

WHEREAS, Blanca will long be remembered for finding a solution when a problem cropped up, lending calmness when a situation became tense, and bringing laughter whenever it was needed; and

WHEREAS, Blanca was also a dedicated wife, mother, daughter, sister, aunt, niece, and friend, leaving no doubt of what she truly held closest to her heart: Her faith, her family, and her friends – who can be found in all corners of the state; and

WHEREAS, Blanca's husband, Albert, and children, Isaiah and Ezequiel, shared Blanca with their community as she attended innumerable meetings while also working countless hours at her businesses; and

WHEREAS, Blanca, after a sudden, brief affliction, passed away on the afternoon of August 6, 2010, a few days shy of her 40th birthday, her husband, friend and partner, Albert, by her side and surrounded by her family and friends;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate together with the people of the State of Washington mourn the untimely passing of la Señora Blanca Gonzalez Torres, a great American; and

BE IT FURTHER RESOLVED, That the Senate convey its most sincere condolences to the family of Blanca Gonzalez Torres, and duly recognize her profound contributions to her community and, indeed, every citizen of the State of Washington and thank them for sharing her during her all-too-brief time among us; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Mr. Albert Torres, Isaiah and Ezequiel, and Señor y Señora Abel Gonzalez.

Senators Hewitt, Prentice and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8652.

The motion by Senator Hewitt carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Albert Torres, sons Isaiah and Ezequiel who were seated at the rostrum.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family of Blanca Terres; Abel Gonzalez, father; Belia Gonzalez, mother; sisters Gracie Campos, Erika Zink, Araceli Sanchez; Fred Fuentes, uncle; and Severa Fuentes aunt who were seated in the gallery.

## PERSONAL PRIVILEGE

Senator Hewitt: “Thank you Mr. President. I would like to mention that the family will be in the Rules Room afterwards if they’d like to stop and say hi. Thank you Mr. President.”

## MOTION

At 12:37 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, April 18, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

NINETY NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, April 18, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Hewitt, Morton, Prentice and Sheldon.

The Sergeant at Arms Color Guard consisting of Pages Megan Williams and Marissa Wingender, presented the Colors. Senator Kilmer offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 14, 2011

SB 5921 Prime Sponsor, Senator Regala: Revising social services programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5921 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

April 15, 2011

SB 5926 Prime Sponsor, Senator Keiser: Restoring funding to in-home care services. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: That it be referred without recommendation. Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker; Carrell; Kline; Murray; Parlette; Pflug and Pridemore.

Passed to Committee on Ways & Means.

April 15, 2011

SB 5927 Prime Sponsor, Senator Keiser: Limiting payments for health care services provided to low-income enrollees in state purchased health care programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5927 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist

Newbry; Honeyford; Kastama; Keiser; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

April 15, 2011

ESHB 1087 Prime Sponsor, Committee on Ways & Means: Making 2009-2011 and 2011-2013 fiscal biennia operating appropriations. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Baumgartner; Baxter; Holmquist Newbry and Pflug.

Passed to Committee on Rules for second reading.

April 15, 2011

E2SHB 1738 Prime Sponsor, Committee on Ways & Means: Changing the designation of the medicaid single state agency. Reported by Committee on Health & Long-Term Care

MAJORITY recommendation: Do pass as amended. Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline; Murray; Pflug and Pridemore.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Becker and Parlette.

Passed to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 15, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

HOUSE BILL NO. 1000,  
 SUBSTITUTE HOUSE BILL NO. 1008,  
 SUBSTITUTE HOUSE BILL NO. 1127,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,  
 ENGROSSED HOUSE BILL NO. 1382,  
 HOUSE BILL NO. 1418,

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HOUSE BILL NO. 1419,  
SUBSTITUTE HOUSE BILL NO. 1570,  
HOUSE BILL NO. 1594,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635,  
SUBSTITUTE HOUSE BILL NO. 1691,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790,  
SECOND SUBSTITUTE HOUSE BILL NO. 1903,  
HOUSE BILL NO. 1916,  
ENGROSSED SUBSTITUTE HOUSE CONCURRENT  
RESOLUTION NO. 4404,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5951 by Senator Hatfield

AN ACT Relating to distributed generation; amending RCW 19.285.030; and creating a new section.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

At 10:11 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:20 a.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Shin moved that Gubernatorial Appointment No. 9089, Quentin Powers, as a member of the Board of Trustees, Edmonds Community College District No. 23, be confirmed.

Senator Shin spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Benton and Morton were excused.

MOTION

On motion of Senator White, Senator Sheldon was excused.

APPOINTMENT OF QUENTIN POWERS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9089, Quentin Powers as a member of the Board of Trustees, Edmonds Community College District No. 23.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9089, Quentin Powers as a member of the Board of Trustees, Edmonds Community College District No. 23 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Brown, Hewitt and Prentice

Excused: Senators Benton, Morton and Sheldon

Gubernatorial Appointment No. 9089, Quentin Powers, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Edmonds Community College District No. 23.

PERSONAL PRIVILEGE

Senator Delvin: "Thank you Mr. President. I wanted to thank the members of the Senate for all the kind words and thoughts you had for me in this last week when my father unexpectedly passed away last week. It meant a lot to hear from all of you both on the staff but also the members too. I wanted to also thank you for taking care of the Torres family last Friday. They are a great group of people from the Tri Cities, hope you got to meet them. I appreciate you looking after them last week too. Just to say Mr. President, my father he is the one that inspired me, the sense of adventure. In fact, the last few years we got to back-pack the Grand Canyon. Several times we rafted the Grand Canyon. Something we always talked about as I was a kid that him and I would do one day and we did that a couple years ago. In fact, next month he was going to raft the Grand Canyon for his third or fourth time with my sisters because he hadn't done that with them yet. He taught me also about service that, you know, that you should always serve your communities, serve your human folks and he always taught me something, I'll always remember, he always taught me never judge a person by their appearance but get to know them and judge them by their character and the content of that character and he always strived to make sure he did that by having foster kids in the house by inviting guests from different countries into the house and I really appreciate that and certainly going to miss him but again thanks for all that you have done for me."

MOTION

On motion of Senator Eide, Senators Brown, Hewitt and Prentice were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

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Senator Kline moved that Gubernatorial Appointment No. 9131, Lorraine Lee, as a Chief Administrative Law Judge of the Office of Administrative Hearing, be confirmed.

APPOINTMENT OF LORRAINE LEE

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9131, Lorraine Lee as a Chief Administrative Law Judge of the Office of Administrative Hearing.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9131, Lorraine Lee as a Chief Administrative Law Judge of the Office of Administrative Hearing and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Morton and Prentice

Gubernatorial Appointment No. 9131, Lorraine Lee, having received the constitutional majority was declared confirmed as a Chief Administrative Law Judge of the Office of Administrative Hearing.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5326 with the following amendment(s): 5326-S AMH ENGR H2161.E

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A person commits negligent driving in the second degree with a vulnerable user victim if, under circumstances not constituting negligent driving in the first degree, he or she operates a vehicle, as defined in RCW 46.04.670, in a manner that is both negligent and endangers or is likely to endanger any person or property, and he or she proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

(2) The law enforcement officer or prosecuting authority issuing the notice of infraction for an offense under this section shall state on the notice of infraction that the offense was a proximate cause of death, great bodily harm, or substantial bodily harm, as defined in RCW 9A.04.110, of a vulnerable user of a public way.

(3) Persons under the age of sixteen who commit an infraction under this section are subject to the provisions of RCW 13.40.250.

(4) A person found to have committed negligent driving in the second degree with a vulnerable user victim shall be required to:

(a) Pay a monetary penalty of five thousand dollars, which may not be reduced to an amount less than one thousand dollars; and

(b) Have his or her driving privileges suspended for ninety days.

(5) In lieu of the penalties imposed under subsection (4) of this section, a person found to have committed negligent driving in the second degree with a vulnerable user victim who requests and personally appears for a hearing pursuant to RCW 46.63.070 (1) or (2) may elect to:

(a) Pay a penalty of two hundred fifty dollars;

(b) Attend traffic school for a number of days to be determined by the court pursuant to chapter 46.83 RCW;

(c) Perform community service for a number of hours to be determined by the court, which may not exceed one hundred hours, and which must include activities related to driver improvement and providing public education on traffic safety; and

(d) Submit certification to the court establishing that the requirements of this subsection have been met within one year of the hearing.

(6) If a person found to have committed a violation of this section elects the penalties imposed under subsection (5) of this section, the court may impose the penalties under subsection (5) of this section and the court may assess costs as the court deems appropriate for administrative processing.

(7) Except as provided in (b) of this subsection, if a person found to have committed a violation of this section elects the penalties under subsection (5) of this section but does not complete all requirements of subsection (5) of this section within one year of the hearing:

(a)(i) The court shall impose a monetary penalty in the amount of five thousand dollars, which may not be reduced to an amount less than one thousand dollars; and

(ii) The person's driving privileges shall be suspended for ninety days.

(b) For good cause shown, the court may extend the period of time in which the person must complete the requirements of subsection (5) of this section before any of the penalties provided in this subsection are imposed.

(8) An offense under this section is a traffic infraction. To the extent not inconsistent with this section, the provisions of chapter 46.63 RCW shall apply to infractions under this section. Procedures for the conduct of all hearings provided for in this section may be established by rule of the supreme court.

(9) If a person is penalized under subsection (4) of this section, then the court shall notify the department, and the department shall suspend the person's driving privileges. If a person fails to meet the requirements of subsection (5) of this section, the court shall notify the department that the person has failed to meet the requirements of subsection (5) of this section and the department shall suspend the person's driving privileges. Notice provided by the court under this subsection must be in a form specified by the department.

(10) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(11) For the purposes of this section:

(a) "Great bodily harm" and "substantial bodily harm" have the same meaning as provided in RCW 9A.04.110.

(b) "Negligent" has the same meaning as provided in RCW 46.61.525(2).

(c) "Vulnerable user of a public way" means:

(i) A pedestrian;

(ii) A person riding an animal; or

(iii) A person operating any of the following on a public way:

(A) A farm tractor or implement of husbandry, without an enclosed shell;

(B) A bicycle;

(C) An electric-assisted bicycle;

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- (D) An electric personal assistive mobility device;
- (E) A moped;
- (F) A motor-driven cycle;
- (G) A motorized foot scooter; or
- (H) A motorcycle.

**Sec. 2.** RCW 46.20.342 and 2010 c 269 s 7 and 2010 c 252 s 4 are each reenacted and amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be ~~((am))~~ a habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

- (i) A conviction of a felony in the commission of which a motor vehicle was used;
- (ii) A previous conviction under this section;
- (iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;
- (iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;
- (v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;
- (vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;
- (viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;
- (ix) A conviction of RCW 46.61.500, relating to reckless driving;
- (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xii) A conviction of RCW 46.61.522, relating to vehicular assault;

(xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xviii) An administrative action taken by the department under chapter 46.20 RCW; ~~((or))~~

(xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection; or

(xx) A finding that a person has committed a traffic infraction under section 1 of this act and suspension of driving privileges pursuant to section 1 (4)(b) or (7)(a)(ii) of this act.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (c)(i) through (vii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person

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would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**Sec. 3.** RCW 46.63.070 and 2006 c 327 s 7 are each amended to read as follows:

(1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5)(a) Except as provided in (b) ~~(and)~~, (c), and (d) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

(b) A person may not receive more than one deferral within a seven-year period for traffic infractions for moving violations and more than one deferral within a seven-year period for traffic infractions for nonmoving violations.

(c) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation may not receive a deferral under this section.

(d) A person who commits negligent driving in the second degree with a vulnerable user victim may not receive a deferral for this infraction under this section.

(6) If any person issued a notice of traffic infraction:

(a) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty

authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

**NEW SECTION. Sec. 4.** This act applies to infractions committed on or after the effective date of this section.

**NEW SECTION. Sec. 5.** This act takes effect July 1, 2012." Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5326.

Senators Kline and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5326.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5326 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5326, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5326, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoessler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Hargrove

Excused: Senators Benton, Morton and Prentice

SUBSTITUTE SENATE BILL NO. 5326, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5350 with the following amendment(s): 5350-S AMH ENVI H2193.3

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.95.240 and 2001 c 139 s 2 are each amended to read as follows:

(1) Except as otherwise provided in this section or at a solid waste disposal site for which there is a valid permit, after the adoption of regulations or ordinances by any county, city, or jurisdictional board of health providing for the issuance of permits as provided in RCW 70.95.160, it ~~(shall be)~~ is unlawful for any person to dump or deposit or permit the dumping or depositing of any solid waste onto or under the surface of the ground or into the waters of this state ~~((except at a solid waste disposal site for which there is a valid permit))~~.

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(2) This section does not:

(a) Prohibit a person from dumping or depositing solid waste resulting from his or her own activities onto or under the surface of ground owned or leased by him or her when such action does not violate statutes or ordinances, or create a nuisance;

(b) Apply to a person using a waste-derived soil amendment that has been approved by the department under RCW 70.95.205; or

(c) Apply to the application of commercial fertilizer that has been registered with the department of agriculture as provided in RCW 15.54.325, and that is applied in accordance with the standards established in RCW 15.54.800(3).

~~((2))~~ (3)(a) It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b)(i) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard. ~~((The person))~~

(ii) A person found to have littered in an amount greater than one cubic foot, but less than one cubic yard, shall also pay a litter cleanup restitution payment ~~((equal to))~~. This payment must be the greater of twice the actual cost of ~~((cleanup))~~ removing and properly disposing of the litter, or fifty dollars per cubic foot of litter ~~((; whichever is greater))~~.

(iii) The court shall distribute one-half of the restitution payment to the landowner where the littering occurred and one-half of the restitution payment to the jurisdictional health department investigating the incident. If the landowner provided written permission authorizing the littering on his or her property or assisted a person with littering on the landowner's property, the landowner is not entitled to any restitution ordered by the court and the full litter cleanup restitution payment must be provided to the jurisdictional health department investigating the incident.

(iv) A jurisdictional health department receiving all or a portion of a litter cleanup restitution payment must use the payment as follows:

(A) One-half of the payment may be used by the jurisdictional health department in the fulfillment of its responsibilities under this chapter; and

(B) One-half of the payment must be used to assist property owners located within the jurisdiction of the health department with the removal and proper disposal of litter in instances when the person responsible for the illegal dumping of the solid waste cannot be determined.

(v) The court may, in addition to ~~((or in lieu of part or all of))~~ the litter cleanup restitution payment, order the person to ~~((pick up and))~~ remove and properly dispose of the litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section ~~((;))~~ if the person ~~((cleanup))~~ removes and properly disposes of the litter.

(c)(i) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more. ~~((The person))~~

(ii) A person found to have littered in an amount greater than one cubic yard shall also pay a litter cleanup restitution payment ~~((equal to))~~. This payment must be the greater of twice the actual cost of ~~((cleanup))~~ removing and properly disposing of the litter, or one hundred dollars per cubic foot of litter ~~((; whichever is greater))~~.

(iii) The court shall distribute one-half of the restitution payment to the landowner where the littering occurred and one-half of the restitution payment to the jurisdictional health department investigating the incident. If the landowner provided written permission authorizing the littering on his or her property or assisted a person with littering on the landowner's property, the landowner is not entitled to any restitution ordered by the court and the full litter

cleanup restitution payment must be provided to the jurisdictional health department investigating the incident.

(iv) A jurisdictional health department receiving all or a portion of a litter cleanup restitution payment must use the payment as follows:

(A) One-half of the payment may be used by the jurisdictional health department in the fulfillment of its responsibilities under this chapter; and

(B) One-half of the payment must be used to assist property owners located within the jurisdiction of the health department with the removal and proper disposal of litter in instances when the person responsible for the illegal dumping of the solid waste cannot be determined.

(v) The court may, in addition to ~~((or in lieu of part or all of))~~ the litter cleanup restitution payment, order the person to ~~((pick up and))~~ remove and properly dispose of the litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section ~~((;))~~ if the person ~~((cleanup))~~ removes and properly disposes of the litter.

~~((4))~~ (4) If a junk vehicle is abandoned in violation of this chapter, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

(5) When enforcing this section, the enforcing authority must take reasonable action to determine and identify the person responsible for illegally dumping solid waste before requiring the owner or lessee of the property where illegal dumping of solid waste has occurred to remove and properly dispose of the litter on the site."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5350.

Senators Rockefeller and Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5350.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5350 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5350, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5350, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Morton and Prentice

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SUBSTITUTE SENATE BILL NO. 5350, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5371 with the following amendment(s): 5371-S.E AMH BAIL MORI 072

On page 15, line 22, after "**Sec. 7.**" strike "This act is" and insert "Sections 5 and 6 of this act are"

On page 15, line 24, after "institutions, and" strike "takes" and insert "take" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5371.

Senators Keiser and Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5371.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5371 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5371, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5371, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

ENGROSSED SUBSTITUTE SENATE BILL NO. 5371, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5392 with the following amendment(s): 5392-S AMH ED H2375.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that technology can be effectively integrated into other K-12 core subjects that students are expected to know and be able to do. Integration of knowledge and skills in technology literacy and fluency into other subjects will engage and motivate students to explore high-demand careers, such as engineering, mathematics, computer science, communication, art, entrepreneurship, and others; fields in which skilled individuals will create the new ideas, new products, and new industries of the future; and fields that demand the collaborative information skills and technological fluency of digital citizenship.

**Sec. 2.** RCW 28A.150.210 and 2009 c 548 s 103 are each amended to read as follows:

A basic education is an evolving program of instruction that is intended to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and gives all students the opportunity to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate technology literacy and fluency as well as different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

**NEW SECTION. Sec. 3.** This act takes effect September 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5392.

Senators McAuliffe and Litzow spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5392.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5392 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5392, as amended by the House.

ROLL CALL

NINETY NINTH DAY, APRIL 18, 2011

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5392, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5392, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5504 with the following amendment(s): 5504-S AMH ELHS PALC 037

On page 3, line 28, after "each day" strike "the agency" and insert "a family day care home"

One page 3, line 29, after "licensed" insert "and two hundred fifty dollars for each day a child day care center provided care without being licensed" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5504.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5504.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5504 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5504, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5504, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Schoesler

Excused: Senator Morton

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SUBSTITUTE SENATE BILL NO. 5504, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5394 with the following amendment(s): 5394-S AMH ENGR H2506.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 74.09 RCW to read as follows:

The legislature finds that:

(1) Health care costs are growing rapidly, exceeding the consumer price index year after year. Consequently, state health programs are capturing a growing share of the state budget, even as state revenues have declined. Sustaining these critical health programs will require actions to effectively contain health care cost increases in the future; and

(2) The primary care health home model has been demonstrated to successfully constrain costs, while improving quality of care. Chronic care management, occurring within a primary care health home, has been shown to be especially effective at reducing costs and improving quality. However, broad adoption of these models has been impeded by a fee-for-service system that reimburses volume of services and does not adequately support important primary care health home services, such as case management and patient outreach. Furthermore, successful implementation will require a broad adoption effort by private and public payers, in coordination with providers.

Therefore the legislature intends to promote the adoption of primary care health homes for children and adults and, within them, advance the practice of chronic care management to improve health outcomes and reduce unnecessary costs. To facilitate the best coordination and patient care, primary care health homes are encouraged to collaborate with other providers currently outside the medical insurance model. Successful chronic care management for persons receiving long-term care services in addition to medical care will require close coordination between primary care providers, long-term care workers, and other long-term care service providers, including area agencies on aging. Primary care providers also should consider oral health coordination through collaboration with dental providers and, when possible, delivery of oral health prevention services. The legislature also intends that the methods and approach of the primary care health home become part of basic primary care medical education.

**Sec. 2.** RCW 74.09.010 and 2010 1st sp.s. c 8 s 28 are each reenacted and amended to read as follows:

~~((As used in this chapter.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

(2) ~~("Committee" means the children's health services committee created in section 3 of this act.~~

~~(3))~~ "Chronic care management" means the health care management within a health home of persons identified with, or at

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high risk for, one or more chronic conditions. Effective chronic care management:

(a) Actively assists patients to acquire self-care skills to improve functioning and health outcomes, and slow the progression of disease or disability;

(b) Employs evidence-based clinical practices;

(c) Coordinates care across health care settings and providers, including tracking referrals;

(d) Provides ready access to behavioral health services that are, to the extent possible, integrated with primary care; and

(e) Uses appropriate community resources to support individual patients and families in managing chronic conditions.

(3) "Chronic condition" means a prolonged condition and includes, but is not limited to:

(a) A mental health condition;

(b) A substance use disorder;

(c) Asthma;

(d) Diabetes;

(e) Heart disease; and

(f) Being overweight, as evidenced by a body mass index over twenty-five.

(4) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee. A combination of two or more county authorities or tribal jurisdictions may enter into joint agreements ~~(to fulfill the requirements of RCW 74.09.415 through 74.09.435).~~

~~((4))~~ (5) "Department" means the department of social and health services.

~~((5))~~ (6) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

~~((6))~~ (7) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

~~((7))~~ (8) "Health home" or "primary care health home" means coordinated health care provided by a licensed primary care provider coordinating all medical care services, and a multidisciplinary health care team comprised of clinical and nonclinical staff. The term "coordinating all medical care services" shall not be construed to require prior authorization by a primary care provider in order for a patient to receive treatment for covered services by an optometrist licensed under chapter 18.53 RCW. Primary care health home services shall include those services defined as health home services in 42 U.S.C. Sec. 1396w-4 and, in addition, may include, but are not limited to:

(a) Comprehensive care management including, but not limited to, chronic care treatment and management;

(b) Extended hours of service;

(c) Multiple ways for patients to communicate with the team, including electronically and by phone;

(d) Education of patients on self-care, prevention, and health promotion, including the use of patient decision aids;

(e) Coordinating and assuring smooth transitions and follow-up from inpatient to other settings;

(f) Individual and family support including authorized representatives;

(g) The use of information technology to link services, track tests, generate patient registries, and provide clinical data; and

(h) Ongoing performance reporting and quality improvement.

(9) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

~~((8))~~ (10) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

~~((9))~~ (11) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

~~((10))~~ (12) "Medical care services" means the limited scope of care financed by state funds and provided to disability lifeline benefits recipients, and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

~~((11))~~ (13) "Multidisciplinary health care team" means an interdisciplinary team of health professionals which may include, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, doctors of chiropractic, physical therapists, licensed complementary and alternative medicine practitioners, home care and other long-term care providers, and physicians' assistants.

(14) "Nursing home" means nursing home as defined in RCW 18.51.010.

~~((12))~~ (15) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

~~((13))~~ (16) "Primary care provider" means a general practice physician, family practitioner, internist, pediatrician, osteopath, naturopath, physician assistant, osteopathic physician assistant, and advanced registered nurse practitioner licensed under Title 18 RCW.

(17) "Secretary" means the secretary of social and health services.

**Sec. 3.** RCW 43.70.533 and 2007 c 259 s 5 are each amended to read as follows:

(1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care and shall collaborate with the health care authority to promote the adoption of primary care health homes established under this act. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

(a) Clinical information systems and sharing and organization of patient data;

(b) Decision support to promote evidence-based care;

(c) Clinical delivery system design;

(d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic health plan, and health plans offered through the public employees' benefits board.

(4) For the purposes of this section, "health home" and "primary care provider" have the same meaning as in RCW 74.09.010.

**Sec. 4.** RCW 74.09.522 and 1997 c 59 s 15 and 1997 c 34 s 1 are each reenacted and amended to read as follows:

(1) For the purposes of this section, "managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health

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maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under RCW 74.09.520 and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act.

(2) The department of social and health services shall enter into agreements with managed health care systems to provide health care services to recipients of temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the department may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the department shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the department by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the department under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e)(i) In negotiating with managed health care systems the department shall adopt a uniform procedure to ~~((negotiate and))~~ enter into contractual arrangements, to be included in contracts issued or renewed on or after January 1, 2012, including:

(A) Standards regarding the quality of services to be provided;  
~~((and))~~

(B) The financial integrity of the responding system;

(C) Provider reimbursement methods that incentivize chronic care management within health homes;

(D) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use; and

(E) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training, unless the managed care system is an integrated health delivery system that has programs in place for chronic care management.

(ii)(A) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(B) Contracts that include the items in (e)(i)(C) through (E) of this subsection must not exceed the rates that would be paid in the absence of these provisions;

(f) The department shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The department shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the department may enter into prepaid capitation contracts that do not include inpatient care;

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(h) The department shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services; ~~((and))~~

(i) Nothing in this section prevents the department from entering into similar agreements for other groups of people eligible to receive services under this chapter; and

(j) The department must consult with the federal center for medicare and medicaid innovation and seek funding opportunities to support health homes.

(3) The department shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed health care systems are seriously considered as contractors. The department shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The department shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the department in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the department to the extent that minimum contracting requirements defined by the department are met, at payment rates that enable the department to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the department, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The department shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the department to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

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(f) Procedures for resolution of disputes between the department and contract bidders or the department and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document. In designing such procedures, the department shall give strong consideration to the negotiation and dispute resolution processes used by the Washington state health care authority in its managed health care contracting activities.

(6) The department may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

**Sec. 5.** RCW 70.47.100 and 2009 c 568 s 5 are each amended to read as follows:

(1) A managed health care system participating in the plan shall do so by contract with the administrator and shall provide, directly or by contract with other health care providers, covered basic health care services to each enrollee covered by its contract with the administrator as long as payments from the administrator on behalf of the enrollee are current. A participating managed health care system may offer, without additional cost, health care benefits or services not included in the schedule of covered services under the plan. A participating managed health care system shall not give preference in enrollment to enrollees who accept such additional health care benefits or services. Managed health care systems participating in the plan shall not discriminate against any potential or current enrollee based upon health status, sex, race, ethnicity, or religion. The administrator may receive and act upon complaints from enrollees regarding failure to provide covered services or efforts to obtain payment, other than authorized copayments, for covered services directly from enrollees, but nothing in this chapter empowers the administrator to impose any sanctions under Title 18 RCW or any other professional or facility licensing statute.

(2) The plan shall allow, at least annually, an opportunity for enrollees to transfer their enrollments among participating managed health care systems serving their respective areas. The administrator shall establish a period of at least twenty days in a given year when this opportunity is afforded enrollees, and in those areas served by more than one participating managed health care system the administrator shall endeavor to establish a uniform period for such opportunity. The plan shall allow enrollees to transfer their enrollment to another participating managed health care system at any time upon a showing of good cause for the transfer.

(3) Prior to negotiating with any managed health care system, the administrator shall determine, on an actuarially sound basis, the reasonable cost of providing the schedule of basic health care services, expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different areas of the state.

(4) In negotiating with managed health care systems for participation in the plan, the administrator shall adopt a uniform procedure that includes at least the following:

(a) The administrator shall issue a request for proposals, including standards regarding the quality of services to be provided; financial integrity of the responding systems; and responsiveness to the unmet health care needs of the local communities or populations that may be served;

(b) The administrator shall then review responsive proposals and may negotiate with respondents to the extent necessary to refine any proposals;

(c) The administrator may then select one or more systems to provide the covered services within a local area; and

(d) The administrator may adopt a policy that gives preference to respondents, such as nonprofit community health clinics, that

have a history of providing quality health care services to low-income persons.

(5)(a) The administrator may contract with a managed health care system to provide covered basic health care services to subsidized enrollees, nonsubsidized enrollees, health coverage tax credit eligible enrollees, or any combination thereof. At a minimum, such contracts issued on or after January 1, 2012, must include:

(i) Provider reimbursement methods that incentivize chronic care management within health homes;

(ii) Provider reimbursement methods that reward health homes that, by using chronic care management, reduce emergency department and inpatient use; and

(iii) Promoting provider participation in the program of training and technical assistance regarding care of people with chronic conditions described in RCW 43.70.533, including allocation of funds to support provider participation in the training unless the managed care system is an integrated health delivery system that has programs in place for chronic care management.

(b) Health home services contracted for under this subsection may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(c) For the purposes of this subsection, "chronic care management," "chronic condition," and "health home" have the same meaning as in RCW 74.09.010.

(d) Contracts that include the items in (a)(i) through (iii) of this subsection must not exceed the rates that would be paid in the absence of these provisions.

(6) The administrator may establish procedures and policies to further negotiate and contract with managed health care systems following completion of the request for proposal process in subsection (4) of this section, upon a determination by the administrator that it is necessary to provide access, as defined in the request for proposal documents, to covered basic health care services for enrollees.

(7) The administrator may implement a self-funded or self-insured method of providing insurance coverage to subsidized enrollees, as provided under RCW 41.05.140. Prior to implementing a self-funded or self-insured method, the administrator shall ensure that funding available in the basic health plan self-insurance reserve account is sufficient for the self-funded or self-insured risk assumed, or expected to be assumed, by the administrator. If implementing a self-funded or self-insured method, the administrator may request funds to be moved from the basic health plan trust account or the basic health plan subscription account to the basic health plan self-insurance reserve account established in RCW 41.05.140.

**NEW SECTION. Sec. 6.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Effective January 1, 2013, the authority must contract with all of the public employees benefits board managed care plans and the self-insured plan or plans to include provider reimbursement methods that incentivize chronic care management within health homes resulting in reduced emergency department and inpatient use.

(2) Health home services contracted for under this section may be prioritized to enrollees with complex, high cost, or multiple chronic conditions.

(3) For the purposes of this section, "chronic care management," and "health home" have the same meaning as in RCW 74.09.010.

(4) Contracts with fully insured plans and with any third-party administrator for the self-funded plan that include the items in subsection (1) of this section must be funded within the resources provided by employer funding rates provided for employee health benefits in the omnibus appropriations act.

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(5) Nothing in this section shall require contracted third-party health plans administering the self-insured contract to expend resources to implement items in subsection (1) of this section beyond the resources provided by employer funding rates provided for employee health benefits in the omnibus appropriations act or from other sources in the absence of these provisions.

**NEW SECTION. Sec. 7.** A new section is added to chapter 41.05 RCW to read as follows:

The authority shall coordinate a discussion with carriers to learn from successful chronic care management models and develop principles for effective reimbursement methods to align incentives in support of patient centered chronic care health homes. The authority shall submit a report to the appropriate committees of the legislature by December 1, 2012, describing the principles developed from the discussion and any steps taken by the public employees benefits board or carriers in Washington state to implement the principles through their payment methodologies."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5394.

Senator Keiser spoke in favor of the motion.

#### POINT OF INQUIRY

Senator Becker: "Would Senator Keiser yield to a question? Thank you. The bill requires that the Health Care Authority enter into contracts with its manage care plans and third party payer administrators for the self-funded Uniform Medical plan to require such entities to include provider reimbursement methods that incentivize chronic managed management with health care homes in the goal of reducing unnecessary use of emergency room visits and inpatient hospital days. The intent is to reduce overall costs and improve health outcomes. How will the Health Care Authority approach this?"

Senator Keiser: "Thank you. The Uniform Medical plan or (UMP) contracts with the third party administrator that bears no risk for the cost of care and the HCA has the authority as the self-insurer to fund improvements to primary care in order to achieve savings. By 2013 UMP intends to implement the requirements of this bill through a strategic partnership with the third party administrator that has such the third party administrator would be obligated to include reimbursement methodologies for its provider network consistent with the requirements set forth by HCA. The manage care plan currently has strategies in place including provider reimbursement that work to reduce emergency room visits and inpatient hospital days for most of its enrollment and it intends to include these and other methods more broadly throughout its provider network when it is possible so as to cover even more of its enrollees."

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5394.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5394 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5394, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5394, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5394, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5427 with the following amendment(s): 5427-S2 AMH ED H2213.4

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.315 and 2010 c 236 s 4 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. During the 2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

- (a) Provide at least a one thousand-hour instructional program;
- (b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:
  - (i) Developing initial skills in the academic areas of reading, mathematics, and writing;
  - (ii) Developing a variety of communication skills;
  - (iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;
  - (iv) Acquiring large and small motor skills;
  - (v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and
  - (vi) Learning through hands-on experiences;
- (c) Establish learning environments that are developmentally appropriate and promote creativity;

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(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2)(a) In addition to the requirements in subsection (1) of this section and to the extent funds are available, beginning with the 2011-12 school year on a voluntary basis, schools must identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction. Kindergarten teachers shall administer the Washington kindergarten inventory of developing skills, as directed by the superintendent of public instruction in consultation with the department of early learning, and report the results to the superintendent. The superintendent shall share the results with the director of the department of early learning.

(b) School districts shall provide an opportunity for parents and guardians to excuse their children from participation in the Washington kindergarten inventory of developing skills.

(c) To the extent funds are available, beginning in the 2012-13 school year, the Washington kindergarten inventory of developing skills shall be administered at the beginning of the school year to all students enrolled in state-funded full-day kindergarten programs with the exception of students who have been excused from participation by their parents or guardians.

(d) Until full implementation of state-funded all-day kindergarten, the superintendent of public instruction, in consultation with the director of the department of early learning, may grant annual, renewable waivers from the requirement of (c) of this subsection to administer the Washington kindergarten inventory of developing skills. A school district seeking a waiver for one or more of its schools must submit an application to the office of the superintendent of public instruction that includes:

(i) A description of the kindergarten readiness assessment and transition processes that it proposes to administer instead of the Washington kindergarten inventory of developing skills;

(ii) An explanation of why the administration of the Washington kindergarten inventory of developing skills would be unduly burdensome; and

(iii) An explanation of how administration of the alternative kindergarten readiness assessment will support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

(3) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.655 RCW to read as follows:

Before implementing the Washington kindergarten inventory of developing skills as provided under RCW 28A.150.315, the superintendent of public instruction and the department of early learning must assure that a fairness and bias review of the assessment process has been conducted, including providing an opportunity for input from the achievement gap oversight and

accountability committee under RCW 28A.300.136 and from an additional diverse group of community representatives, parents, and educators to be convened by the superintendent and the director of the department.

**NEW SECTION. Sec. 3.** Section 1 of this act takes effect September 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5427.

Senators McAuliffe and Litzow spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5427.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5427 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5427, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5427, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Honeyford, Parlette, Schoesler, Stevens and Zarelli

Excused: Senator Morton

SECOND SUBSTITUTE SENATE BILL NO. 5427, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5436 with the following amendment(s): 5436-S AMH ENVI H2267.3

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature intends to phase out the use of copper-based antifouling paints used on recreational water vessels.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3)(a) "Recreational water vessel" means any vessel that is no more than sixty-five feet in length and is: (i) Manufactured or used

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primarily for pleasure; or (ii) leased, rented, or chartered by a person for the pleasure of that person.

(b) "Recreational water vessel" does not include a vessel that is subject to United States coast guard inspection and that: (i) Is engaged in commercial use; or (ii) carries paying passengers.

**NEW SECTION. Sec. 3.** (1) Beginning January 1, 2018, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale in this state any new recreational water vessel manufactured on or after January 1, 2018, with antifouling paint containing copper.

(2) Beginning January 1, 2020, no antifouling paint that is intended for use on a recreational water vessel and that contains more than 0.5 percent copper may be offered for sale in this state.

(3) Beginning January 1, 2020, no antifouling paint containing more than 0.5 percent copper may be applied to a recreational water vessel in this state.

**NEW SECTION. Sec. 4.** The department, in consultation and cooperation with other state natural resources agencies, must increase educational efforts regarding recreational water vessel hull cleaning to reduce the spread of invasive species. This effort must include a review of best practices that consider the type of antifouling paint used and recommendations regarding appropriate hull cleaning that includes in-water methods.

**NEW SECTION. Sec. 5.** (1) The department shall enforce the requirements of this chapter.

(2)(a) A person or entity that violates this chapter is subject to a civil penalty. The department may assess and collect a civil penalty of up to ten thousand dollars per day per violation.

(b) All penalties collected by the department under this chapter must be deposited in the state toxics control account created in RCW 70.105D.070.

**NEW SECTION. Sec. 6.** (1) On or after January 1, 2016, the director may establish and maintain a statewide advisory committee to assist the department in implementing the requirements of this chapter.

(2)(a) By January 1, 2017, the department shall survey the manufacturers of antifouling paints sold or offered for sale in this state to determine the types of antifouling paints that are available in this state. The department shall also study how antifouling paints affect marine organisms and water quality. The department shall report its findings to the legislature, consistent with RCW 43.01.036, by December 31, 2017.

(b) If the statewide advisory committee authorized under subsection (1) of this section is established by the director, the department may consult with the statewide advisory committee to prepare the report required under (a) of this subsection.

**NEW SECTION. Sec. 7.** The department may adopt rules as necessary to implement this chapter.

**NEW SECTION. Sec. 8.** Sections 2 through 7 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 9.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5436.

Senator Ranker spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5436.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5436 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5436, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5436, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Delvin, Hewitt, Holmquist Newbry, Honeyford, King, Pflug and Stevens

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5436, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5445 with the following amendment(s): 5445-S AMH ENGR H2631.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that the affordable care act requires the establishment of health benefit exchanges. The legislature intends to establish an exchange, including a governance structure. There are many policy decisions associated with establishing an exchange that need to be made that will take a great deal of effort and expertise. It is therefore the intent of the legislature to establish a process through which these policy decisions can be made by the legislature and the governor by the deadline established in the affordable care act.

(2) The exchange is intended to:

(a) Increase access to quality affordable health care coverage, reduce the number of uninsured persons in Washington state, and increase the availability of health care coverage through the private health insurance market to qualified individuals and small employers;

(b) Provide consumer choice and portability of health insurance, regardless of employment status;

(c) Create an organized, transparent, and accountable health insurance marketplace for Washingtonians to purchase affordable, quality health care coverage, to claim available federal refundable premium tax credits and cost-sharing subsidies, and to meet the personal responsibility requirements for minimum essential coverage as provided under the federal affordable care act;

(d) Promote consumer literacy and empower consumers to compare plans and make informed decisions about their health care and coverage;

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(e) Effectively and efficiently administer health care subsidies and determination of eligibility for participation in publicly subsidized health care programs, including the exchange;

(f) Create a health insurance market that competes on the basis of price, quality, service, and other innovative efforts;

(g) Operate in a manner compatible with efforts to improve quality, contain costs, and promote innovation;

(h) Recognize the need for a private health insurance market to exist outside of the exchange; and

(i) Recognize that the regulation of the health insurance market, both inside and outside the exchange, should continue to be performed by the insurance commissioner.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. Terms and phrases used in this chapter that are not defined in this section must be defined as consistent with implementation of a state health benefit exchange pursuant to the affordable care act.

(1) "Affordable care act" means the federal patient protection and affordable care act, P.L. 111-148, as amended by the federal health care and education reconciliation act of 2010, P.L. 111-152, or federal regulations or guidance issued under the affordable care act.

(2) "Authority" means the Washington state health care authority, established under chapter 41.05 RCW.

(3) "Board" means the governing board established in section 3 of this act.

(4) "Commissioner" means the insurance commissioner, established in Title 48 RCW.

(5) "Exchange" means the Washington health benefit exchange established in section 3 of this act.

**NEW SECTION. Sec. 3.** (1) The Washington health benefit exchange is established and constitutes a public-private partnership separate and distinct from the state, exercising functions delineated in this act. By January 1, 2014, the exchange shall operate consistent with the affordable care act subject to statutory authorization. The exchange shall have a governing board consisting of persons with expertise in the Washington health care system and private and public health care coverage. The initial membership of the board shall be appointed as follows:

(a) By October 1, 2011, each of the two largest caucuses in both the house of representatives and the senate shall submit to the governor a list of five nominees who are not legislators or employees of the state or its political subdivisions, with no caucus submitting the same nominee.

(i) The nominations from the largest caucus in the house of representatives must include at least one employee benefit specialist;

(ii) The nominations from the second largest caucus in the house of representatives must include at least one health economist or actuary;

(iii) The nominations from the largest caucus in the senate must include at least one representative of health consumer advocates;

(iv) The nominations from the second largest caucus in the senate must include at least one representative of small business;

(v) The remaining nominees must have demonstrated and acknowledged expertise in at least one of the following areas: Individual health care coverage, small employer health care coverage, health benefits plan administration, health care finance and economics, actuarial science, or administering a public or private health care delivery system.

(b) By December 15, 2011, the governor shall appoint two members from each list submitted by the caucuses under (a) of this subsection. The appointments made under this subsection (1)(b) must include at least one employee benefits specialist, one health

economist or actuary, one representative of small business, and one representative of health consumer advocates. The remaining four members must have a demonstrated and acknowledged expertise in at least one of the following areas: Individual health care coverage, small employer health care coverage, health benefits plan administration, health care finance and economics, actuarial science, or administering a public or private health care delivery system.

(c) By December 15, 2011, the governor shall appoint a ninth member to serve as chair. The chair may not be an employee of the state or its political subdivisions. The chair shall serve as a nonvoting member except in the case of a tie.

(d) The following members shall serve as nonvoting, ex officio members of the board:

(i) The insurance commissioner or his or her designee; and

(ii) The administrator of the health care authority, or his or her designee.

(2) Initial members of the board shall serve staggered terms not to exceed four years. Members appointed thereafter shall serve two-year terms.

(3) A member of the board whose term has expired or who otherwise leaves the board shall be replaced by gubernatorial appointment. When the person leaving was nominated by one of the caucuses of the house of representatives or the senate, his or her replacement shall be appointed from a list of five nominees submitted by that caucus within thirty days after the person leaves. If the member to be replaced is the chair, the governor shall appoint a new chair within thirty days after the vacancy occurs. A person appointed to replace a member who leaves the board prior to the expiration of his or her term shall serve only the duration of the unexpired term. Members of the board may be reappointed to multiple terms.

(4) No board member may be appointed if his or her participation in the decisions of the board could benefit his or her own financial interests or the financial interests of an entity he or she represents. A board member who develops such a conflict of interest shall resign or be removed from the board.

(5) Members of the board must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. Meetings of the board are at the call of the chair.

(6) The exchange and the board are subject only to the provisions of chapter 42.30 RCW, the open public meetings act, and chapter 42.56 RCW, the public records act, and not to any other law or regulation generally applicable to state agencies. Consistent with the open public meetings act, the board may hold executive sessions to consider proprietary or confidential nonpublished information.

(7)(a) The board shall establish an advisory committee to allow for the views of the health care industry and other stakeholders to be heard in the operation of the health benefit exchange.

(b) The board may establish technical advisory committees or seek the advice of technical experts when necessary to execute the powers and duties included in this act.

(8) Members of the board are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this act. Nothing in this section prohibits legal actions against the board to enforce the board's statutory or contractual duties or obligations.

(9) In recognition of the government-to-government relationship between the state of Washington and the federally

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recognized tribes in the state of Washington, the board shall consult with the American Indian health commission.

**NEW SECTION. Sec. 4.** (1) The exchange may, consistent with the purposes of this chapter: (a) Sue and be sued in its own name; (b) make and execute agreements, contracts, and other instruments, with any public or private person or entity; (c) employ, contract with, or engage personnel; (d) pay administrative costs; and (e) accept grants, donations, loans of funds, and contributions in money, services, materials or otherwise, from the United States or any of its agencies, from the state of Washington and its agencies or from any other source, and use or expend those moneys, services, materials, or other contributions.

(2) The powers and duties of the exchange and the board are limited to those necessary to apply for and administer grants, establish information technology infrastructure, and undertake additional administrative functions necessary to begin operation of the exchange by January 1, 2014. Any actions relating to substantive issues included in section 5 of this act must be consistent with statutory direction on those issues.

**NEW SECTION. Sec. 5.** (1) In collaboration with the joint select committee on health reform implementation, the authority shall:

(a) Apply for and implement grants under the affordable care act. Whenever possible, grant applications shall allow for the possibility of partially funding the activities of the joint select committee on health reform implementation;

(b) Develop and submit to the federal department of health and human services:

(i) A complete budget for the development and operation of an exchange through 2014;

(ii) An initial plan discussing the means to achieve financial sustainability of the exchange by 2015;

(iii) A plan outlining steps to prevent fraud, waste, and abuse; and

(iv) A plan describing how capacity for providing assistance to individuals and small businesses in the state will be created, continued, or expanded, including provision for a call center.

(2) Consistent with the work plan developed in subsection (3) of this section, but in no case later than January 1, 2012, the authority, in collaboration with the joint select committee on health reform implementation and the board, shall develop a broad range of options for operating the exchange and report the options to the governor and the legislature on an ongoing basis. The report must include analysis and recommendations on the following:

(a) The operations and administration of the exchange, including:

(i) The goals and principles of the exchange;

(ii) The creation and implementation of a single state-administered exchange for all geographic areas in the state that operates as the exchange for both the individual and small employer markets by January 1, 2014;

(iii) Whether and under what circumstances the state should consider establishment of, or participation in, a regionally administered multistate exchange;

(iv) Whether the role of an exchange includes serving as an aggregator of funds that comprise the premium for a health plan offered through the exchange;

(v) The administrative, fiduciary, accounting, contracting, and other services to be provided by the exchange;

(vi) Coordination of the exchange with other state programs;

(vii) Development of sustainable funding for administration of the exchange as of January 1, 2015; and

(viii) Recognizing the need for expedience in determining the structure of needed information technology, the necessary

information technology to support implementation of exchange activities;

(b) Whether to adopt and implement a federal basic health plan option as authorized in the affordable care act, whether the federal basic health plan option should be administered by the entity that administers the exchange or by a state agency, and whether the federal basic health plan option should merge risk pools for rating with any portion of the state's medicaid program;

(c) Individual and small group market impacts, including whether to:

(i) Merge the risk pools for rating the individual and small group markets in the exchange and the private health insurance markets; and

(ii) Increase the small group market to firms with up to one hundred employees;

(d) Creation of uniform requirements, standards, and criteria for the creation of qualified health plans offered through the exchange, including promoting participation by carriers and enrollees in the exchange to a level sufficient to provide sustainable funding for the exchange;

(e) Certifying, selecting, and facilitating the offer of individual and small group plans through an exchange, to include designation of qualified health plans and the levels of coverage for the plans;

(f) The role and services provided by producers and navigators, including the option to use private insurance market brokers as navigators;

(g) Effective implementation of risk management methods, including: Reinsurance, risk corridors, risk adjustment, to include the entity designated to operate reinsurance and risk adjustment, and the continuing role of the Washington state health insurance pool;

(h) Participation in innovative efforts to contain costs in Washington's markets for public and private health care coverage;

(i) Providing federal refundable premium tax credits and reduced cost-sharing subsidies through the exchange, including the processes and entity responsible for determining eligibility to participate in the exchange and the cost-sharing subsidies provided through the exchange;

(j) The staff, resources, and revenues necessary to operate and administer an exchange for the first two years of operation;

(k) The extent and circumstances under which benefits for spiritual care services that are deductible under section 213(d) of the internal revenue code as of January 1, 2010, will be made available under the exchange; and

(l) Any other areas identified by the joint select committee on health reform implementation.

(3) In collaboration with the joint select committee on health reform implementation, the authority shall develop a work plan for the development of options under subsection (2) of this section in discrete, prioritized stages.

(4) The authority and the board shall consult with the commissioner, the joint select committee on health reform implementation, and stakeholders relevant to carrying out the activities required under this section, including: (a) Educated health care consumers who are enrolled in commercial health insurance coverage and publicly subsidized health care programs; (b) individuals and entities with experience in facilitating enrollment in health insurance coverage, including health carriers, producers, and navigators; (c) representatives of small businesses, employees of small businesses, and self-employed individuals; (d) advocates for enrolling hard to reach populations and populations enrolled in publicly subsidized health care programs; (e) facilities and providers of health care; (f) representatives of publicly subsidized health care programs; and (g) members in good standing of the American academy of actuaries.

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(5) Beginning March 15, 2012, the exchange shall be responsible for the duties of the authority under this section. Prior to March 15, 2012, the board may make independent recommendations regarding the options developed under subsection (2) of this section to the governor and the legislature.

**NEW SECTION. Sec. 6.** (1) The authority may enter into:

(a) Information sharing agreements with federal and state agencies and other state exchanges to carry out the provisions of this act: PROVIDED, That such agreements include adequate protections with respect to the confidentiality of the information to be shared and comply with all state and federal laws and regulations; and

(b) Interdepartmental agreements with the office of the insurance commissioner, the department of social and health services, the department of health, and any other state agencies necessary to implement this act.

(2) To the extent funding is available, the authority shall:

(a) Provide staff and resources to implement this act;

(b) Manage and administer the grant and other funds; and

(c) Expend funds specifically appropriated by the legislature to implement the provisions of this act.

(3) Beginning March 15, 2012, the board shall:

(a) Be responsible for the duties imposed on the authority under this section; and

(b) Have the powers granted to the authority under this section.

**NEW SECTION. Sec. 7.** The health benefit exchange account is created in the custody of the state treasurer. All receipts from federal grants received under the affordable care act shall be deposited into the account. Expenditures from the account may be used only for purposes consistent with the grants. Until March 15, 2012, only the administrator of the health care authority, or his or her designee, may authorize expenditures from the account. Beginning March 15, 2012, only the board of the Washington health benefit exchange may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 8.** Sections 1 through 6 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 9.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5445.

Senators Keiser and Becker spoke in favor of the motion.

Senators Parlette, Ericksen and Carrell spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5445.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5445 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5445, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5445, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5445, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5451 with the following amendment(s): 5451-S AMH ENGR H2562.E

On page 2, beginning on line 4, strike all of section 2 and insert the following:

**"NEW SECTION. Sec. 2.** A new section is added to chapter 90.58 RCW to read as follows:

(1) New or amended master programs approved by the department on or after September 1, 2011, may include provisions authorizing:

(a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density; and

(b) Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the master program, including requirements for no net loss of shoreline ecological functions.

(2) For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

(3) Nothing in this section: (a) Restricts the ability of a master program to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5451.

Senator Ranker spoke in favor of the motion.

NINETY NINTH DAY, APRIL 18, 2011

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5451.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5451 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5451, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5451, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5451, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5452 with the following amendment(s): 5452-S AMH PSEP H2326.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that effective collaboration and communication between mental health and chemical dependency treatment providers and service delivery systems and law enforcement and criminal justice agencies is important to both the care of persons with mental disorders and chemical dependency and public safety. The legislature also finds that many state and local efforts in recent years have worked to address improved treatment of persons with mental disorders, chemical dependency disorders, or co-occurring mental and substance abuse disorders who are confined in a correctional institution and to improve communication and collaboration among the agencies, institutions, and professionals who are responsible for the care or custody of those persons. While numerous laws have been enacted to clarify the appropriate sharing of information between those agencies, institutions, and professionals, the legislature finds further clarification will continue to aide and improve the care of those persons and augment public safety.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

It is permissible to provide to a correctional institution, as defined in RCW 9.94.049, with the fact, place, and date of an involuntary commitment and the fact and date of discharge or release of a person who has been involuntarily committed under chapter 71.05 or 71.34 RCW, without a person's consent, in the course of the implementation and use of the department's postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in

RCW 74.09.555. Disclosure under this section is mandatory for the purposes of the health insurance portability and accountability act.

**Sec. 3.** RCW 71.05.190 and 1997 c 112 s 13 are each amended to read as follows:

If the person is not approved for admission by a facility providing seventy-two hour evaluation and treatment, and the individual has not been arrested, the facility shall furnish transportation, if not otherwise available, for the person to his or her place of residence or other appropriate place. If the individual has been arrested, the evaluation and treatment facility shall detain the individual for not more than eight hours at the request of the peace officer. The facility shall make reasonable attempts to contact the requesting peace officer during this time to inform the peace officer that the person is not approved for admission in order to enable a peace officer to return to the facility and take the individual back into custody.

**Sec. 4.** RCW 71.05.390 and 2009 c 320 s 3 and 2009 c 217 s 6 are each reenacted and amended to read as follows:

Except as provided in this section, RCW 71.05.445, 71.05.630, 70.96A.150, 71.05.385, section 2 of this act, or pursuant to a valid release under RCW 70.02.030, the fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the person, or his or her personal representative or guardian, shall be obtained before information or records may be disclosed by a professional person employed by a facility unless provided to a professional person:

- (a) Employed by the facility;
- (b) Who has medical responsibility for the patient's care;
- (c) Who is a designated mental health professional;
- (d) Who is providing services under chapter 71.24 RCW;
- (e) Who is employed by a state or local correctional facility where the person is confined or supervised; or
- (f) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside.

(3)(a) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such designation.

(b) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

- (i) The information that the person is presently a patient in the facility or that the person is seriously physically ill;
- (ii) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and
- (iii) Such other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

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(5)(a) For either program evaluation or research, or both: PROVIDED, That the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ ....."

(b) Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(6)(a) To the courts as necessary to the administration of this chapter or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under this chapter.

(b) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(c) Disclosure under this subsection is mandatory for the purpose of the health insurance portability and accountability act.

(7)(a) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. Such written report shall be submitted within seventy- two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10)(a) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and

only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(11)(a) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence.

(b) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(12) To the persons designated in RCW 71.05.425 and 71.05.385 for the purposes described in those sections.

(13) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(14) Upon the death of a person, his or her next of kin, personal representative, guardian, or conservator, if any, shall be notified.

Next of kin who are of legal age and competent shall be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient shall be governed by RCW 70.02.140.

(15) To the department of health for the purposes of determining compliance with state or federal licensure, certification, or registration rules or laws. However, the information and records obtained under this subsection are exempt from public inspection and copying pursuant to chapter 42.56 RCW.

(16) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient.

(17) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

(18) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of such disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in

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charge of the patient or the professional person in charge of the facility, or his or her professional designee.

Except as otherwise provided in this chapter, the uniform health care information act, chapter 70.02 RCW, applies to all records and information compiled, obtained, or maintained in the course of providing services.

(19) The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the proceeding except as provided in RCW 71.05.385, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

**Sec. 5.** RCW 71.05.425 and 2009 c 521 s 158 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than thirty days before conditional release, final release, authorized leave under RCW 71.05.325(2), or transfer to a facility other than a state mental hospital, the superintendent shall send written notice of conditional release, release, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony harassment offense pursuant to RCW 10.77.086(4):

(i) The victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; ~~(and)~~

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter; and

(iv) The chief of police of the city, if any, and the sheriff of the county, if any, which had jurisdiction of the person on the date of the applicable offense.

(c) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical transfers.

(d) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex, violent, or felony

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harassment offense pursuant to RCW 10.77.086(4) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person escaped and in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex, violent, or felony harassment offense that was dismissed pursuant to RCW 10.77.086(4) preceding commitment under RCW 71.05.280(3) or 71.05.320(3) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.390(18). If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, state registered domestic partner, parents, siblings, and children;

(d) "Felony harassment offense" means a crime of harassment as defined in RCW 9A.46.060 that is a felony.

**Sec. 6.** RCW 10.77.165 and 2010 c 28 s 1 are each amended to read as follows:

(1) In the event of an escape by a person committed under this chapter from a state facility or the disappearance of such a person on conditional release or other authorized absence, the superintendent shall provide notification of the person's escape or disappearance for the public's safety or to assist in the apprehension of the person.

(a) The superintendent shall notify:

(i) State and local law enforcement officers located in the city and county where the person escaped and in the city and county which had jurisdiction of the person on the date of the applicable offense;

(ii) Other appropriate governmental agencies; and

(iii) The person's relatives.

(b) The superintendent shall provide the same notification as required by (a) of this subsection to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was convicted or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings if the person was charged with a violent offense; and

(iii) Any other appropriate persons.

(2) Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(3) The notice provisions of this section are in addition to those provided in RCW 10.77.205.

**Sec. 7.** RCW 10.31.110 and 2007 c 375 s 2 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a nonfelony crime

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that is not a serious offense as identified in RCW 10.77.092 and the individual is known by history or consultation with the regional support network to suffer from a mental disorder, the arresting officer may:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020(6). Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours(~~(- PROVIDED, that they are)~~). The individual must be examined by a mental health professional within three hours of (~~their~~) arrival;

(b) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

(c) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) If the individual is released to the community, the mental health provider shall inform the arresting officer of the release within a reasonable period of time after the release if the arresting officer has specifically requested notification and provided contact information to the provider.

(3) In deciding whether to refer the individual to treatment under this section, the police officer shall be guided by standards mutually agreed upon with the prosecuting authority, which address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, where available, and the circumstances surrounding the commission of the alleged offense.

~~((3))~~ (4) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

~~((4))~~ (5) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

~~((5))~~ (6) The police officer is immune from liability for any good faith conduct under this section.

**Sec. 8.** RCW 71.05.153 and 2007 c 375 s 8 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a crisis stabilization unit, an evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, or the emergency department of a local hospital by peace officers pursuant to subsection (2) of this section may be

held by the facility for a period of up to twelve hours: PROVIDED, That they are examined by a mental health professional within three hours of their arrival. Within twelve hours of their arrival, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the mental health provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

**Sec. 9.** RCW 71.34.340 and 2005 c 453 s 6 are each amended to read as follows:

The fact of admission and all information obtained through treatment under this chapter is confidential. Confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of this chapter, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To persons with medical responsibility for the minor's care;

(4) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(5) When the minor or the minor's parent designates in writing the persons to whom information or records may be released;

(6) To the extent necessary to make a claim for financial aid, insurance, or medical assistance to which the minor may be entitled or for the collection of fees or costs due to providers for services rendered under this chapter;

(7) To the courts as necessary to the administration of this chapter;

(8) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address shall be disclosed upon request;

(9) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(10) To the secretary for assistance in data collection and program evaluation or research, provided that the secretary adopts rules for the conduct of such evaluation and research. The rules shall include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, . . . ., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ .....

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(11) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence;

(12) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence;

(13) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(14) Upon the death of a minor, to the minor's next of kin;

(15) To a facility in which the minor resides or will reside;

(16) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act.

This section shall not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary. The fact of admission and all information obtained pursuant to this chapter are not admissible as evidence in any legal proceeding outside this chapter, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(17) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and section 2 of this act.

**Sec. 10.** RCW 70.02.900 and 2000 c 5 s 4 are each amended to read as follows:

(1) This chapter does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

(2) This chapter does not modify the terms and conditions of disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, ~~((70.39,))~~ 70.96A, 71.05, ~~((and))~~ 71.34, and 74.09 RCW and rules adopted under these provisions."

Correct the title.

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and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5452.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5452.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5452 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5452, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5452, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5452, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5025,  
SUBSTITUTE SENATE BILL NO. 5072,  
SUBSTITUTE SENATE BILL NO. 5097,  
SENATE BILL NO. 5141,  
SUBSTITUTE SENATE BILL NO. 5156,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5186,  
SUBSTITUTE SENATE BILL NO. 5192,  
SUBSTITUTE SENATE BILL NO. 5203,  
SUBSTITUTE SENATE BILL NO. 5232,  
SUBSTITUTE SENATE BILL NO. 5239,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5253.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5740 with the following amendment(s): 5740-S.E AMH JUDI H2382.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 11.88.040 and 2008 c 6 s 803 are each amended to read as follows:

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(1) Before ~~((appointing))~~ the court appoints a guardian or a limited guardian, ~~((notice of a hearing, to be held not less than ten days after service thereof, shall be served personally upon))~~ the petitioner must send notice of a hearing by personal service in the manner provided for services of summons no less than fifteen days in advance of the hearing on the petition to the alleged incapacitated person, if over fourteen years of age, and ~~((served upon))~~ the guardian ad litem.

(2) Before ~~((appointing))~~ the court appoints a guardian or a limited guardian, the petitioner must send notice of a hearing ~~((, to be held not less than ten days after service thereof, shall be given))~~ by registered or certified mail to the last known address requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by personal service in the manner provided for services of summons, no less than fifteen days in advance of the hearing on the petition to the following:

~~((1))~~ (a) The alleged incapacitated person, ~~((or minor,))~~ if under fourteen years of age;

~~((2))~~ (b) A parent, if the alleged incapacitated person is a minor, all known children not residing with a notified person, and the spouse or domestic partner of the alleged incapacitated person if any;

~~((3))~~ (c) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incapacitated person resides. No notice need be given to those persons named in ~~((subsections (2) and (3)))~~ (a) and (b) of this subsection if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing.

~~((4))~~ (3) Notice of a hearing under subsection (2) of this section must include the name of the person who the court or guardian ad litem proposes to be appointed as guardian or limited guardian. If a person receiving notice of a hearing under subsection (2) of this section did not receive notice of the commencement of the guardianship proceeding under RCW 11.88.030, the notice of a hearing sent to the person must include a copy of the petition for appointment of a guardian and the statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order.

(4) If the petition is by a parent asking for appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition is accompanied by the written consent of a minor of the age of fourteen years or upward, who consents to the appointment of the guardian or limited guardian asked for, or if the petition is by a nonresident guardian of any minor or incapacitated person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

(5) The alleged incapacitated person shall be present in court at the final hearing on the petition ~~((: PROVIDED, That))~~. However, this requirement may be waived at the discretion of the court for good cause other than mere inconvenience shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged incapacitated person and conduct the final hearing in the presence of the alleged incapacitated person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

(6) If presence of the alleged incapacitated person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition.

**Sec. 2.** RCW 11.88.090 and 2008 c 6 s 804 are each amended to read as follows:

(1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180 shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any incapacitated person interested in any suit or matter pending therein, or to commence and prosecute any suit in his or her behalf.

(2) Prior to the appointment of a guardian or a limited guardian, whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, upon the motion of the alleged incapacitated person or the guardian ad litem, or subsequent to such appointment, whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, upon the motion of any interested person, the court may:

(a) Require any party or other person subject to the jurisdiction of the court to participate in mediation;

(b) Establish the terms of the mediation; and

(c) Allocate the cost of the mediation ~~((pursuant to RCW 11.96.140)).~~

(3)(a) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged incapacitated person, who shall be a person found or known by the court to:

~~((a))~~ (i) Be free of influence from anyone interested in the result of the proceeding; and

~~((b))~~ (ii) Have the requisite knowledge, training, or expertise to perform the duties required by this section.

(b) The guardian ad litem shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, each party with a statement including: His or her training relating to the duties as a guardian ad litem; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the guardian ad litem's statement, any party may set a hearing and file and serve a motion for an order to show cause why the guardian ad litem should not be removed for one of the following three reasons: (i) Lack of expertise necessary for the proceeding; (ii) an hourly rate higher than what is reasonable for the particular proceeding; or (iii) a conflict of interest. Notice of the hearing shall be provided to the guardian ad litem and all parties. If, after a hearing, the court enters an order replacing the guardian ad litem, findings shall be included, expressly stating the reasons for the removal. If the guardian ad litem is not removed, the court has the authority to assess to the moving party, attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(c) No guardian ad litem need be appointed when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection (5) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged incapacitated person and shall not overcome the presumption of competency or full legal and civil rights of the alleged incapacitated person.

(4)(a) The superior court of each county shall develop and maintain a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardian ad litem a person whose name appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

(b) To be eligible for the registry a person shall:

(i) Present a written statement outlining his or her background and qualifications. The background statement shall include, but is not limited to, the following information:

(A) Level of formal education;

(B) Training related to the guardian ad litem's duties;

(C) Number of years' experience as a guardian ad litem;

(D) Number of appointments as a guardian ad litem and the county or counties of appointment;

(E) Criminal history, as defined in RCW 9.94A.030; and

(F) Evidence of the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapters 11.88 and 11.92 RCW.

The written statement of qualifications shall include the names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and

(ii) Complete the training as described in (e) of this subsection. The training is not applicable to guardians ad litem appointed pursuant to special proceeding Rule 98.16W.

(c) Superior court shall remove any person from the guardian ad litem registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court.

(d) The background and qualification information shall be updated annually.

(e) The department of social and health services shall convene an advisory group to develop a model guardian ad litem training program and shall update the program biennially. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, domestic violence, aging, legal, court administration, the Washington state bar association, and other interested parties.

(f) The superior court shall require utilization of the model program developed by the advisory group as described in (e) of this subsection, to assure that candidates applying for registration as a qualified guardian ad litem shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem.

(5) The guardian ad litem appointed pursuant to this section ~~(shall have)~~ has the following duties:

(a) To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to independent legal

counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To investigate alternate arrangements made, or which might be created, by or on behalf of the alleged incapacitated person, such as revocable or irrevocable trusts, durable powers of attorney, or blocked accounts; whether good cause exists for any such arrangements to be discontinued; and why such arrangements should not be continued or created in lieu of a guardianship;

(f) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

(iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

(iv) A description of any alternative arrangements previously made by the alleged incapacitated person or which could be made, and whether and to what extent such alternatives should be used in lieu of a guardianship, and if the guardian ad litem is recommending discontinuation of any such arrangements, specific findings as to why such arrangements are contrary to the best interest of the alleged incapacitated person;

(v) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

(vi) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

(vii) Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

(viii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

(ix) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.

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Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the guardian ad litem, and at least fifteen days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged incapacitated person and his or her counsel, spouse or domestic partner, all children not residing with a notified person, those persons described in (f)(viii) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150. If the guardian ad litem needs additional time to finalize his or her report, then the guardian ad litem shall petition the court for a postponement of the hearing or, with the consent of all other parties, an extension or reduction of time for filing the report. If the hearing does not occur within sixty days of filing the petition, then upon the two-month anniversary of filing the petition and on or before the same day of each following month until the hearing, the guardian ad litem shall file interim reports summarizing his or her activities on the proceeding during that time period as well as fees and costs incurred;

(g) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five court days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel;

(h) To disclose in writing to the court any prior relationship or circumstance for the period covering ten years prior to the guardian ad litem's appointment or any existing relationship or circumstance that causes the appearance of a conflict of interest with respect to the guardian ad litem's recommendation of the appointment of a particular person or persons as a guardian or limited guardian of the alleged incapacitated person. Such disclosure must also be provided to persons receiving copies of the report as required in (f)(viii) of this subsection (5).

(6) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to subsection (5)(f) of this section.

(7) The parties to the proceeding may file responses to the guardian ad litem report with the court and deliver such responses to the other parties and the guardian ad litem at any time up to the second day prior to the hearing. If a guardian ad litem fails to file his or her report in a timely manner, the hearing shall be continued to give the court and the parties at least fifteen days before the hearing to review the report. At any time during the proceeding upon motion of any party or on the court's own motion, the court may remove the guardian ad litem for failure to perform his or her duties as specified in this chapter, provided that the guardian ad litem shall have five days' notice of any motion to remove before the court enters such order. In addition, the court in its discretion may reduce a guardian ad litem's fee for failure to carry out his or her duties.

(8) The court appointed guardian ad litem shall have the authority, in the event that the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to give consent for such emergency

life-saving medical services on behalf of the alleged incapacitated person.

(9) The court-appointed guardian ad litem shall have the authority to move for temporary relief under chapter 7.40 RCW to protect the alleged incapacitated person from abuse, neglect, abandonment, or exploitation, as those terms are defined in RCW 74.34.020, or to address any other emergency needs of the alleged incapacitated person. Any alternative arrangement executed before filing the petition for guardianship shall remain effective unless the court grants the relief requested under chapter 7.40 RCW, or unless, following notice and a hearing at which all parties directly affected by the arrangement are present, the court finds that the alternative arrangement should not remain effective.

(10) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged incapacitated person unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That the court may charge such fee to the petitioner, the alleged incapacitated person, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

(11) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense.

(12) The guardian ad litem shall appear in person at all hearings on the petition unless all parties provide a written waiver of the requirement to appear.

(13) At any hearing the court may consider whether any person who makes decisions regarding the alleged incapacitated person or estate has breached a statutory or fiduciary duty.

**Sec. 3.** RCW 11.92.040 and 1991 c 289 s 10 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of an estate:

(1) To file within three months after the guardian's appointment a verified inventory of all the property of the incapacitated person which comes into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within ninety days after the anniversary date of the guardian's or limited guardian's appointment, and also within thirty days after termination of the appointment, unless the court for good cause orders a different deadline to file following termination, a written verified account of the administration, which account shall contain at least the following information:

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and

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the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets;

(3) The court in its discretion may allow reports at intervals of up to thirty-six months for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court or send quarterly accounts under subsection (4) of this section if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;

(4) To send on or before the last day of January, April, July, and October by certified first-class mail to the persons who are receiving special notice of proceedings under RCW 11.92.150 an updated written verified account of the administration containing the information specified in subsection (2)(a) through (e) of this section unless the total net fair market value of the guardianship estate is less than two hundred thousand dollars. A guardian or limited guardian is not required to send accounts under this subsection to a person receiving special notice of proceedings if the person files with the court and sends to the guardian or limited guardian a request not to receive quarterly accounts. The court may waive the requirement for a guardian or limited guardian to send accounts under this subsection;

(5) To protect and preserve the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

~~((5))~~ (6) To invest and reinvest the property of the incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incapacitated person that a specific property be used by the incapacitated person rather than sold and the proceeds invested, the court may so order;

~~((6))~~ (7) To apply to the court no later than the filing of the inventory for an order authorizing disbursements on behalf of the incapacitated person: PROVIDED, HOWEVER, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, or if the guardian or limited guardian of the estate has the care and custody of the incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof.

NEW SECTION. Sec. 4. A new section is added to chapter 11.88 RCW to read as follows:

The administrator for the courts must publish or cause to be published on a web site information regarding professional and lay guardians, including descriptions of the following:

(1) The different types of guardianships available under this chapter and chapter 11.92 RCW;

(2) The duties and responsibilities of guardians and limited guardians appointed by the court;

(3) The court approval process for a guardian or limited guardian to receive reimbursement for expenses and other costs from an incapacitated person's estate; and

(4) The certified professional guardian board and office of public guardianship.

NEW SECTION. Sec. 5. A new section is added to chapter 11.92 RCW to read as follows:

The court shall remove a guardian or limited guardian and appoint a successor guardian or limited guardian if the court finds that the guardian or limited guardian filed with the court or sent to the parties to the proceeding any report, account, or other document that the guardian or limited guardian intentionally falsified.

Sec. 6. RCW 43.190.060 and 1999 c 133 s 1 are each amended to read as follows:

~~(1)~~ A long-term care ombudsman ~~(shall)~~ must:

~~((1))~~ (a) Identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

~~((2))~~ (b) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

~~((3))~~ (c) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in long-term care facilities; and

~~((4))~~ (d) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A trained volunteer long-term care ombudsman, in accordance with the policies and procedures established by the state long-term care ombudsman program, shall

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inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

(2) Publish on a web site, or otherwise make available to residents, families of residents, and the public information regarding professional and lay guardians, including descriptions of the following:

(a) The different types of guardianships available under chapters 11.88 and 11.92 RCW;

(b) The duties and responsibilities of guardians and limited guardians appointed by the court;

(c) The court approval process for a guardian or limited guardian to receive reimbursement for expenses and other costs from an incapacitated person's estate; and

(d) The certified professional guardian board and office of public guardianship.

(3) Nothing in ((chapter 133, Laws of 1999 shall)) this section or RCW 43.190.065 may be construed to empower the state long-term care ombudsman or any local long-term care ombudsman with statutory or regulatory licensing or sanctioning authority."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kastama moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5740 and ask the House to recede therefrom.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5740 and ask the House to recede therefrom.

The motion by Senator Kastama carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5740 and asked the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5067 with the following amendment(s): 5067-S AMH LWD ELGE 102

On page 3, after line 10 insert the following:

"Sec. 3. RCW 18.27.370 and 2001 c 159 s 6 are each amended to read as follows:

(1) If an unregistered contractor defaults in a payment, penalty, or fine due to the department, the director or the director's designee may issue a notice of assessment certifying the amount due. The notice must be served upon the unregistered contractor by mailing the notice to the unregistered contractor by certified mail to the unregistered contractor's last known address or served in the manner prescribed for the service of a summons in a civil action.

(2) A notice of assessment becomes final thirty days from the date the notice was served upon the unregistered contractor unless a written request for reconsideration is filed with the department or an appeal is filed in a court of competent jurisdiction in the manner specified in RCW 34.05.510 through 34.05.598. The request for reconsideration must set forth with particularity the reason for the unregistered contractor's request. The department, within thirty

days after receiving a written request for reconsideration, may modify or reverse a notice of assessment, or may hold a notice of assessment in abeyance pending further investigation. If a final decision of a court in favor of the department is not appealed within the time allowed by law, then the amount of the unappealed assessment, or such amount of the assessment as is found due by the final decision of the court, is final.

(3) The director or the director's designee may file with the clerk of any county within the state, a warrant in the amount of the notice of assessment, plus interest, penalties, and a filing fee of twenty dollars. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the unregistered contractor mentioned in the warrant, the amount of payment, penalty, fine due on it, or filing fee, and the date when the warrant was filed. The aggregate amount of the warrant as docketed shall become a lien upon the title to, and interest in, all real and personal property of the unregistered contractor against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of the clerk. The sheriff shall proceed upon the warrant in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in a court of competent jurisdiction. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state in a manner provided by law in case of judgment, wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee which will be added to the amount of the warrant. A copy of the warrant shall be mailed to the unregistered contractor within three days of filing with the clerk.

(4) The director or the director's designee may issue to any person, firm, corporation, other entity, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of the person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is or will become due, owing, or belonging to an unregistered contractor upon whom a notice of assessment has been served by the department for payments, penalties, or fines due to the department. The effect of a notice and order is continuous from the date the notice and order is first made until the liability out of which the notice and order arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order when the liability out of which the notice and order arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order was made that the notice and order has been released.

The notice and order to withhold and deliver must be served by the sheriff of the county or by the sheriff's deputy, ((by certified mail, return receipt requested)) using a method by which the mailing can be tracked or the delivery can be confirmed, or by an authorized representative of the director. A person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order. Upon service of the notice and order, if the party served possesses any property that may be subject to the claim of the department, the party shall promptly deliver the property to the director or the director's authorized representative. The director shall hold the property in trust for application on the unregistered contractor's

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indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review. In the alternative, the party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. If a party served and named in the notice fails to answer the notice within the time prescribed in this section, the court may render judgment by default against the party for the full amount claimed by the director in the notice, together with costs. If a notice is served upon an unregistered contractor and the property subject to it is wages, the unregistered contractor may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner is entitled.

(5) In addition to the procedure for collection of a payment, penalty, or fine due to the department as set forth in this section, the department may recover civil penalties imposed under this chapter in a civil action in the name of the department brought in a court of competent jurisdiction of the county where the violation is alleged to have occurred."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5067.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5067.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5067 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5067, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5067, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Morton

SUBSTITUTE SENATE BILL NO. 5067, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

#### MOTION

Senator Regala moved adoption of the following resolution:

#### SENATE RESOLUTION 8657

By Senators Regala, Eide, Brown, Fraser, Shin, Hatfield, Hargrove, Sheldon, Murray, Prentice, Baxter, Swecker, Harper, Nelson, Tom, Haugen, Keiser, Conway, Kohl-Welles, Benton, McAuliffe, Chase, Kline, Carrell, Stevens, Parlette, Kilmer, Hobbs, Ranker, Rockefeller, White, Roach, Hill, Morton, Pflug, Fain, Holmquist Newbry, Becker, Honeyford, Litzow, Erickson, Zarelli, Schoesler, and King

WHEREAS, In 1979 President Jimmy Carter designated the month of April "National Child Abuse Prevention Month;" and in 1993, Washington became the first state in the nation to legislatively mandate a public education effort to help support parents in their understanding of how to cope with inconsolable crying; and

WHEREAS, Our state has continued to work to advance knowledge, awareness, and support for parents to prevent Shaken Baby Syndrome and abusive head trauma; and

WHEREAS, The most recent National Child Abuse and Neglect Data System (NCANDS) figures show that almost 700,000 children were victims of abuse and neglect in the United States in 2009; and while exact figures are not known Shaken Baby Syndrome is the leading cause of abuse with estimates of as many as 1,400 children nationally suffering from such abuse; and

WHEREAS, Shaken Baby Syndrome is a totally preventable form of child abuse, caused by a caregiver losing control and shaking a baby who is usually under the age of two years; and

WHEREAS, The effects of Shaken Baby Syndrome can include loss of vision, brain damage, paralysis, seizures, deafness, learning, and intellectual disabilities; and

WHEREAS, The most effective solution for ending Shaken Baby Syndrome is education and prevention programs, which have demonstrated that educating new parents about the danger of shaking young children can bring about a significant reduction in the number of cases of Shaken Baby Syndrome; and

WHEREAS, Efforts to prevent Shaken Baby Syndrome are supported by advocacy groups across the United States that were formed by parents and relatives of children who have been killed or injured by shaking, such as The Washington State Shaken Baby Prevention Task Force, whose mission is to educate the general public and professionals about Shaken Baby Syndrome utilizing evidence-based, affordable approaches that are easily accessible to families; and

WHEREAS, The Washington State Legislature strongly supports efforts to protect children from abuse and neglect;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the efforts of those who advocate on behalf of victims of Shaken Baby Syndrome during National Shaken Baby Awareness week, the third week in April, and encourage the people of Washington State to remember the victims of Shaken Baby Syndrome.

Senators Regala and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8657.

The motion by Senator Regala carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

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The President welcomed and introduced Shaken Baby Syndrome survivors and family: Ty and Tara Mitchell, son Kyle; Carlene Cook, grandson Joshua; Denise Isings, grandmother of Kaden Ising; and Chris Jamieson, Acting Executive Director, Washington State Council for Children and Families who were seated in the gallery.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1421,  
 SUBSTITUTE HOUSE BILL NO. 1453,  
 HOUSE BILL NO. 1454,  
 SUBSTITUTE HOUSE BILL NO. 1483,  
 HOUSE BILL NO. 1520,  
 SUBSTITUTE HOUSE BILL NO. 1524.  
 and the same are herewith transmitted.

MOTION

At 11:50 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

BARBARA BAKER, Chief Clerk

AFTERNOON SESSION

MESSAGE FROM THE HOUSE

April 18, 2011

The Senate was called to order at 1:33 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MR. PRESIDENT:  
 The Speaker has signed:  
 HOUSE BILL NO. 1040,  
 SUBSTITUTE HOUSE BILL NO. 1237,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636,  
 HOUSE BILL NO. 1640,  
 SUBSTITUTE HOUSE BILL NO. 1728,  
 SUBSTITUTE HOUSE BILL NO. 1822,  
 SUBSTITUTE HOUSE BILL NO. 1829,  
 SUBSTITUTE HOUSE BILL NO. 1854,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886,  
 SUBSTITUTE HOUSE BILL NO. 1897,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922,  
 SUBSTITUTE HOUSE BILL NO. 1933,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967,  
 HOUSE JOINT MEMORIAL NO. 4004.  
 and the same are herewith transmitted.

MESSAGE FROM THE HOUSE

April 18, 2011

BARBARA BAKER, Chief Clerk

MR. PRESIDENT:  
 The Speaker has signed:  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5000,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5021,  
 SECOND SUBSTITUTE SENATE BILL NO. 5034,  
 SENATE BILL NO. 5035,  
 SUBSTITUTE SENATE BILL NO. 5036,  
 SUBSTITUTE SENATE BILL NO. 5042,  
 ENGROSSED SENATE BILL NO. 5061,  
 SUBSTITUTE SENATE BILL NO. 5065,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5098,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5122,  
 SUBSTITUTE SENATE BILL NO. 5167,  
 SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5171,  
 SENATE BILL NO. 5278,  
 SENATE BILL NO. 5367,  
 SENATE BILL NO. 5389,  
 SENATE BILL NO. 5480,  
 SENATE BILL NO. 5500,  
 SENATE BILL NO. 5526.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

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MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:  
 The Speaker has signed:  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041,  
 SUBSTITUTE HOUSE BILL NO. 1051,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071,  
 SUBSTITUTE HOUSE BILL NO. 1136,  
 SUBSTITUTE HOUSE BILL NO. 1145,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1163,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202,  
 SUBSTITUTE HOUSE BILL NO. 1211,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220,  
 SUBSTITUTE HOUSE BILL NO. 1254,  
 HOUSE BILL NO. 1290,  
 HOUSE BILL NO. 1306,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MR. PRESIDENT:  
 The Speaker has signed:  
 HOUSE BILL NO. 1031,  
 SUBSTITUTE HOUSE BILL NO. 1133,  
 SUBSTITUTE HOUSE BILL NO. 1148,  
 HOUSE BILL NO. 1182,  
 SUBSTITUTE HOUSE BILL NO. 1218,  
 HOUSE BILL NO. 1225,  
 HOUSE BILL NO. 1358,  
 SUBSTITUTE HOUSE BILL NO. 1384,

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The Speaker has signed:  
HOUSE BILL NO. 1052,  
SUBSTITUTE HOUSE BILL NO. 1061,  
HOUSE BILL NO. 1106,  
ENGROSSED HOUSE BILL NO. 1177,  
HOUSE BILL NO. 1413,  
HOUSE BILL NO. 1425,  
HOUSE BILL NO. 1586,  
SUBSTITUTE HOUSE BILL NO. 1600,  
HOUSE BILL NO. 1698,  
HOUSE BILL NO. 1726,  
ENGROSSED HOUSE BILL NO. 1730,  
HOUSE BILL NO. 1794,  
HOUSE BILL NO. 1867,  
SECOND SUBSTITUTE HOUSE BILL NO. 1909,  
SUBSTITUTE HOUSE BILL NO. 1923,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 1084,  
SUBSTITUTE HOUSE BILL NO. 1089,  
SUBSTITUTE HOUSE BILL NO. 1103,  
HOUSE BILL NO. 1178,  
HOUSE BILL NO. 1334,  
SECOND SUBSTITUTE HOUSE BILL NO. 1405,  
HOUSE BILL NO. 1407,  
SUBSTITUTE HOUSE BILL NO. 1663,  
SUBSTITUTE HOUSE BILL NO. 1718,  
SUBSTITUTE HOUSE BILL NO. 1761,  
SUBSTITUTE HOUSE BILL NO. 1783,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789,  
SUBSTITUTE HOUSE BILL NO. 1811,  
SUBSTITUTE HOUSE BILL NO. 1858,  
SUBSTITUTE HOUSE BILL NO. 1861,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE HOUSE BILL NO. 1135,  
SUBSTITUTE HOUSE BILL NO. 1170,  
SUBSTITUTE HOUSE BILL NO. 1188,  
SUBSTITUTE HOUSE BILL NO. 1257,  
SUBSTITUTE HOUSE BILL NO. 1315,  
SUBSTITUTE HOUSE BILL NO. 1328,  
SUBSTITUTE HOUSE BILL NO. 1329,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367,  
ENGROSSED HOUSE BILL NO. 1409,  
SUBSTITUTE HOUSE BILL NO. 1422,

SUBSTITUTE HOUSE BILL NO. 1431,  
HOUSE BILL NO. 1455,  
HOUSE BILL NO. 1465,  
SUBSTITUTE HOUSE BILL NO. 1467,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The Speaker has signed:  
HOUSE BILL NO. 1473,  
HOUSE BILL NO. 1479,  
SUBSTITUTE HOUSE BILL NO. 1485,  
SUBSTITUTE HOUSE BILL NO. 1493,  
SUBSTITUTE HOUSE BILL NO. 1502,  
SUBSTITUTE HOUSE BILL NO. 1506,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509,  
ENGROSSED HOUSE BILL NO. 1517,  
HOUSE BILL NO. 1521,  
SUBSTITUTE HOUSE BILL NO. 1538,  
SUBSTITUTE HOUSE BILL NO. 1567,  
HOUSE BILL NO. 1582,  
SUBSTITUTE HOUSE BILL NO. 1697,  
SUBSTITUTE HOUSE BILL NO. 1710,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721,  
HOUSE BILL NO. 1770,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1776,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hewitt moved that Gubernatorial Appointment No. 9098, Roland Schirman, as a member, Board of Trustees, Walla Walla Community College District No. 20, be confirmed.  
Senator Hewitt spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Benton, Parlette, Pflug, Roach and Swecker were excused.

MOTION

On motion of Senator White, Senator Hobbs was excused.

APPOINTMENT OF ROLAND SCHMITTEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9098,

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Roland Schirman as a member, Board of Trustees, Walla Walla Community College District No. 20.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9098, Roland Schirman as a member, Board of Trustees, Walla Walla Community College District No. 20 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Absent: Senators Kline and Prentice

Excused: Senators Morton, Parlette and Swecker

Gubernatorial Appointment No. 9098, Roland Schirman, having received the constitutional majority was declared confirmed as a member, Board of Trustees, Walla Walla Community College District No. 20.

MOTION

On motion of Senator Eide, Senators Kline and Prentice were excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Brown moved that Gubernatorial Appointment No. 9087, Bridget Piper, as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17, be confirmed.

Senator Brown spoke in favor of the motion.

APPOINTMENT OF BRIDGET PIPER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9087, Bridget Piper as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9087, Bridget Piper as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Morton, Parlette and Prentice

Gubernatorial Appointment No. 9087, Bridget Piper, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Spokane and Spokane Falls Community Colleges District No. 17.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1031,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1041,  
 SUBSTITUTE HOUSE BILL NO. 1051,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1071,  
 SUBSTITUTE HOUSE BILL NO. 1084,  
 SUBSTITUTE HOUSE BILL NO. 1089,  
 SUBSTITUTE HOUSE BILL NO. 1103,  
 SUBSTITUTE HOUSE BILL NO. 1133,  
 SUBSTITUTE HOUSE BILL NO. 1135,  
 SUBSTITUTE HOUSE BILL NO. 1136,  
 SUBSTITUTE HOUSE BILL NO. 1145,  
 SUBSTITUTE HOUSE BILL NO. 1148,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1163,  
 SUBSTITUTE HOUSE BILL NO. 1170,  
 HOUSE BILL NO. 1178,  
 HOUSE BILL NO. 1182,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1183,  
 SUBSTITUTE HOUSE BILL NO. 1188,  
 SUBSTITUTE HOUSE BILL NO. 1218,  
 HOUSE BILL NO. 1225,  
 SUBSTITUTE HOUSE BILL NO. 1257,  
 SUBSTITUTE HOUSE BILL NO. 1315,  
 SUBSTITUTE HOUSE BILL NO. 1328,  
 SUBSTITUTE HOUSE BILL NO. 1329,  
 HOUSE BILL NO. 1334,  
 HOUSE BILL NO. 1358,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1367,  
 SUBSTITUTE HOUSE BILL NO. 1384,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1405,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1406,  
 HOUSE BILL NO. 1407,  
 ENGROSSED HOUSE BILL NO. 1409,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1421,  
 SUBSTITUTE HOUSE BILL NO. 1422,  
 SUBSTITUTE HOUSE BILL NO. 1431,  
 SUBSTITUTE HOUSE BILL NO. 1453,  
 HOUSE BILL NO. 1454,  
 HOUSE BILL NO. 1455,  
 HOUSE BILL NO. 1465,  
 SUBSTITUTE HOUSE BILL NO. 1467,  
 SUBSTITUTE HOUSE BILL NO. 1483,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494,  
 HOUSE BILL NO. 1520,  
 SUBSTITUTE HOUSE BILL NO. 1524,  
 SUBSTITUTE HOUSE BILL NO. 1663,  
 SUBSTITUTE HOUSE BILL NO. 1718,  
 SUBSTITUTE HOUSE BILL NO. 1761,  
 SUBSTITUTE HOUSE BILL NO. 1783,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789,  
 SUBSTITUTE HOUSE BILL NO. 1811,  
 SUBSTITUTE HOUSE BILL NO. 1858,  
 SUBSTITUTE HOUSE BILL NO. 1861,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1040,  
 HOUSE BILL NO. 1052,  
 SUBSTITUTE HOUSE BILL NO. 1061,  
 HOUSE BILL NO. 1106,  
 ENGROSSED HOUSE BILL NO. 1177,

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1186,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1202,  
SUBSTITUTE HOUSE BILL NO. 1211,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1220,  
SUBSTITUTE HOUSE BILL NO. 1237,  
SUBSTITUTE HOUSE BILL NO. 1254,  
HOUSE BILL NO. 1290,  
HOUSE BILL NO. 1306,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1309,  
HOUSE BILL NO. 1413,  
HOUSE BILL NO. 1425,  
HOUSE BILL NO. 1473,  
HOUSE BILL NO. 1479,  
SUBSTITUTE HOUSE BILL NO. 1485,  
SUBSTITUTE HOUSE BILL NO. 1493,  
SUBSTITUTE HOUSE BILL NO. 1502,  
SUBSTITUTE HOUSE BILL NO. 1506,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1509,  
ENGROSSED HOUSE BILL NO. 1517,  
HOUSE BILL NO. 1521,  
SUBSTITUTE HOUSE BILL NO. 1538,  
SUBSTITUTE HOUSE BILL NO. 1567,  
HOUSE BILL NO. 1582,  
HOUSE BILL NO. 1586,  
SUBSTITUTE HOUSE BILL NO. 1600,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1634,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1636,  
HOUSE BILL NO. 1640,  
SUBSTITUTE HOUSE BILL NO. 1697,  
HOUSE BILL NO. 1698,  
SUBSTITUTE HOUSE BILL NO. 1710,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1716,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1721,  
HOUSE BILL NO. 1726,  
SUBSTITUTE HOUSE BILL NO. 1728,  
ENGROSSED HOUSE BILL NO. 1730,  
HOUSE BILL NO. 1770,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1776,

HOUSE BILL NO. 1794,  
SUBSTITUTE HOUSE BILL NO. 1822,  
SUBSTITUTE HOUSE BILL NO. 1829,  
SUBSTITUTE HOUSE BILL NO. 1854,  
HOUSE BILL NO. 1867,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886,  
SUBSTITUTE HOUSE BILL NO. 1897,  
SECOND SUBSTITUTE HOUSE BILL NO. 1909,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922,  
SUBSTITUTE HOUSE BILL NO. 1923,  
SUBSTITUTE HOUSE BILL NO. 1933,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967,  
HOUSE JOINT MEMORIAL NO. 4004.

## MOTION

At 1:52 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:13 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5485 with the following amendment(s): 5485-S.E AMH ENGR H2434.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1)(a) The University of Washington, led by the college of built environments, and Washington State University, led by the college of engineering and architecture, shall conduct a review of other states' existing building codes, international standards, peer-reviewed research, and models and tools of life-cycle assessment, embodied energy, and embodied carbon in building materials.

(b) This review must identify:

- (i) If the standards and models are developed according to a recognized consensus-based process;
- (ii) If the standards and models could be implemented as part of building standards or building codes; and
- (iii) The scope of life-cycle accounting that the standards and models address.

(2)(a) By September 1, 2012, the University of Washington and Washington State University shall submit a report to the legislature consistent with RCW 43.01.036. In addition to providing the data required in subsection (1) of this section, the report must include recommendations to the legislature for methodologies to:

- (i) Determine if a standard, model, or tool using life-cycle assessment can be sufficiently developed to be incorporated into the state building code;
- (ii) Develop a comprehensive guideline using common and consistent metrics for the embodied energy, carbon, and life-cycle accounting of building materials; and
- (iii) Incorporate into every project the ongoing monitoring, verification, and reporting of a high performance public building's actual performance over its life cycle.

(b) The report must include a list of any journal articles, study summaries, and other scientific information reviewed by the University of Washington and Washington State University in the development of the report and the information relied upon by the University of Washington and Washington State University in finalizing the report required under (a) of this subsection.

(c) When developing its recommendations under this section, the University of Washington and Washington State University shall seek input from organizations representing design and construction professionals, academics, building materials industries, and life-cycle assessment experts.

(3) For the purposes of this section, "life-cycle assessment" means manufacturing, construction, operation, and disposal of products used in the construction of buildings from cradle to grave.

**NEW SECTION. Sec. 2.** (1)(a) By December 1, 2012, the department of general administration shall make recommendations to the legislature, consistent with RCW 43.01.036, for streamlining current statutory requirements for life-cycle cost analysis, energy conservation in design, and high performance of public buildings.

(b) The department of general administration shall make recommendations on what statutory revisions, if any, are needed to the state's energy life-cycle cost analysis to account for comprehensive life-cycle impacts of carbon emissions.

(2) In making its recommendations to the legislature under subsection (1) of this section, the department of general

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administration shall use the report prepared by the University of Washington and Washington State University under section 1 of this act.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5485.

Senators Rockefeller and Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5485.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5485 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5485, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5485, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Morton and Parlette

ENGROSSED SUBSTITUTE SENATE BILL NO. 5485, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 6, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5502 with the following amendment(s): 5502-S AMH ENGR H2408.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.72A.010 and 1996 c 87 s 4 are each amended to read as follows:

The legislature finds and declares that privately operated limousine transportation service is a vital part of the transportation system within the state and provides prearranged transportation services to state residents, tourists, and out-of-state business people. Consequently, the safety, reliability, and stability of privately

operated limousine transportation services are matters of statewide importance. The regulation of privately operated limousine transportation services is thus an essential governmental function. Therefore, it is the intent of the legislature to permit the department and a port district in a county with a population of one million or more to regulate limousine transportation services without liability under federal antitrust laws. It is further the intent of the legislature to authorize a city with a population of five hundred thousand or more to enforce this chapter through a joint agreement with the department, and to direct the department to provide annual funding from limousine regulation-related fees that provide sufficient funds to such a city to provide delegated enforcement.

**Sec. 2.** RCW 46.72A.020 and 1996 c 87 s 5 are each amended to read as follows:

((All limousine carriers must operate from a main office and may have satellite offices. However, no office may be solely in a vehicle of any type. All arrangements for the carrier's services must be made through its offices and dispatched to the carrier's vehicles.))

(1) Contact by a customer or customer's agent to engage the services of a carrier's limousine must be initiated by a customer or customer's agent at a time and place different from the customer's time and place of departure. The fare for service must be agreed upon prior to departure. Under no circumstances may customers or customers' agents make arrangements ((for immediate rental of a carrier's vehicle with the driver of the vehicle)) to immediately engage the services of a carrier's limousine with the chauffeur, even if the ((driver)) chauffeur is an owner or officer of the company, with the single exception of stand-hail limousines only at a facility owned and operated by a port district in a county with a population of one million or more that are licensed and restricted by the rules and policies set forth by the port district.

(2) At the time of the conduct of the commercial limousine business, the chauffeur of a limousine and the limousine carrier business must possess written or electronic records substantiating the prearrangement of the carrier's services for any customer carried for compensation, except for vehicles meeting the requirements of the exception for stand-hail limousines described in subsection (1) of this section. Limousine carriers and limousine chauffeurs operating as an independent business must list a physical address on their master business license where records substantiating the prearrangement of the carrier's services may be reviewed by an enforcement officer. A limousine carrier must retain these records for a minimum of one calendar year, and failure to do so is a class 3 civil infraction against the carrier for each record that is missing or fails to include all of the information described in rules adopted under subsection (4) of this section.

(3) Limousine carriers and limousine chauffeurs operating as an independent business must list a telephone or pager number that is used to prearrange the carrier's services for any customer carried for compensation.

(4) The department shall adopt rules specifying the content and retention schedule of the records required for compliance with subsection (2) of this section.

(5) The failure of a chauffeur who is operating a limousine to immediately provide, on demand by an enforcement officer, written or electronic records required by the department substantiating the prearrangement of the carrier's services for any customer carried for compensation, except for limousines meeting the requirements of the exception for stand-hail limousines described in subsection (1) of this section, is a class 2 civil infraction and is subject to monetary penalties under RCW 7.80.120. It is a class 1 civil infraction for a repeat offense under this subsection during the same calendar year.

(6) The department shall define by rule conditions under which

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a chauffeur is considered to be operating a limousine, including when the limousine is parked in a designated passenger load zone.

**Sec. 3.** RCW 46.72A.030 and 1996 c 87 s 6 are each amended to read as follows:

(1) The department, in conjunction with the Washington state patrol, shall regulate limousine carriers with respect to entry, safety of equipment, chauffeur qualifications, and operations. The department shall adopt rules and require such reports as are necessary to carry out this chapter. The department may develop penalties for failure to comply with this section.

(2) In addition, a port district in a county with a population of one million or more may regulate limousine carriers with respect to entry, safety of equipment, chauffeur qualifications, and operations. The county in which the port district is located may adopt ordinances and rules to assist the port district in enforcement of limousine regulations only at port facilities. In no event may this be construed to grant the county the authority to regulate limousines within its jurisdiction. The port district may not set limousine rates, but the limousine carriers shall file their rates and schedules with the port district if requested.

(3) The department, a port district in a county with a population of at least one million, or a county in which the port district is located may enter into cooperative agreements for the joint regulation of limousines.

(4) The department and a city with a population of five hundred thousand or more may enter into cooperative agreements as provided in section 12 of this act, subject to the limitations set forth in RCW 46.72A.130.

(5) The Washington state patrol shall annually conduct a vehicle inspection of each limousine licensed under this chapter, except when a port district (~~(regulates)~~), or a city with a population of five hundred thousand or more, enforces limousine carrier(s) regulations under subsection (2) or (4) of this section, that port district or county in which the port (~~(district)~~) district is located (~~(shall)~~), or a city with a population of five hundred thousand or more, may conduct the annual limousine vehicle inspection and random limousine vehicle inspections in conjunction with limousine regulation enforcement activities, provided that the inspection criteria and fees are substantially the same regardless of the authority conducting the inspection. Random limousine vehicle inspections may not be conducted while the limousine contains customers. The state patrol, the city, or the port district (~~(or the county)~~) conducting the annual limousine vehicle inspection may impose an annual vehicle inspection fee and reinspection fee. A carrier must pay a reinspection fee if a limousine fails inspection for compliance with vehicle standards and is reinspected. If the limousine passes the first reinspection within thirty days of failing the original inspection, all of the reinspection fee must be refunded to the carrier. However, refunds are not available for subsequent reinspections. While a limousine is licensed by the department for commercial limousine use, failure to comply with vehicle inspection standards, established by the department by rule, is a class 3 civil infraction against the carrier, with monetary penalties against the carrier as specified in RCW 7.80.120, for each violation of a safety requirement. It is a class 4 civil infraction for each violation of other vehicle standards, with monetary penalties against the carrier as specified in RCW 7.80.120, and the limousine vehicle certificate must be summarily suspended until safety violations of vehicle standards are corrected and the limousine is reinspected.

**Sec. 4.** RCW 46.72A.040 and 1996 c 87 s 7 are each amended to read as follows:

Except when a port district regulates limousine carriers under RCW 46.72A.030 or a city with a population of five hundred thousand or more is authorized under section 12 of this act to enforce state laws or rules applicable to limousine carriers,

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limousines, and chauffeurs, subject to the limitations set forth in section 12 of this act, the state of Washington fully occupies and preempts the entire field of regulation over limousine carriers as regulated by this chapter. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to limousine carriers that are consistent with this chapter.

**Sec. 5.** RCW 46.72A.050 and 1996 c 87 s 8 are each amended to read as follows:

(1) No limousine carrier may operate a limousine upon the highways of this state without first ((obtaining a business license from the department. The applicant shall forward an application for a business license to the department along with a fee established by rule. Upon approval of the application, the department shall issue a business license and unified business identifier authorizing the carrier to operate limousines upon the highways of this state)) being properly registered as a business in Washington and having been issued a unified business identifier.

(2) In addition, a limousine carrier shall (~~(annually)~~) obtain (~~(upon payment of the appropriate fee.)~~) from the department a limousine carrier license for the business and a ((vehicle)) limousine vehicle certificate for each limousine operated by the carrier. The limousine carrier license and limousine vehicle certificates must be renewed through the department annually or as may be required by the department. The department shall establish by rule the procedure for obtaining, and the fees for, the limousine carrier license and limousine vehicle certificate. It is a class 1 civil infraction, with monetary penalties against the carrier as specified in RCW 7.80.120, for each day that a limousine is operated without a valid limousine carrier license or valid limousine vehicle certificate required under this subsection.

**Sec. 6.** RCW 46.72A.060 and 2003 c 53 s 251 are each amended to read as follows:

(1) The department shall require limousine carriers to obtain and continue in effect, liability and property damage insurance from a company licensed to sell liability insurance in this state for each limousine used to transport persons for compensation.

(2) The department shall fix (~~(the amount of)~~) by rule coverages and limits, and prohibit provisions that limit coverage, for the insurance policy or policies, giving consideration to the character and amount of traffic, the number of persons affected, and the degree of danger that the proposed operation involves. The limousine carrier must maintain the liability and property damage insurance in force on each ((motor propelled vehicle while so used)) limousine while licensed by the department.

(3) Failure to file and maintain in effect the insurance required under this section is a gross misdemeanor and the limousine vehicle certificate must be summarily suspended. It is a class 1 civil infraction, with monetary penalties against the carrier as specified in RCW 7.80.120, for each day that a carrier operates a limousine with a summarily suspended limousine vehicle certificate.

**Sec. 7.** RCW 46.72A.080 and 1997 c 193 s 1 are each amended to read as follows:

(1) No limousine carrier may advertise without listing the carrier's unified business identifier issued by the department in the advertisement and specifying the type of service offered as provided in RCW 46.04.274. No limousine carrier may advertise or hold itself out to the public as providing taxicab transportation services.

(2) All advertising, contracts, correspondence, cards, signs, posters, papers, and documents that show a limousine carrier's name or address shall list the carrier's unified business identifier and the type of service offered. The alphabetized listing of limousine carriers appearing in the advertising sections of telephone books or other directories and all advertising that shows the carrier's name or address must show the carrier's current unified business identifier.

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(3) Advertising in the alphabetical listing in a telephone directory need not contain the carrier's certified business identifier.

(4) ((Advertising by electronic transmission need not contain the carrier's unified business identifier if the carrier provides it to the person selling the advertisement and it is recorded in the advertising contract.

(5)) It is a ((gross misdemeanor)) violation, subject to a fine of up to five thousand dollars per violation, for a person to (a) falsify a unified business identifier or use a false or inaccurate unified business identifier; (b) fail to specify the type of service offered; ((or) (c) advertise or otherwise hold itself out to the public as providing taxicab transportation services in connection with a solicitation or identification as an authorized limousine carrier; or (d) conduct commercial limousine business without a valid limousine carrier license or valid limousine vehicle certificate as required under this chapter, unless licensed as a charter party carrier under chapter 81.70 RCW.

(5) If the basis for the violation is advertising, each advertisement reproduced, broadcast, or displayed via a particular medium constitutes a separate violation.

(6) In deciding the amount of penalty to be imposed per violation, the department shall consider the following factors:

(a) The carrier's willingness to comply with the department's rules under this chapter; and

(b) The carrier's history with respect to compliance with this section.

(7) It is a class 1 civil infraction, with monetary penalties against the chauffeur as specified in RCW 7.80.120, for a chauffeur to:

(a) Solicit or assign customers directly or through a third party for immediate, nonprearranged limousine service pick up as described in section 2(1) of this act; or

(b) Offer payment to a third party to solicit customers for limousine service pick up without current copies of a written contract regarding such services on file at the third party's business. Copies of the current written contract must be stored and made available on both the third party's and limousine carrier's business premises. Limousine vehicles engaged in the services detailed in the contract must carry a certificate verifying existence of a current contract between the parties. The certificate must contain a general description of the agreement, including initial and expiration dates. A written contract may not allow for immediate, nonprearranged limousine service pick up.

(8) It is a class 1 civil infraction, with monetary penalties against the individual as specified in RCW 7.80.120, for an individual to:

(a) Accept payment to solicit or assign customers on the behalf of a chauffeur for immediate, nonprearranged limousine service pick up as described in section 2(1) of this act; or

(b) Accept payment to solicit customers for limousine service pick up without current copies of a written contract regarding such services on file at the third party's business. Copies of the current written contract must be stored and made available on the third party's business premises and in any limousine engaged in the services detailed in the contract. A written contract may not allow for immediate, nonprearranged limousine service pick up.

**Sec. 8.** RCW 46.72A.090 and 1996 c 87 s 12 are each amended to read as follows:

(1) The limousine carrier shall ((certify)), before a chauffeur operates a limousine, provide proof in a form approved by the department to the appropriate regulating authority that each chauffeur hired to operate a limousine meets the following criteria administered or monitored by the department or an authority approved by the department: ((4)) (a) Is at least twenty-one years of age; ((2)) (b) holds a valid Washington state driver's license; ((3)) (c) has successfully completed a training course approved by the department; ((4)) (d) has successfully passed a written

examination which, to the greatest extent practicable, the department must administer in the applicant's language of preference; ((5)) (e) has successfully completed a background check performed by the Washington state patrol or a credentialing authority approved by the department that meets standards adopted by rule by the department; (f) has passed an initial test and is participating in a random testing program designed to detect the presence of any controlled substances determined by the department; (g) has a satisfactory driving record that meets moving accident and moving violation conviction standards adopted by rule by the department; and ((6)) (h) has submitted a medical certificate certifying the individual's fitness as a chauffeur. Upon initial application and every ((three)) two years thereafter, a chauffeur must file a physician's certification with the limousine carrier validating the individual's fitness to drive a limousine. The department shall determine by rule the scope of the examination and standards for denial based upon the chauffeur's physical examination. The director may require a chauffeur to ((be reexamined at any time)) undergo an additional controlled substance test or physical examination if the chauffeur has failed a controlled substance test or his or her physical fitness has been called into question.

(2) The limousine carrier shall keep on file and make available for inspection all documents required by this section.

**Sec. 9.** RCW 46.72A.100 and 2002 c 86 s 295 are each amended to read as follows:

The director may impose any of the sanctions specified in RCW 18.235.110 for unprofessional conduct as described in RCW 18.235.130 or if one of the following is true of a chauffeur hired to drive a limousine, including where such a chauffeur is also the carrier: (1) The person has been convicted of an offense of such a nature as to indicate that he or she is unfit to qualify as a chauffeur; (2) the person is guilty of committing ((two or more)) an offense((s)) for which mandatory revocation of a driver's license is provided by law; (3) the person has been convicted of vehicular homicide or vehicular assault; (4) the person is intemperate or addicted to narcotics; or (5) the person, while participating in a random testing program designed to detect the presence of any controlled substances determined by the department under RCW 46.72A.090, is found to have taken one of the controlled substances determined by the department without a valid and current prescription from a licensed physician.

**Sec. 10.** RCW 46.72A.120 and 1996 c 87 s 15 are each amended to read as follows:

The department may adopt and enforce such rules, including the setting of fees, as may be consistent with and necessary to carry out this chapter. The fees must approximate the cost of administration. Any fee related to limousine vehicle certificates must not exceed seventy-five dollars. Any fee related to a limousine carrier license for a business must not exceed three hundred fifty dollars. Any fee related to limousine vehicle inspections must not exceed twenty-five dollars.

**Sec. 11.** RCW 46.72A.140 and 2002 c 86 s 296 are each amended to read as follows:

The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter by the department.

NEW SECTION. **Sec. 12.** A new section is added to chapter 46.72A RCW to read as follows:

(1) The department may enter into cooperative agreements with cities with populations of five hundred thousand or more for the purpose of enforcing state laws or rules applicable to limousine carriers and chauffeurs. This power to enforce includes the right to adopt local limousine laws by city ordinance that are consistent with

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this chapter and the right to impose monetary penalties by civil infraction as provided in this chapter.

(2) In addition, the following specific authority and limitations to city enforcement must be included:

(a) City enforcement officers may conduct street enforcement activity consistent with this chapter;

(b) City enforcement officers may conduct inspections of limousines to verify compliance with limousine standards adopted by rule by the department and, if the carrier requests, conduct annual limousine vehicle inspections in lieu of an inspection conducted by the Washington state patrol. The city may receive all limousine inspection or reinspection fees for inspections conducted by city enforcement officers;

(c) A city may require that any limousine carrier dispatching a limousine to pick up passengers within the incorporated area of the city to maintain on file with the city insurance documents that meet the requirements adopted by rule by the department. The city may issue civil infractions to carriers and summarily suspend limousine vehicle certificates for failure to maintain on file valid insurance documents with the city.

(3) A cooperative agreement with the department for delegated enforcement must specify the schedule and amount of funds derived from limousine carrier license, limousine vehicle certificate, and chauffeur license fee revenue to be provided to the city to allow the city to provide the agreed upon level of enforcement. In addition, the cooperative agreement must restrict the fee revenue use by a city to the costs of enforcing state laws or rules applicable to limousine carriers and chauffeurs.

**NEW SECTION. Sec. 13.** The department of licensing shall convene an internal work group regarding the issuance of chauffeur licenses. The department shall provide a report on its recommendations on this issue to the transportation committees of the legislature by November 15, 2012.

**NEW SECTION. Sec. 14.** A new section is added to chapter 46.72A RCW to read as follows:

(1) The limousine carriers account is created in the state treasury. Notwithstanding any other provision of law, all receipts from each civil infraction and violation imposed by this chapter must be deposited into the account. Moneys in the account must be spent only after appropriation.

(2) Expenditures from the account may be used only for regulation and enforcement under this chapter, including regulation and enforcement through a cooperative agreement as described in section 12 of this act.

**NEW SECTION. Sec. 15.** Sections 1 through 12 of this act take effect January 1, 2012.

**NEW SECTION. Sec. 16.** Section 14 of this act takes effect July 1, 2012."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator White moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5502.

Senator White spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator White that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5502.

The motion by Senator White carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5502 by voice vote.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5502, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5502, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 1; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Holmquist Newbry, Honeyford, Roach, Schoesler, Stevens and Zarelli

Absent: Senator Hargrove

Excused: Senators Morton and Parlette

SUBSTITUTE SENATE BILL NO. 5502, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, Senator Hargrove was excused.

MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5505 with the following amendment(s): 5505.E AMH LG EMER 074

On page 6, after line 4, insert the following:

**"NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hill moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5505.

Senators Hill and Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hill that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5505.

The motion by Senator Hill carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5505 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5505, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5505, as amended by the House, and

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the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Morton and Parlette

ENGROSSED SENATE BILL NO. 5505, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5525 with the following amendment(s): 5525-S AMH WAYS H2501.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 39.100.010 and 2007 c 266 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Benefit zone" means the geographic zone from which taxes are to be appropriated to finance public improvements authorized under this chapter and in which a hospital that has received a certificate of need is to be constructed.

(2) "Department" means the department of revenue.

(3) "Local government" means any city, town, county, or any combination thereof.

(4) "Ordinance" means any appropriate method of taking legislative action by a local government.

(5) "Participating taxing authority" means a taxing authority that has entered into a written agreement with a local government for the use of hospital benefit zone financing to the extent of allocating excess local excise taxes to the local government for the purpose of financing all or a portion of the costs of designated public improvements.

(6) "Public improvements" means:

(a) Infrastructure improvements within the benefit zone that include:

~~((a))~~ (i) Street and road construction and maintenance;

~~((b))~~ (ii) Water and sewer system construction and improvements;

~~((c))~~ (iii) Sidewalks and streetlights;

~~((d))~~ (iv) Parking, terminal, and dock facilities;

~~((e))~~ (v) Park and ride facilities of a transit authority;

~~((f))~~ (vi) Park facilities and recreational areas; and

~~((g))~~ (vii) Storm water and drainage management systems;

and

(b) The construction, maintenance, and improvement of state highways that are connected to the benefit zone, including interchanges connected to the benefit zone.

(7) "Public improvement costs" means the costs of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; and (d) financing public

improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on indebtedness issued to finance public improvements, and any necessary reserves for indebtedness; and administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of hospital benefit zone financing to fund the costs of the public improvements.

(8) "Tax allocation revenues" means those tax revenues derived from the receipt of excess local excise taxes under RCW 39.100.050 and distributed by a local government, participating taxing authority, or both, to finance public improvements.

(9) "Taxing authority" means a governmental entity that imposes a sales or use tax under chapter 82.14 RCW upon the occurrence of any taxable event within a proposed or approved benefit zone.

Sec. 2. RCW 39.100.020 and 2007 c 266 s 3 are each amended to read as follows:

A local government may finance public improvements using hospital benefit zone financing subject to the following conditions:

(1)(a) The local government adopts an ordinance designating a benefit zone within its boundaries and specifying the public improvements proposed to be financed in whole or in part with the use of hospital benefit zone financing;

(b) A local government may modify the public improvements to be financed in whole or in part with the use of hospital benefit zone financing by amending the ordinance adopted under (a) of this subsection and holding a public hearing consistent with RCW 39.100.030(1)(b); provided that the total cost of the public improvements is not increased;

(2) The public improvements proposed to be financed in whole or in part using hospital benefit zone financing are expected both to encourage private development within the benefit zone and to support the development of a hospital that has received a certificate of need;

(3) Private development that is anticipated to occur within the benefit zone, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(4) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using hospital benefit zone financing are reasonably likely to:

(a) Increase private investment within the benefit zone;

(b) Increase employment within the benefit zone; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under RCW 82.14.465, excess state excise taxes that are equal to or greater than the state contributions made under this chapter;

(5) The boundaries of a hospital benefit zone may not overlap any part of the boundaries of another hospital benefit zone or a revenue development area defined in chapter 39.102 RCW; and

(6) The boundaries of a hospital benefit zone may not change once the hospital benefit zone is established and approved by the department.

Sec. 3. RCW 82.14.465 and 2009 c 535 s 1109 are each amended to read as follows:

(1) A city, town, or county that creates a benefit zone and finances public improvements pursuant to chapter 39.100 RCW may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and ~~((shall))~~ must be collected from those persons

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who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city, town, or county. The rate of tax ~~((shall))~~ may not exceed the rate provided in RCW 82.08.020(1) in the case of a sales tax or a use tax, less the aggregate rates of any other taxes imposed on the same events that are credited against the state taxes imposed under chapters 82.08 and 82.12 RCW. The tax rate ~~((shall))~~ may be no higher than what is reasonably necessary for the local government to receive its entire annual state contribution in a ten-month period of time.

(2) The tax imposed under subsection (1) of this section ~~((shall))~~ must be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department ~~((shall))~~ must perform the collection of such taxes on behalf of the city, town, or county at no cost to the city, town, or county.

(3) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the city, town, or county shall first have received tax allocation revenues during the preceding calendar year. The tax imposed under this section ~~((shall))~~ expires on the earlier of the date: (a) The tax allocation revenues are no longer used for public improvements and public improvement costs; (b) the bonds issued ~~((under the authority of chapter 39.100 RCW are retired))~~ to finance or refinance the improvements are no longer outstanding, if the bonds are issued; or (c) that is thirty years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a city, town, or county imposing a tax under this section ~~((shall))~~ must provide that:

(a) The tax ~~((shall))~~ is first ~~((be))~~ imposed on the first day of a fiscal year;

(b) The amount of tax received by the local government in any fiscal year ~~((shall))~~ may not exceed the amount of the state contribution;

(c) The tax ~~((shall))~~ must cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax distributions totals the amount of the state contribution;

(ii) The amount of tax distributions totals the amount of local public sources, dedicated in the previous calendar year to finance public improvements authorized under chapter 39.100 RCW, expended in the previous year for public improvement costs, or used to pay for other bonds issued to pay for public improvements, Revenues from local public sources, including hospital sources identified in RCW 82.14.465(7)(k), dedicated in the preceding calendar year that are in excess of the project award may be carried forward and used in later years for the purpose of this subsection; or

(iii) The amount of revenue from taxes imposed under this section by all cities, towns, and counties totals the annual state credit limit as provided in RCW 82.32.700(3);

(d) The tax ~~((shall))~~ must be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) Any revenue generated by the tax in excess of the amounts specified in (b) and (c) of this subsection ~~((shall))~~ belong to the state of Washington.

(5) If both a county and a city or town impose a tax under this section, the tax imposed by the city, town, or county ~~((shall be))~~ is credited as follows:

(a) If the county has created a benefit zone before the city or town, the tax imposed by the county ~~((shall be))~~ is credited against the tax imposed by the city or town, the purpose of such credit is to give priority to the county tax; and

(b) If the city or town has created a benefit zone before the county, the tax imposed by the city or town ~~((shall be))~~ is credited against the tax imposed by the county, the purpose of such credit is to give priority to the city or town tax.

(6) The department ~~((shall))~~ must determine the amount of tax distributions attributable to each city, town, and county imposing a sales and use tax under this section and ~~((shall))~~ must advise a city, town, or county when the tax will cease to be distributed for the remainder of the fiscal year as provided in subsection (4)(c) of this section. Determinations by the department of the amount of taxes attributable to a city, town, or county are final and ~~((shall))~~ may not be used to challenge the validity of any tax imposed under this section. The department ~~((shall))~~ must remit any tax revenues in excess of the amounts specified in subsection (4)(b) and (c) of this section to the state treasurer who ~~((shall))~~ must deposit the moneys in the general fund.

(7) The definitions in this subsection apply throughout this section and RCW 82.14.470 unless the context clearly requires otherwise.

(a) "Base year" means the calendar year immediately following the creation of a benefit zone.

(b) "Benefit zone" has the same meaning as provided in RCW 39.100.010.

(c) "Excess local excise taxes" has the same meaning as provided in RCW 39.100.050.

(d) "Excess state excise taxes" means the amount of excise taxes received by the state during the measurement year from taxable activity within the benefit zone over and above the amount of excise taxes received by the state during the base year from taxable activity within the benefit zone. However, if a local government creates the benefit zone and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the benefit zone within the boundaries of the area that became the benefit zone, "excess state excise taxes" means the entire amount of state excise taxes the state receives during a calendar year period beginning with the calendar year immediately following the creation of the benefit zone and continuing with each measurement year thereafter.

(e) "State excise taxes" means revenues derived from state retail sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW except for the local tax authorized in this section.

(f) "Fiscal year" has the same meaning as provided in RCW 39.100.030.

(g) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess state excise taxes and excess local excise taxes.

(h) "State contribution" means the lesser of two million dollars or an amount equal to excess state excise taxes received by the state during the preceding calendar year.

(i) "Tax allocation revenues" has the same meaning as provided in RCW 39.100.010.

(j) "Public improvements" and "public improvement costs" have the same meanings as provided in RCW 39.100.010.

(k) "Local public sources" includes, but is not limited to, private monetary contributions, assessments, dedicated local government funds, and tax allocation revenues. "Local public sources" does not include local government funds derived from the state-subsidized portion of any state loan or state grant, any local tax that is credited against the state sales and use taxes, or any other state funds. Local public sources may include amounts expended by a hospital in the

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zone since the date of formation of the zone and may be applied to the year or years designated by the local government.

**Sec. 4.** RCW 82.14.470 and 2007 c 266 s 8 are each amended to read as follows:

(1)(a)(i) Moneys collected from the taxes imposed under RCW 82.14.465 ~~((shall))~~ may be used only for the following purposes:

(A) Principal and interest payments on bonds issued to finance or refinance public improvements in a benefit zone under the authority of RCW 39.100.060;

(B) Principal and interest payments on other bonds issued by the local government to finance public improvements; or

(C) Payments for public improvement costs.

(ii) Moneys collected and used as provided in (a)(i) of this subsection must be matched with an amount from local public sources dedicated, as further provided in RCW 82.14.465 (4)(c)(ii) and (7)(k), through December 31st of the previous calendar year to finance public improvements authorized under chapter 39.100 RCW.

(b) Local public sources are dedicated to finance public improvements if they: (i) Are actually expended to pay public improvement costs or debt service on bonds issued for public improvements; or (ii) are required by law or an agreement to be used exclusively to pay public improvement costs or debt service on bonds issued for public improvements.

(c) A city, town, or county is not required to expend taxes imposed under RCW 82.14.465 in the fiscal year in which the taxes are received.

(2) A local government ~~((shall))~~ must inform the department by the first day of March of the amount of local public sources ~~((dedicated in))~~ allocated to the preceding calendar year to finance public improvements authorized under chapter 39.100 RCW.

(3) If a local government fails to comply with subsection (2) of this section, no tax may be imposed under RCW 82.14.465 in the subsequent fiscal year.

(4)(a) A local government ~~((shall))~~ must provide a report to the department and the state auditor by March 1st of each year. A local government ~~((shall))~~ must make a good faith effort to provide information required for the report.

(b) The report ~~((shall))~~ must contain the following information:

~~((a))~~ (i) The amount of tax allocation revenues, taxes under RCW 82.14.465, and local public sources received by the local government during the preceding calendar year, and a summary of how these revenues were expended; and

~~((b))~~ (ii) The names of any businesses known to the local government that have located within the benefit zone as a result of the public improvements undertaken by the local government and financed in whole or in part with hospital benefit zone financing.

(5) The department ~~((shall))~~ must make a report available to the public and the legislature by June 1st of each year. The report ~~((shall))~~ must include a list of public improvements undertaken by local governments and financed in whole or in part with hospital benefit zone financing, and it ~~((shall))~~ must also include a summary of the information provided to the department by local governments under subsection (4) of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5525.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5525.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5525 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5525, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5525, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Morton and Parlette

SUBSTITUTE SENATE BILL NO. 5525, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

Making 2011-2013 operating appropriations. Revised for 1st Substitute: Making 2009-2011 and 2011-2013 fiscal biennia operating appropriations.

The measure was read the second time.

MOTION

Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) A budget is hereby adopted and, subject to the provisions set forth in the following sections, the several amounts specified in parts I through IX of this act, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for salaries, wages, and other expenses of the agencies and offices of the state and for other specified purposes for the fiscal biennium beginning July 1, 2011, and ending June 30, 2013, except as otherwise provided, out of the several funds of the state hereinafter named.

(2) Unless the context clearly requires otherwise, the definitions in this section apply throughout this act.

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(a) "Fiscal year 2012" or "FY 2012" means the fiscal year ending June 30, 2012.

(b) "Fiscal year 2013" or "FY 2013" means the fiscal year ending June 30, 2013.

(c) "FTE" means full time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

**PART I  
GENERAL GOVERNMENT**

**NEW SECTION. Sec. 101. FOR THE HOUSE OF REPRESENTATIVES**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$30,870,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$31,497,000        |
| Motor Vehicle Account--State Appropriation .....  | \$1,316,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$63,683,000</b> |

**NEW SECTION. Sec. 102. FOR THE SENATE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$22,553,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$24,730,000        |
| Motor Vehicle Account--State Appropriation .....  | \$1,400,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$48,683,000</b> |

**NEW SECTION. Sec. 103. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,768,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$2,839,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$5,607,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions of this section, the joint legislative audit and review committee may adjust the due dates for projects included on the committee's 2011-13 work plan as necessary to efficiently manage workload.

(2) Within the amounts appropriated in this section, the committee shall conduct a review of the state's workplace safety and health program. The review shall examine workplace safety inspection, enforcement, training, and outreach efforts compared to other states and federal programs; analyze workplace injury and illness rates and trends in Washington; identify factors that may influence workplace safety and health; and identify practices that may improve workplace safety and health and/or impact insurance rates.

(3) Within the amounts appropriated in this section, the committee shall conduct a review of marketing and vendor expenditures and incentive payment programs at the state lottery commission to identify cost savings and efficiencies to maximize contributions to beneficiaries under this act. This review shall include examination of the following:

(a) An analysis of marketing expenses and the impact on ticket sales; the impact to sales of tickets from the change in lottery beneficiaries; the competitive contracting processes for marketing services and vendors and comparison to other states; identification of whether there are duplicative or unproductive marketing activities; and identification of whether savings may occur from changing vendors.

(b) A description of how the employee incentive payment program at the state lottery commission operates, and comparison to best practices for outcome-based performance payments.

**NEW SECTION. Sec. 104. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,690,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$1,861,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$3,551,000</b> |

**NEW SECTION. Sec. 105. FOR THE OFFICE OF THE STATE ACTUARY**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$24,000           |
| General Fund--State Appropriation (FY 2013) ..... | \$24,000           |
| Department of Retirement Systems Expense          |                    |
| Account--State Appropriation.....                 | \$3,367,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$3,415,000</b> |

**NEW SECTION. Sec. 106. FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$8,358,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$8,273,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$16,631,000</b> |

**NEW SECTION. Sec. 107. FOR THE STATUTE LAW COMMITTEE**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$4,363,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$4,824,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$9,187,000</b> |

**NEW SECTION. Sec. 108. FOR THE REDISTRICTING COMMISSION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,627,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$154,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$1,781,000</b> |

The appropriations in this section are subject to the following conditions and limitations: \$443,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the support of legislative redistricting efforts. The commission shall enter into an interagency agreement with the house of representatives and the senate for the expenditure of these funds.

**NEW SECTION. Sec. 109. FOR THE SUPREME COURT**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$6,897,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$6,938,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$13,835,000</b> |

**NEW SECTION. Sec. 110. FOR THE LAW LIBRARY**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$500,000          |
| General Fund--State Appropriation (FY 2013) ..... | \$500,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$1,000,000</b> |

**NEW SECTION. Sec. 111. FOR THE COURT OF APPEALS**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$15,622,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$15,743,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$31,365,000</b> |

**NEW SECTION. Sec. 112. FOR THE COMMISSION ON JUDICIAL CONDUCT**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,102,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$1,039,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$2,141,000</b> |

**NEW SECTION. Sec. 113. FOR THE ADMINISTRATOR FOR THE COURTS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$54,069,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$53,602,000         |
| General Fund--Federal Appropriation .....         | \$1,551,000          |
| General Fund--Private/Local Appropriation.....    | \$260,000            |
| Judicial Information Systems Account--State       |                      |
| Appropriation.....                                | \$31,847,000         |
| Judicial Stabilization Trust Account--State       |                      |
| Appropriation.....                                | \$3,609,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$144,938,000</b> |

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The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,800,000 of the general fund--state appropriation for fiscal year 2012 and \$1,800,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030.

(2)(a) \$8,252,000 of the general fund--state appropriation for fiscal year 2012 and \$8,253,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives and senate ways and means committees no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$265,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

(5) By September 1, 2011, the administrative office of the courts shall report to the supreme court and the fiscal and judicial committees of the legislature the actual expenditures by program and fund source, including amounts spent on constitutionally required activities, for the 2009-2011 fiscal biennium and projected expenditures by program and fund source for the 2011-2013 fiscal biennium. Sixty days after each legislative session, the administrative office of the courts shall report to the fiscal and judicial committees of the legislature on how reductions in appropriations were allocated by program.

(6) \$225,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the development and implementation of a static risk assessment for use by trial courts in determining bail for offenders. The Washington state center for court research shall establish quality assurance standards for implementation of the risk assessment and evaluate the tool's ability to predict risk level, recidivism, and failure to appear.

(7) \$1,178,000 of the judicial information systems account--state appropriation is provided solely for replacing computer equipment at state courts and state judicial agencies.

(8) \$651,000 of the judicial information systems account--state appropriation is provided solely for continued planning and implementation of a superior court calendaring and case flow management system.

(9) No later than September 30, 2011, the judicial information systems committee shall provide a report to the legislature on the recommendations of the case management feasibility study, including plans for a replacement of the superior court management information system (SCOMIS) and plans for completing the data exchange core system component consistent with a complete data exchange standard. No later than December 31, 2011, the judicial information systems committee shall provide a report to the legislature on the status of the data exchange, the procurement process for a SCOMIS replacement, and a case management system that is designed to meet the requirements approved by the superior courts and county clerks of all thirty-nine counties. The legislature shall solicit input on both reports from judicial, legislative, and executive stakeholders.

**NEW SECTION. Sec. 114. FOR THE OFFICE OF PUBLIC DEFENSE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) .....                 | \$25,493,000        |
| General Fund--State Appropriation (FY 2013) .....                 | \$25,437,000        |
| Judicial Stabilization Trust Account--State<br>Appropriation..... | \$1,660,000         |
| <b>TOTAL APPROPRIATION .....</b>                                  | <b>\$52,590,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The amounts provided include funding for expert and investigative services in death penalty personal restraint petitions.

(2) By December 1, 2011, the office of public defense shall submit to the appropriate policy and fiscal committees of the legislature a proposal for office of public defense to assume the effective and efficient administration of defense services for indigent persons throughout the state who are involved in proceedings under chapter 71.09 RCW. In developing its proposal, the office of public defense should consult with interested stakeholders, including the King county public defender, the Washington defender association, the Washington association of criminal defense lawyers, the administrative office of the courts, the superior court judges association, the office of the attorney general, the King county prosecuting attorney, the Washington association of counties, and the department of social and health services. At a minimum, the proposal should identify:

(a) Procedures to control costs and require accountability, consistent with the state's obligation to ensure the right to counsel under both the United States Constitution and the Washington Constitution;

(b) Appropriate practice standards for trial-level defense of indigent persons involved in proceedings under chapter 71.09 RCW, an estimated number of attorneys statewide who are qualified to provide such representation, and reasonable compensation for such defense services;

(c) The total budget necessary to implement the proposal statewide for fiscal year 2013, including administrative support; and

(d) Possible savings to the state and counties that might result from implementing the proposal.

**NEW SECTION. Sec. 115. FOR THE OFFICE OF CIVIL LEGAL AID**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) .....                 | \$11,219,000 |
| General Fund--State Appropriation (FY 2013) .....                 | \$11,229,000 |
| Judicial Stabilization Trust Account--State<br>Appropriation..... | \$732,000    |

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TOTAL APPROPRIATION .....\$23,180,000

The appropriations in this section are subject to the following conditions and limitations: An amount not to exceed \$40,000 of the general fund--state appropriation for fiscal year 2012 and an amount not to exceed \$40,000 of the general fund--state appropriation for fiscal year 2013 may be used to provide telephonic legal advice and assistance to otherwise eligible persons who are sixty years of age or older on matters authorized by RCW 2.53.030(2) (a) through (k) regardless of household income or asset level.

**NEW SECTION. Sec. 116. FOR THE OFFICE OF THE GOVERNOR**

General Fund--State Appropriation (FY 2012) .....\$5,625,000  
General Fund--State Appropriation (FY 2013) .....\$5,628,000  
Economic Development Strategic Reserve Account--State  
Appropriation.....\$1,500,000  
TOTAL APPROPRIATION .....\$12,753,000

The appropriations in this section are subject to the following conditions and limitations: \$1,500,000 of the economic development strategic reserve account appropriation is provided solely for efforts to assist with currently active industrial recruitment efforts that will bring new jobs to the state or will retain headquarter locations of major companies currently housed in the state.

**NEW SECTION. Sec. 117. FOR THE LIEUTENANT GOVERNOR**

General Fund--State Appropriation (FY 2012) .....\$703,000  
General Fund--State Appropriation (FY 2013) .....\$717,000  
General Fund--Private/Local Appropriation.....\$90,000  
TOTAL APPROPRIATION .....\$1,510,000

**NEW SECTION. Sec. 118. FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund--State Appropriation (FY 2012) .....\$2,114,000  
General Fund--State Appropriation (FY 2013) .....\$2,153,000  
TOTAL APPROPRIATION .....\$4,267,000

**NEW SECTION. Sec. 119. FOR THE SECRETARY OF STATE**

General Fund--State Appropriation (FY 2012) .....\$18,164,000  
General Fund--State Appropriation (FY 2013) .....\$15,648,000  
General Fund--Federal Appropriation .....\$7,431,000  
Public Records Efficiency, Preservation, and Access  
Account--State Appropriation.....\$8,065,000  
Charitable Organization Education Account--State  
Appropriation.....\$452,000  
Local Government Archives Account--State  
Appropriation.....\$10,728,000  
Election Account--Federal Appropriation .....\$17,338,000  
TOTAL APPROPRIATION .....\$77,826,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,101,000 of the general fund--state appropriation for fiscal year 2012 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund--state appropriation for fiscal year 2012 and \$2,076,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2011-2013 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent

of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) Any reductions to funding for the Washington talking book and Braille library may not exceed in proportion any reductions taken to the funding for the library as a whole.

**NEW SECTION. Sec. 120. FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund--State Appropriation (FY 2012) .....\$271,000  
General Fund--State Appropriation (FY 2013) .....\$281,000  
TOTAL APPROPRIATION .....\$552,000

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of enterprise services on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of enterprise services shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

**NEW SECTION. Sec. 121. FOR THE COMMISSION ON ASIAN PACIFIC AMERICAN AFFAIRS**

General Fund--State Appropriation (FY 2012) .....\$242,000  
General Fund--State Appropriation (FY 2013) .....\$229,000  
TOTAL APPROPRIATION .....\$471,000

**NEW SECTION. Sec. 122. FOR THE STATE TREASURER**

State Treasurer's Service Account--State  
Appropriation.....\$15,300,000

**NEW SECTION. Sec. 123. FOR THE STATE AUDITOR**

State Auditing Services Revolving Account--State  
Appropriation.....\$10,744,000  
Performance Audit of Government Account--State  
Appropriation.....\$1,961,000  
TOTAL APPROPRIATION .....\$12,705,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the

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district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$1,461,000 of the performance audits of government account appropriation is provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) Within the amounts appropriated in this section, the state auditor shall continue to complete the annual audit of the state's comprehensive annual financial report and the annual federal single audit consistent with the auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards, issued by the comptroller general of the United States, and OMB circular A-133, audits of states, local governments, and nonprofit organizations.

(4) \$500,000 of performance audits of state government account appropriation is provided solely for the fraud ombudsman to review and audit the fraud investigative work of the division of fraud investigations of the department of social and health services.

**NEW SECTION. Sec. 124. FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

|   |           |
|---|-----------|
| General Fund--State Appropriation (FY 2012) ..... | \$156,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$195,000 |
| TOTAL APPROPRIATION .....                         | \$351,000 |

**NEW SECTION. Sec. 125. FOR THE ATTORNEY GENERAL**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) .....                   | \$4,270,000   |
| General Fund--State Appropriation (FY 2013) .....                   | \$4,270,000   |
| General Fund--Federal Appropriation .....                           | \$8,819,000   |
| New Motor Vehicle Arbitration Account--State<br>Appropriation.....  | \$1,000,000   |
| Legal Services Revolving Account--State<br>Appropriation.....       | \$221,376,000 |
| Tobacco Prevention and Control Account--State<br>Appropriation..... | \$270,000     |
| Medicaid Fraud Penalty Account--State Appropriation                 | \$2,825,000   |
| TOTAL APPROPRIATION .....   | \$242,830,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed

electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(4) The attorney general shall enter into an interagency agreement with the department of social and health services for expenditure of the state's proceeds from the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for the purposes set forth in sections 204, 209, and 1109 of this act.

(5) \$62,000 of the legal services revolving fund--state appropriation is provided solely to implement House Bill No. 1770 (state purchasing). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) \$124,000 of the legal services revolving fund--state appropriation is provided solely to implement House Bill No. 2002 (industrial insurance). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(7) \$3,616,000 of the legal services revolving account--state appropriation is provided solely to implement Engrossed Senate Bill No. 5566 (workers' compensation). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(8) The office of the attorney general is authorized to expend \$2,100,000 from the *Zyprexa* and other *cy pres* awards towards consumer protection costs in accordance with uses authorized in the court orders.

**NEW SECTION. Sec. 126. FOR THE CASELOAD FORECAST COUNCIL**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$761,000   |
| General Fund--State Appropriation (FY 2013) ..... | \$762,000   |
| TOTAL APPROPRIATION .....                         | \$1,523,000 |

**NEW SECTION. Sec. 127. FOR THE DEPARTMENT OF COMMERCE**

|  |               |
|--|---------------|
| General Fund--State Appropriation (FY 2012) .....  | \$33,509,000  |
| General Fund--State Appropriation (FY 2013) .....  | \$33,870,000  |
| General Fund--Federal Appropriation .....  | \$282,675,000 |
| General Fund--Private/Local Appropriation.....   | \$4,982,000   |
| Public Works Assistance Account--State<br>Appropriation.....   | \$2,834,000   |
| Drinking Water Assistance Administrative<br>Account--State Appropriation.....                                | \$443,000     |
| Lead Paint Account--State Appropriation .....  | \$65,000      |
| Building Code Council Account--State Appropriation .....   | \$13,000      |
| Home Security Fund Account--State Appropriation ...  | \$19,400,000  |
| Affordable Housing for All Account--State<br>Appropriation.....  | \$11,905,000  |
| County Research Services Account--State Appropriation<br>.....   | \$1,081,000   |
| Financial Fraud and Identity Theft Crimes Investigation<br>and Prosecution Account--State Appropriation..... | \$1,166,000   |
| Low-Income Weatherization Assistance Account--State<br>Appropriation.....                                    | \$5,795,000   |
| City and Town Research Services Account--State<br>Appropriation.....   | \$5,166,000   |
| Manufacturing Innovation and Modernization<br>Account--State Appropriation.....                              | \$61,000      |
| Community and Economic Development Fee Account--State<br>Appropriation.....                                  | \$8,648,000   |
| Washington Housing Trust Account--State<br>Appropriation.....  | \$15,476,000  |
| Prostitution Prevention and Intervention Account--<br>State Appropriation.....                               | \$94,000      |
| Public Facility Construction Loan Revolving<br>Account--State Appropriation.....                             | \$764,000     |
| Disability Lifeline Account--State Appropriation .....   | \$14,438,000  |
| Washington Auto Theft Prevention Authority Account--<br>State Appropriation.....                             | \$194,000     |
| TOTAL APPROPRIATION .....  | \$442,579,000 |

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The appropriations in this section are subject to the following conditions and limitations:

(1) Repayments of outstanding mortgage and rental assistance program loans administered by the department under RCW 43.63A.640 shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(2) \$475,000 of the general fund--state appropriation for fiscal year 2012 and \$475,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(3) \$306,000 of the general fund--state appropriation for fiscal year 2012 and \$306,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a grant to the retired senior volunteer program.

(4) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties.

(5) \$1,800,000 of the home security fund--state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(6) \$5,000,000 of the home security fund--state appropriation is for the operation, repair, and staffing of shelters in the homeless family shelter program.

(7) \$198,000 of the general fund--state appropriation for fiscal year 2012 and \$198,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington new Americans program.

(8) \$2,989,000 of the general fund--state appropriation for fiscal year 2012 and \$2,989,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for associate development organizations.

(9) \$127,000 of the general fund--federal appropriation is provided solely for implementation of Substitute House Bill No. 1886 (Ruckelshaus center process). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(10) Up to \$200,000 of the general fund--private/local appropriation is for a grant to the Washington tourism alliance for the maintenance of the Washington state tourism web site www.experiencewa.com and its related sub-sites. The department may transfer ownership of the web site and other tourism promotion assets and assign obligations to the Washington tourism alliance for purposes of tourism promotion throughout the state. The alliance may use the assets only in a manner consistent with the purposes for which they were created. Any revenue generated from these assets must be used by the alliance for the sole purposes of statewide Washington tourism promotion. The legislature finds that the Washington tourism alliance, a not-for-profit, 501.c.6 organization established, funded, and governed by Washington tourism industry stakeholders to sustain destination tourism marketing across Washington, is an appropriate body to receive funding and assets from and assume obligations of the department for the purposes described in this section.

(11) \$1,859,000 of the general fund--state appropriation for fiscal year 2012 and \$1,859,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for innovative research teams, also known as entrepreneurial STARS, at higher education research institutions. Of these amounts no more than \$50,000 in fiscal year 2012 and no more than \$50,000 in fiscal year

2013 may be provided for the operation of entrepreneur in residence programs at entrepreneurial assistance organizations.

(12) The public works assistance account appropriation reflects savings required by Substitute Senate Bill No. 5844 (local government infrastructure), which requires the department to reduce expenditures from the public works assistance account for central agency administration for the 2011-2013 biennium.

(13) Within the appropriations in this section, specific funding is provided to implement Substitute Senate Bill No. 5741 (economic development commission).

(14) The disability lifeline account--state appropriation, in addition to supplemental security income (SSI) recoveries, is provided solely for the department to provide housing services for disability lifeline--expedited clients pursuant to Senate Bill No. 5938 (disability lifeline).

**NEW SECTION. Sec. 128. FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) .....         | \$691,000   |
| General Fund--State Appropriation (FY 2013) .....         | \$749,000   |
| Lottery Administrative Account--State Appropriation ..... | \$50,000    |
| TOTAL APPROPRIATION .....                                 | \$1,490,000 |

**NEW SECTION. Sec. 129. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2012) .....      | \$19,418,000 |
| General Fund--State Appropriation (FY 2013) .....      | \$19,464,000 |
| General Fund--Federal Appropriation .....              | \$31,581,000 |
| General Fund--Private/Local Appropriation.....         | \$1,270,000  |
| Performance Audits of Government Account--             |              |
| State Appropriation.....                               | \$25,000     |
| Economic Development Strategic Reserve Account--       |              |
| State Appropriation.....                               | \$289,000    |
| Department of Personnel Services--State Appropriation  | \$9,069,000  |
| Data Processing Revolving Account--State               |              |
| Appropriation.....                                     | \$5,208,000  |
| Higher Education Personnel Services Account--State     |              |
| Appropriation.....                                     | \$1,533,000  |
| Aquatic Lands Enhancement Account--State Appropriation |              |
| .....  | \$100,000    |
| TOTAL APPROPRIATION .....                              | \$87,957,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,210,000 of the general fund--state appropriation for fiscal year 2012 and \$1,210,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for implementation of House Bill No. 1178 (regulatory assistance office). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(2) \$150,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the office of financial management to contract with an independent consultant to evaluate and recommend the most cost-effective provision of services required to support the department of social and health services special commitment center on McNeil Island. The evaluation shall include island operation services that include, but are not limited to: (a) Marine transport of passengers and goods; (b) wastewater treatment; (c) fire protection and suppression; (d) electrical supply; (e) water supply; and (f) road maintenance.

The office of financial management shall solicit the input of Pierce county, the department of corrections, and the department of social and health services in developing the request for proposal, evaluating applications, and directing the evaluation. The consultant shall report to the governor and legislature by November 15, 2011.

(3) \$100,000 of the aquatic lands enhancement account--state appropriation is provided solely for the office of financial

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management to prepare a report to be used to initiate a comprehensive, long-range planning process for the future of McNeil Island during the 2013-2015 fiscal biennium.

- (a) The report on the initiation of the process must document:
  - (i) Ownership issues, including consultation with the federal government about its current legal requirements associated with the island;
  - (ii) Federal and state decision-making processes to change use or ownership;
  - (iii) Tribal treaty interests;
  - (iv) Fish and wildlife species and their habitats;
  - (v) Land use and public safety needs;
  - (vi) Recreational opportunities for the general public;
  - (vii) Historic and archaeological resources; and
  - (viii) Revenue from and necessary to support potential future uses of the island.

(b) The report shall develop and recommend a comprehensive, long-range planning process for the future of the island and associated aquatic resources, addressing the items in (a) of this subsection.

(c) The office of financial management may use its own staff and other public agency and tribal staff or contract for services, and may create a work group of knowledgeable agencies, organizations, and individuals to assist in preparing the report.

(d) The office of financial management shall engage in broad consultation with interested parties, including, but not limited to:

- (i) Federal agencies with relevant responsibilities;
- (ii) Tribal governments;
- (iii) State agencies;
- (iv) Local governments and communities in the area, including the Anderson Island community, Steilacoom, and Pierce county; and
- (v) Interested private organizations and individuals.

(e) The report must be submitted to the governor and appropriate committees of the legislature by October 1, 2012.

(4) As part of negotiations for labor contracts for the 2013-2015 fiscal biennium, the office of labor relations shall propose to the bargaining representatives for state employees the authorization to collect employee health care premiums on a sliding scale based on the employee's salary.

(5) The appropriations in this section include sufficient funding for the implementation of Senate Joint Resolution No. 8206 (extraordinary revenue growth to be deposited to the budget stabilization account).

(6) \$50,000 of the general fund--state appropriation for fiscal year 2012 and \$50,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the office of financial management to contract with the Washington state quality award for training, outreach, and assessments for public agencies and public agency vendors.

**NEW SECTION. Sec. 130. FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

Administrative Hearings Revolving Account--State  
Appropriation.....\$35,648,000

**NEW SECTION. Sec. 131. FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account--State  
Appropriation.....\$26,366,000

**NEW SECTION. Sec. 132. FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund--State Appropriation (FY 2012) .....\$259,000  
General Fund--State Appropriation (FY 2013) .....\$265,000  
TOTAL APPROPRIATION .....\$524,000

**NEW SECTION. Sec. 133. FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund--State Appropriation (FY 2012) .....\$249,000  
General Fund--State Appropriation (FY 2013) .....\$249,000  
TOTAL APPROPRIATION .....\$498,000

**NEW SECTION. Sec. 134. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--OPERATIONS**

Department of Retirement Systems Expense  
Account--State Appropriation.....\$47,859,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$61,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5882 (local government employees). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(2) \$65,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5494 (plan 3 default investment option). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(3) \$58,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5852 (post-retirement employment). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(4) \$15,000 of the department of retirement systems--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5920 (limiting annual increase amounts). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) \$73,000 of the department of retirement systems expense account--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5860 (state government employee compensation). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

**NEW SECTION. Sec. 135. FOR THE DEPARTMENT OF REVENUE**

General Fund--State Appropriation (FY 2012) .....\$107,579,000  
General Fund--State Appropriation (FY 2013) .....\$107,910,000  
Timber Tax Distribution Account--State Appropriation\$6,090,000  
Waste Reduction/Recycling/Litter Control--State  
Appropriation.....\$135,000  
Waste Tire Removal Account--State Appropriation .....\$2,000  
State Toxics Control Account--State Appropriation.....\$91,000  
Oil Spill Prevention Account--State Appropriation.....\$19,000  
Master License Fund--State Appropriation .....\$14,334,000  
Vehicle License Fraud Account--State Appropriation .....\$5,000  
Performance Audits of Government Account--State  
Appropriation.....\$3,188,000  
TOTAL APPROPRIATION .....\$239,353,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,188,000 of the performance audits of government account--state appropriation is for the department to hire more auditors, compliance staff, and taxpayer account administration staff in order to generate additional revenues to the state.

(2) \$14,334,000 of the master license account--state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5911 (master license service program) or Substitute House Bill No. 2017 (master license service program). If neither bill is enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 136. FOR THE STATE INVESTMENT BOARD**

State Investment Board Expense Account--State

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Appropriation.....\$29,858,000  
**NEW SECTION. Sec. 137. FOR THE BOARD OF TAX APPEALS**

General Fund--State Appropriation (FY 2012) .....\$1,275,000  
General Fund--State Appropriation (FY 2013) .....\$1,258,000  
TOTAL APPROPRIATION .....\$2,533,000

**NEW SECTION. Sec. 138. FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

OMWBE Enterprises Account--State Appropriation....\$3,368,000  
**NEW SECTION. Sec. 139. FOR THE CONSOLIDATED TECHNOLOGY SERVICES AGENCY**  
General Fund--State Appropriation (FY 2012) .....\$117,000  
General Fund--State Appropriation (FY 2013) .....\$118,000  
General Fund--Private/Local Appropriation.....\$356,000  
Data Processing Revolving Account--State  
Appropriation.....\$53,000  
TOTAL APPROPRIATION .....\$644,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section fund implementation of Senate Bill No. 5931 (streamlining central service functions).

**NEW SECTION. Sec. 140. FOR THE INSURANCE COMMISSIONER**

General Fund--Federal Appropriation .....\$4,474,000  
Insurance Commissioners Regulatory Account--State  
Appropriation.....\$48,808,000  
TOTAL APPROPRIATION .....\$53,282,000

The appropriations in this section are subject to the following conditions and limitations: \$57,000 of the insurance commissioner's regulatory account--state appropriation is provided solely to implement House Bill No. 1740 (health benefit exchange). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 141. FOR THE BOARD OF ACCOUNTANCY**

Certified Public Accountants' Account--State  
Appropriation.....\$2,838,000

**NEW SECTION. Sec. 142. FOR THE FORENSIC INVESTIGATION COUNCIL**

Death Investigations Account--State Appropriation.....\$280,000

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the death investigations account appropriation is provided solely for providing financial assistance to local jurisdictions in multiple death investigations. The forensic investigation council shall develop criteria for awarding these funds for multiple death investigations involving an unanticipated, extraordinary, and catastrophic event or those involving multiple jurisdictions.

**NEW SECTION. Sec. 143. FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Operating Account--State  
Appropriation.....\$4,080,000

**NEW SECTION. Sec. 144. FOR THE LIQUOR CONTROL BOARD**

Liquor Control Board Construction and Maintenance  
Account--State Appropriation.....\$10,081,000  
Liquor Revolving Account--State Appropriation.....\$180,965,000  
General Fund--Federal Appropriation .....\$120,000  
TOTAL APPROPRIATION .....\$191,166,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$198,000 of the liquor revolving account--state appropriation is provided solely for the implementation of Senate Bill No. 5916 (liquor related products). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

(2) \$82,000 of the liquor revolving account--state appropriation is provided solely for the implementation of Senate Bill No. 5917 (co-located contract stores). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

**NEW SECTION. Sec. 145. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

General Fund--Federal Appropriation .....\$502,000  
General Fund--Private/Local Appropriation.....\$11,216,000  
Public Service Revolving Account--State  
Appropriation.....\$31,246,000  
Pipeline Safety Account--State Appropriation .....\$3,228,000  
Pipeline Safety Account--Federal Appropriation .....\$2,887,000  
TOTAL APPROPRIATION .....\$49,079,000

The appropriations in this section are subject to the following conditions and limitations: In accordance with RCW 80.36.610(1), the utilities and transportation commission is authorized to establish federal telecommunications act services fees in fiscal year 2012 as necessary to meet the actual costs of conducting business and the appropriation levels in this section.

**NEW SECTION. Sec. 146. FOR THE MILITARY DEPARTMENT**

General Fund--State Appropriation (FY 2012) .....\$8,536,000  
General Fund--State Appropriation (FY 2013) .....\$8,571,000  
General Fund--Federal Appropriation .....\$160,163,000  
Enhanced 911 Account--State Appropriation.....\$46,619,000  
Disaster Response Account--State Appropriation .....\$18,018,000  
Disaster Response Account--Federal Appropriation ...\$66,266,000  
Military Department Rent and Lease Account--State  
Appropriation.....\$615,000  
Worker and Community Right-to-Know Account--State  
Appropriation.....\$2,178,000  
TOTAL APPROPRIATION .....\$310,966,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$18,018,000 of the disaster response account--state appropriation and \$66,266,000 of the disaster response account--federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2011-2013 biennium based on current revenue and expenditure patterns.

(2) \$75,000,000 of the general fund--federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit an annual report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate.

**NEW SECTION. Sec. 147. FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS**

Volunteer Firefighters' and Reserve Officers'  
Administrative Account--State Appropriation.....\$1,069,000

**NEW SECTION. Sec. 148. FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund--State Appropriation (FY 2012) .....\$2,410,000

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|  |             |
|--|-------------|
| General Fund--State Appropriation (FY 2013) .....  | \$2,476,000 |
| Higher Education Personnel Services Account--State |             |
| Appropriation.....                                 | \$257,000   |
| Department of Personnel Service Account--State     |             |
| Appropriation.....                                 | \$3,429,000 |
| TOTAL APPROPRIATION .....                          | \$8,572,000 |

The appropriations in this section are subject to the following conditions and limitations: \$37,000 of the department of personnel service account--state appropriation is provided solely for the administrative costs associated with implementation of Senate Bill No. 5639 (education governance system). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

**NEW SECTION. Sec. 149. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,335,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$1,338,000 |
| General Fund--Federal Appropriation .....         | \$1,946,000 |
| General Fund--Private/Local Appropriation.....    | \$14,000    |
| TOTAL APPROPRIATION .....                         | \$4,633,000 |

**NEW SECTION. Sec. 150. FOR THE DEPARTMENT OF ENTERPRISE SERVICES**

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2012) .....    | \$4,057,000  |
| General Fund--State Appropriation (FY 2013) .....    | \$4,055,000  |
| General Fund--Federal Appropriation .....            | \$184,000    |
| General Fund--Private/Local Appropriation.....       | \$368,000    |
| Building Code Council Account--State Appropriation . | \$1,183,000  |
| Department of Personnel Service Account--State       |              |
| Appropriation.....                                   | \$10,001,000 |
| General Administration Service Account--State        |              |
| Appropriation.....                                   | \$27,147,000 |
| TOTAL APPROPRIATION .....                            | \$46,995,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,090,000 of the general fund--state appropriation for fiscal year 2012 and \$3,090,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall maintain an interagency agreement with these agencies to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The legislative agencies named in this subsection shall continue to enjoy all of the same rights of occupancy and space use on the capitol campus as historically established.

(2) In accordance with RCW 46.08.172 and 43.135.055, the department is authorized to increase parking fees in fiscal years 2012 and 2013 as necessary to meet the actual costs of conducting business.

(3) The building code council account appropriation is provided solely for the operation of the state building code council as required by statute and modified by the standards established by executive order 10-06. The council shall not consider any proposed code amendment or take any other action not authorized by statute or in compliance with the standards established in executive order 10-06. No member of the council may receive compensation, per diem, or reimbursement for activities other than physical attendance at those meetings of the state building code council or the council's designated committees, at which the opportunity for public comment is provided generally and on all agenda items upon which the council proposes to take action.

(4) Pursuant to RCW 41.06.142(3), the department of enterprise services shall purchase the following services by contracts: Bulk printing and mailing services, real estate lease brokering, and motor pool vehicle fleet management. If the motor pool contract includes the transfer of ownership of the vehicle fleet, then provision for the payment of debt for those vehicles must be made. The office of financial management will oversee the development, negotiation, and execution of the contracts.

(5) The amounts appropriated in this section are for implementation of Senate Bill No. 5931 (streamlining central service functions).

**NEW SECTION. Sec. 151. FOR INNOVATE WASHINGTON**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$3,565,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$3,566,000 |
| TOTAL APPROPRIATION .....                         | \$7,131,000 |

(End of part)

**PART II HUMAN SERVICES**

**NEW SECTION. Sec. 201. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

(1) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP), the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 213 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons, nor expand beyond one county during the 2011-2013 fiscal biennium. The amount of funding assigned from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled, times the number of clients enrolled. In implementing the WMIP, the department may: (a) Withhold from calculations of

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"available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for enrolled individuals; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(4) The legislature finds that medicaid payment rates, as calculated by the department pursuant to the appropriations in this act, bear a reasonable relationship to the costs incurred by efficiently and economically operated facilities for providing quality services and will be sufficient to enlist enough providers so that care and services are available to the extent that such care and services are available to the general population in the geographic area. The legislature finds that cost reports, payment data from the federal government, historical utilization, economic data, and clinical input constitute reliable data upon which to determine the payment rates.

**NEW SECTION. Sec. 202. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM**

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2012) .....                 | \$308,985,000          |
| General Fund--State Appropriation (FY 2013) .....                 | \$311,009,000          |
| General Fund--Federal Appropriation .....                         | \$477,494,000          |
| General Fund--Private/Local Appropriation.....                    | \$1,389,000            |
| Domestic Violence Prevention Account--State<br>Appropriation..... | \$1,154,000            |
| Education Legacy Trust Account--State Appropriation...            | \$725,000              |
| <b>TOTAL APPROPRIATION .....</b>                                  | <b>\$1,100,756,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

(2) \$80,872,000 of the general fund--state appropriation for fiscal year 2012, \$81,251,000 of the general fund--state appropriation for fiscal year 2013, and \$75,595,000 of the general fund--federal appropriation are provided solely for the department to utilize performance-based contracts as required under RCW 74.13.360(1) to obtain services for children and families.

(3) A maximum of \$6,460,000 of the general fund--state appropriation and \$3,540,000 of the general fund--federal appropriation for the 2011-2013 fiscal biennium are provided for a contingency reserve and these amounts are provided solely for this purpose. The contingency reserve in this subsection is established in the event that the client type composition and number of client referrals to supervising agency contractors under RCW 74.13.360 exceed appropriated amounts in subsection (2) of this section. The department shall first use any under-expenditures as a result of client type composition or number of client referrals prior to using the contingency reserve. The department shall only expend an amount equal to the over-expenditure, after using under-expenditures, and shall only be as a result of client type composition changes or the number of client referrals above appropriated amounts. Before the contingency funds can be used, the over-expenditure must be greater than one percent. The department shall manage these funds on a statewide basis and only provide funds from the contingency reserve in a monthly or quarterly basis. The department shall continually reevaluate client type composition and number of client referrals in order to shift funds between regions if necessary.

(4) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(5) \$5,139,000 of the general fund--state appropriation for fiscal year 2012 and \$5,140,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the department to contract for services pursuant to RCW 13.32A.030 and 74.15.220. The department shall contract and collaborate with service providers in a manner that maintains the availability and geographic representation of secure and semi-secure crisis residential centers and HOPE centers. To achieve efficiencies and increase utilization, the department shall allow the co-location of these centers, except that a youth may not be placed in a secure facility or the secure portion of a co-located facility except as specifically authorized by chapter 13.32A RCW. The reductions to appropriations in this subsection reflect a reduction to the number of beds for semi-secure crisis residential centers and/or secure crisis residential centers and not a reduction to the cost per bed for the semi-secure crisis residential centers. The department is to exercise its discretion in reducing the number of beds but to do so in a manner that maintains availability and geographic representation of semi-secure and secure crisis residential centers.

(6) \$564,000 of the general fund--federal appropriation is provided solely to implement Second Substitute House Bill No. 1128 (extended foster care). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(7) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(8) \$47,000 of the general fund--state appropriation for fiscal year 2012, \$14,000 of the general fund--state appropriation for fiscal year 2013, and \$40,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1697 (dependency system). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

**NEW SECTION. Sec. 203. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM**

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2012) .....                                | \$89,983,000         |
| General Fund--State Appropriation (FY 2013) .....                                | \$90,024,000         |
| General Fund--Federal Appropriation .....  | \$702,000            |
| General Fund--Private/Local Appropriation.....                                   | \$1,912,000          |
| Washington Auto Theft Prevention Authority Account--<br>State Appropriation..... | \$196,000            |
| Juvenile Accountability Incentive Account--Federal<br>Appropriation.....         | \$2,805,000          |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$185,622,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$331,000 of the general fund--state appropriation for fiscal year 2012 and \$331,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court

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costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$2,716,000 of the general fund--state appropriation for fiscal year 2012 and \$2,716,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,482,000 of the general fund--state appropriation for fiscal year 2012 and \$3,482,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$1,130,000 of the general fund--state appropriation for fiscal year 2012 and \$1,130,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,373,000 of the general fund--state appropriation for fiscal year 2012 and \$3,373,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,787,000 of the general fund--state appropriation for fiscal year 2012 and \$1,787,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training or other programs with a positive benefit-cost finding in the institute's report. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) The juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the

following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) The juvenile rehabilitation administration shall phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of five percent in fiscal year 2012 and five percent in fiscal year 2013.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(8) The juvenile courts and administrative office of the courts shall collect and distribute information related to program outcome and provide access to these data systems to the juvenile rehabilitation administration and Washington state institute for public policy. Consistent with chapter 13.50 RCW, all confidentiality agreements necessary to implement this

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information-sharing shall be approved within 30 days of the effective date of this section. The agreements between administrative office of the courts, the juvenile courts, and the juvenile rehabilitation administration shall be executed to ensure that the juvenile rehabilitation administration receives the data that the juvenile rehabilitation administration identifies as needed to comply with this subsection. This includes, but is not limited to, information by program at the statewide aggregate level, individual court level, and individual client level for the purpose of the juvenile rehabilitation administration providing quality assurance and oversight for the locally committed youth block grant and associated funds and at times as specified by the juvenile rehabilitation administration as necessary to carry out these functions. The data shall be provided in a manner that reflects the collaborative work the juvenile rehabilitation administration and juvenile courts have developed regarding program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

**NEW SECTION. Sec. 204. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM**

**(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS**

|  |                        |
|--|------------------------|
| General Fund--State Appropriation (FY 2012) .....                | \$322,859,000          |
| General Fund--State Appropriation (FY 2013) .....                | \$327,898,000          |
| General Fund--Federal Appropriation .....                        | \$469,451,000          |
| General Fund--Private/Local Appropriation.....                   | \$18,719,000           |
| Hospital Safety Net Assessment Fund--State<br>Appropriation..... | \$6,802,000            |
| <b>TOTAL APPROPRIATION .....</b>                                 | <b>\$1,145,729,000</b> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$104,994,000 of the general fund--state appropriation for fiscal year 2012 and \$104,994,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$8,695,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2011 prior to supplemental budget reductions. This \$8,695,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) \$6,590,000 of the general fund--state appropriation for fiscal year 2012, \$6,590,000 of the general fund--state appropriation for fiscal year 2013, and \$7,620,000 of the general fund--federal appropriation are provided solely for the department and regional support networks to continue to contract for implementation of high-intensity programs for assertive community treatment (PACT) teams. In determining the proportion of medicaid and nonmedicaid funding provided to regional support networks with PACT teams, the department shall consider the differences between regional support networks in the percentages of services and other costs associated with the teams that are not reimbursable under medicaid. The department may allow regional support networks which have nonmedicaid reimbursable costs that are higher than the nonmedicaid allocation they receive under this section to supplement these funds with local dollars or funds received under section 204(1)(a) of this act. The department and regional support networks shall maintain consistency with all essential elements of the PACT evidence-based practice model in programs funded under this section.

(c) \$5,850,000 of the general fund--state appropriation for fiscal year 2012, \$5,850,000 of the general fund--state appropriation for fiscal year 2013, and \$1,300,000 of the general fund--federal appropriation are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care previously provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 557 per day.

(e) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(f) \$4,582,000 of the general fund--state appropriation for fiscal year 2012 and \$4,582,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

(g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

(h) \$750,000 of the general fund--state appropriation for fiscal year 2012 and \$750,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

(i) \$1,125,000 of the general fund--state appropriation for fiscal year 2012 and \$1,125,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

(j) \$1,529,000 of the general fund--state appropriation for fiscal year 2012 and \$1,529,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals. Pierce and Spokane counties shall not bill the patients' regional support networks of origin for the cost of such hearings.

(k) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched

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rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

(l) \$1,015,000 of the general fund--private/local appropriation and \$4,031,000 of the general fund--federal appropriation are provided solely to design and implement community-based projects for improving integration and coordination of behavioral health and medical care for persons with serious and persistent mental illness. The projects, which shall be developed and implemented in partnership with community mental health centers, regional support networks, and the medical assistance program, shall develop and test strategies for improving health and reducing medical costs for people with serious and persistent mental illness through better coordination of physical and behavioral health care. Funding shall be used for initial project start-up and training; for provision of access to electronic data for tracking and predicting participants' medical utilization; for project evaluation; and as state matching funds for the enhanced federal funding available for coordinated care management under section 2703 of the federal patient protection and affordable care act. The department shall report to appropriate committees of the legislature on project status, performance, and outcomes by November 15th of each year. For purposes of this effort, the department shall enter into an interagency agreement with the office of the attorney general for expenditure of \$1,015,000 of the state's proceeds of the *cy pres* settlement in *State of Washington vs. AstraZeneca (Seroquel)*.

(m) \$200,000 of the general fund--state appropriation for fiscal year 2012 and \$200,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the north central Washington regional support network to maintain crisis response, involuntary commitment, and other essential nonmedicaid services.

(n) Given the recent approval of federal medicaid matching funds for the disability lifeline and the alcohol and drug abuse treatment support act programs, the department shall charge regional support networks for only the state share rather than the total cost of community psychiatric hospitalization for persons enrolled in those programs.

(o) \$750,000 of the general fund--state appropriation for fiscal year 2012, \$750,000 of the general fund--state appropriation for fiscal year 2013, and \$1,500,000 of the general fund--federal appropriation are provided solely to adjust regional support network capitation rates to account for the per diem rates actually paid for psychiatric care provided at hospitals participating in the certified public expenditure program operated pursuant to section 209 of this act.

(2) INSTITUTIONAL SERVICES

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$119,947,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$118,341,000 |
| General Fund--Federal Appropriation .....         | \$152,269,000 |
| General Fund--Private/Local Appropriation.....    | \$65,834,000  |
| TOTAL APPROPRIATION .....                         | \$456,391,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund--state appropriation for fiscal year 2012 and \$231,000 of the general fund--state appropriation for

fiscal year 2013 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund--state appropriation for fiscal year 2012 and \$45,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) \$20,000,000 of the general fund--state appropriation for fiscal year 2012 and \$20,000,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to maintain staffed capacity to serve an average daily census in forensic wards at western state hospital of 270 patients per day during the first six months of fiscal year 2012, and 240 patients per day thereafter.

(3) SPECIAL PROJECTS

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,809,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$1,814,000 |
| General Fund--Federal Appropriation .....         | \$2,682,000 |
| TOTAL APPROPRIATION .....                         | \$6,305,000 |

The appropriations in this subsection are subject to the following conditions and limitations: \$1,161,000 of the general fund--state appropriation for fiscal year 2012 and \$1,161,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

(4) PROGRAM SUPPORT

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$4,911,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$4,744,000  |
| General Fund--Federal Appropriation .....         | \$7,156,000  |
| General Fund--Private/Local Appropriation.....    | \$108,000    |
| TOTAL APPROPRIATION .....                         | \$16,919,000 |

(a) In accordance with RCW 43.20B.110, 43.135.055, and 71.24.035, the department is authorized to increase existing license and certification fees by up to fifty percent in fiscal years 2012 and 2013. The department's fee schedule shall have differential rates for providers with proof of accreditation from organizations that the department has determined to have substantially equivalent standards to those of the department, including but not limited to the joint commission on accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, and the council on accreditation. To reflect the reduced costs associated with regulation of accredited programs, the department's fees for organizations with such proof of accreditation must reflect the lower costs of licensing for these programs than for other organizations which are not accredited.

(b) \$72,000 of the general fund--state appropriation for fiscal year 2012, \$64,000 of the general fund--state appropriation for fiscal year 2013, and \$97,000 of the general fund--federal appropriation are provided solely for implementation of Senate Bill No. 5531 (ITA judicial services). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 205. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$423,295,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$427,309,000 |
| General Fund--Federal Appropriation .....         | \$754,715,000 |

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|   |                 |
|---|-----------------|
| General Fund--Private/Local Appropriation.....    | \$349,000       |
| State Efficiency and Restructuring Account--State |                 |
| Appropriation.....                                | \$13,659,000    |
| Community Residential Investment Account--State   |                 |
| Appropriation.....                                | \$12,300,000    |
| TOTAL APPROPRIATION .....                         | \$1,631,627,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by July 1, 2012. The rates paid to vendors under this contract shall also be made consistent. In its description of activities, the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services, and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities in fiscal year 2010.

(d) \$14,241,000 of the general fund--state appropriation for fiscal year 2012, \$14,928,000 of the general fund--state appropriation for fiscal year 2013, and \$29,169,000 of the general fund--federal appropriation are provided solely for state contributions for individual provider health care benefits. Pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270, the state shall contribute to the multiemployer health benefits trust fund \$1.96 per paid hour worked by individual providers.

(e)(i) \$1,508,000 of the general fund--state appropriation for fiscal year 2012, \$1,608,000 of the general fund--state appropriation for fiscal year 2013, and \$3,117,000 of the general fund--federal appropriation are provided solely for home care agencies to purchase health coverage for home care providers. In order to negotiate the most comprehensive health benefits package for its employees, each agency may determine benefit levels according to the hours an employee works to provide state-funded personal care. At a minimum, employees who work 35 hours per week or greater must receive a comprehensive medical benefit. The department shall not pay an agency for benefits provided to an employee who otherwise receives health care coverage through other family members, other employment-based coverage, or military or veteran's coverage. The department shall require each home care agency to annually review each of its employee's available health coverage and to provide a written declaration to the department verifying that health benefits purchased with public funds are solely for employees that do not have other available coverage. Home care agencies may determine a reasonable employee copremium not to exceed 20 percent of the total benefit cost.

(ii) As an alternative, an agency provider who works a minimum of 35 hours per week may select coverage in the basic health plan provided they meet all other eligibility requirements of the basic health plan. The department shall work cooperatively with the health care authority to facilitate enrollment of eligible home care agency providers. For eligible providers who chose coverage in the basic health plan, the department shall transfer the

state's share of the premium to the health care authority on behalf of the provider.

(f) \$1,127,000 of the general fund--state appropriation for fiscal year 2012, \$1,199,000 of the general fund--state appropriation for fiscal year 2013, and \$2,322,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, for instructional costs associated with the training of individual providers. House Bill No. 1548 and Senate Bill No. 5473 (long-term care worker requirements) make statutory changes to the increased training requirements and therefore the state shall contribute to the partnership \$0.17 per paid hour worked by all home care workers. This amount is pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270. Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

(g) \$475,000 of the general fund--state appropriation for fiscal year 2012, \$490,000 of the general fund--state appropriation for fiscal year 2013, and \$967,000 of the general fund--federal appropriation are provided solely to compensate individual providers who are not related to their clients and agency providers for time required to participate in enhanced mandatory basic training.

(h)(i) Within the amounts appropriated in this section, the department shall revise the current working age adult policy to allow clients to choose between employment and community access activities. Clients age 21 and older who are receiving services through a home- and community-based medicaid waiver shall be offered the choice to transition to a community access program after nine months of enrollment in an employment program, and the option to transition from a community access program to an employment program at any time. The department shall inform clients and their legal representatives of all available options for employment and day services. Information provided to the client and the client's legal representative shall include the types of activities each service option provides, and the amount, scope, and duration of service for which the client would be eligible under each service option. An individual client may be authorized for only one service option, either employment services or community access services. Clients may not participate in more than one of these services at any given time.

(ii) The department shall work with counties and stakeholders to strengthen and expand the existing community access program. The program must emphasize support for the client so they are able to participate in activities that integrate them into their community and support independent living and skills.

(iii) The appropriation in this subsection includes funding to provide employment or community access services to 168 young adults with developmental disabilities living with their families who need employment opportunities and assistance after high school graduation.

(i) The department shall assess and determine whether it would be cost-efficient for the state to exercise the option made available under section 1915(k) of the federal social security act (42 U.S.C. Sec. 1396n(k)). If the department determines that it would be cost-efficient for the state to exercise the federal option, it shall prepare a proposal to provide home- and community-based attendant services and supports that include assistance with activities of daily living (ADL's), instrumental activities of daily living (IADL's), and health-related tasks pursuant to section 1915(k) of the federal social security act (42 U.S.C. Sec. 1396n(k)) and submit that plan to the legislature during the next legislative session.

(j) The division of developmental disabilities may transfer funds between the community services and institutional services programs

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for the purpose of facilitating the consolidation and closure of residential habilitation centers pursuant to Substitute Senate Bill No. 5459 (concerning transition services for people with developmental disabilities).

(k) \$3,000,000 of the general fund--state appropriation for fiscal year 2012 and \$3,150,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for deposit into the community residential investment account.

(l) \$13,659,000 of the state efficiency and restructuring account--state appropriation and \$19,921,000 of the general fund--federal appropriation are provided solely to support residents moving from residential habilitation centers into the community. The funds may be used to provide community residential start-up costs, community provider payments, expansion of the current state operated living alternatives program, establishing new community residential capacity, providing crisis and respite services in the community, and other services and supports as necessary to facilitate transition.

(m) \$6,150,000 of the community residential investment account--state appropriation and \$6,150,000 of the general fund--federal appropriation are provided solely for increasing enrollment on the community-based medicaid waivers operated by the department and providing additional short-term crisis respite and regular respite for individuals with developmental disabilities and their families. Of the community residential investment account--state appropriation specified in this subsection, up to \$150,000 may be expended for a study that examines potential public use of the residential habilitation centers vacated by the department.

(n) In accordance with Substitute Senate Bill No. 5092 (licensed settings for vulnerable adults), the department is authorized to increase adult family home fees in fiscal years 2012 and 2013 as specified in this subsection to support the actual costs of conducting licensure, inspection, and regulatory programs.

(i) The current annual renewal license fee for adult family homes shall be increased to \$136 per bed in fiscal year 2012 and \$350 per bed in fiscal year 2013.

(ii) Adult family homes shall receive a corresponding vendor rate increase of \$0.32 per medicaid patient day in fiscal year 2012 and \$0.91 per medicaid patient day in fiscal year 2013 to cover the license fee increase for publicly funded beds.

(2) INSTITUTIONAL SERVICES

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) .....                       | \$82,188,000  |
| General Fund--State Appropriation (FY 2013) .....                       | \$81,852,000  |
| General Fund--Federal Appropriation .....                               | \$151,175,000 |
| General Fund--Private/Local Appropriation.....                          | \$20,725,000  |
| State Efficiency and Restructuring Account--State<br>Appropriation..... | \$3,715,000   |
| TOTAL APPROPRIATION .....   | \$339,655,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) \$721,000 of the general fund--state appropriation for fiscal year 2012 and \$721,000 of the general fund--state appropriation for fiscal year 2013 are for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(c) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions

shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(d) The state is consolidating the number of institutions it operates to care for clients with developmental disabilities. The department shall conduct individual assessments, and work closely with the clients and the clients' legal representatives to develop individual transition and support plans to help ensure the clients' physical and mental health, welfare, and safety through this process.

(3) PROGRAM SUPPORT

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,433,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$1,431,000 |
| General Fund--Federal Appropriation .....         | \$1,379,000 |
| TOTAL APPROPRIATION .....                         | \$4,243,000 |

**NEW SECTION. Sec. 206. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULTSERVICES PROGRAM**

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2012) .....                                 | \$787,273,000   |
| General Fund--State Appropriation (FY 2013) .....                                 | \$820,556,000   |
| General Fund--Federal Appropriation .....   | \$1,737,016,000 |
| General Fund--Private/Local Appropriation.....                                    | \$29,991,000    |
| Traumatic Brain Injury Account--State Appropriation..                             | \$3,394,000     |
| Skilled Nursing Facility Safety Net Assessment Fund--<br>State Appropriation..... | \$126,000,000   |
| TOTAL APPROPRIATION .....   | \$3,504,230,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed \$160.18 for fiscal year 2012 and shall not exceed \$165.36 for fiscal year 2013, except as provided in (a) of this subsection.

(a) The legislature assumes that any necessary state plan amendments and waivers requested from the federal centers for medicare and medicaid services in relation to the safety net assessment created by House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) will be approved and implemented. Accordingly, the weighted average nursing facility payment rate shall not exceed \$182.66 for fiscal year 2012 and shall not exceed \$188.63 for fiscal year 2013 including the rate add-ons described in (c), (d), and (e) of this subsection. However, if the safety net assessment created by House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) is not approved and implemented, the rate ceilings specified in this subsection (1)(a) are void.

(b) There will be no adjustments for economic trends and conditions in fiscal years 2012 and 2013. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(d) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes

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immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection.

(d) \$15,903,000 of the skilled nursing facility safety net assessment fund--state appropriation and \$15,903,000 of the general fund--federal appropriation are provided solely for an acuity-based add-on to the direct care rate. The department shall determine the resident acuity add-on pursuant to House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) using a nine percent add-on for facilities in the highest acuity quartile, a six percent add-on for facilities in the next quartile, three percent for facilities in the next quartile, and a negative one percent add-on for facilities in the lowest acuity quartile.

(e) \$34,444,000 of the skilled nursing facility safety net assessment fund--state appropriation and \$34,444,000 of the general fund--federal appropriation are provided solely for a rate enhancement available to all nursing facilities participating in the state's medicaid program. The add-on shall be calculated as follows: Seven percent add-on to the direct care rate and five percent add-on to each of the therapy care, support services, and operations components. If House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) is not enacted, the amounts provided in this subsection shall lapse.

(f) The department shall provide a medicaid rate add-on to reimburse the medicaid share of the skilled nursing facility safety net assessment as a medicaid allowable cost. The nursing facility safety net rate add-on may not be included in the calculation of the annual statewide weighted average nursing facility payment rate.

(g) If the waiver requested from the federal centers for medicare and medicaid services in relation to the safety net assessment created by House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) is for any reason not approved and implemented, (d), (e), and (f) of this subsection do not apply.

(h) The rate add-ons provided in (d) and (e) of this subsection are discretionary and are provided in addition to the base nursing facility rate. The legislature has examined actual nursing facility cost information and the legislature finds that the nursing facility rates funded pursuant to the budget dials specified in this subsection (1), excluding (a) of this subsection (1), are sufficient to reimburse efficient and economically operating homes. The legislature's choice to fund the add-ons specified in subsections (d) and (e) of this subsection in any year is not indicative of an obligation to fund the add-ons in any subsequent year.

(2) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2012 and no new certificates of capital authorization for fiscal year 2013 and shall grant no rate add-ons to payment rates for capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal years 2012 and 2013.

(3) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

(4) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients.

(5) \$27,279,000 of the general fund--state appropriation for fiscal year 2012, \$28,827,000 of the general fund--state appropriation for fiscal year 2013, and \$56,106,000 of the general

fund--federal appropriation are provided solely for state contributions for individual provider health care benefits. Pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270, the state shall contribute to the multiemployer health benefits trust fund \$1.96 per paid hour worked by individual providers.

(6)(a) \$13,575,000 of the general fund--state appropriation for fiscal year 2012, \$14,476,000 of the general fund--state appropriation for fiscal year 2013, and \$28,053,000 of the general fund--federal appropriation are provided solely for health coverage for home care agency providers. In order to negotiate the most comprehensive health benefits package for its employees, each agency may determine benefit levels according to the hours an employee works to provide state-funded personal care. At a minimum, employees who work 35 hours a week or greater must receive a comprehensive medical benefit. The department shall not pay an agency for benefits provided to an employee who otherwise receives health care coverage through other family members, other employment-based coverage, or military or veteran's coverage. The department shall require annually, each home care agency to review each of its employee's available health coverage and to provide a written declaration to the department verifying that health benefits purchased with public funds are solely for employees that do not have other available coverage. Home care agencies may determine a reasonable employee copremium not to exceed 20 percent of the total benefit cost.

(b) As an alternative, an agency provider who works a minimum of 35 hours per week may select coverage in the basic health plan provided they meet all other eligibility requirements for the basic health plan. The department of social and health services shall work cooperatively with the health care authority to facilitate enrollment of eligible home care agency providers. For eligible providers who chose coverage in the basic health plan, the department shall transfer the state's share of the premium to the health care authority on behalf of the provider.

(7) \$2,063,000 of the general fund--state appropriation for fiscal year 2012, \$2,195,000 of the general fund--state appropriation for fiscal year 2013, and \$4,260,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, for instructional costs associated with the training of individual providers. House Bill No. 1548 and Senate Bill No. 5473 (long-term care worker requirements) make statutory changes to the increased training requirements and therefore the state shall contribute to the partnership \$0.17 per paid hour worked by all home care workers. This amount is pursuant to the collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270. Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

(8) \$1,775,000 of the general fund--state appropriation for fiscal year 2012, \$1,866,000 of the general fund--state appropriation for fiscal year 2013, and \$3,642,000 of the general fund--federal appropriation are provided solely to compensate individual providers who are not related to their clients and agency providers for time required to participate in enhanced mandatory basic training.

(9) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(10) The department shall assess and determine whether it would be cost-efficient for the state to exercise the option made available under section 1915(k) of the federal social security act (42

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U.S.C. Sec. 1396n(k)). If the department determines that it would be cost efficient for the state to exercise the federal option, it shall prepare a proposal to provide home- and community-based attendant services and supports that include assistance with activities of daily living (ADL's), instrumental activities of daily living (IADL's), and health-related tasks pursuant to section 1915(k) of the federal social security act (42 U.S.C. Sec. 1396n(k) and submit that plan to the legislature during the subsequent legislative session.

(11) The department shall eliminate the adult day health program under the state plan 1915(i) option and shall reestablish it under the long-term care home and community-based waiver. The department shall also establish a day services option under the developmental disabilities home and community-based service waivers.

(12) \$4,588,000 of the general fund--state appropriation for fiscal year 2012, \$4,559,000 of the general fund--state appropriation for fiscal year 2013, and \$9,237,000 of the general fund--federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment.

(13) \$1,840,000 of the general fund--state appropriation for fiscal year 2012 and \$1,877,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for operation of the volunteer services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with Substitute Senate Bill No. 5092 (licensed settings for vulnerable adults) nursing facility and adult family home fees are increased in fiscal years 2012 and 2013 as specified in this subsection to support the costs of conducting licensure, inspection, and regulatory programs.

(a) The current annual renewal license fee for nursing facilities shall be increased to \$359 per bed beginning in fiscal year 2012 and assumes \$517,000 of the general fund--private/local appropriation. Nursing facilities shall receive a vendor rate increase of \$0.08 per medicaid patient day to cover the license fee increase for publicly funded beds.

(b) The current annual renewal license fee for adult family homes shall be increased to \$136 per bed in fiscal year 2012 and \$350 per bed in fiscal year 2013. Adult family homes shall receive a corresponding vendor rate increase of \$0.32 per medicaid patient day in fiscal year 2012 and \$0.91 per medicaid patient day in fiscal year 2013 to cover the license fee increase for publicly funded beds.

(c) \$338,000 of the general fund--state appropriation for fiscal year 2012, \$370,000 of the general fund--state appropriation for fiscal year 2013, and \$708,000 of the general fund--federal appropriation are provided solely for sections 501, 502, and 503 of Second Substitute Senate Bill No. 5092 (licensed settings for vulnerable adults) for additional investigative resources to address complaints about provider practices as well as alleged abuse, neglect, abandonment, and exploitation of residents in adult family homes. The department shall develop a statewide internal quality review and accountability program to improve the accountability of staff and the consistent application of investigative activities, and shall provide information and support to the long-term care ombudsman's adult family home quality assurance panel. If Second Substitute Senate Bill No. 5092 (licensed settings for

vulnerable adults) is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(15) \$3,316,000 of the traumatic brain injury account--state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in Substitute House Bill No. 1614 (traumatic brain injury strategic partnership).

(16) The department is authorized to place long-term care clients residing in nursing homes and paid for with state only funds into less restrictive community care settings while continuing to meet the client's care needs.

**NEW SECTION. Sec. 207. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM**

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$509,794,000          |
| General Fund--State Appropriation (FY 2013) ..... | \$511,658,000          |
| General Fund--Federal Appropriation .....         | \$1,041,502,000        |
| General Fund--Private/Local Appropriation.....    | \$30,592,000           |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$2,093,546,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$242,143,000 of the general fund--state appropriation for fiscal year 2012, \$242,727,000 of the general fund--state appropriation for fiscal year 2013, and \$479,539,000 of the general fund--federal appropriation are solely provided for temporary assistance for needy families cash grants, working connections child care, seasonal child care, tribal temporary assistance for needy families state maintenance of effort, diversion cash assistance, and consolidated emergency assistance program. Under section 2 of Senate Bill No. 5921, the amounts in this subsection assume that any participant in the temporary assistance for needy families where their participation is suspended and does not volunteer to participate in WorkFirst services or unsubsidized employment does not receive child care subsidies or WorkFirst subsidies as a condition of the suspension.

(a) Within the amounts provided in this subsection, \$1,414,000 of the general fund--state appropriation for fiscal year 2012 and \$5,150,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation and administration of the electronic benefit transfer system under section 10 of Senate Bill No. 5921. The department shall transfer these amounts to the department of early learning for the implementation and administration of the project.

(2) \$142,766,000 of the general fund--federal appropriation is provided solely for WorkFirst services and shall not exceed \$139,197,000 unless the department uses competitive performance-based contracting to select the public or private vendors or partner agencies to provide services in the WorkFirst program no later than June 30, 2012, under section 3 of Senate Bill No. 5921. The legislature will determine whether the condition will be met in the 2012 omnibus appropriations act and the department and WorkFirst subcommittee shall provide all necessary information to the legislature for its consideration and determination.

(3) \$55,481,000 of the general fund--state appropriation for fiscal year 2012, \$54,896,000 of the general fund--state appropriation for fiscal year 2013, and \$41,343,000 of the general fund--federal appropriation are provided solely for the department of social and health services staffing related to WorkFirst and section 8 of Senate Bill No. 5921.

(a) The department shall create a temporary assistance for needy families budget structure that allows for more transparent tracking of budget units and subunits of expenditures where these units and subunits are mutually exclusive from other department budget units and within the temporary assistance for needy families budget units.

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The budget structure shall follow the organization of subsections (1) through (4) in this section.

(4) \$20,260,000 of the general fund--federal appropriation is provided solely for a contingency reserve in the event the temporary assistance for needy families cash benefit is projected to exceed forecasted amounts by more than one percent. The department shall only expend an amount equal to the forecasted over expenditure. For purposes of this subsection, the temporary assistance forecast shall be completed every quarter and follow a similar schedule of the caseload forecast council forecasts.

(5)(a) \$8,198,000 of the general fund--state appropriation for fiscal year 2012 and \$9,216,000 of the general fund--state appropriation for fiscal year 2013, in addition to supplemental security income (SSI) recoveries, are provided solely for cash assistance in the disability lifeline--expedited program housing and nonhousing components per Senate Bill No. 5938 (disability lifeline). These amounts include the transfer of disability lifeline--disabled clients who meet social security income citizenship standards into the disability lifeline--expedited program.

(b) The department shall work with the department of commerce to jointly coordinate referrals and eligibility for the disability lifeline--expedited housing component clients.

(6) To ensure expenditures remain within available funds appropriated in this section, the legislature establishes the benefit under the state food assistance program, pursuant to RCW 74.08A.120, to be fifty percent of the federal supplemental nutrition assistance program benefit amount.

(7) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

**NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....               | \$74,910,000         |
| General Fund--State Appropriation (FY 2013) .....               | \$75,716,000         |
| General Fund--Federal Appropriation .....                       | \$139,221,000        |
| General Fund--Private/Local Appropriation.....                  | \$2,086,000          |
| Criminal Justice Treatment Account--State<br>Appropriation..... | \$17,760,000         |
| Problem Gambling Account--State Appropriation .....             | \$1,455,000          |
| <b>TOTAL APPROPRIATION .....</b>                                | <b>\$311,148,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible, pregnant and parenting women, disability lifeline, and alcoholism and drug addiction treatment and support act patients.

(3) In accordance with RCW 70.96A.090 and 43.135.055, the department is authorized to increase fees for the review and approval of treatment programs in fiscal years 2012 and 2013 as necessary to support the costs of the regulatory program. The department's fee schedule shall have differential rates for providers with proof of accreditation from organizations that the department has determined to have substantially equivalent standards to those of the department, including but not limited to the joint commission on

accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, and the council on accreditation. To reflect the reduced costs associated with regulation of accredited programs, the department's fees for organizations with such proof of accreditation must reflect the lower cost of licensing for these programs than for other organizations which are not accredited.

(4) \$3,500,000 of the general fund--federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

**NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE**

|  |                         |
|--|-------------------------|
| General Fund--State Appropriation (FY 2012) .....  | \$2,142,536,000         |
| General Fund--State Appropriation (FY 2013) .....  | \$2,208,403,000         |
| General Fund--Federal Appropriation .....  | \$5,519,072,000         |
| General Fund--Private/Local Appropriation .....  | \$57,771,000            |
| Emergency Medical Care and Trauma Care Systems<br>Trust Account--State Appropriation ..... | \$15,081,000            |
| Hospital Safety Net Assessment Fund--State<br>Appropriation.....                           | \$404,438,000           |
| Medicaid Fraud Penalty Account--State Appropriation  | \$15,182,000            |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$10,362,483,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) \$7,102,000 of the general fund--state appropriation for fiscal year 2012, \$7,102,000 of the general fund--state appropriation for fiscal year 2013, and \$14,204,000 of the general fund--federal appropriation are provided solely for low-income care disproportionate share hospital payments under RCW 74.09.730(1)(a). In the formula by which this appropriation is distributed, the department shall discontinue use of the case mix adjustment factor.

(6) \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by

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the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the health care authority's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The health care authority shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(7) The department shall continue the inpatient hospital certified public expenditures program for the 2011-2013 fiscal biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2011, and by November 1, 2012, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2012 and fiscal year 2013, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2011-13 biennial operating appropriations act and in effect on July 1, 2011, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2011-13 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$32,673,000 of the general fund--state appropriation for fiscal year 2012, of which \$6,570,000 is appropriated in section 204(1) of this act, and \$29,693,000 of the general fund--state appropriation for fiscal year 2013, of which \$6,570,000 is appropriated in section 204(1) of this act, are provided

solely for state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in RCW 74.60.080 and rate increases in RCW 74.60.090 funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

(8) The contract with the managed care plan to provide services for disability lifeline clients shall be designed to incentivize care in the most appropriate setting, including maximizing primary care-based services and optimizing appropriate hospital utilization and savings. The department may include shared savings or other risk sharing arrangements in the contract with the managed care plan in order to incentivize aggressive management of hospital services, including prior authorization, concurrent review, and discharge planning. In determining the allocation of shared savings, the health care authority shall consider the appropriate balance between incentivizing aggressive management of hospital services by the managed care plan and realizing budgetary savings from the state's investment in the inclusion of care management and mental health services in the managed care contract.

(9) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(10) The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(11) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race. The department shall prioritize evidence-based practices for delivery of maternity support services. To the extent practicable, the department shall develop a mechanism to increase federal funding for maternity support services by leveraging local public funding for those services.

(12) For children with family incomes above 200 percent of the federal poverty level in the state-funded children's health program for children who are not eligible for coverage under the federally funded children's health insurance program, premiums shall be set every two years in an amount equal to the average state-only share of the per capita cost of coverage in the state-funded children's health program for children in families with incomes at or less than two hundred percent of the federal poverty level.

(13) \$704,000 of the general fund--state appropriation for fiscal year 2012, \$726,000 of the general fund--state appropriation for fiscal year 2013, and \$1,431,000 of the general fund--federal appropriation are provided solely for disproportionate share hospital payments to hospitals that provide services to children in the children's health program who are not eligible for services under Title XIX or XXI of the federal social security act due to their citizenship status.

(14) \$998,000 of the general fund--state appropriation for fiscal year 2012, \$979,000 of the general fund--state appropriation for fiscal year 2013, and \$1,980,000 of the general fund--federal appropriation are provided solely to increase prior authorization activities for advanced imaging procedures.

(15) \$249,000 of the general fund--state appropriation for fiscal year 2012, \$246,000 of the general fund--state appropriation for fiscal year 2013, and \$495,000 of the general fund--federal appropriation are provided solely to increase prior authorization

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activities for surgical procedures, which may include orthopedic procedures, spinal procedures and interventions, and nerve procedures.

(16) \$300,000 of the general fund--private/local appropriation and \$300,000 of the general fund--federal appropriation are provided solely for a prescriptive practices improvement collaborative focusing upon atypical antipsychotics and other medications commonly used in the treatment of severe and persistent mental illnesses among adults. The project shall promote collaboration among community mental health centers, other major prescribers of atypical antipsychotic medications to adults enrolled in state medical assistance programs, and psychiatrists, pharmacists, and other specialists at the University of Washington department of psychiatry and/or other research universities. The collaboration shall include patient-specific prescriber consultations by psychiatrists and pharmacists specializing in treatment of severe and persistent mental illnesses among adults; production of profiles to assist prescribers and clinics in tracking their prescriptive practices and their patients' medication use and adherence relative to evidence-based practices guidelines, other prescribers, and patients at other clinics; and in-service seminars at which participants can share and increase their knowledge of evidence-based and other effective prescriptive practices. The department shall enter into an interagency agreement with the office of the attorney general for expenditure of \$300,000 of the state's proceeds of the *cy pres* settlement in *State of Washington v. AstraZeneca* (Seroquel) for this purpose.

(17) \$80,000 of the general fund--state appropriation for fiscal year 2012, \$80,000 of the general fund--state appropriation for fiscal year 2013, and \$160,000 of the general fund--federal appropriation are provided solely to fund the Tacoma-Pierce county health department for access and outreach activities to reduce infant mortality.

(18) \$75,000 of the general fund--state appropriation for fiscal year 2012, \$75,000 of the general fund--state appropriation for fiscal year 2013, and \$150,000 of the general fund--federal appropriation are provided solely to assist with development and implementation of evidence-based strategies regarding the appropriate, safe, and effective role of C-section surgeries and early induced labor in births and neonatal care. The strategies shall be identified and implemented in consultation with clinical research specialists, physicians, hospitals, advanced registered nurse practitioners, and organizations concerned with maternal and child health.

(19) \$395,000 of the general fund--state appropriation for fiscal year 2012, \$395,000 of the general fund--state appropriation for fiscal year 2013, and \$790,000 of the general fund--federal appropriation are provided solely for continued operation of the dental education in care of persons with disabilities (DECOD) program at the University of Washington.

(20) \$112,000 of the general fund--state appropriation for fiscal year 2012, \$112,000 of the general fund--state appropriation for fiscal year 2013, and \$1,928,000 of the general fund--federal appropriation are provided solely for the provider incentive program and other initiatives related to the health information technology Medicaid plan.

(21) \$1,439,000 of the general fund--state appropriation for fiscal year 2012, \$1,228,000 of the general fund--state appropriation for fiscal year 2013, and \$2,890,000 of the general fund--federal appropriation are provided solely for efforts to reduce Medicaid fraud and abuse and to seek coverage or recovery from other medical payers.

(22) \$2,926,000 of the general fund--local appropriation and \$2,928,000 of the general fund--federal appropriation are provided solely to support medical airlift services.

(23) The appropriations in this section are sufficient to enroll an average of 12,650 persons per month in the medical care component of the disability lifeline program during fiscal year 2012, and an average of 11,750 persons per month in the program during fiscal year 2013. Pursuant to RCW 74.09.035(1), the department shall manage new admissions and establish a waiting list for program benefits to the extent necessary to operate within these budgeted enrollment levels.

(24) The appropriations in this section are sufficient to enroll an average of 3,250 persons per month in the medical care component of the alcohol and drug abuse treatment support act during fiscal year 2012, and an average of 3,140 persons per month in the program during fiscal year 2013. Pursuant to RCW 74.09.035(1), the department shall manage new admissions and establish a waiting list for program benefits to the extent necessary to operate within these budgeted enrollment levels.

(25) The appropriations in this section assume enactment of Senate Bill No. 5929 and are sufficient to enroll an average of 23,350 persons per month during fiscal year 2012 in the medical care program for children ineligible for nonemergency coverage under title XIX or title XXI of the federal social security act, and an average of 22,500 persons per month in the program during fiscal year 2013. Pursuant to RCW 74.09.470 as amended by Senate Bill No. 5929, the department shall manage new admissions and establish a waiting list for program benefits to the extent necessary to operate within these budgeted enrollment levels.

(26) \$5,092,000 of the general fund--state appropriation for fiscal year 2012, \$5,270,000 of the general fund--state appropriation for fiscal year 2013, \$9,846,000 of the general fund--private/local appropriation, and \$20,207,000 of the general fund--federal appropriation are provided solely for continued provision of school-based medical services by means of an intergovernmental transfer arrangement. Under the arrangement, the state and school districts shall share equally in the provision of the nonfederal matching funds required for receipt of federal medicaid funding for the service.

(27) \$263,000 of the general fund--state appropriation for fiscal year 2012, \$88,000 of the general fund--state appropriation for fiscal year 2013, and \$351,000 of the general fund--federal appropriation are provided solely for development and submission to the federal government by October 1, 2011, of a demonstration project proposal as provided in Substitute Senate Bill No. 5596.

(28) \$19,000 of the general fund--state appropriation for fiscal year 2012, \$17,000 of the general fund--state appropriation for fiscal year 2013, and \$34,000 of the general fund--federal appropriation are provided solely to support a partnership among the department of social and health services, the department of health, and agencies that deliver medical care and behavioral health services in Cowlitz county. The partnership shall identify and recommend strategies for resolving regulatory, licensing, data management, reporting, and funding barriers to more effective integration of primary medical and behavioral health care services in the county.

(29) \$173,000 of the general fund--state appropriation for fiscal year 2012, \$173,000 of the general fund--state appropriation for fiscal year 2013, and \$346,000 of the general fund--federal appropriation are provided solely to facilitate development of primary medical homes for persons with multiple chronic disabilities that will qualify for 90 percent federal matching funds in accordance with section 2703 of the federal patient protection and affordable care act.

(30) \$4,761,000 of the general fund--state appropriation for fiscal year 2012, \$4,066,000 of the general fund--state appropriation for fiscal year 2013, and \$17,281,000 of the general fund--federal appropriation are provided solely for spoken-language interpreter services. The department shall develop and implement a new

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model for delivery of such services no later than January 1, 2012. The model shall include:

(a) Development by the department, in consultation with subject-area experts, of guidelines to assist medical practitioners identify the circumstances under which it is appropriate for the state to use telephonic or video-remote interpreting;

(b) A direct contract with no more than two organizations to manage delivery of medical interpretation services statewide;

(c) The requirement that the delivery organization subcontract only with language access providers working in the state who are certified by the state, except that when a state-certified language access provider is not available, the organization may use a provider with other certifications or qualifications deemed to meet state standards; and

(d) Provision of a secure, web-based tool that medical practitioners will use to schedule appointments for interpreter services and that language access providers can use to track hours and bill for payment. The web-based tool shall also assist medical practitioners in identifying the most appropriate, cost-effective method of service delivery that provides the greatest net benefit to the state in accordance with state guidelines.

Nothing in this subsection affects the ability of health care providers to provide interpretive services through employed staff or through telephone and video remote technologies when not reimbursed directly by the department.

(31) In its procurement of contractors for delivery of medical managed care services for nondisabled, nonelderly persons, the medical assistance program shall (a) place substantial emphasis upon price competition in the selection of successful bidders; and (b) not require delivery of any services that would increase the actuarial cost of service beyond the levels included in current healthy options contracts.

(32) \$1,430,000 of the general fund--state appropriation for fiscal year 2012, \$1,430,000 of the general fund--state appropriation for fiscal year 2013, and \$2,860,000 of the general fund--federal appropriation are provided solely to pay federally-designated rural health clinics their standard encounter rate for prenatal and well-child visits, whether delivered under a managed care contract or fee-for-service. In reconciling managed care enhancement payments for calendar years 2009 and 2010, the department shall treat well-child and prenatal care visits as encounters subject to the clinic's encounter rate.

(33) The medical assistance program shall continue to purchase power wheelchairs for all nursing home residents for whom they are determined to be medically necessary, and shall not limit such purchases to only those residents who are in school or employed.

(34) \$280,000 of the general fund--state appropriation for fiscal year 2012 and \$282,000 of the general fund--federal appropriation are provided solely to increase utilization management of drugs and drug classes for which there is evidence of over-utilization, off-label use, excessive dosing, duplicative therapy, or opportunities to shift utilization to less expensive, equally effective formulations.

(35) The department shall purchase a brand name drug when it determines that the cost of the brand name drug after rebates is less than the cost of generic alternatives and that purchase of the brand rather than generic version can save at least \$250,000. The department may purchase generic alternatives when changes in market prices make the price of the brand name drug after rebates more expensive than the generic alternatives.

(36) \$70,000 of the general fund--state appropriation for fiscal year 2012, \$70,000 of the general fund--state appropriation for fiscal year 2013, and \$140,000 of the general fund--federal appropriation are provided solely to continue operation by a nonprofit organization of a toll-free hotline that assists families to learn about and enroll in the apple health for kids program.

(37) \$400,000 of the general fund--state appropriation for fiscal year 2012 and \$400,000 of the general fund--state appropriation for fiscal year 2013 is provided solely for the local outreach, case management, and coordination with dental providers needed to execute the access to baby and child dentistry program, which provides dental care to Medicaid eligible children up to age six.

(38) The department shall contract with an organization that will use Washington state pharmacists to provide medication therapy management services to increase the use of lower cost alternative medications, improve patient compliance with prescribed regimens, reduce harmful side effects from medication, and ensure that medications achieve their desired therapeutic results. The department shall not contract for these services unless the contractor guarantees that the services will generate savings, as measured by the department's actual experience after implementation that are greater than the cost of the contracted services.

(39) All not-for-profit hospitals that apply for disproportionate share hospital payments in accordance with RCW 74.09.730(1) shall submit a completed copy of federal internal revenue service schedule H for the most recently completed year to the department. The department shall report to the appropriate fiscal and policy committees of the legislature by December 1, 2011, with an assessment of the extent to which information on community benefit as reported on the schedule H would provide a more consistent and accurate measure of hospital charity care efforts than the measures presently used by the department.

**NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) .....   | \$11,672,000  |
| General Fund--State Appropriation (FY 2013) .....   | \$11,778,000  |
| General Fund--Federal Appropriation .....   | \$102,622,000 |
| Telecommunications Devices for the Hearing and Speech Impaired--State Appropriation ..... | \$2,775,000   |
| TOTAL APPROPRIATION .....   | \$128,847,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The vocational rehabilitation program shall coordinate closely with the economic services program to serve lifeline clients under chapter 8, Laws of 2010 1st sp. sess. who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

(2) \$480,000 of the telecommunications devices for the hearing and speech impaired account--state appropriation is provided solely for the office of deaf and hard of hearing to contract for services that provide employment support and help with life activities for deaf-blind individuals in King county.

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SPECIAL COMMITMENT PROGRAM**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$56,113,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$56,065,000  |
| TOTAL APPROPRIATION .....                         | \$112,178,000 |

The appropriations in this section are subject to the following conditions and limitations: \$8,978,000 of the general fund--state appropriation for fiscal year 2012 and \$8,978,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for increased legal expenses resulting from the state supreme court's ruling in *In re McCuiston*.

**NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$27,098,000 |
|---|--------------|

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|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2013) .....                   | \$25,299,000         |
| General Fund--Federal Appropriation .....                           | \$44,076,000         |
| General Fund--Private/Local Appropriation.....                      | \$2,116,000          |
| Performance Audits of State Government--State<br>Appropriation..... | \$4,812,000          |
| <b>TOTAL APPROPRIATION .....</b>                                    | <b>\$103,401,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the general fund--state appropriation for fiscal year 2012 and \$300,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund--state appropriation for fiscal year 2012 and \$445,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund--state appropriation for fiscal year 2012 and \$178,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the juvenile detention alternatives initiative.

(4) \$250,000 of the general fund--state appropriation for fiscal year 2012 and \$250,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for support of the community initiative project that will be targeted at supporting evidence-based community programs and partnering with private nonprofit entities to address adverse childhood events.

(5) \$4,812,000 of the performance audits of state government--state appropriation is provided solely for support and expansion of the division of fraud investigation. The division shall conduct investigatory and enforcement activities for all department programs, including the child support and TANF programs.

(6) \$1,400,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for the family policy council to distribute as support to community public health and safety networks that have a history of providing training and services related to adverse childhood experiences. Distribution of these funds is contingent upon the family policy council securing funding from a private entity or entities to provide one dollar in matching funds for each dollar in state funds received by a network so that the funding received by a community public health and safety network will be equal portions of state and private funding.

**NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$67,348,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$64,938,000         |
| General Fund--Federal Appropriation .....         | \$55,836,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$188,122,000</b> |

The appropriations in this section are subject to the following conditions and limitations: \$2,272,000 of the general fund--state appropriation for fiscal year 2012 and \$2,272,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for increased legal expenses resulting from the state supreme court's ruling in *In re McCuiston*.

**NEW SECTION. Sec. 214. FOR THE STATE HEALTH CARE AUTHORITY**

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2012) .....                                | \$62,011,000         |
| General Fund--State Appropriation (FY 2013) .....                                | \$57,987,000         |
| General Fund--Federal Appropriation .....  | \$138,831,000        |
| State Health Care Authority Administration Account--<br>State Appropriation..... | \$35,065,000         |
| Medical Aid Account--State Appropriation .....                                   | \$535,000            |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$294,429,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4) Enrollment in the subsidized basic health plan shall be limited to only include persons who qualify as subsidized enrollees as defined in RCW 70.47.020 and who (a) qualify for services under 1115 medicaid demonstration project number 11-W-00254/10; or (b) are foster parents licensed under chapter 74.15 RCW.

(5) \$23,700,000 of the general fund--federal appropriation is provided solely for planning and implementation of a health benefit exchange under the federal patient protection and affordable care act. Within the amounts provided in this subsection, funds used by the authority for information technology projects are conditioned on the authority satisfying the requirements of section 902 of this act.

**NEW SECTION. Sec. 215. FOR THE HUMAN RIGHTS COMMISSION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,349,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$2,361,000        |
| General Fund--Federal Appropriation .....         | \$1,994,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$6,704,000</b> |

**NEW SECTION. Sec. 216. FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

|   |                     |
|---|---------------------|
| Worker and Community Right-to-Know Account--State<br>Appropriation..... | \$10,000            |
| Accident Account--State Appropriation .....                             | \$21,561,000        |
| Medical Aid Account--State Appropriation .....                          | \$21,561,000        |
| <b>TOTAL APPROPRIATION .....</b>  | <b>\$43,132,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$36,000 of the accident account--state appropriation and \$36,000 of the medical account--state appropriation are solely

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provided for Engrossed Substitute Senate Bill No. 5068 (violation abatement). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(2) \$16,000 of the accident account--state appropriation and \$16,000 of the medical account--state appropriation are solely provided for Substitute Senate Bill No. 5801 (medical provider networks). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(3) \$3,266,000 of the accident account--state appropriation and \$3,266,000 of the medical account--state appropriation are solely provided for Engrossed Senate Bill No. 5566 (long-term disabilities). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

**NEW SECTION. Sec. 217. FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2012) .....      | \$14,947,000        |
| General Fund--State Appropriation (FY 2013) .....      | \$14,938,000        |
| General Fund--Federal Appropriation .....              | \$456,000           |
| General Fund--Private/Local Appropriation.....         | \$4,631,000         |
| Death Investigations Account--State Appropriation..... | \$148,000           |
| Municipal Criminal Justice Assistance Account--        |                     |
| State Appropriation.....                               | \$460,000           |
| Washington Auto Theft Prevention Authority Account--   |                     |
| State Appropriation.....                               | \$9,390,000         |
| <b>TOTAL APPROPRIATION .....</b>                       | <b>\$44,970,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$5,000,000 of the general fund--state appropriation for fiscal year 2012 and \$5,000,000 of the general fund--state appropriation for fiscal year 2013, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130.

(2) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

(3) \$100,000 of the general fund--state appropriation for fiscal year 2012 and \$100,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a school safety program. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel hired after the effective date of this section.

(4) \$96,000 of the general fund--state appropriation for fiscal year 2012 and \$90,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the school safety center within the commission. The safety center shall act as an information dissemination and resource center when an incident occurs in a school district in Washington or in another state, coordinate activities relating to school safety, and review and approve manuals and curricula used for school safety models and training. Through an interagency agreement, the commission shall provide funding for the office of the superintendent of public instruction to continue to develop and maintain a school safety information web site. The school safety center advisory committee shall develop and revise the training program, using the best practices in school safety, for all school safety personnel. The commission shall provide research-related programs in school safety and security issues beneficial to both law enforcement and schools.

(5) \$1,000,000 of the general fund--state appropriation for fiscal year 2012 and \$1,000,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for grants to counties enforcing illegal drug laws and which have been underserved by federally funded state narcotics task forces. The Washington association of sheriffs and police chiefs, the Washington association

of prosecuting attorneys, and the Washington association of county officials shall jointly develop funding allocations for the offices of the county sheriff, county prosecutor, and county clerk in qualifying counties. The commission shall not impose an administrative cost on this program.

**NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....         | \$18,377,000         |
| General Fund--State Appropriation (FY 2013) .....         | \$19,328,000         |
| General Fund--Federal Appropriation .....                 | \$10,100,000         |
| Asbestos Account--State Appropriation .....               | \$426,000            |
| Electrical License Account--State Appropriation.....      | \$37,984,000         |
| Farm Labor Revolving Account--Private/Local               |                      |
| Appropriation.....  | \$28,000             |
| Worker and Community Right-to-Know Account--              |                      |
| State Appropriation.....                                  | \$1,000,000          |
| Public Works Administration Account--State                |                      |
| Appropriation.....  | \$5,666,000          |
| Manufactured Home Installation Training Account--         |                      |
| State Appropriation.....                                  | \$158,000            |
| Accident Account--State Appropriation .....               | \$260,289,000        |
| Accident Account--Federal Appropriation .....             | \$13,622,000         |
| Medical Aid Account--State Appropriation .....            | \$266,323,000        |
| Medical Aid Account--Federal Appropriation .....          | \$3,186,000          |
| Plumbing Certificate Account--State Appropriation .....   | \$1,736,000          |
| Pressure Systems Safety Account--State Appropriation..... | \$4,179,000          |
| <b>TOTAL APPROPRIATION .....</b>                          | <b>\$642,402,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$34,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for implementation of Engrossed Second Substitute House Bill No. 1701 (contractor misclassification). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(3) \$1,163,000 of the accident account--state appropriation and \$1,163,000 of the medical aid account--state appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1725 (workers' compensation). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(4) \$51,000 of the accident account--state appropriation and \$51,000 of the medical aid account--state appropriation are provided solely for implementation of Engrossed Substitute House Bill No. 1367 (for hire vehicles, operators). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(5) \$12,288,000 of the accident account--state appropriation and \$16,904,000 of the medical account--state appropriation are provided solely for implementation of Engrossed Senate Bill No. 5566 (reforming workers' compensation). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(6) \$8,727,000 of the medical account--state appropriation is provided solely for implementation of Senate Bill No. 5801 (industrial insurance system). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**(1) HEADQUARTERS**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,020,000 |
|---|-------------|

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|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2013)   | \$2,021,000        |
| Charitable, Educational, Penal, and Reformatory Institutions Account--State Appropriation | \$10,000           |
| <b>TOTAL APPROPRIATION</b>  | <b>\$4,051,000</b> |

(2) FIELD SERVICES

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2012)                    | \$5,060,000         |
| General Fund--State Appropriation (FY 2013)                    | \$5,062,000         |
| General Fund--Federal Appropriation                            | \$2,759,000         |
| General Fund--Private/Local Appropriation                      | \$4,223,000         |
| Veterans Innovations Program Account--State Appropriation      | \$821,000           |
| Veteran Estate Management Account--Private/Local Appropriation | \$1,109,000         |
| <b>TOTAL APPROPRIATION</b>                                     | <b>\$19,034,000</b> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$821,000 of the veterans innovations program account--state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(3) INSTITUTIONAL SERVICES

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) | \$1,741,000         |
| General Fund--State Appropriation (FY 2013) | \$963,000           |
| General Fund--Federal Appropriation         | \$57,521,000        |
| General Fund--Private/Local Appropriation   | \$34,530,000        |
| <b>TOTAL APPROPRIATION</b>                  | <b>\$94,755,000</b> |

**NEW SECTION. Sec. 220. FOR THE DEPARTMENT OF HEALTH**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012)   | \$80,515,000  |
| General Fund--State Appropriation (FY 2013)   | \$79,911,000  |
| General Fund--Federal Appropriation   | \$536,389,000 |
| General Fund--Private/Local Appropriation   | \$149,767,000 |
| Hospital Data Collection Account--State Appropriation                                 | \$220,000     |
| Health Professions Account--State Appropriation                                       | \$98,719,000  |
| Aquatic Lands Enhancement Account--State Appropriation                                | \$610,000     |
| Emergency Medical Services and Trauma Care Systems Trust Account--State Appropriation | \$12,327,000  |
| Safe Drinking Water Account--State Appropriation                                      | \$4,545,000   |
| Drinking Water Assistance Account--Federal Appropriation                              | \$23,251,000  |
| Waterworks Operator Certification--State Appropriation                                | \$1,560,000   |
| Drinking Water Assistance Administrative Account--State Appropriation                 | \$326,000     |
| Biotoxin Account--State Appropriation   | \$1,167,000   |
| State Toxics Control Account--State Appropriation                                     | \$4,487,000   |
| Medical Test Site Licensure Account--State Appropriation                              | \$2,366,000   |
| Youth Tobacco Prevention Account--State Appropriation                                 | \$1,512,000   |
| Community and Economic Development Fee Account--State Appropriation                   | \$596,000     |
| Public Health Supplemental Account--Private/Local Appropriation                       | \$3,602,000   |
| Accident Account--State Appropriation   | \$316,000     |
| Medical Aid Account--State Appropriation  | \$57,000      |
| Tobacco Prevention and Control Account--State Appropriation                           | \$4,037,000   |

|                            |                        |
|----------------------------|------------------------|
| <b>TOTAL APPROPRIATION</b> | <b>\$1,006,280,000</b> |
|----------------------------|------------------------|

The appropriations in this section are subject to the following conditions and limitations:

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2012 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees required for: The review of health care facility construction; review of health facility requests for certificate of need; the regulation and inspection of farm worker housing, hospital licensing, in-home health service agencies, and producers of radioactive waste; the regulation and inspection of shellfish sanitary control, surgical facility licensing, and; fees associated with the following professions: Dietitians and nutritionists, occupational therapists, pharmacy, veterinarian, orthotics and prosthetics, surgical technicians, nursing home administrators, health care assistants, hearing and speech, psychology, hypnotherapy, chiropractic, social workers, physicians, and physician assistants.

(3) \$1,969,000 of the health professions account--state appropriation is provided solely to implement online licensing for health care providers. The department must submit a detailed investment plan for this project to the office of financial management. The office of financial management must review and approve this plan before funding may be expended. The department of health must successfully implement online application and renewal for at least one profession as a pilot project before pursuing additional professions. The department must report to the office of financial management on the outcome of the pilot project.

(4) \$16,000 of the health professions account--state appropriation is provided solely for the implementation of House Bill No. 1181 (board of naturopathy). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) \$21,000 of the health professions account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (health care assistants). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) \$54,000 of the health professions account--state appropriation is provided solely for the implementation of House Bill No. 1353 (pharmacy technicians). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

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(7) \$142,000 of the health professions account--state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 5020 (social workers). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(8) \$2,435,000 of the health professions account--state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5073 (medical cannabis). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(9) \$336,000 of the health professions account--state appropriation is provided solely for the implementation of Senate Bill No. 5480 (physicians and physician assistants). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(10) \$46,000 of the health professions account--state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5071 (online access for midwives and marriage and family therapists). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(11) \$137,000 of the health professions account--state appropriation is provided solely for implementation of Substitute House Bill No. 1133 (massage practitioner license). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(12) \$1,670,000 of the safe drinking water account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5364 (public water system permits). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(13) \$118,000 of the general fund--state appropriation for fiscal year 2012 and \$118,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for prevention of youth suicides.

(14) \$87,000 of the general fund--state appropriation for fiscal year 2012 and \$87,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the senior falls prevention program.

(15) \$57,000 of the general fund--state appropriation for fiscal year 2012 and \$58,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. There shall be no change to the current annual fees for new or renewed licenses for the midwifery program, except from online access to HEAL-WA. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery.

(16) \$4,000,000 of the tobacco prevention and control account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5542 (cigar lounges/tobacconists). If the bill is not enacted by June 30, 2011, the amount provided in this section shall lapse.

**NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF CORRECTIONS**

**(1) ADMINISTRATION AND SUPPORT SERVICES**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$57,178,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$55,612,000  |
| TOTAL APPROPRIATION .....                         | \$112,790,000 |

The appropriations in this subsection are subject to the following conditions and limitations: \$35,000 of the general fund--state appropriation for fiscal year 2012 and \$35,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and

state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

**(2) CORRECTIONAL OPERATIONS**

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2012) .....                                 | \$629,113,000   |
| General Fund--State Appropriation (FY 2013) .....                                 | \$596,661,000   |
| General Fund--Federal Appropriation .....   | \$3,664,000     |
| General Fund--Private/Local Appropriation .....                                   | \$2,336,000     |
| Washington Auto Theft Prevention Authority Account--<br>State Appropriation ..... | \$13,116,000    |
| TOTAL APPROPRIATION .....   | \$1,244,890,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) During the 2011-13 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors:

(i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(c) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(d) \$102,000 of the general fund--state appropriation for fiscal year 2012 and \$102,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to implement House Bill No. 1290 (health care employee overtime). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(e) The department of corrections shall contract with local and tribal governments for the provision of jail capacity to house offenders. No contract shall have a base rate in excess of \$77 per day per offender. No contract in place on the effective date of this section shall have a year-to-year increase in excess of three percent per year. The contracts may include rates for the medical care of offenders and other specialty care which exceed the base rate and exceed the limitation on year-to-year increase. The appropriations in this section assume savings of \$3,400,000 in fiscal year 2012 and \$5,400,000 in fiscal year 2013 achieved by this subsection.

**(3) COMMUNITY SUPERVISION**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$130,194,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$127,891,000 |
| TOTAL APPROPRIATION .....                         | \$258,085,000 |

The appropriations in this subsection are subject to the following conditions and limitations: The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

**(4) CORRECTIONAL INDUSTRIES**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$3,623,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$3,617,000 |
| TOTAL APPROPRIATION .....                         | \$7,240,000 |

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The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund--state appropriation for fiscal year 2012 and \$132,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$39,190,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$36,555,000 |
| TOTAL APPROPRIATION .....                         | \$75,745,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

**NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,304,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$2,299,000  |
| General Fund--Federal Appropriation .....         | \$19,419,000 |
| General Fund--Private/Local Appropriation.....    | \$30,000     |
| TOTAL APPROPRIATION .....                         | \$24,052,000 |

**NEW SECTION. Sec. 223. FOR THE EMPLOYMENT SECURITY DEPARTMENT**

|  |               |
|--|---------------|
| General Fund--Federal Appropriation .....                                    | \$269,150,000 |
| General Fund--Private/Local Appropriation.....                               | \$34,481,000  |
| Unemployment Compensation Administration Account--Federal Appropriation..... | \$368,389,000 |
| Administrative Contingency Account--State Appropriation .....                | \$20,419,000  |
| Employment Service Administrative Account--State Appropriation.....          | \$34,479,000  |
| TOTAL APPROPRIATION .....  | \$726,918,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$39,666,000 of the unemployment compensation administration account--federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for continuing current unemployment insurance functions and department services to employers and job seekers.

(2) \$35,584,000 of the unemployment compensation administration account--federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for the replacement of the unemployment insurance tax information system for the employment security department. The employment security department shall support the department of revenue and department of labor and industries to develop a common vision to ensure technological compatibility between the three agencies to facilitate a coordinated business tax system for the future that improves services to business customers.

(3) \$25,000 of the unemployment compensation administration account--federal appropriation is from amounts made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for implementation of system changes to the unemployment insurance tax information

system required under chapter 4, Laws of 2011 (unemployment insurance program).

(4) \$1,459,000 of the unemployment compensation administration account--federal appropriation is from amounts available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for implementation of chapter 4, Laws of 2011 (unemployment insurance program).

(5) \$60,000 of the unemployment compensation administration account--federal appropriation is provided solely for costs associated with the initial review and evaluation of the training benefits program as directed in section 15(2), chapter 4, Laws of 2011 (unemployment insurance program). The initial review shall be developed by the joint legislative audit and review committee. This appropriation is provided from funds made available to the state by section 903 (d), (f), and (g) of the social security act (Reed act).

(6) \$25,000 of the administrative contingency account--state appropriation is provided solely to evaluate the economic value of promoting and retaining biomass energy systems and qualified solar energy systems as defined in Senate Bill No. 5951 (distributed generation). The department's analysis must include an examination of the impact of such energy systems on local employment and wages.

(End of part)

**PART III  
NATURAL RESOURCES**

**NEW SECTION. Sec. 301. FOR THE COLUMBIA RIVER GORGE COMMISSION**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$410,000   |
| General Fund--State Appropriation (FY 2013) ..... | \$119,000   |
| General Fund--Federal Appropriation .....         | \$32,000    |
| General Fund--Private/Local Appropriation.....    | \$499,000   |
| TOTAL APPROPRIATION .....                         | \$1,060,000 |

**NEW SECTION. Sec. 302. FOR THE DEPARTMENT OF ECOLOGY**

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2012) .....  | \$52,398,000 |
| General Fund--State Appropriation (FY 2013) .....  | \$47,726,000 |
| General Fund--Federal Appropriation .....  | \$79,024,000 |
| General Fund--Private/Local Appropriation.....   | \$16,804,000 |
| Special Grass Seed Burning Research Account--State Appropriation.....                              | \$3,000      |
| Reclamation Revolving Account--State Appropriation.....  | \$3,722,000  |
| Flood Control Assistance Account--State Appropriation.....   | \$1,987,000  |
| State Emergency Water Projects Revolving Account--State Appropriation.....                         | \$390,000    |
| Waste Reduction/Recycling/Litter Control--State Appropriation.....                                 | \$14,679,000 |
| State Drought Preparedness Account--State Appropriation .....                                      | \$118,000    |
| State and Local Improvements Revolving Account (Water Supply Facilities)--State Appropriation..... | \$435,000    |
| Freshwater Aquatic Algae Control Account--State Appropriation.....                                 | \$512,000    |
| Water Rights Tracking System Account--State Appropriation .....                                    | \$46,000     |
| Site Closure Account--State Appropriation .....  | \$728,000    |
| Wood Stove Education and Enforcement Account--State Appropriation.....                             | \$616,000    |
| Worker and Community Right-to-Know Account--State Appropriation.....                               | \$1,721,000  |
| Water Rights Processing Account--State Appropriation ..  | \$136,000    |

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|  |                      |
|--|----------------------|
| State Toxics Control Account--State Appropriation..      | \$114,530,000        |
| State Toxics Control Account--Private/Local              |                      |
| Appropriation.....                                       | \$983,000            |
| Local Toxics Control Account--State Appropriation ..     | \$27,410,000         |
| Water Quality Permit Account--State Appropriation ..     | \$38,605,000         |
| Underground Storage Tank Account--State Appropriation    |                      |
| .....  | \$3,348,000          |
| Biosolids Permit Account--State Appropriation.....       | \$1,858,000          |
| Hazardous Waste Assistance Account--State Appropriation  |                      |
| .....  | \$6,011,000          |
| Air Pollution Control Account--State Appropriation ..... | \$2,502,000          |
| Oil Spill Prevention Account--State Appropriation.....   | \$5,829,000          |
| Air Operating Permit Account--State Appropriation.....   | \$2,816,000          |
| Freshwater Aquatic Weeds Account--State Appropriation    |                      |
| .....  | \$1,710,000          |
| Oil Spill Response Account--State Appropriation.....     | \$7,076,000          |
| Metals Mining Account--State Appropriation.....          | \$14,000             |
| Water Pollution Control Revolving Account--State         |                      |
| Appropriation.....                                       | \$630,000            |
| Water Pollution Control Revolving Account--Federal       |                      |
| Appropriation.....                                       | \$2,583,000          |
| <b>TOTAL APPROPRIATION .....</b>                         | <b>\$436,950,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$170,000 of the oil spill prevention account--state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) Pursuant to RCW 43.135.055, the department is authorized to increase the following fees as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Wastewater discharge permit, not more than 4.34 percent in fiscal year 2012 and 4.62 percent in fiscal year 2013; biosolids permit fee, not more than 10 percent during the biennium; air contaminate source registration fee, not more than 36 percent during the biennium; and dam safety and inspection fees, not more than 35 percent in fiscal year 2012 and 4.62 percent in fiscal year 2013.

(3) If Substitute House Bill No. 1294 (Puget Sound corps) is not enacted by June 30, 2011, \$322,000 of the general fund--state appropriation for fiscal year 2012 and \$322,000 of the general fund-- state appropriation for fiscal year 2013 shall be transferred to the department of natural resources.

(4) \$463,000 of the state toxics control account--state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1186 (state's oil spill program). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) The department shall collaborate with the state conservation commission when applying for federal grants related to section 319 of the federal clean water act.

(6) Within the amounts appropriated in this section, the department shall by January 1, 2012, develop and begin a six-year streamflow protection and restoration plan that places a priority on the adoption of regulatory flows in all basins with critical fish restoration needs for which there are no adopted regulatory flows. The department shall place the highest priority on the completion of flow regulations in which substantial work was conducted in the 2009-2011 biennium. The plan shall be provided to the legislature, consistent with RCW 43.01.036, by January 1, 2012.

(7) The department shall make every possible effort through its existing statutory authorities to obtain federal funding for public participation grants regarding the Hanford nuclear reservation and associated properties and facilities. Such federal funding shall not limit the total state funding authorized under this section for public

participation grants made pursuant to RCW 70.105D.070(5), but the amount of any individual grant from such federal funding shall be offset against any grant award amount to an individual grantee from state funds under RCW 70.105D.070(5).

(8) \$1,075,000 of the general fund--state appropriation for fiscal year 2012 and \$1,075,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for processing the backlog of pending water rights permit applications in the water resources program.

**NEW SECTION. Sec. 303. FOR THE STATE PARKS AND RECREATION COMMISSION**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....       | \$10,057,000         |
| General Fund--State Appropriation (FY 2013) .....       | \$10,196,000         |
| General Fund--Federal Appropriation.....                | \$5,981,000          |
| Winter Recreation Program Account--State Appropriation  |                      |
| .....   | \$1,770,000          |
| ORV and Nonhighway Vehicle Account--State Appropriation |                      |
| .....   | \$233,000            |
| Snowmobile Account--State Appropriation .....           | \$4,867,000          |
| Aquatic Lands Enhancement Account--State Appropriation  |                      |
| .....   | \$363,000            |
| Parks Renewal and Stewardship Account--State            |                      |
| Appropriation.....                                      | \$129,020,000        |
| Parks Renewal and Stewardship Account--Private/Local    |                      |
| Appropriation.....                                      | \$300,000            |
| <b>TOTAL APPROPRIATION .....</b>                        | <b>\$162,787,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$9,921,000 of the general fund--state appropriation for fiscal year 2012 and \$9,921,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to assist state parks in its implementation of a new fee structure. The goal of this structure is to make the parks system self-supporting. By August 1, 2012, state parks must submit a report to the office of financial management detailing its progress toward this goal and outlining any additional statutory changes needed for successful implementation.

(2) \$79,000 of the general fund--state appropriation for fiscal year 2012 and \$79,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a grant for the operation of the Northwest avalanche center.

(3) \$57,100,000 of the parks renewal and stewardship account--state appropriation is provided solely for implementation of Senate Bill No. 5622 (recreation access to state lands). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(4) During the 2011-2013 fiscal biennium, the commission shall not purchase or acquire additional lands other than those called for in Senate Bill No. 5467 or House Bill No. 1497.

**NEW SECTION. Sec. 304. FOR THE RECREATION AND CONSERVATION FUNDING BOARD**

|  |                    |
|--|--------------------|
| General Fund--State Appropriation (FY 2012) .....      | \$1,011,000        |
| General Fund--State Appropriation (FY 2013) .....      | \$1,023,000        |
| General Fund--Federal Appropriation .....              | \$3,306,000        |
| General Fund--Private/Local Appropriation.....         | \$250,000          |
| Aquatic Lands Enhancement Account--State Appropriation |                    |
| .....  | \$278,000          |
| Vessel Response Account--State Appropriation.....      | \$100,000          |
| Firearms Range Account--State Appropriation .....      | \$37,000           |
| Recreation Resources Account--State Appropriation....  | \$3,031,000        |
| NOVA Program Account--State Appropriation .....        | \$900,000          |
| <b>TOTAL APPROPRIATION .....</b>                       | <b>\$9,936,000</b> |

**NEW SECTION. Sec. 305. FOR THE ENVIRONMENTAL AND LAND USE HEARINGS OFFICE**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,478,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$2,490,000 |

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|   |              |
|---|--------------|
| TOTAL APPROPRIATION .....                                     | \$4,968,000  |
| <b>NEW SECTION. Sec. 306. FOR THE CONSERVATION COMMISSION</b> |              |
| General Fund--State Appropriation (FY 2012) .....             | \$7,092,000  |
| General Fund--State Appropriation (FY 2013) .....             | \$7,111,000  |
| General Fund--Federal Appropriation .....                     | \$1,179,000  |
| TOTAL APPROPRIATION .....                                     | \$15,382,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The conservation commission, in cooperation with all conservation districts, will seek to minimize conservation district overhead costs. These efforts may include consolidating conservation districts.

(2) \$122,000 of the general fund--federal appropriation is provided solely for Engrossed Substitute House Bill No. 1886 (Ruckelshaus center process). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF FISH AND WILDLIFE**

|  |               |
|--|---------------|
| General Fund--State Appropriation (FY 2012) .....                                    | \$35,932,000  |
| General Fund--State Appropriation (FY 2013) .....                                    | \$34,507,000  |
| General Fund--Federal Appropriation .....  | \$107,370,000 |
| General Fund--Private/Local Appropriation.....                                       | \$51,566,000  |
| ORV and Nonhighway Vehicle Account--State Appropriation .....                        | \$393,000     |
| Aquatic Lands Enhancement Account--State Appropriation .....                         | \$6,992,000   |
| Recreational Fisheries Enhancement--State Appropriation .....                        | \$3,601,000   |
| Warm Water Game Fish Account--State Appropriation                                    | \$3,125,000   |
| Eastern Washington Pheasant Enhancement Account--State Appropriation.....            | \$849,000     |
| Aquatic Invasive Species Enforcement Account--State Appropriation.....               | \$210,000     |
| Aquatic Invasive Species Prevention Account--State Appropriation.....                | \$741,000     |
| State Wildlife Account--State Appropriation .....                                    | \$98,896,000  |
| Special Wildlife Account--State Appropriation.....                                   | \$2,399,000   |
| Special Wildlife Account--Federal Appropriation.....                                 | \$3,431,000   |
| Special Wildlife Account--Private/Local Appropriation..                              | \$487,000     |
| Wildlife Rehabilitation Account--State Appropriation.....                            | \$260,000     |
| Regional Fisheries Enhancement Salmonid Recovery Account--Federal Appropriation..... | \$5,001,000   |
| Oil Spill Prevention Account--State Appropriation.....                               | \$919,000     |
| Oyster Reserve Land Account--State Appropriation.....                                | \$927,000     |
| Hydraulic Project Approval Account--State Appropriation.....                         | \$1,500,000   |
| TOTAL APPROPRIATION .....  | \$359,106,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$294,000 of the aquatic lands enhancement account--state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund--state appropriation for fiscal year 2012 and \$422,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the department to continue a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2013-2015 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) \$400,000 of the general fund--state appropriation for fiscal year 2012 and \$400,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(5) \$50,000 of the general fund--state appropriation for fiscal year 2012 and \$50,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for removal of derelict gear in Washington waters.

(6) \$100,000 of the eastern Washington pheasant enhancement account--state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(7) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(8) By September 1, 2011, the department shall update its interagency agreement dated September 30, 2010, with the department of natural resources concerning land management services on the department of fish and wildlife's wildlife conservation and recreation lands. The update shall include rates and terms for services.

(9) \$6,443,000 of the state wildlife account--state appropriation is provided solely for the implementation of Senate Bill No. 5385 (state wildlife account). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

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(10) \$9,500,000 of the state wildlife account--state appropriation is provided solely for the implementation of Senate Bill No. 5622. If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(11) \$1,500,000 of the hydraulic project approval account--state appropriation is provided solely for the implementation of Senate Bill No. 5862. If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(12) During the 2011-2013 fiscal biennium, the department shall not purchase or acquire additional lands other than those called for in Senate Bill No. 5467 or House Bill No. 1497.

**NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF NATURAL RESOURCES**

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2012) .....                                  | \$35,735,000         |
| General Fund--State Appropriation (FY 2013) .....                                  | \$35,494,000         |
| General Fund--Federal Appropriation .....  | \$28,145,000         |
| General Fund--Private/Local Appropriation.....                                     | \$2,381,000          |
| Forest Development Account--State Appropriation ....                               | \$42,673,000         |
| ORV and Nonhighway Vehicle Account--State Appropriation .....                      | \$4,508,000          |
| Surveys and Maps Account--State Appropriation .....                                | \$2,399,000          |
| Aquatic Lands Enhancement Account--State Appropriation.....                        | \$7,389,000          |
| Resources Management Cost Account--State Appropriation.....                        | \$85,916,000         |
| Surface Mining Reclamation Account--State Appropriation.....                       | \$3,540,000          |
| Disaster Response Account--State Appropriation .....                               | \$5,000,000          |
| Forest and Fish Support Account--State Appropriation                               | \$7,939,000          |
| Aquatic Land Dredged Material Disposal Site Account--State Appropriation.....      | \$844,000            |
| Natural Resources Conservation Areas Stewardship Account--State Appropriation..... | \$34,000             |
| State Toxics Control Account--State Appropriation.....                             | \$80,000             |
| Air Pollution Control Account--State Appropriation ....                            | \$1,319,000          |
| NOVA Program Account--State Appropriation .....                                    | \$1,018,000          |
| Derelict Vessel Removal Account--State Appropriation                               | \$1,765,000          |
| Agricultural College Trust Management Account--State Appropriation.....            | \$1,916,000          |
| Forest Practices Application Account--State Appropriation.....                     | \$1,500,000          |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$269,595,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$977,000 of the general fund--state appropriation for fiscal year 2012 and \$915,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) \$10,037,000 of the general fund--state appropriation for fiscal year 2012, \$10,037,000 of the general fund--state appropriation for fiscal year 2013, and \$5,000,000 of the disaster response account--state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$333,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to nongovernmental organizations.

(5) \$487,000 of the general fund--state appropriation is provided solely to fund interagency agreements with the department of ecology and the department of fish and wildlife as part of the adaptive management process.

(6) \$1,000,000 of the general fund--federal appropriation and \$1,000,000 of the forest and fish support account--state appropriation are provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(7) The department is authorized to increase the silviculture burning permit fee in the 2011-2013 biennium up to eighty dollars plus fifty cents per ton for each ton of material burned in excess of one hundred tons.

(8) \$440,000 of the state general fund--state appropriation for fiscal year 2012 and \$440,000 of the state general fund--state appropriation for fiscal year 2013 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp.

(9) By September 1, 2011, the department shall update its interagency agreement dated September 30, 2010, with the department of fish and wildlife concerning land management services on the department of fish and wildlife's wildlife conservation and recreation lands. The update shall include rates and terms for services.

(10) \$1,500,000 of the forest practices application account--state appropriation is provided solely for the implementation of Senate Bill No. 5862. If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(11)(a) The department shall convene the marina rents review committee so that the committee can recommend to the legislature alternative methods of calculating rents for marinas occupying state-owned aquatic lands. The committee must explore ways to refine and improve the averaging method for calculating rents for marinas as generally described in Senate Bill No. 5550 (marina annual rent rates); examine current methodologies; address significant fluctuations in assessed value among similarly sized and situated properties; and explore how marina rents in similar regional marina markets can affect market conditions for marinas. The department shall also consider expanding representation and stakeholder outreach on the committee, based on recommendations of existing committee members. The department is authorized to use independent facilitators and outside parties to partner in the committee's efforts. Recommendations provided by the committee must meet these minimum requirements:

(i) Provide more equitable treatment of marina lessees through similar lease rates for similar uses in similar markets or geographic locations;

(ii) Minimize administrative burdens to the department;

(iii) Be designed with strategies to be revenue neutral or positive to the state over a time frame agreeable to the department.

(b) The committee shall strive for unanimous agreement in its recommendations. In the absence of a unanimous agreement, a vote may be taken to assess preferences and majority and minority views, and recommendations must be reported to the legislature by December 1, 2011, consistent with RCW 43.01.036.

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(12) During the 2011-2013 fiscal biennium, the department shall not add additional pilots or helicopters to its fleet and shall, if necessary, within existing funds purchase by contract additional capacity.

**NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF AGRICULTURE**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) .....       | \$16,334,000 |
| General Fund--State Appropriation (FY 2013) .....       | \$16,120,000 |
| General Fund--Federal Appropriation .....               | \$23,217,000 |
| General Fund--Private/Local Appropriation.....          | \$190,000    |
| Aquatic Lands Enhancement Account--State                |              |
| Appropriation.....                                      | \$2,101,000  |
| State Toxics Control Account--State Appropriation.....  | \$5,191,000  |
| Water Quality Permit Account--State Appropriation ..... | \$62,000     |
| TOTAL APPROPRIATION .....                               | \$63,215,000 |

**NEW SECTION. Sec. 310. FOR THE WASHINGTON POLLUTION LIABILITY INSURANCE PROGRAM**

|   |           |
|---|-----------|
| Pollution Liability Insurance Program Trust |           |
| Account--State Appropriation.....           | \$681,000 |

**NEW SECTION. Sec. 311. FOR THE PUGET SOUND PARTNERSHIP**

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2012) .....      | \$2,584,000  |
| General Fund--State Appropriation (FY 2013) .....      | \$2,572,000  |
| General Fund--Federal Appropriation .....              | \$9,620,000  |
| General Fund--Private/Local Appropriation.....         | \$25,000     |
| Aquatic Lands Enhancement Account--State Appropriation |              |
| .....  | \$499,000    |
| State Toxics Control Account--State Appropriation..... | \$735,000    |
| TOTAL APPROPRIATION .....                              | \$16,035,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$706,000 of the state toxics control account--state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(2) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(End of part)

**PART IV TRANSPORTATION**

**NEW SECTION. Sec. 401. FOR THE DEPARTMENT OF LICENSING**

|  |              |
|--|--------------|
| General Fund--State Appropriation (FY 2012) .....        | \$1,276,000  |
| General Fund--State Appropriation (FY 2013) .....        | \$1,530,000  |
| Architects' License Account--State Appropriation .....   | \$1,086,000  |
| Professional Engineers' Account--State                   |              |
| Appropriation.....                                       | \$3,573,000  |
| Real Estate Commission Account--State Appropriation      |              |
| .....  | \$10,043,000 |
| Uniform Commercial Code Account--State Appropriation     |              |
| .....  | \$3,183,000  |
| Real Estate Education Account--State Appropriation ..... | \$276,000    |

|  |              |
|--|--------------|
| Real Estate Appraiser Commission Account--State          |              |
| Appropriation.....                                       | \$1,724,000  |
| Business and Professions Account--State Appropriation    |              |
| .....  | \$16,045,000 |
| Real Estate Research Account--State Appropriation.....   |              |
| .....  | \$622,000    |
| Geologists' Account--State Appropriation.....            |              |
| .....  | \$49,000     |
| Derelict Vessel Removal Account--State Appropriation.... |              |
| .....  | \$31,000     |
| TOTAL APPROPRIATION .....                                | \$39,438,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for collection agencies. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$8,000 of the business and professions account--state appropriation is provided solely to implement House Bill No. 1745 (collection agencies). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(3) \$54,000 of the business and professions account--state appropriation is provided solely to implement Substitute House Bill No. 1205 (court reporter licensing). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 402. FOR THE STATE PATROL**

|  |               |
|--|---------------|
| General Fund--State Appropriation (FY 2012) .....        | \$39,567,000  |
| General Fund--State Appropriation (FY 2013).....         | \$37,368,000  |
| General Fund--Federal Appropriation .....                | \$16,081,000  |
| General Fund--Private/Local Appropriation.....           | \$3,021,000   |
| Death Investigations Account--State Appropriation.....   | \$5,735,000   |
| County Criminal Justice Assistance Account--State        |               |
| Appropriation.....                                       | \$3,302,000   |
| Municipal Criminal Justice Assistance Account--State     |               |
| Appropriation.....                                       | \$1,332,000   |
| Fire Service Trust Account--State Appropriation.....     | \$131,000     |
| Disaster Response Account--State Appropriation .....     | \$8,002,000   |
| Fire Service Training Account--State Appropriation ..... | \$9,087,000   |
| Aquatic Invasive Species Enforcement Account--State      |               |
| Appropriation.....                                       | \$54,000      |
| State Toxics Control Account--State Appropriation.....   | \$508,000     |
| Fingerprint Identification Account--State                |               |
| Appropriation.....                                       | \$8,964,000   |
| Vehicle License Fraud Account--State Appropriation ..... | \$21,000      |
| TOTAL APPROPRIATION .....                                | \$133,173,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account--state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account--state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) \$400,000 of the fire service training account--state appropriation is provided solely for the firefighter apprenticeship training program.

(4) In accordance with RCW 43.43.742 the state patrol is authorized to increase the following fees in fiscal year 2012 as

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necessary to meet the actual costs of conducting business and the appropriation levels in this section: Notary service fee.

(5) \$59,000 of the fingerprint identification account--state appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1776 (child care center licensing). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(6) The department shall dispose of the two King Air aircraft it currently owns. The proceeds from the sale of the airplanes shall be deposited into the state general fund and the state patrol highway account in equal amounts. Disposal of the aircraft must occur no later than June 30, 2012.

(End of part)

**PART V  
EDUCATION**

**NEW SECTION. Sec. 501. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$27,835,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$24,153,000         |
| General Fund--Federal Appropriation .....         | \$81,739,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$133,727,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$18,507,000 of the general fund--state appropriation for fiscal year 2012 and \$14,451,000 of the general fund--state appropriation for fiscal year 2013 is for state agency operations.

(a) \$9,858,000 of the general fund--state appropriation for fiscal year 2012 and \$9,081,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection (1)(a), the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within the amounts provided, the office of the superintendent of public instruction shall develop a model policy that further defines the recommended roles and responsibilities of graduation coaches and identifies best practices for how graduation coaches work in coordination with school counselors and in the context of a comprehensive school guidance and counseling program. The office of the superintendent of public instruction will work in consultation with the public school employees and the Washington school counselors' association.

(iii) The appropriations in this section assume savings associated with Substitute House Bill No. 1449 (educator certificate fee).

(b) \$1,842,000 of the general fund--state appropriation for fiscal year 2012 and \$1,094,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for activities associated with the implementation of new school finance systems required by chapter 236, Laws of 2010 (K-12 education funding) and chapter 548, Laws of 2009 (state's education system), including technical staff, systems reprogramming, and workgroup deliberations, including the quality education council. The office of the superintendent of public instruction will convene a data governance group to continue work defining operating rules and a governance structure for K-12 data collections, and collaborate with the education research and data center to facilitate analysis of data across education sectors.

(c) \$851,000 of the general fund--state appropriation for fiscal year 2012 and \$851,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(d) \$1,743,000 of the general fund--state appropriation for fiscal year 2012 and \$1,361,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to the professional educator standards board for the following:

(i) \$1,031,000 in fiscal year 2012 and \$1,031,000 in fiscal year 2013 are for the operation and expenses of the Washington professional educator standards board; and

(ii) \$712,000 of the general fund--state appropriation for fiscal year 2012 and \$330,000 of the general fund--state appropriation for fiscal year 2013 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(d)(ii) is also provided for the recruiting Washington teachers program.

(e) \$45,000 of the general fund--state appropriation for fiscal year 2012 and \$45,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 380, Laws of 2009 (enacting the interstate compact on educational opportunity for military children).

(f) \$89,000 of the general fund--state appropriation for fiscal year 2012 and \$23,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation of Second Substitute House Bill No. 1163 (bullying prevention), which requires the office of the superintendent of public instruction to convene an ongoing workgroup on school bullying and harassment prevention. If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(g) \$856,000 of the general fund--state appropriation for fiscal year 2012 and \$4,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation of Engrossed Second Substitute House Bill No. 1443 (education reforms). \$764,000 of the \$856,000 general fund--state appropriation for fiscal year 2012 is provided solely for allocation to local school districts for the purpose of implementing the bill. If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(h) \$166,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for implementation of Proposed Second Substitute House Bill No. 1431 (financial insolvency of school districts). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(i) \$1,200,000 of the general fund--state appropriation for fiscal year 2012 and \$700,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to plan and implement a voluntary program of consolidated public school employee health benefits purchasing. The office of the superintendent of public instruction shall establish interagency agreements with the state health care authority, the office of the insurance commissioner, and the office of financial management to provide a system allowing for a minimum of 5,000 and a maximum of 16,000 participants to enroll in the K-12 employees' health benefits pool for the 2012-2013 school year. If Senate Bill No. . . . is not enacted by June 30, 2011, this subsection shall lapse.

(j) The appropriations in this section assume savings associated with Substitute Senate Bill No. 5639 (relating to education governance).

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(2) \$9,275,000 of the general fund--state appropriation for fiscal year 2012, \$9,636,000 of the general fund--state appropriation for fiscal year 2013 are for statewide programs.

(a) HEALTH AND SAFETY

(i) \$2,541,000 of the general fund--state appropriation for fiscal year 2012 and \$2,541,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$45,000 of the general fund--state appropriation for fiscal year 2012 and \$45,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(iii) \$70,000 of the general fund--state appropriation for fiscal year 2012 and \$70,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a pilot youth suicide prevention and information program. The office of superintendent of public instruction will work with selected school districts and community agencies in identifying effective strategies for preventing youth suicide.

(b) TECHNOLOGY

\$1,570,000 of the general fund--state appropriation for fiscal year 2012 and \$1,571,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) GRANTS AND ALLOCATIONS

(i) \$675,000 of the general fund--state appropriation for fiscal year 2012 and \$675,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ii) \$1,000,000 of the general fund--state appropriation for fiscal year 2012 and \$1,000,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(iii) \$2,808,000 of the general fund--state appropriation for fiscal year 2012 and \$2,808,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(iv) \$135,000 of the general fund--state appropriation for fiscal year 2012 and \$135,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for dropout prevention

programs at the office of the superintendent of public instruction, including the jobs for America's graduates (JAG) program.

(v) \$500,000 of the general fund--state appropriation for fiscal year 2012 and \$400,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the implementation of Substitute House Bill No. 1510 (state-funded kindergarten), including the development and implementation of the Washington kindergarten inventory of developing skills (WaKIDS). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

**NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPORTIONMENT**

|   |                  |
|---|------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$5,425,482,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$5,305,574,000  |
| TOTAL APPROPRIATION .....                         | \$10,731,056,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) GENERAL PROVISIONS

(a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) For the 2011-12 and 2012-13 school years, the superintendent shall allocate general apportionment funding to school districts as provided in the funding formulas and salary schedules in sections 502 and 503 of this act, excluding (c) of this subsection.

(c) From July 1, 2011 to August 31, 2011, the superintendent shall allocate general apportionment funding to school districts programs as provided in sections 502 and 504, chapter 564, Laws of 2009, as amended through sections 1402 and 1403 of this act.

(2) CERTIFICATED INSTRUCTIONAL STAFF ALLOCATIONS

Allocations for certificated instructional staff salaries for the 2011-12 and 2012-13 school years are determined using formula-generated staff units calculated pursuant to this subsection.

(a) Certificated instructional staff units, as defined in RCW 28A.150.410, shall be allocated to reflect the minimum class size allocations, requirements, and school prototypes assumptions as provided in RCW 28A.150.260. The superintendent shall adjust allocations to school districts based on the district's annual average full-time equivalent student enrollment in each grade.

(b) Additional certificated instructional staff units provided in this subsection (2) that exceed the minimum requirements in RCW 28A.150.260 are enhancements outside the program of basic education, except as otherwise provided in this section.

(c)(i) The superintendent shall base allocations for each level of prototypical school on the following regular education average class size of full-time equivalent students per teacher, except as provided in (c)(ii) of this subsection:

|   |       |                        |
|---|-------|------------------------|
| General<br>educati<br>on class<br>size: |       |                        |
| Grade                                   |       | RCW<br>28A.150.2<br>60 |
| Grades                                  | ..... | 25.23                  |
| K-3                                     |       |                        |
| Grade 4                                 | ..... | 27.00                  |
| Grades                                  | ..... | 27.00                  |
| 5-6                                     |       |                        |
| Grades                                  | ..... | 28.53                  |
| 7-8                                     |       |                        |

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|              |       |
|--------------|-------|
| Grades ..... | 28.74 |
| 9-12         |       |

The superintendent shall base allocations for career and technical education (CTE) and skill center programs average class size as provided in RCW 28A.150.260.

(ii) For each level of prototypical school at which more than fifty percent of the students were eligible for free and reduced-price meals as determined by a rolling average of enrollment from the three most recently completed school years, the superintendent shall allocate funding based on the following average class size of full-time equivalent students per teacher:

|  |      |
|--|------|
| General education class size in high poverty school: |      |
| Grades .....   | 22.7 |
| K-3  | 6    |
| Grade 4 .....  | 27.0 |
|  | 0    |
| Grades .....   | 27.0 |
| 5-6  | 0    |
| Grades .....   | 28.5 |
| 7-8  | 3    |
| Grades .....   | 28.7 |
| 9-12   | 4    |

(iii) Pursuant to RCW 28A.150.260(4)(a), the assumed teacher planning period, expressed as a percentage of a teacher work day, is 13.42 percent in grades K-6, and 16.67 percent in grades 7-12; and

(iv) Laboratory science, advanced placement, and international baccalaureate courses are funded at the same class size assumptions as general education schools in the same grade; and

(d)(i) Funding for teacher librarians, school nurses, social workers, school psychologists, and guidance counselors is allocated based on the school prototypes as provided in RCW 28A.150.260 and is considered certificated instructional staff, except as provided in (d)(ii) of this subsection.

(ii) Students in approved career and technical education and skill center programs generate certificated instructional staff units to provide for the services of teacher librarians, school nurses, social workers, school psychologists, and guidance counselors at the following combined rate per 1000 students:

|   |                             |
|---|-----------------------------|
| Career and Technical Education students ..... | 2.02 per 1000 student FTE's |
| Skill Center students .....                   | 2.36 per 1000 student FTE's |

(3) ADMINISTRATIVE STAFF ALLOCATIONS

(a) Allocations for school building-level certificated administrative staff salaries for the 2011-12 and 2012-13 school years for general education students are determined using the formula-generated staff units provided in RCW 28A.150.260, and adjusted based on a district's annual average full-time equivalent student enrollment in each grade.

(b) Students in approved career and technical education and skill center programs generate certificated school building-level administrator staff units at per student rates that exceed the general education rate in (a) of this subsection by the following percentages: Career and Technical Education students..... 2.5 percent Skill Center students ..... 19.75 percent

(4) CLASSIFIED STAFF ALLOCATIONS

Allocations for classified staff units providing school building-level and district-wide support services for the 2011-12 and 2012-13 school years are determined using the formula-generated staff units provided in RCW 28A.150.260, and

adjusted based on each district's annual average full-time equivalent student enrollment in each grade.

(5) CENTRAL OFFICE ALLOCATIONS

In addition to classified and administrative staff units allocated in subsections (3) and (4) of this section, classified and administrative staff units are provided for the 2011-12 and 2012-13 school year for the central office administrative costs of operating a school district, at the following rates:

(a) The total central office staff units provided in this subsection (5) are calculated by first multiplying the total number of eligible certificated instructional, certificated administrative, and classified staff units providing school-based or district-wide support services, as identified in RCW 28A.150.260(6)(b), by 5.3 percent.

(b) Of the central office staff units calculated in (a) of this subsection, 74.53 percent are allocated as classified staff units, as generated in subsection (4) of this section, and 25.47 percent shall be allocated as administrative staff units, as generated in subsection (3) of this section.

(c) Staff units generated as enhancements outside the program of basic education to the minimum requirements of RCW 28A.150.260, and staff units generated by skill center and career-technical students, are excluded from the total central office staff units calculation in (a) of this subsection.

(d) For students in approved career-technical and skill center programs, central office classified units are allocated at the same staff unit per student rate as those generated for general education students of the same grade in this subsection (5), and central office administrative staff units are allocated at staff unit per student rates that exceed the general education rate established for students in the same grade in this subsection (5) by 3.69 percent for career and technical education students, and 21.92 percent for skill center students.

(6) FRINGE BENEFIT ALLOCATIONS

Fringe benefit allocations shall be calculated at a rate of 16.30 percent in the 2011-12 school year and 16.31 percent in the 2012-13 school year for certificated salary allocations provided under subsections (2), (3), and (5) of this section, and a rate of 18.69 percent in the 2011-12 school year and 18.70 percent in the 2012-13 school year for classified salary allocations provided under subsections (3) and (4) of this section.

(7) INSURANCE BENEFIT ALLOCATIONS

(a) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504 of this act, based on the number of benefit units determined as follows:

(i) The number of certificated staff units determined in subsections (2), (3), and (5) of this section; and

(ii) The number of classified staff units determined in subsections (3) and (4) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(b) Public school employee health insurance benefit rates for school year 2012-13 will be allocated at differential rates for participants and for nonparticipants in the K-12 employee consolidated health benefits pool. It is expected that the program transition team will include proposed differential rates to the legislature, prior to the 2012-13 school year, as part of its submitted implementation plan and recommendations and in accordance with legislation enacted in the 2011 session. If Senate Bill No. ... is not enacted by June 30, 2011, the school year 2012-13 health benefit allocation rates shall remain, uniformly, at the 2011-12 school year level.

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**(8) MATERIALS, SUPPLIES, AND OPERATING COSTS (MSOC) ALLOCATIONS**

Funding is allocated per annual average full-time equivalent student for the materials, supplies, and operating costs (MSOC) incurred by school districts, consistent with the requirements of RCW 28A.150.260.

(a) MSOC funding for general education students are allocated at the following per student rates:

**MSOC RATES/STUDENT FTE**

| MSOC Component   | 2011-12 SCHOOL YEAR | 2012-13 SCHOOL YEAR |
|--|---------------------|---------------------|
| Technology   | \$57.02             | \$57.99             |
| Utilities and Insurance  | \$154.93            | \$157.56            |
| Curriculum and Textbooks   | \$61.22             | \$62.26             |
| Other Supplies and Library Materials   | \$129.97            | \$132.18            |
| Instructional Professional Development for Certificated and Classified Staff | \$9.47              | \$9.63              |
| Facilities Maintenance   | \$76.75             | \$78.06             |
| Security and Central Office  | \$53.17             | \$54.08             |
| <b>TOTAL BASIC EDUCATION MSOC/STUDENT FTE</b>                                | <b>\$542.53</b>     | <b>\$551.76</b>     |

(b) Students in approved skill center programs generate per student FTE MSOC allocations which equal the rate for general education students calculated in (a) of this subsection, multiplied by a factor of 2.187.

(c) Students in approved exploratory and preparatory career and technical education programs generate a per student MSOC allocation that is equal to the rate for general education students calculated in (a) of this subsection, multiplied by a factor of 2.459.

(d) Students in laboratory science courses generate per student FTE MSOC allocations which equal the per student FTE rate for general education students established in (a) of this subsection.

**(9) SUBSTITUTE TEACHER ALLOCATIONS**

For the 2011-12 and 2012-13 school years, funding for substitute costs for classroom teachers is based on four funded substitute days per classroom teacher unit generated under subsection (2) of this section, at a daily substitute rate of \$151.86.

**(10) ALTERNATIVE LEARNING EXPERIENCE PROGRAM FUNDING**

(a) Beginning in the 2011-12 school year, general apportionment allocations resulting from this section and compensation factors in sections 503 and 504 of this act shall be multiplied by a factor of 0.90 for students participating in alternative learning experience (ALE) programs defined in WAC 392-121-182.

(b) School districts providing ALE programs as defined in WAC 392-121-182 may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation in ALE programs. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable

supplies for students' use in ALE programs if the purchase is consistent with laws and rules and made in the same manner as such purchases are made for students in the district's non-ALE program. Items so purchased remain the property of the school district upon ALE program completion. These requirements in this subsection extend to private and multidistrict cooperative ALE providers, and each district shall be responsible for monitoring the compliance of its ALE providers with this subsection.

(c) The superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives, as well as accurate, monthly headcount and FTE enrollment claimed for basic education, including separate counts of resident and nonresident students.

(d) Beginning in the 2011-12 school year, school districts are exempt from the requirements of RCW 28A.150.100(2) for that portion of their annual average full-time equivalent enrollment in ALE programs as defined in WAC 392-121-182.

**(11) ADDITIONAL FUNDING FOR SMALL SCHOOL DISTRICTS AND REMOTE AND NECESSARY PLANTS**

For small school districts and remote and necessary school plants within any district which have been judged to be remote and necessary by the state board of education, and based on funding allocations per annual average full-time equivalent student additional staff units are provided to ensure a minimum level of staffing support. Additional administrative and certificated instructional staff units provided to districts in this subsection shall be reduced by the staff units otherwise provided in subsections (2) through (5) of this section on a per district basis.

(a) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(b) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(c) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

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(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full-time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full-time equivalent students;

(d) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit;

(e) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit;

(f)(i) For enrollments generating certificated staff unit allocations under this subsection, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(ii) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit; and

(g) School districts receiving additional staff units to support small student enrollments and remote and necessary plants under this subsection (11) shall generate additional MSOC allocations consistent with the nonemployee related costs (NERC) allocation formula in place for the 2010-11 school year as provided section 502, chapter 37, Laws of 2010 1st sp. sess. (2010 supplemental budget), adjusted annually for inflation.

(12) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(13) The superintendent may distribute a maximum of \$2,060,000 outside the basic education formula during fiscal years 2012 and 2013 as follows:

(a) \$589,000 of the general fund--state appropriation for fiscal year 2012 and \$599,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW.

(b) \$436,000 of the general fund--state appropriation for fiscal year 2012 and \$436,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(c) Funding in this section is sufficient to fund adjustments to school districts' allocations resulting from the implementation of the prototypical school funding formula, pursuant to chapter 236, Laws of 2010 (K-12 education funding). The funding in this section is

intended to hold school districts harmless in total for funding changes resulting from conversion to the prototypical school formula in the general apportionment program, the learning assistance program, the transitional bilingual program, and the highly capable program, after adjustment for changes in enrollment and other caseload adjustments.

(14) \$208,000 of the general fund--state appropriation for fiscal year 2012 and \$211,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for school district emergencies as certified by the superintendent of public instruction. At the close of the fiscal year the superintendent of public instruction shall report to the office of financial management and the appropriate fiscal committees of the legislature on the allocations provided to districts and the nature of the emergency.

(15) Amounts in this section include adjustments made by the superintendent of public instruction for the repayment of financial contingency funds allocated in fiscal year 2011, as specified in section 1402(14) of this act. For any amount allocated to a district in state fiscal year 2011, the superintendent of public instruction shall deduct in state fiscal year 2012 from the district's general apportionment the amount of the emergency contingency allocation and any earnings by the school district on the investment of a temporary cash surplus due to the emergency contingency allocation. Repayments or advances will be accomplished by a reduction in the school district's apportionment payments on or before June 30th of the school year following the distribution of the emergency contingency allocation. All disbursements, repayments, and outstanding allocations to be repaid of the emergency contingency pool shall be reported to the office of financial management and the appropriate fiscal committees of the legislature on July 1st and January 1st of each year.

(16) \$5,000,000 of the general fund--state appropriation for fiscal year 2012 and \$5,000,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a K-12 salary reduction mitigation pool for public school employees allocated an annual base state funded salary, not including benefits, of less than or equal to \$30,000 per full-time equivalent staff. To the extent appropriations in this subsection are sufficient, funds shall be distributed to proportionately to restore state-funded base allocations, but in no case shall distributions exceed \$900 per year per full-time equivalent staff.

(17) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(18) Beginning in the 2011-12 school year, students participating in running start programs may be funded up to a combined maximum enrollment of 1.2 FTE including school district and institution of higher education enrollment. Additionally, the office of the superintendent of public instruction, in consultation with the state board for community and technical colleges, the higher education coordinating board, and the education data center, shall annually track and report to the fiscal committees of the legislature on the combined FTE experience of students participating in the running start program, including course load analyses at both the high school and community and technical college system.

(19) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (11) of this section, the following apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula

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staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (11) of this section shall be reduced in increments of twenty percent per year.

(20)(a) Indirect cost charges by a school district to approved career and technical education middle and secondary programs shall not exceed 15 percent of the combined basic education and career and technical education program enhancement allocations of state funds. Middle and secondary career and technical education programs are considered separate programs for funding and financial reporting purposes under this section.

(b) Career and technical education program full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported career and technical education program enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support.

**NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--BASIC EDUCATION EMPLOYEE COMPENSATION**

(1) The following calculations determine the salaries used in the state allocations for certificated instructional, certificated administrative, and classified staff units as provided in RCW 28A.150.280 and under section 503 of this act:

(a) Salary allocations for certificated instructional staff units are determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the

district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district are determined based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on April 11, 2011, at 11:11 hours; and

(b) "LEAP Document 2" means the school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on April 11, 2011, at 11:11 hours.

(3) Incremental fringe benefit factors are applied to salary adjustments at a rate of 15.66 percent for school year 2011-12 and 15.66 percent for school year 2012-13 for certificated instructional and certificated administrative staff and 15.19 percent for school year 2011-12 and 15.20 percent for the 2012-13 school year for classified staff.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

Table Of Total Base Salaries For Certificated Instructional Staff

For School Year 2011-12

\*\*\* Education Experience \*\*\*

| Years of Service | BA     | BA+15  | BA+30  | BA+45  | BA+90  | BA+135 | MA     | MA+45  | MA+90 OR Ph.D. |
|------------------|--------|--------|--------|--------|--------|--------|--------|--------|----------------|
| 0                | 33,027 | 33,919 | 34,843 | 35,770 | 38,742 | 40,656 | 39,596 | 42,569 | 44,485         |
| 1                | 33,472 | 34,376 | 35,312 | 36,279 | 39,282 | 41,186 | 40,037 | 43,040 | 44,943         |
| 2                | 33,895 | 34,808 | 35,754 | 36,796 | 39,790 | 41,714 | 40,480 | 43,474 | 45,398         |
| 3                | 34,332 | 35,253 | 36,209 | 37,284 | 40,273 | 42,243 | 40,900 | 43,887 | 45,858         |
| 4                | 34,760 | 35,722 | 36,684 | 37,796 | 40,802 | 42,787 | 41,340 | 44,347 | 46,332         |
| 5                | 35,202 | 36,169 | 37,140 | 38,314 | 41,309 | 43,333 | 41,788 | 44,784 | 46,809         |
| 6                | 35,656 | 36,602 | 37,607 | 38,839 | 41,820 | 43,855 | 42,246 | 45,228 | 47,262         |
| 7                | 36,455 | 37,415 | 38,433 | 39,732 | 42,757 | 44,848 | 43,106 | 46,130 | 48,222         |
| 8                | 37,624 | 38,636 | 39,678 | 41,085 | 44,151 | 46,319 | 44,458 | 47,525 | 49,692         |
| 9                |        | 39,901 | 40,995 | 42,452 | 45,590 | 47,832 | 45,824 | 48,964 | 51,205         |
| 10               |        |        | 42,327 | 43,890 | 47,069 | 49,386 | 47,263 | 50,443 | 52,759         |
| 11               |        |        |        | 45,370 | 48,618 | 50,981 | 48,743 | 51,992 | 54,354         |
| 12               |        |        |        | 46,802 | 50,209 | 52,642 | 50,280 | 53,582 | 56,016         |
| 13               |        |        |        |        | 51,838 | 54,344 | 51,872 | 55,211 | 57,717         |

|            |        |        |        |        |        |
|------------|--------|--------|--------|--------|--------|
| 14         | 53,475 | 56,110 | 53,511 | 56,955 | 59,483 |
| 15         | 54,866 | 57,569 | 54,902 | 58,436 | 61,030 |
| 16 or more | 55,963 | 58,720 | 56,000 | 59,604 | 62,250 |

Table Of Total Base Salaries For Certificated Instructional Staff

For School Year 2012-13

\*\*\* Education Experience \*\*\*

| Years of Service | BA     | BA+15  | BA+30  | BA+45  | BA+90  | BA+135 | MA     | MA+45  | MA+90 OR Ph.D. |
|------------------|--------|--------|--------|--------|--------|--------|--------|--------|----------------|
| 0                | 33,027 | 33,919 | 34,843 | 35,770 | 38,742 | 40,656 | 39,596 | 42,569 | 44,485         |
| 1                | 33,472 | 34,376 | 35,312 | 36,279 | 39,282 | 41,186 | 40,037 | 43,040 | 44,943         |
| 2                | 33,895 | 34,808 | 35,754 | 36,796 | 39,790 | 41,714 | 40,480 | 43,474 | 45,398         |
| 3                | 34,332 | 35,253 | 36,209 | 37,284 | 40,273 | 42,243 | 40,900 | 43,887 | 45,858         |
| 4                | 34,760 | 35,722 | 36,684 | 37,796 | 40,802 | 42,787 | 41,340 | 44,347 | 46,332         |
| 5                | 35,202 | 36,169 | 37,140 | 38,314 | 41,309 | 43,333 | 41,788 | 44,784 | 46,809         |
| 6                | 35,656 | 36,602 | 37,607 | 38,839 | 41,820 | 43,855 | 42,246 | 45,228 | 47,262         |
| 7                | 36,455 | 37,415 | 38,433 | 39,732 | 42,757 | 44,848 | 43,106 | 46,130 | 48,222         |
| 8                | 37,624 | 38,636 | 39,678 | 41,085 | 44,151 | 46,319 | 44,458 | 47,525 | 49,692         |
| 9                |        | 39,901 | 40,995 | 42,452 | 45,590 | 47,832 | 45,824 | 48,964 | 51,205         |
| 10               |        |        | 42,327 | 43,890 | 47,069 | 49,386 | 47,263 | 50,443 | 52,759         |
| 11               |        |        |        | 45,370 | 48,618 | 50,981 | 48,743 | 51,992 | 54,354         |
| 12               |        |        |        | 46,802 | 50,209 | 52,642 | 50,280 | 53,582 | 56,016         |
| 13               |        |        |        |        | 51,838 | 54,344 | 51,872 | 55,211 | 57,717         |
| 14               |        |        |        |        | 53,475 | 56,110 | 53,511 | 56,955 | 59,483         |
| 15               |        |        |        |        | 54,866 | 57,569 | 54,902 | 58,436 | 61,030         |
| 16 or more       |        |        |        |        | 55,963 | 58,720 | 56,000 | 59,604 | 62,250         |

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits since receiving the masters degree; and
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.
- (b) "MA" means a masters degree.
- (c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this part V, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

**NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,170,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$6,481,000        |
| General Fund--Federal Appropriation .....         | \$2,000            |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$8,653,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Additional salary adjustments as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary adjustments shall be provided to all districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule.

(b) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act.

(c) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act.

(d) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at 15.66 percent for the 2011-12 school year and 15.66 percent for the 2012-13 school year for certificated instructional and certificated administrative staff and 15.19 percent for the 2011-12 school year and 15.20 percent for the 2012-13 school year for classified staff.

(e) The appropriations in this section include the increased or decreased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Changes for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 503 and 504 of this act. Changes for special education result from changes in each district's basic education allocation per student. Changes for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 503 and 504 of this act.

(f) The appropriations in this section include no salary adjustments for substitute teachers.

(2) The maintenance rate for insurance benefit allocations is \$768.00 per month for the 2011-12 and 2012-13 school years. The appropriations in this section reflect the incremental change in cost of allocating rates of \$768.00 per month for the 2011-12 school year and an average of \$765.18 per month for the 2012-13 school year. The 2012-13 rate will be adjusted by the legislature prior to September 1, 2012, consistent with section 502(8)(b) of this act.

(3) The rates specified in this section are subject to revision each year by the legislature.

**NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$276,054,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$284,343,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$560,397,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2)(a) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for the transportation of students as provided in RCW 28A.160.192.

(b) From July 1, 2011 to August 31, 2011, the superintendent shall allocate funding to school districts programs for the transportation of students as provided in section 505, chapter 564, Laws of 2009, as amended through section 1404 of this act.

(3) Any amounts appropriated for maintenance level funding for pupil transportation that exceed actual maintenance level expenditures as calculated under the funding formula that takes effect September 1, 2011, shall be distributed to districts according to RCW 28A.160.192.

(4) A maximum of \$99,000 of this fiscal year 2012 appropriation and a maximum of \$99,000 of the fiscal year 2013 appropriation may be expended for one centralized transportation coordinator. The transportation coordinator shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(5) The office of the superintendent of public instruction shall provide reimbursement funding to a school district for school bus purchases only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(6) Funding levels in this section reflect waivers granted by the state board of education for four-day school weeks as allowed under RCW 28A.305.141.

**NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$6,952,000          |
| General Fund--State Appropriation (FY 2013) ..... | \$6,952,000          |
| General Fund--Federal Appropriation .....         | \$437,988,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$451,892,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,952,000 of the general fund--state appropriation for fiscal year 2012 and \$6,952,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for state matching money for federal child nutrition programs, and may support the meals for kids program through the following allowable uses:

(a) Payment of breakfast copays for income-eligible children and lunch copays for students in grades kindergarten through third grade who are eligible for reduced price lunch;

(b) Assistance to school districts and authorized nonprofit entities for supporting summer food service programs, and initiating new summer food service programs in low-income areas;

(c) Reimbursements to school districts for school breakfasts served to students eligible for free and reduced price lunch, pursuant to chapter 287, Laws of 2005; and

(d) Assistance to school districts in initiating and expanding school breakfast programs.

The office of the superintendent of public instruction shall report annually to the fiscal committees of the legislature on annual expenditures in (a), (b), and (c) of this subsection.

**NEW SECTION. Sec. 507. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) ..... | \$665,902,000 |
|---|---------------|

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|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2013) .....       | \$698,921,000          |
| General Fund--Federal Appropriation .....               | \$691,796,000          |
| Education Legacy Trust Account--State Appropriation ... | \$756,000              |
| <b>TOTAL APPROPRIATION .....</b>                        | <b>\$2,057,375,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(c) Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for state safety net funding in August of each school year. Determinations on school district eligibility for state safety net awards shall be based on analysis of actual expenditure data from the current school year.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4)(a) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for special education students as provided in RCW 28A.150.390.

(b) From July 1, 2011 to August 31, 2011, the superintendent shall allocate funding to school district programs for special education students as provided in section 507, chapter 564, Laws of 2009, as amended through section 1406 of this act.

(5) The following applies throughout this section: The definitions for enrollment and enrollment percent are as specified in RCW 28A.150.390(3). Each district's general fund--state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(6) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with RCW 28A.150.390(3) (c) and (d), and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(7) \$16,404,000 of the general fund--state appropriation for fiscal year 2012, \$31,355,000 of the general fund--state appropriation for fiscal year 2013, and \$29,574,000 of the general fund--federal appropriation are provided solely for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (4) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (7) in any fiscal year, the superintendent shall expend all available federal

discretionary funds necessary to meet this need. At the conclusion of each school year, the superintendent shall recover safety net funds that were distributed prospectively but for which districts were not subsequently eligible.

(a) For the 2011-12 and 2012-13 school years, safety net funds shall be awarded by the state safety net oversight committee as provided in section 109(1) chapter 548, Laws of 2009 (ESHB 2261).

(b) From July 1, 2011 to August 31, 2011, the superintendent shall operate the safety net oversight committee and shall award safety net funds as provided in section 507, chapter 564, Laws of 2009, as amended through section 1406 of this act.

(8) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(9) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(10) A school district may carry over from one year to the next year up to 10 percent of the general fund--state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(11) \$251,000 of the general fund--state appropriation for fiscal year 2012 and \$251,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

(12) \$50,000 of the general fund--state appropriation for fiscal year 2012, \$50,000 of the general fund--state appropriation for fiscal year 2013, and \$100,000 of the general fund--federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

**NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR EDUCATIONAL SERVICE DISTRICTS**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$6,691,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$6,733,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$13,424,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

**NEW SECTION. Sec. 509. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR LOCAL EFFORT ASSISTANCE**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$303,337,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$308,445,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$611,782,000</b> |

The appropriations in this section are subject to the following conditions and limitations: For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 3 percent from the 2010-11 school year to the 2011-12 school year and 5 percent from the 2011-12 school year to the 2012-13 school year.

**NEW SECTION. Sec. 510. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR INSTITUTIONAL EDUCATION PROGRAMS**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$16,613,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$16,512,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$33,125,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund--state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) \$509,000 of the general fund--state appropriation for fiscal year 2012 and \$509,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, programs for juveniles under the juvenile rehabilitation administration, and programs for juveniles operated by city and county jails.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

**NEW SECTION. Sec. 511. FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$8,886,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$8,819,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$17,705,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2)(a) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school district programs for highly capable students as provided in RCW 28A.150.260(10)(c). In calculating the allocations, the superintendent shall assume the following: (i) Additional instruction of 2.1590 hours per week per funded highly capable program student; (ii) fifteen highly capable program students per teacher; (iii) 36 instructional weeks per year; (iv) 900 instructional hours per teacher; and (v) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(b) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts programs for highly capable

students as provided in section 511, chapter 564, Laws of 2009, as amended through section 1409 of this act.

(3) \$85,000 of the general fund--state appropriation for fiscal year 2012 and \$85,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the centrum program at Fort Worden state park.

**NEW SECTION. Sec. 512. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR MISCELLANEOUS--NO CHILD LEFT BEHIND ACT**

|   |             |
|---|-------------|
| General Fund--Federal Appropriation ..... | \$7,352,000 |
|---|-------------|

**NEW SECTION. Sec. 513. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....   | \$55,699,000         |
| General Fund--State Appropriation (FY 2013) .....   | \$82,190,000         |
| General Fund--Federal Appropriation .....           | \$103,367,000        |
| Education Legacy Trust Account--State Appropriation | \$87,052,000         |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$328,308,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) \$39,995,000 of the general fund--state appropriation for fiscal year 2012, \$41,015,000 of the general fund--state appropriation for fiscal year 2013, \$1,350,000 of the education legacy trust account--state appropriation, and \$15,868,000 of the general fund--federal appropriation are provided solely for development and implementation of the Washington state assessment system, including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student assessment results, on or around June 10th of each year.

(b) Payments for collections of evidence shall be made for submissions that meet the criteria for scoring only.

(2) \$200,000 of the general fund--state appropriation for fiscal year 2012 and \$200,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events.

(3) \$83,000,000 of the general fund--federal appropriation is for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(4) \$980,000 of the general fund--state appropriation for fiscal year 2012 and \$980,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(5) \$85,623,000 of the education legacy trust account--state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in RCW 28A.150.315. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in sections 502,

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503, and 504 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for purpose of making allocations under this subsection. Although the allocations are formula driven, the office of the superintendent of public instruction shall consider funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced price lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purpose of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

(6) \$3,852,000 of the general fund--state appropriation for fiscal year 2012 and \$2,624,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for continued implementation of chapter 235, Laws of 2010 (education reform) including development of new performance-based evaluation systems for certificated educators.

(7) \$26,656,000 of the general fund--state appropriation for fiscal year 2013 is provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(a) For national board certified teachers, a bonus of \$5,090 per teacher in the 2011-12 and 2012-13 school years for a maximum of three total years from the time of certification;

(b) An additional \$5,000 annual bonus shall be paid to national board certified teachers, for a maximum of three total years from the time of certification, who teach in either: (i) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (ii) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (iii) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(c) Beginning in the 2011-12 school year, all bonuses in (a) and (b) of this subsection will be paid in July of each school year.

(d) During the 2011-12 and 2012-13 school years, and within available funds, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional loan of two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The conditional loan is provided in addition to compensation received under a district's salary schedule and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after

three years are required to repay the conditional loan, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(8) \$477,000 of the general fund--state appropriation for fiscal year 2012 and \$477,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(9) \$810,000 of the general fund--state appropriation for fiscal year 2012 and \$810,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

(10) \$3,235,000 of the general fund--state appropriation for fiscal year 2012 and \$3,235,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible.

(11) \$977,000 of the general fund--state appropriation for fiscal year 2012 and \$977,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. If equally matched by private donations, \$300,000 of the 2012 appropriation and \$300,000 of the 2013 appropriation shall be used to support FIRST robotics programs.

(12) \$1,092,000 of the general fund--state appropriation for fiscal year 2012, \$1,118,000 of the general fund--state appropriation for fiscal year 2013, and \$33,000 of the education legacy trust account--state appropriation are for administrative support of education reform programs.

(13) \$2,000,000 of the general fund--state appropriation for fiscal year 2012 and \$2,000,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Microsoft Information Technology (IT) Academy Program, which provides free educational software, as well as IT certification and software training opportunities for students and staff in public schools.

(14) \$1,800,000 of the general fund--state appropriation for fiscal year 2012 and \$1,800,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding. The superintendent shall implement this program in 5 to 15 school districts and/or regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation;

assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators.

**NEW SECTION. Sec. 514. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL BILINGUAL PROGRAMS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$85,326,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$90,553,000         |
| General Fund--Federal Appropriation.....          | \$71,001,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$246,880,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2)(a) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school districts for transitional bilingual programs as provided in RCW 28A.150.260(10)(b). In calculating the allocations, the superintendent shall assume the following averages: (i) Additional instruction of 4.7780 hours per week per transitional bilingual program student; (ii) fifteen transitional bilingual program students per teacher; (iii) 36 instructional weeks per year; (iv) 900 instructional hours per teacher; and (v) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(b) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts for transitional bilingual instruction programs as provided in section 514, chapter 564, Laws of 2009, as amended through section 1411 of this act.

(c) The allocations in this section reflect the implementation of a new funding formula for the transitional bilingual instructional program, effective September 1, 2011, as specified in RCW 28A.150.260(10)(b).

(3) The superintendent may withhold up to 2.5 percent of the school year allocations to school districts in subsection (2) of this section solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$35,000 of the general fund--state appropriation for fiscal year 2012 and \$35,000 of the general fund--state appropriation for fiscal year 2013 are provided solely to track current and former transitional bilingual program students.

(5) The general fund--federal appropriation in this section is for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

(6)(a) The office of the superintendent of public instruction shall implement a funding model for the transitional bilingual program, beginning in school year 2012-13, that is scaled to provide more support to students requiring most intensive intervention, (students with beginning levels of English language proficiency) and less support to students requiring less intervention. The funding model shall also provide up to two years of bonus funding upon successful exit from the bilingual program to facilitate successful transition to a standard program of education.

(b) The office of the superintendent of public instruction shall, prior to the 2012-13 school year, procure a standardized annual test that measures students' English language proficiency level in listening, speaking, reading, and writing and places students at levels of proficiency.

(c) It is expected that per-pupil funding for level 2 proficiency will be set at the same level as would have been provided statewide

prior to establishing differential per-pupil amounts; level 1 will be 125 percent of level 2; level 3 through the level prior to exit will be 75 percent of level 2; and two bonus years upon successful demonstration of proficiency will be 100 percent of level 2. Prior to implementing in school year 2012-13, the office of the superintendent of public instruction shall provide to the senate and house of representatives ways and means committees recommended rates based on the results of proficiency test procurement, expressed as both per-pupil rates and hours of instruction as provided in RCW 28A.150.260 (10)(b).

(d) Each bilingual student shall be tested for proficiency level and, therefore, eligibility for the transitional bilingual program each year. The bonus payments for up to two school years following successful exit from the transitional bilingual program shall be allocated to the exiting school district. If the student graduates or transfers to another district prior to the district receiving both years' bonuses, the district shall receive the bonus for only the length of time the student remains enrolled in the exiting district.

(e) The office of the superintendent of public instruction shall report to the senate and house of representatives ways and means committees and education committees annually by December 31st of each year, through 2018, regarding any measurable changes in proficiency, time-in-program, and transition experience.

**NEW SECTION. Sec. 515. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR THE LEARNING ASSISTANCE PROGRAM**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....   | \$104,084,000        |
| General Fund--State Appropriation (FY 2013) .....   | \$104,927,000        |
| General Fund--Federal Appropriation .....           | \$581,207,000        |
| Education Legacy Trust Account--State Appropriation | \$47,980,000         |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$838,198,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund--state appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b)(i) For the 2011-12 and 2012-13 school years, the superintendent shall allocate funding to school districts for learning assistance programs as provided in RCW 28A.150.260(10)(a). In calculating the allocations, the superintendent shall assume the following averages: (A) Additional instruction of 1.51560 hours per week per funded learning assistance program student; (B) fifteen learning assistance program students per teacher; (C) 36 instructional weeks per year; (D) 900 instructional hours per teacher; and (E) the district's average staff mix and compensation rates as provided in sections 503 and 504 of this act.

(ii) From July 1, 2011, to August 31, 2011, the superintendent shall allocate funding to school districts for learning assistance programs as provided in section 515, chapter 564, Laws of 2009, as amended through section 1412 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year.

(2) Allocations made pursuant to subsection (1) of this section shall be adjusted to reflect ineligible applications identified through the annual income verification process required by the national school lunch program, as recommended in the report of the state auditor on the learning assistance program dated February, 2010.

(3) The general fund--federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

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(4) A school district may carry over from one year to the next up to 10 percent of the general fund-state or education legacy trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(5) The office of the superintendent of public instruction shall research and recommend options for an adjustment factor for middle school and high school free and reduced price lunch eligibility reporting rates pursuant to RCW 28A.150.260(12)(a), and submit a report to the fiscal committees of the legislature by June 1, 2012. For the 2011-12 and 2012-13 school years, the adjustment factor is 1.0.

**NEW SECTION. Sec. 516. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

(1) Amounts distributed to districts by the superintendent through part V of this act are for allocations purposes only and do not entitle a particular district, district employee, or student to a specific service, beyond what has been expressly provided in statute. Part V of this act restates the requirements of various sections of Title 28A RCW. If any conflict exists, the provisions of Title 28A RCW control unless this act explicitly states that it is providing an enhancement. Any amounts provided in part V of this act in excess of the amounts required by Title 28A RCW provided in statute, are not within the program of basic education.

(2) To the maximum extent practicable, when adopting new or revised rules or policies relating to the administration of allocations in part V of this act that result in fiscal impact, the office of the superintendent of public instruction shall attempt to seek legislative approval through the budget request process.

(3) Appropriations made in this act to the office of the superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act.

(End of part)

**PART VI HIGHER EDUCATION**

**NEW SECTION. Sec. 601.** The appropriations in sections 605 through 611 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 605 through 611 of this act.

(2) The legislature, the office of financial management, and other state agencies need consistent and accurate personnel data from institutions of higher education for policy planning purposes. Institutions of higher education shall report personnel data to the department of personnel for inclusion in the department's data warehouse. Uniform reporting procedures shall be established by the department of personnel for use by the reporting institutions, including provisions for common job classifications and common definitions of full-time equivalent staff. Annual contract amounts, number of contract months, and funding sources shall be consistently reported for employees under contract.

(3) In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of operating fees for any student. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under this subsection.

(4) The institutions of higher education receiving state and federal appropriations under sections 605 through 611 of this act shall allot anticipated state, federal, and tuition expenditures by budget program and fiscal year.

(5) To the extent permitted by the applicable personnel system rules, and to the extent collectively bargained with represented employees, institutions of higher education are encouraged to achieve the reductions in full-time-equivalent employment and payroll levels necessary to operate within this budget through strategies that will minimize impacts on employees, their families, their communities, and short- and longer-term accomplishment of institutional mission. Institutions are encouraged to utilize strategies such as reduced work- hours per day or week, voluntary leave without pay, and temporary furloughs that enable employees to maintain permanent employment status. Institutions are further encouraged to implement such strategies in ways that will enable employees to maintain full insurance benefits, full retirement service credit, and a living wage.

(6)(a) For institutions receiving appropriations in section 605 of this act the only allowable salary increases provided are those with normally occurring promotions and increases related to faculty and staff retention.

(b) For employees under the jurisdiction of chapter 41.56 RCW, salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(c) For each institution of higher education receiving appropriations under sections 606 through 611 of this act:

(i) The only allowable salary increases are those associated with normally occurring promotions and increases related to faculty and staff retention;

(ii) Institutions may provide salary increases from other sources to instructional and research faculty at the universities and The Evergreen State College, exempt professional staff, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Any salary increase granted under the authority of this subsection (6)(c)(ii) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that state general fund support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (6)(c)(ii).

**NEW SECTION. Sec. 602.** (1) Within the funds appropriated in this act, each institution of higher education is expected to enroll and educate at least the following numbers of full-time equivalent state- supported students per academic year:

|  | 2011-12<br>Annual Average | 2012-13<br>Annual Average |
|--|---------------------------|---------------------------|
| University of Washington                       | 37,162                    | 37,162                    |
| Washington State University                    | 22,228                    | 22,228                    |
| Central Washington University                  | 8,734                     | 8,456                     |
| Eastern Washington University                  | 8,808                     | 8,808                     |
| The Evergreen State College                    | 4,213                     | 4,213                     |
| Western Washington University                  | 11,762                    | 11,762                    |
| State Board for Community & Technical Colleges |                           |                           |
| Adult Students                                 | 139,237                   | 139,237                   |

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Running Start

11,558

11,558

Students

(2) In achieving or exceeding these enrollment targets, each institution shall seek to:

(a) Maintain and to the extent possible increase enrollment opportunities at branch campuses;

(b) Maintain and to the extent possible increase enrollment opportunities at university centers and other partnership programs that enable students to earn baccalaureate degrees on community college campuses; and

(c) Eliminate and consolidate programs of study for which there is limited student or employer demand, or that are not areas of core academic strength for the institution, particularly when such programs duplicate offerings by other in-state institutions.

(3) For purposes of monitoring and reporting statewide enrollment, the University of Washington and Washington State University shall notify the office of financial management of the number of full-time student equivalent enrollments budgeted for each of their campuses.

(4) It is the intent of the legislature that expectations regarding full-time student enrollment shall become part of the negotiation process to establish performance contracts as specified in Senate Bill No. 5915 (higher education funding).

**NEW SECTION. Sec. 603. PUBLIC BACCALAUREATE INSTITUTIONS**

In order to operate within the state funds appropriated in this act, the governing boards of the state research universities, the state regional universities, and The Evergreen State College are authorized to adopt and adjust tuition and fees for the 2011-12 and 2012-13 academic years as provided in this section:

(1) The governing boards of the University of Washington, Washington State University, and Western Washington University may increase the tuition fees, as defined in RCW 28B.15.020, charged to resident undergraduate students by no more than sixteen percent over the amounts charged to resident undergraduate students for the prior academic year.

(2) The governing boards of Central Washington University and The Evergreen State College may increase the tuition fees, as defined in RCW 28B.15.020, charged to resident undergraduate students by no more than fourteen percent over the amounts charged to resident undergraduate students for the prior academic year.

(3) The governing board of Eastern Washington University may increase the tuition fees, as defined in RCW 28B.15.020, charged to resident undergraduate students by no more than eleven percent over the amounts charged to resident undergraduate students for the prior academic year.

(4) Each governing board is authorized to increase tuition charges to graduate and professional students, and to nonresident undergraduate students, by amounts judged reasonable and necessary by the governing board.

(5) Each governing board is authorized to increase summer quarter or semester tuition fees for resident and nonresident undergraduate, graduate, and professional students pursuant to RCW 28B.15.067.

(6) Each governing board is authorized to adopt or increase charges for fee-based, self-sustaining degree programs, credit courses, noncredit workshops and courses, and special contract courses by amounts judged reasonable and necessary by the governing board.

(7) Each governing board is authorized to adopt or increase services and activities fees for all categories of students as provided in RCW 28B.15.069.

(8) Each governing board is authorized to adopt or increase technology fees as provided in RCW 28B.15.069.

(9) Each governing board is authorized to adopt or increase special course and lab fees, and health and counseling fees, to the extent necessary to cover the reasonable and necessary exceptional cost of the course or service.

(10) Each governing board is authorized to adopt or increase administrative fees such as, but not limited to, those charged for application, matriculation, special testing, and transcripts by amounts judged reasonable and necessary by the governing board.

**NEW SECTION. Sec. 604. STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

In order to operate within the state funds appropriated in this act, the state board for community and technical colleges and the trustees of the state's community and technical colleges are authorized to adopt and adjust tuition and fees for the 2011-12 and 2012-13 academic years as provided in this section:

(1) The state board may increase the tuition fees charged to resident undergraduate students by no more than twelve percent over the amounts charged to resident undergraduates during the prior academic year. The board may increase tuition fees under this subsection differentially based on student credit hour load, provided that the overall increase in average tuition revenue per student does not exceed ten percent each year.

(2) The state board may increase the tuition fees charged to resident undergraduates enrolled in upper division applied baccalaureate programs by no more than twelve percent over the amounts charged during the prior academic year.

(3) The state board may increase the tuition fees charged to nonresident students by amounts judged reasonable and necessary by the board.

(4) The trustees of the technical colleges are authorized to either (a) increase operating fees by no more than the percentage increases authorized for community colleges by the state board; or (b) fully adopt the tuition fee charge schedule adopted by the state board for community colleges.

(5) For academic years 2011-2012 and 2012-2013, the trustees of the technical colleges are authorized to increase building fees by an amount judged reasonable in order to progress toward parity with the building fees charged students attending the community colleges.

(6) The state board is authorized to increase the maximum allowable services and activities fee as provided in RCW 28B.15.069. The trustees of the community and technical colleges are authorized to increase services and activities fees up to the maximum level authorized by the state board.

(7) The trustees of the community and technical colleges are authorized to adopt or increase charges for fee-based, self-sustaining programs such as summer session, international student contracts, and special contract courses by amounts judged reasonable and necessary by the trustees.

(8) The trustees of the community and technical colleges are authorized to adopt or increase special course and lab fees to the extent necessary to cover the reasonable and necessary exceptional cost of the course or service.

(9) The trustees of the community and technical colleges are authorized to adopt or increase administrative fees such as but not limited to those charged for application, matriculation, special testing, and transcripts by amounts judged reasonable and necessary by the trustees.

**NEW SECTION. Sec. 605. FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

|   |               |
|---|---------------|
| General Fund--State Appropriation (FY 2012) .....   | \$576,889,000 |
| General Fund--State Appropriation (FY 2013) .....   | \$576,528,000 |
| Community/Technical College Capital Projects        |               |
| Account--State Appropriation.....                   | \$8,037,000   |
| Education Legacy Trust Account--State Appropriation | \$30,304,000  |

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TOTAL APPROPRIATION .....\$1,191,758,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,761,000 of the general fund--state appropriation for fiscal year 2012 and \$28,761,000 of the general fund--state appropriation for fiscal year 2013 are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2012 and at least 6,200 full-time equivalent students in fiscal year 2013.

(2) \$2,725,000 of the general fund--state appropriation for fiscal year 2012 and \$2,725,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the results of the partnerships supported by these funds.

(3) The state board for community and technical colleges shall achieve \$7,500,000 in general fund savings in fiscal year 2012 and \$7,500,000 in general fund savings in fiscal year 2012 from various efficiencies implemented in the community and technical college system including consolidation of college districts; consolidation of administrative and governance functions including, but not limited to, human resources, budget and accounting services, and president's offices; consolidation of student service functions including, but not limited to, financial aid services, student advising, and libraries; and other administrative efficiencies including, but not limited to, greater use of telephone and videoconferencing and reduced travel costs. A report explaining the methods used to achieve the savings required is due to the fiscal committees of the legislature by December 31, 2013.

(4) \$7,500,000 of the general fund--state appropriation for fiscal year 2012 and \$7,500,000 of the general fund--state appropriation for fiscal year 2013 is provided solely for worker retraining.

**NEW SECTION. Sec. 606. FOR THE UNIVERSITY OF WASHINGTON**

General Fund--State Appropriation (FY 2012) .....\$224,872,000  
General Fund--State Appropriation (FY 2013) .....\$227,789,000  
University of Washington Building Account--State  
Appropriation.....\$239,000  
Biotoxin Account--State Appropriation.....\$450,000  
Accident Account--State Appropriation .....\$6,807,000  
Medical Aid Account--State Appropriation .....\$6,593,000  
TOTAL APPROPRIATION .....\$466,750,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) \$600,000 of the general fund--state appropriation for fiscal year 2012 and \$600,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the development of integrated medical curriculum for the Washington/Wyoming/Alaska/Montana/Idaho (WWAMI) medical education program in Spokane and eastern Washington. Funding is contingent on appropriations being provided to Washington State University for WWAMI program expansion in Spokane and eastern Washington.

(3) \$52,000 of the general fund--state appropriation for fiscal year 2012 and \$52,000 of the general fund--state appropriation for

fiscal year 2013 are provided solely for the center for international trade in forest products in the college of forest resources.

(4) \$88,000 of the general fund--state appropriation for fiscal year 2012 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 5485 (state's natural resources). If the bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(5) \$143,000 of the general fund--state appropriation for fiscal year 2012 and \$144,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the ongoing management of the Washington park arboretum.

**NEW SECTION. Sec. 607. FOR WASHINGTON STATE UNIVERSITY**

General Fund--State Appropriation (FY 2012) .....\$142,309,000  
General Fund--State Appropriation (FY 2013) .....\$143,092,000  
Washington State University Building Account--State  
Appropriation.....\$5,364,000  
Education Legacy Trust Account--State Appropriation\$33,995,000  
TOTAL APPROPRIATION .....\$324,760,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) Within available funds, Washington State University shall serve an additional cohort of fifteen full-time equivalent students in the mechanical engineering program located at Olympic College.

(3) \$300,000 of the general fund--state appropriation for fiscal year 2012 and \$300,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the expansion of health sciences capacity through the Washington/Wyoming/Alaska/Montana/Idaho (WWAMI) medical education program in Spokane and eastern Washington. Funding is contingent on appropriations being provided to the University of Washington for integrated medical curriculum development for WWAMI.

**NEW SECTION. Sec. 608. FOR EASTERN WASHINGTON UNIVERSITY**

General Fund--State Appropriation (FY 2012) .....\$27,965,000  
General Fund--State Appropriation (FY 2013) .....\$28,354,000  
Education Legacy Trust Account--State Appropriation\$16,087,000  
TOTAL APPROPRIATION .....\$72,406,000

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) At least \$200,000 of the general fund--state appropriation for fiscal year 2012 and at least \$200,000 of the general fund--state appropriation for fiscal year 2013 shall be expended on the northwest autism center.

**NEW SECTION. Sec. 609. FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund--State Appropriation (FY 2012) .....\$24,536,000  
General Fund--State Appropriation (FY 2013) .....\$24,737,000  
Education Legacy Trust Account--State Appropriation\$19,076,000  
TOTAL APPROPRIATION .....\$68,349,000

The appropriations in this section are subject to the following conditions and limitations: In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

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**NEW SECTION. Sec. 610. FOR THE EVERGREEN STATE COLLEGE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) .....   | \$16,714,000        |
| General Fund--State Appropriation (FY 2013) .....   | \$16,546,000        |
| Education Legacy Trust Account--State Appropriation | \$5,450,000         |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$38,710,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

(2) \$50,000 of the general fund--state appropriation for fiscal year 2012 and \$25,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to conduct a detailed study of the commitment of sexually violent predators to the special commitment center pursuant to chapter 71.09 RCW and the subsequent release of those persons to less-restrictive alternatives.

(a) Specifically, the institute's study shall examine:

(i) The projected future demand for the special commitment center, including profiles and characteristics of persons referred and committed to the special commitment center since its inception, whether the profiles of those persons have changed over time, and, given current trends, the likelihood of the continuing rate of referral;

(ii) Residents' participation in treatment over time and the impact of treatment on eventual release to a less-restrictive alternative;

(iii) The annual review process and the process for a committed person to petition for conditional or unconditional release, specifically:

(A) The time frames for conducting mandatory reviews;

(B) The role of the special commitment center clinical team;

(C) Options and standards utilized by other jurisdictions or similar processes to conduct periodic reviews, including specialized courts, parole boards, independent review boards, and other commitment proceedings;

(iv) The capacity and future demand for appropriate less restrictive alternatives for moving residents out of the special commitment center, including:

(A) The capacity and demand for secure community transition facilities;

(B) Options for specialized populations such as the elderly or those with developmental disabilities and whether more cost-efficient options might be used to house those populations while keeping the public safe;

(C) Prospects for moving residents to noninstitutionalized settings beyond a secure community transition facility.

(b) The department of social and health services shall cooperate with the institute in conducting its examination and must provide the institute with requested data and records in a timely manner.

(c) The institute shall provide a status report to the governor and the legislature no later than November 1, 2011, with a final report due no later than November 1, 2012.

(3) \$91,000 of the general fund--state appropriation for fiscal year 2012 and \$54,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for the Washington state institute for public policy to design and implement a research study to measure the impact on student achievement of remediation strategies funded by the learning assistance program pursuant to Engrossed Second Substitute House Bill No. 1443 (education reforms). If the bill is not enacted by June 30, 2011, the amounts provided in this subsection shall lapse.

(4) \$50,000 of the general fund--state appropriation for fiscal year 2012 and \$50,000 of the general fund--state appropriation for

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fiscal year 2013 are provided solely for the institute for public policy to provide research support to the council on quality education.

(5) The institute for public policy shall study the impact of budget reductions enacted in the 2011-2013 fiscal biennium in the department of health on public health tracking of infectious and noninfectious disease.

**NEW SECTION. Sec. 611. FOR WESTERN WASHINGTON UNIVERSITY**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) .....   | \$36,494,000        |
| General Fund--State Appropriation (FY 2013) .....   | \$36,559,000        |
| Education Legacy Trust Account--State Appropriation | \$13,266,000        |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$86,319,000</b> |

The appropriations in this section are subject to the following conditions and limitations: In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other noninstructional activities.

**NEW SECTION. Sec. 612. FOR THE COUNCIL FOR HIGHER EDUCATION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,152,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$1,154,000        |
| General Fund--Federal Appropriation .....         | \$4,373,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$6,679,000</b> |

**NEW SECTION. Sec. 613. FOR THE OFFICE OF STUDENT FINANCIAL ASSISTANCE**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) .....                     | \$217,379,000        |
| General Fund--State Appropriation (FY 2013) .....                     | \$252,669,000        |
| General Fund--Federal Appropriation .....                             | \$13,165,000         |
| Washington Opportunity Pathways Account--State<br>Appropriation ..... | \$147,000,000        |
| <b>TOTAL APPROPRIATION .....</b>                                      | <b>\$630,213,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$199,701,000 of the general fund--state appropriation for fiscal year 2012, \$234,671,000 of the general fund--state appropriation for fiscal year 2013, \$147,000,000 of the opportunity pathways account--state appropriation, and \$1,480,000 of the general fund--federal appropriation are provided solely for student financial aid payments under the state need grant and the state work study program including up to a four percent administrative allowance for the state work study program.

(2) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(3) \$250,000 of the general fund--state appropriation for fiscal year 2012 and \$250,000 of the general fund--state appropriation for fiscal year 2013 are provided solely for implementation of the aerospace training scholarship and student loan program as specified in Engrossed Substitute House Bill No. 1846 (aerospace student loans). If this bill is not enacted by June 30, 2011, the amount provided in this subsection shall lapse.

(4) \$500,000 of the general fund--state appropriation for fiscal year 2012 and \$500,000 of the general fund--state appropriation for

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fiscal year 2013 are provided solely for the leadership 1000 program.

**NEW SECTION. Sec. 614. FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,416,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$1,428,000         |
| General Fund--Federal Appropriation .....         | \$62,794,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$65,638,000</b> |

**NEW SECTION. Sec. 615. FOR THE DEPARTMENT OF EARLY LEARNING**

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2012) .....      | \$23,862,000         |
| General Fund--State Appropriation (FY 2013) .....      | \$23,881,000         |
| General Fund--Federal Appropriation .....              | \$247,543,000        |
| Opportunity Pathways Account--State Appropriation..... | \$80,000,000         |
| <b>TOTAL APPROPRIATION .....</b>                       | <b>\$375,286,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$16,028,000 of the general fund--state appropriation for fiscal year 2012, \$16,028,000 of the general fund--state appropriation of fiscal year 2013, and \$80,000,000 of the opportunity pathways account appropriation are provided solely for the early childhood education assistance program services. Of these amounts, \$10,284,000 is a portion of the biennial amount of state maintenance of effort dollars required to receive federal child care and development fund grant dollars.

(2) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center and child care family home licensure fees in fiscal years 2012 and 2013 for costs to the department for the licensure activity, including costs of necessary inspection. These increases are necessary to support expenditures authorized in this section.

(3) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(4) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(5) The department may not adopt, enforce, or implement any rules or policies restricting the eligibility of consumers for the child care subsidy benefits to a countable income below one hundred seventy-five percent of the federal poverty guidelines.

(6) \$934,000 of the general fund--state appropriation for fiscal year 2012, \$934,000 of the general fund--state appropriation for fiscal year 2013, and \$2,400,000 of the general fund--federal appropriation are provided solely for expenditure into the home visiting services account. This funding is intended to meet federal maintenance of effort requirements and to secure private matching funds.

(7) To the extent appropriations are available and by December 31, 2011, the department shall adopt core competencies for early care and education professionals and child and youth development professionals and develop an implementation plan.

**NEW SECTION. Sec. 616. FOR THE STATE SCHOOL FOR THE BLIND**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$6,227,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$6,230,000 |
| General Fund--Private/Local Appropriation.....    | \$2,012,000 |

|                                  |                     |
|----------------------------------|---------------------|
| <b>TOTAL APPROPRIATION .....</b> | <b>\$14,469,000</b> |
|----------------------------------|---------------------|

The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund--private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

**NEW SECTION. Sec. 617. FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$8,936,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$8,977,000         |
| General Fund--Private/Local Appropriation.....    | \$526,000           |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$18,439,000</b> |

**NEW SECTION. Sec. 618. FOR THE WASHINGTON STATE ARTS COMMISSION**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,085,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$1,093,000        |
| General Fund--Federal Appropriation .....         | \$1,961,000        |
| General Fund--Private/Local Appropriation.....    | \$1,060,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$5,199,000</b> |

**NEW SECTION. Sec. 619. FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,965,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$2,010,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$3,975,000</b> |

**NEW SECTION. Sec. 620. FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$1,450,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$1,515,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$2,965,000</b> |

(End of part)

**PART VII  
SPECIAL APPROPRIATIONS**

**NEW SECTION. Sec. 701. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT**

|  |                        |
|--|------------------------|
| General Fund--State Appropriation (FY 2012) .....                                  | \$924,047,000          |
| General Fund--State Appropriation (FY 2013) .....                                  | \$981,486,000          |
| State Building Construction Account--State<br>Appropriation.....                   | \$1,589,000            |
| Columbia River Basin Water Supply Development<br>Account--State Appropriation..... | \$73,000               |
| Hood Canal Aquatic Rehabilitation Bond Account--State<br>Appropriation.....        | \$6,000                |
| State Taxable Building Construction Account--State<br>Appropriation.....           | \$345,000              |
| Gardner-Evans Higher Education Construction<br>Account--State Appropriation.....   | \$1,000                |
| Debt-Limit Reimbursable Bond Retire Account--State<br>Appropriation.....           | \$2,300,000            |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$1,909,847,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for expenditure into the debt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2012 shall be expended into the debt-limit general fund bond retirement account by June 30, 2012.

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**NEW SECTION. Sec. 702. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES**

|  |             |
|--|-------------|
| Accident Account--State Appropriation .....    | \$4,110,000 |
| Medical Aid Account--State Appropriation ..... | \$4,110,000 |
| TOTAL APPROPRIATION .....                      | \$8,220,000 |

**NEW SECTION. Sec. 703. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

|  |               |
|--|---------------|
| General Fund--State Appropriation (FY 2012) .....                            | \$27,516,000  |
| General Fund--State Appropriation (FY 2013) .....                            | \$30,758,000  |
| Nondebt-Limit Reimbursable Bond Retirement Account--State Appropriation..... | \$140,417,000 |
| TOTAL APPROPRIATION .....  | \$198,691,000 |

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for expenditure into the nondebt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2012 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2012.

**NEW SECTION. Sec. 704. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) .....                               | \$1,357,000 |
| General Fund--State Appropriation (FY 2013) .....                               | \$1,357,000 |
| State Building Construction Account--State Appropriation.....                   | \$1,273,000 |
| Columbia River Basin Water Supply Development Account--State Appropriation..... | \$12,000    |
| Hood Canal Aquatic Rehabilitation Bond Account--State Appropriation.....        | \$1,000     |
| State Taxable Building Construction Account--State Appropriation.....           | \$55,000    |
| Gardner-Evans Higher Education Construction Account--State Appropriation.....   | \$1,000     |
| TOTAL APPROPRIATION .....   | \$4,056,000 |

**NEW SECTION. Sec. 705. FOR THE OFFICE OF FINANCIAL MANAGEMENT--FIRE CONTINGENCY**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$4,000,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$4,000,000 |
| TOTAL APPROPRIATION .....                         | \$8,000,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the disaster response account to be used for any Washington state fire service resource mobilization costs incurred by the Washington state patrol in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964.

**NEW SECTION. Sec. 706. FOR THE OFFICE OF FINANCIAL MANAGEMENT--DISASTER RESPONSE ACCOUNT**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$17,575,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$3,075,000  |
| TOTAL APPROPRIATION .....                         | \$20,650,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the disaster response account. \$5,000,000 of the appropriation is provided for emergency fire suppression by the department of natural resources.

**NEW SECTION. Sec. 707. FOR THE OFFICE OF FINANCIAL MANAGEMENT--EMERGENCY FUND**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$850,000   |
| General Fund--State Appropriation (FY 2013) ..... | \$850,000   |
| TOTAL APPROPRIATION .....                         | \$1,700,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are for the governor's emergency fund for the critically necessary work of any agency.

**NEW SECTION. Sec. 708. FOR THE OFFICE OF FINANCIAL MANAGEMENT--EDUCATION TECHNOLOGY REVOLVING ACCOUNT**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$8,000,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$8,000,000  |
| TOTAL APPROPRIATION .....                         | \$16,000,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for expenditure into the education technology revolving account for the purpose of covering ongoing operational and equipment replacement costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

**NEW SECTION. Sec. 709. INCENTIVE SAVINGS--FY 2012**

The sum of one hundred twenty-five million dollars or so much thereof as may be available on June 30, 2012, from the total amount of unspent fiscal year 2012 state general fund appropriations, exclusive of amounts expressly placed into unallotted status by this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed one hundred million dollars, is appropriated to the education savings account.

**NEW SECTION. Sec. 710. INCENTIVE SAVINGS--FY 2013**

The sum of one hundred twenty-five million dollars or so much thereof as may be available on June 30, 2013, from the total amount of unspent fiscal year 2013 state general fund appropriations, exclusive of amounts expressly placed into unallotted status by this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed one hundred million dollars, is appropriated to the education savings account.

**NEW SECTION. Sec. 711. FOR THE OFFICE OF FINANCIAL MANAGEMENT--O'BRIEN BUILDING IMPROVEMENT**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,846,000 |
| General Fund--State Appropriation (FY 2013) ..... | \$2,950,000 |
| TOTAL APPROPRIATION .....                         | \$5,796,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the general administration services account for payment of principal, interest, and financing expenses associated

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with the certificate of participation for the O'Brien building improvement, project number 20081007.

**NEW SECTION. Sec. 712. FOR THE DEPARTMENT OF HEALTH--COUNTY PUBLIC HEALTH ASSISTANCE**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$24,000,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$24,000,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$48,000,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The director of the department of health shall distribute the appropriations to the following counties and health districts in the amounts designated to support public health services, including public health nursing:

| Health District                                     | FY 2012     | FY 2013     | FY 2011-13<br>Biennium |
|---|-------------|-------------|------------------------|
| Adams County Health District                        | \$30,951    | \$30,951    | \$61,902               |
| Asotin County Health District                       | \$67,714    | \$67,714    | \$135,428              |
| Benton-Franklin Health District                     | \$1,165,612 | \$1,165,612 | \$2,331,224            |
| Chelan-Douglas Health District                      | \$184,761   | \$184,761   | \$369,522              |
| Clallam County Health and Human Services Department | \$141,752   | \$141,752   | \$283,504              |
| Clark County Health District                        | \$1,057,792 | \$1,057,792 | \$2,115,594            |
| Skamania County Health Department                   | \$26,681    | \$26,681    | \$53,362               |
| Columbia County Health District                     | \$40,529    | \$40,529    | \$81,058               |
| Cowlitz County Health Department                    | \$278,560   | \$278,560   | \$557,120              |
| Garfield County Health District                     | \$15,028    | \$15,028    | \$30,056               |
| Grant County Health District                        | \$118,595   | \$118,596   | \$237,191              |
| Grays Harbor Health Department                      | \$183,870   | \$183,870   | \$367,740              |
| Island County Health Department                     | \$91,892    | \$91,892    | \$183,784              |
| Jefferson County Health and Human Services          | \$85,782    | \$85,782    | \$171,564              |
| Seattle-King County Department of Public Health     | \$9,531,747 | \$9,531,747 | \$19,063,494           |
| Bremerton-Kitsap County Health District             | \$554,669   | \$554,669   | \$1,109,338            |
| Kittitas County Health Department                   | \$92,499    | \$92,499    | \$184,998              |
| Klickitat County Health Department                  | \$62,402    | \$62,402    | \$124,804              |
| Lewis County Health Department                      | \$105,801   | \$105,801   | \$211,602              |
| Lincoln County Health Department                    | \$29,705    | \$29,705    | \$59,410               |
| Mason County Department of Health Services          | \$95,988    | \$95,988    | \$191,976              |
| Okanogan County Health District                     | \$63,458    | \$63,458    | \$126,916              |

|   |                     |                     |                     |
|---|---------------------|---------------------|---------------------|
| Pacific County Health Department              | \$77,427            | \$77,427            | \$154,854           |
| Tacoma-Pierce County Health Department        | \$2,820,590         | \$2,820,590         | \$5,641,180         |
| San Juan County Health and Community Services | \$37,531            | \$37,531            | \$75,062            |
| Skagit County Health Department               | \$223,927           | \$223,927           | \$447,854           |
| Snohomish Health District                     | \$2,258,207         | \$2,258,207         | \$4,516,414         |
| Spokane County Health District                | \$2,101,429         | \$2,101,429         | \$4,202,858         |
| Northeast Tri-County Health District          | \$110,454           | \$110,454           | \$220,908           |
| Thurston County Health Department             | \$600,419           | \$600,419           | \$1,200,838         |
| Wahkiakum County Health Department            | \$13,773            | \$13,772            | \$27,545            |
| Walla Walla County-City Health Department     | \$172,062           | \$172,062           | \$344,124           |
| Whatcom County Health Department              | \$855,863           | \$855,863           | \$1,711,726         |
| Whitman County Health Department              | \$78,733            | \$78,733            | \$157,466           |
| Yakima Health District                        | \$623,797           | \$623,797           | \$1,247,594         |
| <b>TOTAL APPROPRIATION</b>                    | <b>\$24,000,000</b> | <b>\$24,000,000</b> | <b>\$48,000,000</b> |
| <b>S</b>                                      | <b>0</b>            | <b>0</b>            | <b>0</b>            |

**NEW SECTION. Sec. 713. FOR THE DEPARTMENT OF RETIREMENT SYSTEMS--CONTRIBUTIONS TO RETIREMENT SYSTEMS**

The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2011, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and firefighters' retirement system:

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$51,200,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$54,700,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$105,900,000</b> |

(2) There is appropriated for contributions to the judicial retirement system:

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$11,600,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$13,100,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$24,700,000</b> |

**NEW SECTION. Sec. 714. BELATED CLAIMS**

The agencies and institutions of the state may expend moneys appropriated in this act, upon approval of the office of financial management, for the payment of supplies and services furnished to the agency or institution in prior fiscal biennia.

**NEW SECTION. Sec. 715. FOR THE OFFICE OF FINANCIAL MANAGEMENT--CONTRIBUTIONS TO RETIREMENT SYSTEMS**

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$149,150,000) |
| General Fund--State Appropriation (FY 2013) ..... | (\$213,546,000) |
| Special Account Retirement System Contribution    |                 |

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|  |                        |
|--|------------------------|
| Increase Revolving Account Appropriation ..... | (\$43,765,000)         |
| <b>TOTAL APPROPRIATION .....</b>               | <b>(\$406,461,000)</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to adjust agency and institution appropriations and public school funding allocations to reflect reduced employer contribution rates in the public employees' retirement system, teachers' retirement system, public safety employees' retirement system, and the school employees' retirement system as a result of the provisions of Senate Bill No. 5920 (limiting annual increase amounts) and increase the alternative minimum benefit to \$1,500 per month. If the bill is not enacted by June 30, 2011, the amounts provided in this section shall lapse.

(2) To facilitate the transfer of moneys to dedicated funds and accounts, the state treasurer shall transfer sufficient moneys to each dedicated fund or account from the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management. Reduction amounts for state agencies and institutions of higher education are shown in LEAP Omnibus Document S-GLU 01 dated April 12, 2011.

**NEW SECTION. Sec. 716. FOR THE OFFICE OF FINANCIAL MANAGEMENT--STATE DATA CENTER RATE INCREASES**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$6,822,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$4,072,000         |
| General Fund--Federal Appropriation .....         | \$6,000,000         |
| General Fund--Private/Local Appropriation.....    | \$200,000           |
| Special Account Revolving Appropriation.....      | \$8,534,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$19,634,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section reflect increases in agency appropriations related to the state data center. The office of financial management shall increase allotments in the amounts specified, and to the state agencies specified in LEAP Omnibus Document S-GLX-2011, dated April 12, 2011, and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

**NEW SECTION. Sec. 717. FOR THE OFFICE OF FINANCIAL MANAGEMENT--EXTRAORDINARY CRIMINAL JUSTICE COSTS**

|   |           |
|---|-----------|
| General Fund--State Appropriation (FY 2012) ..... | \$591,000 |
|---|-----------|

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute \$338,000 to Franklin county, \$128,000 to Jefferson county, and \$125,000 to Okanogan county for extraordinary criminal justice costs.

**NEW SECTION. Sec. 718. FOR THE OFFICE OF FINANCIAL MANAGEMENT--AGENCY REALLOCATION AND REALIGNMENT COMMISSION**

|   |           |
|---|-----------|
| General Fund--State Appropriation (FY 2012) ..... | \$100,000 |
|---|-----------|

The appropriation in this section is subject to the following conditions and limitations:

(1) The agency reallocation and realignment of Washington (ARROW) commission on restructuring state government is established, with members as provided in this section.

(a) The governor, the president of the senate, and the speaker of the house of representatives shall each appoint two members to the commission, each of whom shall have broad statewide policy and fiscal experience. Each appointing authority shall appoint a member to replace any member who resigns.

(b) The commission shall choose its chair from among its membership or may select a representative of the administering higher education institution as chair. The president of the senate and the speaker of the house, or their mutually selected designee, shall convene the initial meeting of the commission and shall preside until a chair is chosen.

(2) The commission shall:

(a) Review budget, revenue, and caseload forecasts and estimates over the ensuing six-year period;

(b) Examine current operations and organization of state government, assuming no expansion of current funding sources; and

(c) Evaluate operational and organizational restructuring possibilities to find cost savings and efficiencies in order to maintain or enhance governmental functions with fewer resources.

(3) The commission may make proposals to:

(a) Adopt methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;

(b) Eliminate duplication and overlapping of services, activities, and functions, and time-consuming or wasteful practices;

(c) Consolidate services, activities, and functions of a similar nature;

(d) Abolish services, activities, and functions to improve the efficient operation of government;

(e) Eliminate state departments and agencies, create new state departments and agencies, reorganize existing state departments and agencies, and transfer functions and responsibilities among state departments and agencies;

(f) Define or redefine the duties and responsibilities of state officers; and

(g) Revise present provisions for continuing appropriations of state funds of whatever kind for whatever purpose, eliminate any such existing provisions, or adopt new provisions.

(4) Staffing and administrative support to the commission shall be provided by a university or college that volunteers to do so.

(5) Commissioners are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 from funds appropriated to the commission.

(6) The expenses of the commission shall be paid out of funds appropriated to the commission, funds made available by the university or college administering the commission, and gifts, grants, and donations.

(7) The commission shall report its findings and recommendations, including proposed legislation, to the appropriate committees of the legislature. Recommendations may be in bill form as proposed legislation, as appropriations or revenue proposals, revisions to administrative rules, or other appropriate formats.

(8) The office of the code reviser shall assist the commission with bill drafting as needed.

(9) This section expires June 30, 2012.

**NEW SECTION. Sec. 719. FOR THE OFFICE OF FINANCIAL MANAGEMENT--STATE EFFICIENCY AND RESTRUCTURING REPAYMENT**

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$5,487,000         |
| General Fund--State Appropriation (FY 2013) ..... | \$6,674,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$12,161,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for expenditure into the cleanup settlement account on July 1, 2011, and July 1, 2012, as repayment of moneys that were transferred to the state efficiency and restructuring account.

**NEW SECTION. Sec. 720.** A new section is added to 2011 c ... (ESHB 1175) (uncodified) to read as follows:

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FOR THE OFFICE OF FINANCIAL  
MANAGEMENT--TRANSPORTATION  
EMPLOYEES--RETIREMENT SYSTEM CONTRIBUTIONS  
Dedicated Funds and Accounts Appropriation.....\$133,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to increase agency and institution appropriations in accordance with the schedules in LEAP Transportation Document S-LCL 02 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and adjust appropriation schedules accordingly.

(2) The appropriation in this section reflects additional retirement system contributions resulting from Senate Bill No. 5882 (local government employees). If the bill is not enacted by June 30, 2011, the amounts provided in this section shall lapse.

**NEW SECTION. Sec. 721. FOR THE OFFICE OF FINANCIAL MANAGEMENT--RETIREMENT SYSTEM CONTRIBUTIONS**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$296,000          |
| General Fund--State Appropriation (FY 2013) ..... | \$357,000          |
| General Fund--Federal Appropriation .....         | \$157,000          |
| General Fund--Private/Local Appropriation.....    | \$15,000           |
| Dedicated Funds and Accounts Appropriation.....   | \$232,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$1,057,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to increase agency and institution appropriations in accordance with the schedules in LEAP Omnibus Document S-LCL 01 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

(2) The appropriations in this section reflect additional retirement system contributions resulting from Senate Bill No. 5882 (local government employees). If the bill is not enacted by June 30, 2011, the amounts provided in this section shall lapse.

**NEW SECTION. Sec. 722.** A new section is added to 2011 c ... (ESHB 1175) (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEES--RETIREMENT SYSTEM CONTRIBUTIONS**  
Dedicated Funds and Accounts Appropriation.....(\$64,000)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to reduce agency and institution appropriations in accordance with the schedules in LEAP Transportation Document S-RTA 02 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and adjust appropriation schedules accordingly.

(2) The appropriation in this section reflects reduced retirement system contributions resulting from Senate Bill No. 5852 (public employment of retirees). If the bill is not enacted by June 30, 2011, this section shall not take effect.

**NEW SECTION. Sec. 723. FOR THE OFFICE OF FINANCIAL MANAGEMENT--SCHOOL EMPLOYEES--CONTRIBUTIONS TO RETIREMENT SYSTEMS**

|   |             |
|---|-------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$600,000) |
|---|-------------|

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2013) ..... | (\$900,000)          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$1,500,000)</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely for adjustments to allocations to reflect retirement system employer contribution rate changes. The office of financial management shall reduce allotments for the office of the superintendent of public instruction by these amounts. The allotment reductions under this section shall be placed in unallotted status and remain unexpended.

(2) The appropriations in this section reflect reduced retirement system contributions resulting from Senate Bill No. 5852 (public employment of retirees). If the bill is not enacted by June 30, 2011, this section shall not take effect.

**NEW SECTION. Sec. 724. FOR THE OFFICE OF FINANCIAL MANAGEMENT--RETIREMENT SYSTEM CONTRIBUTIONS**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$155,000)        |
| General Fund--State Appropriation (FY 2013) ..... | (\$188,000)        |
| General Fund--Federal Appropriation .....         | (\$75,000)         |
| General Fund--Private/Local Appropriation.....    | (\$7,000)          |
| Dedicated Funds and Accounts Appropriation.....   | (\$113,000)        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$538,000)</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to reduce agency and institution appropriations in accordance with the schedules in LEAP Omnibus Document S-RTA 01 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and adjust appropriation schedules accordingly.

(2) The appropriations in this section reflect reduced retirement system contributions resulting from Senate Bill No. 5852 (public employment of retirees). If the bill is not enacted by June 30, 2011, this section shall not take effect.

**NEW SECTION. Sec. 725.** A new section is added to 2011 c ... (ESHB 1175) (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEE SALARY REDUCTIONS**

|   |                |
|---|----------------|
| Dedicated Funds and Accounts Appropriation..... | (\$17,856,000) |
|---|----------------|

The appropriation in this section is solely for the purposes designated in this section and is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to reduce agency appropriations in the transportation appropriations act to reflect savings associated with a 3.0 percent salary reduction for state employees as provided in Senate Bill No. 5860 (state government employee compensation).

(2) The appropriation from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in LEAP Transportation Document S-Sal 02 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP Transportation Document S-Sal 02 and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

**NEW SECTION. Sec. 726. FOR THE OFFICE OF FINANCIAL MANAGEMENT--EMPLOYEE SALARY REDUCTIONS**

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$87,777,000) |
|---|----------------|

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|  |                 |
|--|-----------------|
| General Fund--State Appropriation (FY 2013) .....                | (\$88,076,000)  |
| General Fund--Federal Appropriation .....                        | (\$27,464,000)  |
| General Fund--Private/Local Appropriation.....                   | (\$2,658,000)   |
| Education Legacy Trust Account--State Appropriation(\$1,228,000) |                 |
| Dedicated Funds and Accounts Appropriation.....                  | (\$44,254,000)  |
| TOTAL APPROPRIATION .....  | (\$251,457,000) |

The appropriations in this section are solely for the purposes designated in this section and are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to reduce agency and institution appropriations to reflect savings associated with a 3.0 percent salary reduction for state employees as provided in Senate Bill No. 5860 (state government employee compensation).

(2) Appropriations also reflect a 3.0 percent cost saving in higher education compensation expenditures pursuant to Senate Bill No. 5860 (state government employee compensation).

(3) The appropriation from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in LEAP Omnibus Document S-Sal 01 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP Omnibus Document S-Sal 01 and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

**NEW SECTION. Sec. 727.** A new section is added to 2011 c ... (ESHB 1175) (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEES RETIREMENT SYSTEM CONTRIBUTIONS**

|   |                |
|---|----------------|
| Dedicated Funds and Accounts Appropriation..... | (\$11,562,000) |
|---|----------------|

The appropriation in this section is solely for the purposes designated in this section and is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to reduce agency appropriations in the transportation appropriations act to reflect retirement system employer contribution rate changes. The appropriation from dedicated funds and accounts shall be made in the amounts specified and from the dedicated funds and accounts specified in LEAP Transportation Document S-GLU 02 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and to the state agencies specified in LEAP Transportation Document S-GLU 02 and adjust appropriation schedules accordingly.

(2) The appropriation in this section reflect reduced retirement system contributions resulting from Senate Bill No. 5920 (limiting annual increase amounts). If the bill is not enacted by June 30, 2011, this section shall not take effect.

**NEW SECTION. Sec. 728. FOR THE OFFICE OF FINANCIAL MANAGEMENT--STATE EMPLOYEES--TEMPORARY LAYOFFS**

|   |                |
|---|----------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$20,282,000) |
| General Fund--State Appropriation (FY 2013) ..... | (\$20,302,000) |
| General Fund--Federal Appropriation .....         | (\$5,746,000)  |
| General Fund--Private/Local Appropriation.....    | (\$579,000)    |
| Dedicated Funds and Accounts Appropriation.....   | (\$12,082,000) |
| TOTAL APPROPRIATION .....                         | (\$58,991,000) |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely to reduce agency and institution appropriations in accordance with the

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schedules in LEAP Omnibus Document S-TL3 dated April 12, 2011, which is hereby incorporated by reference. The office of financial management shall allocate the moneys appropriated in this section in the amounts specified and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

(2) The appropriations in this section reflect savings as a result of temporary layoffs for state employees as provided in Senate Bill No. 5860 (state government employee compensation).

**NEW SECTION. Sec. 729. FOR THE OFFICE OF FINANCIAL MANAGEMENT--MANAGEMENT EFFICIENCIES**

The office of financial management shall develop a plan to achieve \$14,836,000 in state general fund reductions in management staffing and other efficiencies in addition to the administrative savings in this act. It is the intent of the legislature that the reduction plan developed and implemented in accordance with this section shall focus on achieving management efficiencies and will avoid, to the extent possible, direct impact on client services and program operations. In implementing the administrative and programmatic reductions in this act, the legislature intends that agencies use new and best practices in their executive and management workforce based on their agency mission. It is the intent of the legislature that agencies continuously evaluate management and administrative reforms, such as delayering and streamlining of support functions, that will result in increased efficiency and better address the structural changes in the nature of work and employment in many state agencies. State agencies can anticipate continuous legislative policy and fiscal committee examination of the architecture and cost of the state's career and executive workforce, and shall be prepared to provide relevant information in hearings and work sessions and for the annual department of personnel report. From the appropriations in this act, the office of financial management shall reduce general fund--state allotments for fiscal year 2012 by \$8,607,000 and for fiscal year 2013 by \$8,607,000 in accordance with the schedules in LEAP Omnibus Document SME dated April 13, 2011. The allotment reductions shall be placed in reserve status and remain unexpended.

**NEW SECTION. Sec. 730. FOR THE OFFICE OF FINANCIAL MANAGEMENT--CONTRACTING FOR SERVICES**

The office of financial management shall work with the appropriate state agencies to generate savings of \$1,875,000 from the state general fund as a result of contracting for purchasing services by contract. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by \$1,875,000 for fiscal year 2013 to reflect savings from purchasing services by contract for bulk printing and mail, real estate lease brokering, and motor pool fleet management as required by this act. The allotment reductions shall be placed in unallotted status and remain unexpended.

**NEW SECTION. Sec. 731. FOR THE OFFICE OF FINANCIAL MANAGEMENT--ATTORNEY GENERAL CHARGES**

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,490,000  |
| General Fund--State Appropriation (FY 2013) ..... | \$2,490,000  |
| General Fund--Federal Appropriation .....         | \$1,226,000  |
| General Fund--Private/Local Appropriation.....    | \$94,000     |
| Special Account Revolving Appropriation.....      | \$4,032,000  |
| TOTAL APPROPRIATION .....                         | \$10,332,000 |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section reflect increases in agency appropriations related to the state agency legal services. The office of financial management shall increase

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allotments in the amounts specified, and to the state agencies specified in LEAP omnibus document S-SAG, dated April 12, 2011, and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

**NEW SECTION. Sec. 732. FOR THE OFFICE OF FINANCIAL MANAGEMENT--STATE AUDITOR CHARGES**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$2,030,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$2,030,000        |
| General Fund--Federal Appropriation .....         | \$996,000          |
| General Fund--Private/Local Appropriation.....    | \$76,000           |
| Special Account Revolving Appropriation.....      | \$3,272,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$8,404,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section reflect increases in agency appropriations related to the state auditor services. The office of financial management shall increase allotments in the amounts specified, and to the state agencies specified in LEAP omnibus document S-SAU, dated April 12, 2011, and adjust appropriation schedules accordingly. The office of financial management shall make any further allotment adjustments necessary to reflect agency mergers or consolidations assumed in this act.

**NEW SECTION. Sec. 733. FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSITIONAL HOUSING OPERATING AND RENT ACCOUNT**

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2012) ..... | \$4,250,000        |
| General Fund--State Appropriation (FY 2013) ..... | \$4,250,000        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$8,500,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the transitional housing operating and rent account.

**NEW SECTION. Sec. 734. FOR THE OFFICE OF FINANCIAL MANAGEMENT--SCHOOL EMPLOYEES--SALARY SAVINGS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2012) ..... | (\$1,443,000)        |
| General Fund--State Appropriation (FY 2013) ..... | (\$1,804,000)        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$3,247,000)</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriations in this section are provided solely for adjustments to allocations to school districts as a result of salary savings associated with additional teacher retirements resulting from the incentives provided by Senate Bill No. 5846 (health benefit subsidies). The office of financial management shall reduce allotments for the office of the superintendent of public instruction by these amounts. The allotment reductions under this section shall be placed in unallotted status and remain unexpended.

(2) Actual salary savings are expected to be greater than the amounts contained in this section due to costs associated with subsidy payments and other benefits for retirees.

(3) The appropriations in this section reflect reduced retirement system contributions resulting from the provisions of Senate Bill No. 5846 (health benefit subsidies). If the bill is not enacted by June 30, 2011, this section does not take effect.

**NEW SECTION. Sec. 735. FOR THE OFFICE OF FINANCIAL MANAGEMENT--INDUSTRIAL INSURANCE SAVINGS**

From the appropriations in this act, the office of financial management shall reduce general fund--state allotments for fiscal year 2012 by \$8,038,000 and for fiscal year 2013 by \$8,038,000 to reflect savings in the industrial insurance costs of state agencies

resulting from the implementation of Engrossed Senate Bill No. 5566 (long-term disability of injured workers). The allotment reductions shall be placed in reserve status and remain unexpended. If the bill is not enacted by June 30, 2011, this section shall not take effect.

(End of part)

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**NEW SECTION. Sec. 801. FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

|  |                      |
|--|----------------------|
| General Fund Appropriation for fire insurance premium distributions.....   | \$8,368,000          |
| General Fund Appropriation for public utility district excise tax distributions.....   | \$49,418,000         |
| General Fund Appropriation for prosecuting attorney distributions.....   | \$6,281,000          |
| General Fund Appropriation for boating safety and education distributions .....  | \$4,000,000          |
| General Fund Appropriation for other tax distributions .....   | \$58,000             |
| General Fund Appropriation for habitat conservation program distributions.....   | \$3,000,000          |
| Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies.....   | \$2,960,000          |
| Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution.....   | \$160,000            |
| Timber Tax Distribution Account Appropriation for distribution to "timber" counties .....  | \$40,421,000         |
| County Criminal Justice Assistance Appropriation.....  | \$69,801,000         |
| Municipal Criminal Justice Assistance Appropriation  | \$26,950,000         |
| City-County Assistance Account Appropriation for local government financial assistance distribution .....  | \$16,589,000         |
| Liquor Excise Tax Account Appropriation for liquor excise tax distribution .....   | \$52,152,000         |
| Streamlined Sales and Use Tax Mitigation Account Appropriation for distribution to local taxing jurisdictions to mitigate the unintended revenue redistribution effect of the sourcing law changes ..... | \$49,635,000         |
| Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation.....   | \$7,441,000          |
| Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians .....   | \$4,748,000          |
| Liquor Revolving Account Appropriation for liquor profits distribution.....  | \$69,318,000         |
| <b>TOTAL APPROPRIATION .....</b>   | <b>\$411,301,000</b> |

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 802. FOR THE STATE TREASURER--FOR THE COUNTY CRIMINAL JUSTICE ASSISTANT ACCOUNT**

|  |             |
|--|-------------|
| Impaired Driver Safety Account Appropriation ..... | \$2,501,000 |
|--|-------------|

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2011-13 biennium in accordance with RCW 82.14.310. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI

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penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

**NEW SECTION. Sec. 803. FOR THE STATE TREASURER--MUNICIPAL CRIMINAL JUSTICE ASSISTANT ACCOUNT**

Impaired Driver Safety Account Appropriation .....\$1,666,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2011-2013 biennium to all cities ratably based on population as last determined by the office of financial management. The distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

**NEW SECTION. Sec. 804. FOR THE STATE TREASURER--FEDERAL REVENUES FOR DISTRIBUTION**

General Fund Appropriation for federal flood control funds distribution .....\$74,000  
General Fund Appropriation for federal grazing fees distribution .....\$2,430,000  
Forest Reserve Fund Appropriation for federal forest reserve fund distribution .....\$29,175,000  
TOTAL APPROPRIATION .....\$31,679,000

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**NEW SECTION. Sec. 805. FOR THE STATE TREASURER--TRANSFERS**

State Treasurer's Service Account: For transfer to the state general fund, \$10,000,000 for fiscal year 2012 and \$15,000,000 for fiscal year 2013.....\$25,000,000  
Waste Reduction, Recycling, and Litter Control Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2012 and \$2,000,000 for fiscal year 2013 .....\$4,000,000  
Aquatics Lands Enhancement Account: For transfer to the state general fund, \$3,500,000 for fiscal year 2012 and \$3,500,000 for fiscal year 2013.....\$7,000,000  
Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account.....\$38,000,000  
Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,100,000 for fiscal year 2012 and \$2,100,000 for fiscal year 2013.....\$4,200,000  
General Fund: For transfer to the streamlined sales and use tax account, \$24,846,000 for fiscal year 2012 and \$24,789,000 for fiscal year 2013.....\$49,635,000  
Public Works Assistance Account: For transfer to the water pollution control revolving account, \$7,750,000 for fiscal year 2012 and \$7,750,000 for fiscal year 2013 .....\$15,500,000

The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$4,500,000 for fiscal year 2012 and \$4,500,000 for fiscal year 2013 .....\$9,000,000  
Thurston County Capital Facilities Account: For transfer to the state general fund, \$4,000,000 for fiscal year 2012 and \$4,000,000 for fiscal year 2013.....\$8,000,000  
Public Works Assistance Account: For transfer to the drinking water assistance account, \$8,000,000 for fiscal year 2012 and \$8,000,000 for fiscal year 2013 .....\$16,000,000  
Liquor Control Board Construction and Maintenance Account: For transfer to the state general fund, \$500,000 for fiscal year 2012 and \$500,000 for fiscal year 2013 .....\$1,000,000  
Education Savings Account: For transfer to the state general fund, \$22,500,000 for fiscal year 2012 and \$22,500,000 for fiscal year 2013.....\$45,000,000  
Department of Retirement Systems Expense Account: For transfer to the state general fund, \$250,000 for fiscal year 2012 and \$250,000 for fiscal year 2013 .....\$500,000  
Education Construction Account: For transfer to the state general fund, \$102,000,000 for fiscal year 2012 and \$102,000,000 for fiscal year 2013.....\$204,000,000  
Public Works Assistance Account: For transfer to the state general fund, \$25,000,000 for fiscal year 2012 and \$25,000,000 for fiscal year 2013.....\$50,000,000  
Home Security Fund Account: For transfer to the disability lifeline account, \$7,181,000 for fiscal year 2012 and \$7,180,000 for fiscal year 2013 .....\$14,458,000  
Affordable Housing For All Account: For transfer to the home security fund, \$1,000,000 for fiscal year 2012 and \$1,000,000 for fiscal year 2013.....\$2,000,000  
Cleanup Settlement Account: For transfer to the state efficiency and restructuring account, \$8,455,000 for fiscal year 2012 and \$8,376,000 for fiscal year 2013 .....\$16,831,000  
General Fund: For transfer to the life sciences discovery fund, \$10,000,000 for fiscal year 2012 and \$10,000,000 for fiscal year 2013.....\$20,000,000

The transfer to the life sciences discovery fund is subject to the following conditions:

- (1) All new grants awarded during the 2011-2013 fiscal biennium shall support and accelerate the commercialization of an identifiable product;
- (2) Prior to the awarding of new grants, the life sciences discovery fund authority must seek the input of the executive director of the Washington economic development commission;
- (3) Upon the recommendation of the Washington economic development commission, funds may be used for the recruitment of life sciences researchers who have a history of commercialization of new technologies, to public research institutions in the state;
- (4) Funds may be used to collaborate and contract with innovate Washington in commercializing life sciences technology and promoting biomedical manufacturing;
- (5) Funds may be granted to public and private entities for the purpose of leveraging private funds to the highest degree possible. Proposals involving a startup company or corporate participant must be given a higher priority;
- (6) The life sciences discovery fund authority must develop a payment system that allows both regular payments and payments based on deliverables for the purpose of assisting with initial project costs; and

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(7) By December 1, 2013, the life sciences discovery fund must report to the fiscal and economic development committees of the legislature on the impact of grant awards on commercialization.

(End of part)

**PART IX  
MISCELLANEOUS**

**NEW SECTION. Sec. 901. EXPENDITURE AUTHORIZATIONS**

The appropriations contained in this act are maximum expenditure authorizations. Pursuant to RCW 43.88.037, moneys disbursed from the treasury on the basis of a formal loan agreement shall be recorded as loans receivable and not as expenditures for accounting purposes. To the extent that moneys are disbursed on a loan basis, the corresponding appropriation shall be reduced by the amount of loan moneys disbursed from the treasury during the 2009-2011 fiscal biennium.

**NEW SECTION. Sec. 902. EMERGENCY FUND ALLOCATIONS**

Whenever allocations are made from the governor's emergency fund appropriation to an agency that is financed in whole or in part by other than general fund moneys, the director of financial management may direct the repayment of such allocated amount to the general fund from any balance in the fund or funds which finance the agency. An appropriation is not necessary to effect such repayment.

**NEW SECTION. Sec. 903. STATUTORY APPROPRIATIONS**

In addition to the amounts appropriated in this act for revenues for distribution, state contributions to the law enforcement officers' and fire fighters' retirement system plan 2, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under chapters 39.94 and 39.96 RCW or any proper bond covenant made under law.

**NEW SECTION. Sec. 904. BOND EXPENSES**

In addition to such other appropriations as are made by this act, there is hereby appropriated to the state finance committee from legally available bond proceeds in the applicable construction or building funds and accounts such amounts as are necessary to pay the expenses incurred in the issuance and sale of the subject bonds.

**NEW SECTION. Sec. 905. VOLUNTARY RETIREMENT, SEPARATION, AND DOWNSHIFTING INCENTIVES**

As a management tool to reduce costs and make more effective use of resources, while improving employee productivity and morale, agencies may implement a voluntary retirement, separation, and/or downshifting incentive program that is cost neutral or results in cost savings over a two-year period following the commencement of the program, provided that such a program is approved by the director of financial management. Agencies participating in this authorization may offer voluntary retirement, separation, and/or downshifting incentives and options according to procedures and guidelines established by the office of financial management, in consultation with the department of personnel and the department of retirement systems. The options may include, but are not limited to, financial incentives for: Voluntary separation or retirement, voluntary leave without pay, voluntary work week or work hour reduction, voluntary downward movement, or temporary separation for development purposes. An employee does not have a contractual right to a financial incentive offered pursuant to this

section. Offers shall be reviewed and monitored jointly by the department of personnel and the department of retirement systems. Agencies are required to submit a report by June 30, 2013, to the legislature and the office of financial management on the outcome of their approved incentive program. The report should include information on the details of the program including the cost of the incentive per participant, the total cost to the state, and the projected or actual net dollar savings over the 2011-2013 biennium.

**NEW SECTION. Sec. 906. COLLECTIVE BARGAINING AGREEMENTS NOT IMPAIRED**

Nothing in this act prohibits the expenditure of any funds by an agency or institution of the state for benefits guaranteed by any collective bargaining agreement in effect on the effective date of this section.

**NEW SECTION. Sec. 907. COLLECTIVE BARGAINING AGREEMENTS**

The following sections represent the results of the 2011-2013 collective bargaining process required under the provisions of chapters 41.80 and 41.56 RCW. Provisions of the collective bargaining agreements contained in this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements or the continuation of terms and conditions of the 2009-2011 agreements contained in Part IX of this act may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

**NEW SECTION. Sec. 908. COLLECTIVE BARGAINING AGREEMENTS--WFSE, TEAMSTERS, UFCW, WAFWP, IFPTE 17, COALITION OF UNIONS**

Agreements have been reached between the governor and the following unions: Washington federation of state employees, teamsters local union 117, united food and commercial workers, Washington association of fish and wildlife professionals, international federation of professional and technical engineers local 17, and the coalition of unions, under the provisions of chapter 41.80 RCW for the 2011-2013 biennium subject to union internal processes/procedures. Funding is reduced to reflect a 3.0 percent temporary salary reduction for all employees making \$2,500 or more per month covered under the agreements for fiscal years 2012 and 2013 through June 29, 2013. Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 30, 2011 will be reinstated. Temporary salary reduction leave is granted for the term of the 2011-2013 agreement.

**NEW SECTION. Sec. 909. COLLECTIVE BARGAINING AGREEMENT--SEIU HEALTHCARE 1199NW**

An agreement has been reached between the governor and the service employees international union healthcare 1199nw under the provisions of chapter 41.80 RCW for the 2011-2013 biennium subject to union internal processes/procedures. Funding is reduced to reflect 8 days of leave without pay per year for fiscal years 2012 and 2013.

**NEW SECTION. Sec. 910. COLLECTIVE BARGAINING AGREEMENT--TERMS AND CONDITIONS**

No agreements have been reached between the governor and the following unions: Washington public employees association, Washington public employees association higher education community college coalition, Washington federation of state employees higher education community college coalition, Washington federation of state employees Central Washington University, Washington federation of state employees Western Washington University, Washington federation of state employees The Evergreen State College, and public school employees Western

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Washington University, under the provisions of chapter 41.80 RCW for the 2011-2013 biennium. Appropriations in this act provide funding to continue the terms and conditions of the 2009-2011 general government and higher education agreements negotiated by the office of financial management's labor relations office under the provisions of chapter 41.80 RCW. For fiscal year 2012, appropriations have been reduced in an amount equal to a 3 percent salary reduction for all represented employees making \$2,500 or more per month. This reduction will be implemented according to the terms and conditions of the 2009-2011 agreements. For fiscal year 2013, funding is reduced to reflect a 3.0 percent temporary salary reduction for all employees making \$2,500 or more per month through June 29, 2013. Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 30, 2011, will be reinstated. Temporary salary reduction leave is granted for fiscal year 2013. These changes will be implemented according to law.

**NEW SECTION. Sec. 911. COLLECTIVE BARGAINING AGREEMENT--WSP TROOPERS ASSOCIATION**

No agreement has been reached between the governor and the Washington state patrol trooper's association under the provisions of chapter 41.56 RCW for the 2011-2013 biennium. Appropriations in this act for the Washington state patrol provide funding to continue the provisions of the 2009-2011 agreement.

**NEW SECTION. Sec. 912. COLLECTIVE BARGAINING AGREEMENT--WSP LIEUTENANTS ASSOCIATION**

No agreement has been reached between the governor and the Washington state patrol lieutenant's association under the provisions of chapter 41.56 RCW for the 2011-2013 biennium. Appropriations in this act for the Washington state patrol provide funding to continue the provisions of the 2009-2011 agreement.

**NEW SECTION. Sec. 913. COLLECTIVE BARGAINING AGREEMENT FOR NONSTATE EMPLOYEES--SEIU LOCAL 925 CHILDCARE WORKERS**

An agreement has been reached between the governor and the service employees international union local 925 under the provisions of chapter 41.56 RCW for the 2011-2013 biennium, subject to union internal processes/procedures. Funding for an increase in the state's health care contribution for childcare workers is included in the budget.

**NEW SECTION. Sec. 914. COLLECTIVE BARGAINING AGREEMENT FOR NONSTATE EMPLOYEES--WSRCC ADULT FAMILY HOMES**

Appropriations in this act reflect the collective bargaining agreement reached between the governor and the Washington state residential care council under the provisions of chapter 41.56 RCW for the 2011-2013 biennium. For those covered under this agreement, economic provisions are the same as the terms and conditions in the 2009-2011 agreement.

**NEW SECTION. Sec. 915. AGREEMENTS AND TERMS AND CONDITIONS NOT NEGOTIATED BY THE OFFICE OF FINANCIAL MANAGEMENT'S LABOR RELATIONS OFFICE**

No agreements under chapter 41.80 RCW have been reached between the University of Washington, Washington State University, except as specifically set forth in this act, Eastern Washington University, and the Yakima Valley community college with their respective exclusive bargaining representatives under the provisions of chapter 41.80 RCW for the 2011-2013 biennium. Appropriations in this act provide funding to continue the terms and conditions of the 2009-2011 agreements. For fiscal years 2012, appropriations have been reduced in an amount equal to a 3 percent salary reduction for all represented employees making \$2,500 or more per month. This reduction will be implemented according to

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the terms and conditions of the 2009-2011 agreements. For fiscal year 2013, funding is reduced in an amount equal to a 3 percent salary reduction for all represented employees making \$2,500 or more per month. This reduction will be implemented according to law.

**NEW SECTION. Sec. 916. COLLECTIVE BARGAINING AGREEMENT--CENTRAL WASHINGTON UNIVERSITY PUBLIC SCHOOL EMPLOYEES OF WASHINGTON**

An agreement has been reached between Central Washington University and the public school employees of Washington under the provisions of chapter 41.80 RCW for the 2011-2013 biennium subject to union internal processes/procedures. Funding is reduced to reflect a 3.0 percent temporary salary reduction for all employees making \$2,500 or more per month for fiscal years 2012 and 2013 through June 29, 2013. Effective June 30, 2013, the salary schedules effective July 1, 2009 through June 30, 2011 will be reinstated. Temporary salary reduction leave is granted for the term of the 2011-2013 agreement.

**NEW SECTION. Sec. 917. COLLECTIVE BARGAINING AGREEMENT--WASHINGTON STATE UNIVERSITY POLICE GUILD**

An agreement has been reached between Washington State University and the Washington State University police guild. The financial provisions of the 2009-2011 remain in place for the 2011-2013 biennium.

**NEW SECTION. Sec. 918. COMPENSATION--NONREPRESENTED EMPLOYEES--INSURANCE BENEFITS**

Appropriations for state agencies in this act are sufficient for nonrepresented state employee health benefits for state agencies, including institutions of higher education, and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. For calendar years 2012 and 2013, the subsidy shall be \$150.00 per month.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$66.01 per month beginning September 1, 2011, and \$67.91 beginning September 1, 2012;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW

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41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$66.01 each month beginning September 1, 2011, and \$67.91 beginning September 1, 2012, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

**NEW SECTION. Sec. 919. COMPENSATION--REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION--INSURANCE BENEFITS**

Appropriations for state agencies in this act are sufficient for represented employees outside the super coalition for health benefits, and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. For calendar years 2012 and 2013, the subsidy shall be \$150.00 per month.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$66.01 per month beginning September 1, 2011, and \$67.91 beginning September 1, 2012;

(b) For each part-time employee, who at the time of the remittance is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$66.01 each month beginning September 1, 2011, and \$67.91 beginning September 1, 2012, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

**NEW SECTION. Sec. 920. COMPENSATION--REPRESENTED EMPLOYEES--SUPER COALITION--INSURANCE BENEFITS**

The collective bargaining agreement negotiated with the super coalition under chapter 41.80 RCW includes employer premiums at 85 percent of the total weighted average of the projected health care premiums across all plans and tiers. Appropriations in this act for state agencies, including institutions of higher education are

sufficient to fund state employees health benefits for employees represented by the super coalition on health benefits, and are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$850 per eligible employee for fiscal year 2012. For fiscal year 2013 the monthly employer funding rate shall not exceed \$850 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. For calendar years 2012 and 2013, the subsidy shall be \$150.00 per month.

**NEW SECTION. Sec. 921.** The appropriations in this act reflect savings achieved by the implementation of Engrossed Senate Bill No. 5773 (health savings account option).

**NEW SECTION. Sec. 922. COLLECTIVE BARGAINING AGREEMENTS**

For the collective bargaining agreements negotiated with the state for the 2011-2013 fiscal biennium under chapters 41.56, 41.80, or 74.39A RCW, the governor may request funds necessary to implement the terms and conditions of an agreement submitted to the office of financial management after October 1st if that agreement is determined to be feasible financially to the state by the director of financial management.

**Sec. 923.** RCW 19.30.030 and 1985 c 280 s 3 are each amended to read as follows:

**(1)** The director shall not issue to any person a license to act as a farm labor contractor until:

~~((4))~~ **(a)** Such person has executed a written application on a form prescribed by the director, subscribed and sworn to by the applicant, and containing ~~((4))~~ **(i)** a statement by the applicant of all facts required by the director concerning the applicant's character, competency, responsibility, and the manner and method by which he or she proposes to conduct operations as a farm labor contractor if such license is issued, and ~~((4))~~ **(ii)** the names and addresses of all persons financially interested, either as partners, stockholders, associates, profit sharers, or providers of board or lodging to agricultural employees in the proposed operation as a labor contractor, together with the amount of their respective interests;

~~((2))~~ **(b)** The director, after investigation, is satisfied as to the character, competency, and responsibility of the applicant;

~~((3))~~ **(c)** The applicant has paid to the director a license fee of: ~~((4))~~ **(i)** Thirty-five dollars in the case of a farm labor contractor not engaged in forestation or reforestation, or ~~((2))~~ **(ii)** one hundred dollars in the case of a farm labor contractor engaged in forestation or reforestation or such other sum as the director finds necessary, and adopts by rule, for the administrative costs of evaluating applications;

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((4)) (d) The applicant has filed proof satisfactory to the director of the existence of a policy of insurance with any insurance carrier authorized to do business in the state of Washington in an amount satisfactory to the director, which insures the contractor against liability for damage to persons or property arising out of the contractor's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with the contractor's business, activities, or operations as a farm labor contractor;

((5)) (e) The applicant has filed a surety bond or other security which meets the requirements set forth in RCW 19.30.040;

((6)) (f) The applicant executes a written statement which shall be subscribed and sworn to and shall contain the following declaration:

"With regards to any action filed against me concerning my activities as a farm labor contractor, I appoint the director of the Washington department of labor and industries as my lawful agent to accept service of summons when I am not present in the jurisdiction in which the action is commenced or have in any other way become unavailable to accept service"; and

((7)) (g) The applicant has stated on his or her application whether or not his or her contractor's license or the license of any of his or her agents, partners, associates, stockholders, or profit sharers has ever been suspended, revoked, or denied by any state or federal agency, and whether or not there are any outstanding judgments against him or her or any of his or her agents, partners, associates, stockholders, or profit sharers in any state or federal court arising out of activities as a farm labor contractor.

(2) The farm labor contractor account is created in the state treasury. All receipts from farm labor contractor licenses, security deposits, penalties, and donations must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for administering the farm labor contractor licensing program, subject to authorization from the director or the director's designee.

**Sec. 924.** RCW 28C.04.535 and 1995 1st sp.s. c 7 s 4 are each amended to read as follows:

Except for the 2011-12 and 2012-13 school years, the Washington award for vocational excellence shall be granted annually. The workforce training and education coordinating board shall notify the students receiving the award, their vocational instructors, local chambers of commerce, the legislators of their respective districts, and the governor, after final selections have been made. The workforce training and education coordinating board, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the selected students. Awards shall be presented in public ceremonies at times and places determined by the workforce training and education coordinating board in cooperation with the office of the governor.

**Sec. 925.** RCW 36.22.175 and 2008 c 328 s 6006 are each amended to read as follows:

(1)(a) In addition to any other charge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for each document recorded. Revenue generated through this surcharge shall be transmitted monthly to the state treasurer for deposit in the local government archives account under RCW 40.14.024. These funds shall be used solely for providing records scheduling, security microfilm inspection and storage, archival preservation, cataloging, and indexing for local government records and digital data and access to those records and data through the regional branch archives of the division of archives and records management.

(b) The division of archives and records management within the office of the secretary of state shall provide records management training for local governments and shall establish a competitive

grant program to solicit and prioritize project proposals from local governments for potential funding to be paid for by funds from the auditor surcharge and tax warrant surcharge revenues. Application for specific projects may be made by local government agencies only. The state archivist in consultation with the advisory committee established under RCW 40.14.027 shall adopt rules governing project eligibility, evaluation, awarding of grants, and other criteria including requirements for records management training for grant recipients.

(2) The advisory committee established under RCW 40.14.027 shall review grant proposals and establish a prioritized list of projects to be considered for funding by January 1st of each even-numbered year, beginning in 2002. The evaluation of proposals and development of the prioritized list must be developed through open public meetings. Funding for projects shall be granted according to the ranking of each application on the prioritized list and projects will be funded only to the extent that funds are available. A grant award may have an effective date other than the date the project is placed on the prioritized list.

(3)(a) In addition to any other surcharge authorized by law, the county auditor shall charge a surcharge of one dollar per instrument for every document recorded after January 1, 2002. Revenue generated through this surcharge shall be transmitted to the state treasurer monthly for deposit in the local government archives account under RCW 40.14.024 to be used exclusively for: (i) The construction and improvement of a specialized regional facility located in eastern Washington designed to serve the archives, records management, and digital data management needs of local government; and (ii) payment of the certificate of participation issued for the Washington state heritage center to the extent there is an excess fund balance in the account and fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments on the certificate of participation.

(b) To the extent the facilities are used for the storage and retrieval of state agency records and digital data, that portion of the construction of such facilities used for state government records and data shall be supported by other charges and fees paid by state agencies and shall not be supported by the surcharge authorized in this subsection, except that to the extent there is an excess fund balance in the account and fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments for the Washington state heritage center, the local government archives account under RCW 40.14.024 may be used for the Washington state heritage center.

(c) At such time that all debt service from construction of the specialized regional archive facility located in eastern Washington has been paid, fifty percent of the surcharge authorized by this subsection shall be reverted to the centennial document preservation and modernization account as prescribed in RCW 36.22.170 and fifty percent of the surcharge authorized by this section shall be reverted to the state treasurer for deposit in the ~~((archives and records management))~~ public records efficiency, preservation, and access account to serve the archives, records management, and digital data management needs of local government, except that the state treasurer shall not revert funds to the centennial document preservation and modernization account and to the ~~((archives and records management))~~ public records efficiency, preservation, and access account if fees generated under RCW 36.18.010 and 43.07.128 are insufficient to meet debt service payments on the Washington state heritage center.

**Sec. 926.** RCW 40.14.025 and 2003 c 163 s 1 are each amended to read as follows:

(1) The secretary of state and the director of financial management shall jointly establish a procedure and formula for allocating the costs of services provided by the division of archives

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and records management to state agencies. The total amount allotted for services to state agencies shall not exceed the appropriation to the archives and records management account during any allotment period.

(2) There is created the ~~((archives and records management))~~ public records efficiency, preservation, and access account in the state treasury which shall consist of all fees and charges collected under this section. The account shall be appropriated exclusively for the payment of costs and expenses incurred in the operation of the division of archives and records management as specified by law.

**Sec. 927.** RCW 40.14.027 and 2003 c 163 s 4 are each amended to read as follows:

State agencies shall collect a surcharge of twenty dollars from the judgment debtor upon the satisfaction of a warrant filed in superior court for unpaid taxes or liabilities. The surcharge is imposed on the judgment debtor in the form of a penalty in addition to the filing fee provided in RCW 36.18.012(10). The surcharge revenue shall be transmitted to the state treasurer for deposit in the ~~((archives and records management))~~ public records efficiency, preservation, and access account.

Surcharge revenue deposited in the local government archives account under RCW 40.14.024 shall be expended by the secretary of state exclusively for disaster recovery, essential records protection services, and records management training for local government agencies by the division of archives and records management. The secretary of state shall, with local government representatives, establish a committee to advise the state archivist on the local government archives and records management program.

**Sec. 928.** RCW 41.50.110 and 2009 c 564 s 924 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37, 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the ~~((2007-2009 and))~~ 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 929.** RCW 41.60.050 and 1991 sp.s. c 16 s 918 are each amended to read as follows:

The legislature shall appropriate from the department of personnel service fund for the payment of administrative costs of the productivity board. However, during the ~~((1991-93))~~ 2011-2013 fiscal biennium, the ~~((administrative costs))~~ operations of the productivity board shall be ~~((appropriated from the savings recovery account))~~ suspended.

**Sec. 930.** RCW 41.80.010 and 2010 c 104 s 1 are each amended to read as follows:

(1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under RCW 41.80.070, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this

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subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 41.80.090.

(4)(a)(i) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community colleges or a designee chosen by the board to negotiate on its behalf.

(ii) A governing board of a university or college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section, except that:

(A) The governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of a university or college that the representative represents; or

(B) If the parties mutually agree, the governor or the governor's designee and an exclusive bargaining representative shall negotiate one master collective bargaining agreement for all of the bargaining units of employees of more than one university or college that the representative represents.

(iii) A governing board of a community college may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(b) Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations.

(c)(i) If appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements reached between institutions of higher education and exclusive bargaining representatives agreed to under the provisions of this chapter, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section, except as provided in (c)(ii) of this subsection.

(ii) In the case of a bargaining unit of employees of institutions of higher education in which the exclusive bargaining representative is certified during or after the conclusion of a legislative session, the legislature may act upon the compensation and fringe benefit provisions of the unit's initial collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature.

(5) There is hereby created a joint committee on employment relations, which consists of two members with leadership positions in the house of representatives, representing each of the two largest caucuses; the chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses; two members with leadership positions in the senate, representing each of the two largest caucuses; and the chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses. The governor shall periodically consult with the committee regarding appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements, and upon completion of negotiations, advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements.

(6) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(7) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) For the 2011-2013 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee shall be a separate agreement for which the governor may request funds necessary to implement the agreement. If such an agreement is negotiated and funded by the legislature, this agreement will supersede any terms and conditions of an expired 2009-2011 biennial master collective bargaining agreement under this chapter regarding health care benefits.

**Sec. 931.** RCW 41.80.020 and 2010 c 283 s 16 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter 354, Laws of 2002.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the

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coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4). For agreements covering the 2011-2013 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

**Sec. 932.** RCW 43.08.190 and 2010 c 222 s 3 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040(4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

During the 2009-2011 fiscal biennium and the 2011-2013 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 933.** RCW 43.09.475 and 2009 c 564 s 929 are each amended to read as follows:

The performance audits of government account is hereby created in the custody of the state treasurer. Revenue identified in RCW 82.08.020(5) and 82.12.0201 shall be deposited in the account. Money in the account shall be used to fund the performance audits and follow-up performance audits under RCW 43.09.470 and shall be expended by the state auditor in accordance with chapter 1, Laws of 2006. Only the state auditor or the state auditor's designee may authorize expenditures from the account.

The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. During the 2009-2011 fiscal biennium, the legislature may transfer from the performance audits of government account to the state general fund such amounts as deemed to be appropriate or necessary. During 2011-2013 fiscal biennium, the performance audits of government account may be appropriated for fraud investigations in the state auditor's office and the department of social and health services, audit and collection functions in the department of revenue, and audits of school districts. In addition, during the 2011-2013 fiscal biennium the account may be used to fund the office of financial management's contract for the compliance audit of the state auditor.

**Sec. 934.** RCW 43.19.501 and 2009 c 564 s 932 are each amended to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for predesign identified in section 1037, chapter 328, Laws of 2008.

During the 2009-2011 and 2011-2013 fiscal ~~((biennium))~~ biennia, the legislature may transfer from the Thurston county capital facilities account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 935.** RCW 43.20A.725 and 2010 1st sp.s. c 37 s 921 are each amended to read as follows:

(1) The department, through the sole authority of the office or its successor organization, shall maintain a program whereby an individual of school age or older who possesses a hearing or speech impairment is provided with telecommunications equipment, software, and/or peripheral devices, digital or otherwise, that is determined by the office to be necessary for such a person to access and use telecommunications transmission services effectively.

(2) The department, through the sole authority of the office or its successor organization, shall maintain a program where telecommunications relay services of a human or electronic nature will be provided to connect hearing impaired, deaf-blind, or speech impaired persons with persons who do not have a hearing or speech impairment. Such telecommunications relay services shall provide the ability for an individual who has a hearing or speech impairment to engage in voice, tactile, or visual communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice or visual communication services by wire or radio subject to subsection (4)(b) of this section.

(3) The telecommunications relay service and equipment distribution program may operate in such a manner as to provide communications transmission opportunities that are capable of incorporating new technologies that have demonstrated benefits consistent with the intent of this chapter and are in the best interests of the citizens of this state.

(4) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services according to this section. The relay service contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval. The

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relay system providers and telecommunications equipment vendors shall be selected on the basis of cost-effectiveness and utility to the greatest extent possible under the program and technical specifications established by the office.

(a) To the extent funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter, the office may award contracts for communications and related services and equipment for hearing impaired or speech impaired individuals accessing or receiving services provided by, or contracted for, the department to meet access obligations under Title 2 of the federal Americans with disabilities act or related federal regulations.

(b) The office shall perform its duties under this section with the goal of achieving functional equivalency of access to and use of telecommunications services similar to the enjoyment of access to and use of such services experienced by an individual who does not have a hearing or speech impairment only to the extent that funds are available under the then-current rate and not otherwise held in reserve or required for other purposes authorized by this chapter.

(5) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine, in consultation with the office's program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the department of revenue no later than March 1st prior to the beginning of the fiscal year. The department of revenue shall then determine the amount of telecommunications relay service excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue shall determine the amount of telecommunications relay service excise tax to be collected in the following fiscal year by dividing the total of the program budget, as submitted by the office, by the total number of switched access lines in the prior calendar year, as reported to the department of revenue under chapter 82.14B RCW, and shall not exercise any further oversight of the program under this subsection other than administering the collection of the telecommunications relay service excise tax as provided in RCW 82.72.010 through 82.72.090. The telecommunications relay service excise tax shall not exceed nineteen cents per month per access line. The telecommunications relay service excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the telecommunications relay service excise tax shall be put into a fund to be administered by the office through the department. During the 2009-2011 and 2011-2013 fiscal (~~biennium~~) biennia, the funds may also be used to provide individualized employment services and employment-related counseling to people with disabilities, and technical assistance to employers about the employment of people with disabilities. "Switched access line" has the meaning provided in RCW 82.14B.020.

(6) The telecommunications relay service program and equipment vendors shall provide services and equipment consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall provide timely

notice to the legislature of any legislation that may be required to accomplish compliance.

(7) The department shall adopt rules establishing eligibility criteria, ownership obligations, financial contributions, and a program for distribution to individuals requesting and receiving such telecommunications devices distributed by the office, and other rules necessary to administer programs and services consistent with this chapter.

**Sec. 936.** RCW 43.79.201 and 2009 c 564 s 935 are each amended to read as follows:

(1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons with mental illness or developmental disabilities, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the department of (~~community, trade, and economic development~~) commerce for the housing assistance program under chapter 43.185 RCW. During the 2009-2011 and 2011-2013 fiscal (~~biennium~~) biennia, the legislature may transfer from the charitable, educational, penal and reformatory institutions account to the state general fund such amounts as reflect excess fund balance of the (~~fund account~~) account.

**Sec. 937.** RCW 43.79.465 and 2010 1st sp.s. c 37 s 929 are each amended to read as follows:

The education savings account is created in the state treasury. The account shall consist of all moneys appropriated to the account by the legislature.

(1) Ten percent of legislative appropriations to the education savings account shall be distributed as follows: (a) Fifty percent to the distinguished professorship trust fund under RCW 28B.76.565; (b) seventeen percent to the graduate fellowship trust fund under RCW 28B.76.610; and (c) thirty-three percent to the college faculty awards trust fund under RCW 28B.50.837.

(2) The remaining moneys in the education savings account may be appropriated solely for (a) common school construction projects that are eligible for funding from the common school construction account, (b) technology improvements in the common schools, (c) during the 2001-03 fiscal biennium, technology improvements in public higher education institutions, (d) during the 2007-2009 fiscal biennium, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the excess fund balance of the account attributable to unspent state general fund appropriations for fiscal year 2008, (~~and~~) (e) for fiscal year 2010, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal year 2009; and (f) for fiscal years 2012 and 2013, the legislature may transfer from the education savings account to the state general fund such amounts as reflect the fund balance of the account attributable to unspent general fund appropriations for fiscal years 2011 and 2012.

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**Sec. 938.** RCW 43.79.480 and 2009 c 564 s 937 and 2009 c 479 s 30 are each reenacted and amended to read as follows:

(1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the ~~((tobacco settlement account created in this section))~~ state general fund except as these moneys are sold or assigned under chapter 43.340 RCW.

(2) ~~((The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the state general fund, and to the tobacco prevention and control account for purposes set forth in this section. The legislature shall transfer amounts received as strategic contribution payments as defined in RCW 43.350.010 to the life sciences discovery fund created in RCW 43.350.070. During the 2009-2011 fiscal biennium, the legislature may transfer less than the entire strategic contribution payments.~~

(3)) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account ~~((from the tobacco settlement account)),~~ investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation. ~~((During the 2009-2011 fiscal biennium, the legislature may transfer from the tobacco prevention and control account to the state general fund such amounts as represent the excess fund balance of the account.))~~

**NEW SECTION. Sec. 939.** On the effective date of this section, all moneys in the tobacco settlement account shall be deposited in the general fund.

**Sec. 940.** RCW 43.88.150 and 1995 c 6 s 1 are each amended to read as follows:

(1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds. This subsection does not apply to institutions of higher education, as defined in RCW 28B.10.016, except during the 2011-2013 fiscal biennium.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner.

**Sec. 941.** RCW 43.135.045 and 2010 1st sp.s. c 27 s 5 are each amended to read as follows:

The education construction fund is hereby created in the state treasury.

(1) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction. During the 2007-2009 fiscal biennium, funds may also be used for higher education facilities preservation and maintenance. During the 2009-2011 ~~((fiscal biennium))~~ and 2011-2013 fiscal biennia, the legislature may transfer from the education construction fund to the state general fund such amounts as reflect the excess fund balance of the fund.

(2) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the

fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period.

(3) Funds for the student achievement program in RCW 28A.505.210 and 28A.505.220 shall be appropriated to the superintendent of public instruction strictly for distribution to school districts to meet the provisions set out in the student achievement act. Allocations shall be made on an equal per full-time equivalent student basis to each school district.

(4) After July 1, 2010, the state treasurer shall transfer one hundred two million dollars from the general fund to the education construction fund by June 30th of each year.

**Sec. 942.** RCW 43.155.050 and 2010 1st sp.s. c 37 s 932 and 2010 1st sp.s. c 36 s 6007 are each reenacted and amended to read as follows:

The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. Moneys in the account may also be appropriated to provide for state match requirements under federal law for projects and activities conducted and financed by the board under the drinking water assistance account. Not more than fifteen percent of the biennial capital budget appropriation to the public works board from this account may be expended or obligated for preconstruction loans, emergency loans, or loans for capital facility planning under this chapter; of this amount, not more than ten percent of the biennial capital budget appropriation may be expended for emergency loans and not more than one percent of the biennial capital budget appropriation may be expended for capital facility planning loans. For the 2007-2009 biennium, moneys in the account may be used for grants for projects identified in section 138, chapter 488, Laws of 2005 and section 1033, chapter 520, Laws of 2007. During the 2009-2011 fiscal biennium, sums in the public works assistance account may be used for the water pollution control revolving fund program match in section 3013, chapter 36, Laws of 2010 1st sp. sess. During the 2009-2011 fiscal biennium, the legislature may transfer from the job development fund to the general fund such amounts as reflect the excess fund balance of the fund. During the 2011-2013 fiscal biennium, the legislature may transfer from the public works assistance account to the general fund, the water pollution control revolving account, and the drinking water assistance account such amounts as reflect the excess fund balance of the account.

**NEW SECTION. Sec. 943.** Section 942 (RCW 43.155.050) of this act takes effect June 30, 2011.

**Sec. 944.** RCW 43.185C.060 and 2007 c 427 s 6 are each amended to read as follows:

The home security fund account is created in the state treasury, subject to appropriation. The state's portion of the surcharge established in RCW 36.22.179 and 36.22.1791 must be deposited in the account. Expenditures from the account may be used only for homeless housing programs as described in this chapter. During the 2011-2013 fiscal biennium, the legislature may transfer from the home security fund account to the disability lifeline account such amounts as reflect the excess fund balance of the account.

**Sec. 945.** RCW 43.185C.190 and 2007 c 427 s 2 are each amended to read as follows:

The affordable housing for all account is created in the state treasury, subject to appropriation. The state's portion of the surcharges established in RCW 36.22.178 shall be deposited in the account. Expenditures from the account may only be used for affordable housing programs. During the 2011-2013 fiscal

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biennium, moneys in the account may be transferred to the home security fund.

**Sec. 946.** RCW 43.330.250 and 2009 c 565 s 13 and 2009 c 564 s 943 are each reenacted and amended to read as follows:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of commerce and the economic development commission, may authorize expenditures from the account.

(3) Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.

(4) During the 2009-2011 (~~fiscal biennium~~) and 2011-2013 fiscal biennia, moneys in the account may also be transferred into the state general fund.

(5) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

(a) Workforce development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility; and

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention.

(6) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of commerce or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

(7) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

(8) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

**Sec. 947.** RCW 43.350.070 and 2011 c 5 s 916 are each amended to read as follows:

The life sciences discovery fund is created in the custody of the state treasurer. Only the board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature (~~from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480~~) into the account, moneys received pursuant to contribution agreements entered into pursuant to RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. During

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the 2009-2011 fiscal biennium, the legislature may transfer to other state funds or accounts such amounts as represent the excess balance of the life sciences discovery fund.

**Sec. 948.** RCW 46.66.080 and 2011 c 5 s 915 are each amended to read as follows:

(1) The Washington auto theft prevention authority account is created in the state treasury, subject to appropriation. All revenues from the traffic infraction surcharge in RCW 46.63.110(7)(b) and all receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support the activities of the auto theft prevention authority must be deposited into the account. Expenditures from the account may be used only for activities relating to motor vehicle theft, including education, prevention, law enforcement, investigation, prosecution, and confinement. During the 2009-2011 and 2011-2013 fiscal (~~biennium~~) biennia, the legislature may appropriate moneys from the Washington auto theft prevention authority account for criminal justice purposes and community building and may transfer funds to the state general fund such amounts as reflect the excess fund balance of the account.

(2) The authority shall allocate moneys appropriated from the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including:

(a) Financial support to prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;

(b) Financial support to a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;

(c) Financial support for the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and

(d) Financial support for programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

(3) The costs of administration shall not exceed ten percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

(4) Prior to awarding any moneys from the Washington auto theft prevention authority account for motor vehicle theft enforcement, the auto theft prevention authority must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to: (a) State, municipal, and county offender and juvenile confinement costs; (b) administration costs; (c) law enforcement costs; (d) prosecutor costs; and (e) court costs, with a priority being given to ensuring that sufficient funding is available to cover state, municipal, and county offender and juvenile confinement costs.

(5) Moneys expended from the Washington auto theft prevention authority account under subsection (2) of this section shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

(6) Grants provided under subsection (2) of this section constitute reimbursement for purposes of RCW 43.135.060(1).

**Sec. 949.** RCW 66.08.170 and 2009 c 564 s 947 are each amended to read as follows:

There shall be a fund, known as the "liquor revolving fund", which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2009-2011 fiscal biennium, the legislature may transfer funds

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from the liquor revolving account [fund] to the state general fund and may direct an additional amount of liquor profits to be distributed to local governments. Neither the transfer of funds nor the additional distribution of liquor profits to local governments during the 2009-2011 fiscal biennium may reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. During the 2011-2013 fiscal biennium, the state treasurer shall transfer from the liquor revolving fund to the state general fund forty-two million five hundred thousand dollars for fiscal year 2012 and forty-two million five hundred thousand dollars for fiscal year 2013. The transfer during the 2011-2013 fiscal biennium may not reduce the excess fund distributions that otherwise would occur under RCW 66.08.190. Sales to licensees are exempt from any liquor price increases that may result from the transfer of funds from the liquor revolving fund to the state general fund during the 2011-2013 fiscal biennium. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund.

**Sec. 950.** RCW 66.08.190 and 2003 1st sp.s. c 25 s 927 are each amended to read as follows:

(1) Except for revenues generated by the 2003 surcharge of \$0.42/liter on retail sales of spirits that ~~((shall))~~ must be distributed to the state general fund during the 2003-2005 biennium, when excess funds are distributed, all moneys subject to distribution ~~((shall))~~ must be disbursed as follows:

(a) Three-tenths of one percent to border areas under RCW 66.08.195; and

(b) Except as provided in subsection (4) of this section, from the amount remaining after distribution under (a) of this subsection, (i) fifty percent to the general fund of the state, (ii) ten percent to the counties of the state, and (iii) forty percent to the incorporated cities and towns of the state.

(2) During the months of June, September, December, and March of each year, prior to disbursing the distribution to incorporated cities and towns under subsection (1)(b) of this section, the treasurer ~~((shall))~~ must deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the city and town research services account. The treasurer ~~((shall))~~ must deposit the amount deducted into the city and town research services account.

(3) The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340.

(4) During the 2011-2013 fiscal biennium, from the amount remaining after distribution under subsection (1)(a) of this section, (a) 51.7 percent to the general fund of the state, (b) 9.7 percent to the counties of the state, and (c) 38.6 percent to the incorporated cities and towns of the state.

**Sec. 951.** RCW 66.08.235 and 2005 c 151 s 4 are each amended to read as follows:

The liquor control board construction and maintenance account is created within the state treasury. The liquor control board shall deposit into this account a portion of the board's markup, as authorized by chapter 66.16 RCW, placed upon liquor as determined by the board. Moneys in the account may be spent only after appropriation. The liquor control board shall use deposits to this account to fund construction and maintenance of a centralized distribution center for liquor products intended for sale through the board's liquor store and contract liquor store system. During the ~~((2001-2003))~~ 2011-2013 fiscal biennium, the legislature may

transfer from the liquor control board construction and maintenance account to the state general fund such amounts as reflect the ~~((appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings))~~ excess fund balance of the account.

**Sec. 952.** RCW 67.70.260 and 2002 c 371 s 919 are each amended to read as follows:

There is hereby created the lottery administrative account in the state treasury. The account shall be managed, controlled, and maintained by the director. The legislature may appropriate from the account for the payment of costs incurred in the operation and administration of the lottery. During the 2001-2003 fiscal biennium, the legislature may transfer from the lottery administrative account to the state general fund such amounts as reflect the appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings. During the 2011-2013 fiscal biennium, the lottery administrative account may also be used to fund an independent forecast of the lottery revenues conducted by the economic and revenue forecast council.

**Sec. 953.** RCW 70.93.180 and 2010 1st sp.s. c 37 s 945 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the "waste reduction, recycling, and litter control account". Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide, for the biennial litter survey under RCW 70.93.200(8), and for statewide public awareness programs under RCW 70.93.200(7). The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, and recycling, so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b) Twenty percent to the department for local government funding programs for waste reduction, litter control, and recycling activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; and

(c) Thirty percent to the department of ecology for waste reduction and recycling efforts.

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, and recycling programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

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(4) During the 2009-2011 fiscal biennium, the legislature may transfer from the waste reduction, recycling, and litter control account to the state general fund such amounts as reflect the excess fund balance of the account. Additionally, during the 2009-2011 fiscal biennium, subsection (1)(a), (b), and (c) of this section is suspended.

(5) During the 2011-2013 fiscal biennium, the legislature may transfer from the waste reduction, recycling, and litter control account to the state general fund such amounts as reflect the excess fund balance of the account. Additionally, during the 2011-2013 fiscal biennium, subsection (1)(a), (b), and (c) of this section is suspended.

**Sec. 954.** RCW 70.105D.070 and 2010 1st sp.s. c 37 s 942 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship;

(xii) Development and demonstration of alternative management technologies designed to carry out the hazardous waste management priorities of RCW 70.105.150;

(xiii) During the 2009-2011 and 2011-2013 fiscal ~~((biennium))~~ biennia, shoreline update technical assistance; ~~((and))~~

(xiv) During the 2009-2011 fiscal biennium, multijurisdictional permitting teams; and

(xv) During the 2011-2013 fiscal biennium, actions for reducing public exposure to toxic air pollution.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment.

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, shall, except as conditioned by RCW 70.105D.120, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. During the 2007-2009 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.

(c) To expedite cleanups throughout the state, the department shall partner with local communities and liable parties for cleanups. The department is authorized to use the following additional strategies in order to ensure a healthful environment for future generations:

(i) The director may alter grant-matching requirements to create incentives for local governments to expedite cleanups when one of the following conditions exists:

(A) Funding would prevent or mitigate unfair economic hardship imposed by the clean-up liability;

(B) Funding would create new substantial economic development, public recreational, or habitat restoration opportunities that would not otherwise occur; or

(C) Funding would create an opportunity for acquisition and redevelopment of vacant, orphaned, or abandoned property under RCW 70.105D.040(5) that would not otherwise occur;

(ii) The use of outside contracts to conduct necessary studies;

(iii) The purchase of remedial action cost-cap insurance, when necessary to expedite multiparty clean-up efforts.

(d) To facilitate and expedite cleanups using funds from the local toxics control account, during the 2009-2011 fiscal biennium the director may establish grant-funded accounts to hold and disperse local toxics control account funds and funds from local governments to be used for remedial actions.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) Except during the 2009-2011 and 2011-2013 fiscal ~~((biennium))~~ biennia, one percent of the moneys deposited into the

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state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. During the 2011-2013 fiscal biennium, one-half of one percent of the moneys deposited in the state and local toxics control accounts shall be allocated only for public participation grants. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(7) The department shall adopt rules for grant or loan issuance and performance.

(8) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the local toxics control account to either the state general fund or the oil spill prevention account, or both such amounts as reflect excess fund balance in the account.

(9) During the 2009-2011 fiscal biennium, the local toxics control account may also be used for a standby rescue tug at Neah Bay, local government shoreline update grants, private and public sector diesel equipment retrofit, and oil spill prevention, preparedness, and response activities.

(10) During the 2009-2011 fiscal biennium, the legislature may transfer from the state toxics control account to the state general fund such amounts as reflect the excess fund balance in the account.

(11) During the 2011-2013 fiscal biennium, the local toxics control account may also be used for local government shoreline update grants and actions for reducing public exposure to toxic air pollution.

**Sec. 955.** RCW 70.105D.130 and 2010 1st sp.s. c 37 s 947 are each amended to read as follows:

(1) The cleanup settlement account is created in the state treasury. The account is not intended to replace the state toxics control account established under RCW 70.105D.070. All receipts from the sources identified in subsection (2) of this section must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as identified in subsection (4) of this section.

(2) The following receipts must be deposited into the cleanup settlement account:

(a) Receipts from settlements or court orders that direct payment to the account and resolve a person's liability or potential liability under this chapter for either or both of the following:

(i) Conducting future remedial action at a specific facility, if it is not feasible to require the person to conduct the remedial action based on the person's financial insolvency, limited ability to pay, or insignificant contribution under RCW 70.105D.040(4)(a);

(ii) Assessing or addressing the injury to natural resources caused by the release of a hazardous substance from a specific facility; and

(b) Receipts from investment of the moneys in the account.

(3) If a settlement or court order does not direct payment of receipts described in subsection (2)(a) of this section into the

cleanup settlement account, then the receipts from any payment to the state must be deposited into the state toxics control account.

(4) Expenditures from the cleanup settlement account may only be used to conduct remedial actions at the specific facility or to assess or address the injury to natural resources caused by the release of hazardous substances from that facility for which the moneys were deposited in the account. Conducting remedial actions or assessing or addressing injury to natural resources includes direct expenditures and indirect expenditures such as department oversight costs. During the 2009-2011 and 2011-2013 fiscal (~~(biennium)~~) biennia, the legislature may transfer excess fund balances in the account into the state efficiency and restructuring account. Transfers of excess fund balances made under this section shall be made only to the extent amounts transferred with required repayments do not impair the ten-year spending plan administered by the department of ecology for environmental remedial actions dedicated for any designated clean-up site associated with the Everett smelter and Tacoma smelter, including plumes, or former Asarco mine sites. The cleanup settlement account must be repaid with interest under provisions of the state efficiency and restructuring account.

(5) The department shall track moneys received, interest earned, and moneys expended separately for each facility.

(6) After the department determines that all remedial actions at a specific facility, and all actions assessing or addressing injury to natural resources caused by the release of hazardous substances from that facility, are completed, including payment of all related costs, any moneys remaining for the specific facility must be transferred to the state toxics control account established under RCW 70.105D.070.

(7) The department shall provide the office of financial management and the fiscal committees of the legislature with a report by October 31st of each year regarding the activity within the cleanup settlement account during the previous fiscal year.

**Sec. 956.** RCW 79.64.040 and 2009 c 564 s 957 are each amended to read as follows:

(1) The board shall determine the amount deemed necessary in order to achieve the purposes of this chapter and shall provide by rule for the deduction of this amount from the moneys received from all leases, sales, contracts, licenses, permits, easements, and rights-of-way issued by the department and affecting state lands and aquatic lands, provided that no deduction shall be made from the proceeds from agricultural college lands.

(2) Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.15.100, 79.15.080, and 79.11.150 prior to December 1, 1981, which have not been subjected to deduction under this section are not subject to deduction under this section.

(3) Except as otherwise provided in subsection (5) of this section, the deductions authorized under this section shall not exceed twenty-five percent of the moneys received by the department in connection with any one transaction pertaining to state lands and aquatic lands other than second-class tide and shore lands and the beds of navigable waters, and fifty percent of the moneys received by the department pertaining to second-class tide and shore lands and the beds of navigable waters.

(4) In the event that the department sells logs using the contract harvesting process described in RCW 79.15.500 through 79.15.530, the moneys received subject to this section are the net proceeds from the contract harvesting sale.

(5) During the 2009-2011 fiscal biennium and fiscal year 2012, the twenty-five percent limitation on deductions set in subsection (3) of this section may be increased (~~(up)~~) to (~~(thirty)~~) twenty-seven percent by the board.

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**Sec. 957.** RCW 79.105.150 and 2010 1st sp.s. c 37 s 949 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2009-2011 and 2011-2013 fiscal ~~((biennium))~~ biennia, the aquatic lands enhancement account may also be used for scientific research as part of the adaptive management process and for developing a planning report for McNeil Island. During the 2009-~~2011~~ and 2011-2013 fiscal ~~((fiscal biennium))~~ biennia, the legislature may transfer from the aquatic lands enhancement account to the state general fund such amounts as reflect excess fund balance of the account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 958.** RCW 80.36.430 and 2011 c 5 s 919 are each amended to read as follows:

(1) The Washington telephone assistance program shall be funded by a telephone assistance excise tax on all switched access lines and by funds from any federal government or other programs for this purpose. Switched access lines are defined in RCW 82.14B.020. The telephone assistance excise tax shall be applied equally to all residential and business access lines not to exceed fourteen cents per month. The department shall submit an approved annual budget for the Washington telephone assistance program to the department of revenue no later than March 1st prior to the beginning of each fiscal year. The department of revenue shall then determine the amount of telephone assistance excise tax to be placed on each switched access line and shall inform local exchange companies and the utilities and transportation commission of this amount no later than May 1st. The department of revenue

shall determine the amount of telephone assistance excise tax by dividing the total of the program budget funded by the telephone assistance excise tax, as submitted by the department, by the total number of switched access lines in the prior calendar year. The telephone assistance excise tax shall be separately identified on each ratepayer's bill as the "Washington telephone assistance program." All money collected from the telephone assistance excise tax shall be transferred to a telephone assistance fund administered by the department.

(2) Local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, including administrative and program expenses. The department shall disburse the money to the local exchange companies. The department is exempted from having to conclude a contract with local exchange companies in order to effect this reimbursement. The department shall recover its administrative costs from the fund. The department may specify by rule the range and extent of administrative and program expenses that will be reimbursed to local exchange companies.

(3) The department shall enter into an agreement with the department of commerce for an amount not to exceed eight percent of the prior fiscal year's total revenue for the administrative and program expenses of providing community service voice mail services. The community service voice mail service may include toll-free lines in community action agencies through which recipients can access their community service voice mailboxes at no charge.

(4) During the 2009-2011 ~~((biennium))~~ and 2011-2013 biennia, the department shall enter into an agreement with the WIN 211 organization for operational support. During the 2011-2013 biennium, the department shall provide five hundred thousand dollars per fiscal year for this purpose.

(5) During the 2009-2011 biennium, the telephone assistance fund shall also be used in support of the economic services administration call centers and related operations.

**Sec. 959.** RCW 82.08.160 and 1982 1st ex.s. c 35 s 4 are each amended to read as follows:

(1) On or before the twenty-fifth day of each month, all taxes collected under RCW 82.08.150 during the preceding month ~~((shall))~~ must be remitted to the state department of revenue, to be deposited with the state treasurer. Except as provided in subsection (2) of this section, upon receipt of such moneys the state treasurer ~~((shall))~~ must credit sixty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) and one hundred percent of the sums collected and remitted under RCW 82.08.150 (3) and (4) to the state general fund and thirty-five percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be known as the "liquor excise tax fund."  
(2) During the 2011-2013 fiscal biennium, 66.19 percent of the sums collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the state general fund and the remainder collected and remitted under RCW 82.08.150 (1) and (2) must be deposited in the liquor excise tax fund.

**Sec. 960.** RCW 82.14.310 and 2005 c 282 s 49 are each amended to read as follows:

(1) The county criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer ~~((shall))~~ must transfer into the county criminal justice assistance account from the general fund the sum of twenty-three million two hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer ~~((shall))~~ must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

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(2) The moneys deposited in the county criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (4) of this section, ~~((shall))~~ must be distributed at such times as distributions are made under RCW 82.44.150 and on the relative basis of each county's funding factor as determined under this subsection.

(a) A county's funding factor is the sum of:

(i) The population of the county, divided by one thousand, and multiplied by two-tenths;

(ii) The crime rate of the county, multiplied by three-tenths; and

(iii) The annual number of criminal cases filed in the county superior court, for each one thousand in population, multiplied by five-tenths.

(b) Under this section and RCW 82.14.320 and 82.14.330:

(i) The population of the county or city ~~((shall be))~~ is as last determined by the office of financial management;

(ii) The crime rate of the county or city is the annual occurrence of specified criminal offenses, as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs, for each one thousand in population;

(iii) The annual number of criminal cases filed in the county superior court ~~((shall))~~ must be determined by the most recent annual report of the courts of Washington, as published by the administrative office of the courts;

(iv) Distributions and eligibility for distributions in the ~~((1989-91))~~ 1989-1991 biennium ~~((shall))~~ must be based on 1988 figures for both the crime rate as described under (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection. Future distributions ~~((shall))~~ must be based on the most recent figures for both the crime rate as described under (ii) of this subsection and the annual number of criminal cases that are filed as described under (iii) of this subsection.

(3) Moneys distributed under this section ~~((shall))~~ must be expended exclusively for criminal justice purposes and ~~((shall))~~ may not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil or juvenile justice system occurs, and which includes (a) domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and (b) during the 2001-2003 fiscal biennium, juvenile dispositional hearings relating to petitions for at-risk youth, truancy, and children in need of services. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(4) Not more than five percent of the funds deposited to the county criminal justice assistance account ~~((shall))~~ may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements ~~((shall))~~ may not supplant existing funds from the state general fund.

(5) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the county criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

**Sec. 961.** RCW 82.14.320 and 1998 c 321 s 12 are each amended to read as follows:

(1) The municipal criminal justice assistance account is created in the state treasury. Beginning in fiscal year 2000, the state treasurer ~~((shall))~~ must transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of four million six hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer ~~((shall))~~ must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year.

(2) No city may receive a distribution under this section from the municipal criminal justice assistance account unless:

(a) The city has a crime rate in excess of one hundred twenty-five percent of the statewide average as calculated in the most recent annual report on crime in Washington state as published by the Washington association of sheriffs and police chiefs;

(b) The city has levied the tax authorized in RCW 82.14.030(2) at the maximum rate or the tax authorized in RCW 82.46.010(3) at the maximum rate; and

(c) The city has a per capita yield from the tax imposed under RCW 82.14.030(1) at the maximum rate of less than one hundred fifty percent of the statewide average per capita yield for all cities from such local sales and use tax.

(3) The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (7) of this section, ~~((shall))~~ must be distributed at such times as distributions are made under RCW 82.44.150. The distributions ~~((shall))~~ must be made as follows:

(a) Unless reduced by this subsection, thirty percent of the moneys ~~((shall))~~ must be distributed ratably based on population as last determined by the office of financial management to those cities eligible under subsection (2) of this section that have a crime rate determined under subsection (2)(a) of this section which is greater than one hundred seventy-five percent of the statewide average crime rate. No city may receive more than fifty percent of any moneys distributed under this subsection (a) but, if a city distribution is reduced as a result of exceeding the fifty percent limitation, the amount not distributed ~~((shall))~~ must be distributed under (b) of this subsection.

(b) The remainder of the moneys, including any moneys not distributed in subsection (2)(a) of this section, ~~((shall))~~ must be distributed to all cities eligible under subsection (2) of this section ratably based on population as last determined by the office of financial management.

(4) No city may receive more than thirty percent of all moneys distributed under subsection (3) of this section.

(5) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), ~~((shall))~~ must be made to the county in which the city is located.

(6) Moneys distributed under this section ~~((shall))~~ must be expended exclusively for criminal justice purposes and ~~((shall))~~ may not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020, and publications and

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public educational efforts designed to provide information and assistance to parents in dealing with runaway or at-risk youth. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(7) Not more than five percent of the funds deposited to the municipal criminal justice assistance account ~~((shall))~~ may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these enhancements. Funds appropriated from this account for such enhancements ~~((shall))~~ may not supplant existing funds from the state general fund.

(8) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the municipal criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

**Sec. 962.** RCW 82.14.330 and 2003 c 90 s 1 are each amended to read as follows:

(1)(a) Beginning in fiscal year 2000, the state treasurer ~~((shall))~~ must transfer into the municipal criminal justice assistance account for distribution under this section from the general fund the sum of four million six hundred thousand dollars divided into four equal deposits occurring on July 1, October 1, January 1, and April 1. For each fiscal year thereafter, the state treasurer ~~((shall))~~ must increase the total transfer by the fiscal growth factor, as defined in RCW 43.135.025, forecast for that fiscal year by the office of financial management in November of the preceding year. The moneys deposited in the municipal criminal justice assistance account for distribution under this section, less any moneys appropriated for purposes under subsection (4) of this section, ~~((shall))~~ must be distributed to the cities of the state as follows:

~~((a))~~ (i) Twenty percent appropriated for distribution ~~((shall))~~ must be distributed to cities with a three-year average violent crime rate for each one thousand in population in excess of one hundred fifty percent of the statewide three-year average violent crime rate for each one thousand in population. The three-year average violent crime rate ~~((shall))~~ must be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys ~~((shall))~~ must be distributed under this subsection (1)(a) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year ~~((shall))~~ must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

~~((b))~~ (ii) Sixteen percent ~~((shall))~~ must be distributed to cities ratably based on population as last determined by the office of financial management, but no city may receive less than one thousand dollars.

(b) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection ~~((shall))~~ (1) must be distributed at such times as distributions are made under RCW 82.44.150.

(c) Moneys distributed under this subsection ~~((shall))~~ (1) must be expended exclusively for criminal justice purposes and ~~((shall))~~ may

not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. Existing funding for purposes of this subsection is defined as calendar year 1989 actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(2)(a) In addition to the distributions under subsection (1) of this section:

~~((a))~~ (i) Ten percent ~~((shall))~~ must be distributed on a per capita basis to cities that contract with another governmental agency for the majority of the city's law enforcement services. Cities that subsequently qualify for this distribution ~~((shall))~~ must notify the department of ~~((community, trade, and economic development))~~ commerce by November 30th for the upcoming calendar year. The department of ~~((community, trade, and economic development~~ ~~shall))~~ commerce must provide a list of eligible cities to the state treasurer by December 31st. The state treasurer ~~((shall))~~ must modify the distribution of these funds in the following year. Cities have the responsibility to notify the department of ~~((community, trade, and economic development))~~ commerce of any changes regarding these contractual relationships. Adjustments in the distribution formula to add or delete cities may be made only for the upcoming calendar year; no adjustments may be made retroactively.

~~((b))~~ (ii) The remaining fifty-four percent ~~((shall))~~ must be distributed to cities and towns by the state treasurer on a per capita basis. These funds ~~((shall))~~ must be used for: ~~((i))~~ (A) Innovative law enforcement strategies; ~~((ii))~~ (B) programs to help at-risk children or child abuse victim response programs; and ~~((iii))~~ (C) programs designed to reduce the level of domestic violence or to provide counseling for domestic violence victims.

(b) The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection (2), less any moneys appropriated for purposes under subsection (4) of this section, ~~((shall))~~ must be distributed at the times as distributions are made under RCW 82.44.150. Moneys remaining undistributed under this subsection at the end of each calendar year ~~((shall))~~ must be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(c) If a city is found by the state auditor to have expended funds received under this subsection (2) in a manner that does not comply with the criteria under which the moneys were received, the city ~~((shall be))~~ is ineligible to receive future distributions under this subsection (2) until the use of the moneys are justified to the satisfaction of the director or are repaid to the state general fund.

(3) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), ~~((shall))~~ must be made to the county in which the city is located.

(4) Not more than five percent of the funds deposited to the municipal criminal justice assistance account ~~((shall))~~ may be available for appropriations for enhancements to the state patrol crime laboratory system and the continuing costs related to these

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enhancements. Funds appropriated from this account for such enhancements ~~((shall))~~ may not supplant existing funds from the state general fund.

(5) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred into the municipal criminal justice assistance account from the general fund under subsection (1) of this section must be reduced by 3.4 percent.

**Sec. 963.** RCW 82.14.390 and 2008 c 48 s 1 are each amended to read as follows:

(1) Except as provided in subsection (7) of this section, the governing body of a public facilities district (a) created before July 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction of a new regional center, or improvement or rehabilitation of an existing new regional center, before January 1, 2004; (b) created before July 1, 2006, under chapter 35.57 RCW in a county or counties in which there are no other public facilities districts on June 7, 2006, and in which the total population in the public facilities district is greater than ninety thousand that commences construction of a new regional center before February 1, 2007; (c) created under the authority of RCW 35.57.010(1)(d); or (d) created before September 1, 2007, under chapter 35.57 or 36.100 RCW, in a county or counties in which there are no other public facilities districts on July 22, 2007, and in which the total population in the public facilities district is greater than seventy thousand, that commences construction of a new regional center before January 1, 2009, or before January 1, 2011, in the case of a new regional center in a county designated by the president as a disaster area in December 2007, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ~~((shall))~~ must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax ~~((shall))~~ may not exceed 0.033 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax.

(2)(a) The governing body of a public facilities district imposing a sales and use tax under the authority of this section may increase the rate of tax up to 0.037 percent if, within three fiscal years of July 1, 2008, the department determines that, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020, a public facilities district's sales and use tax collections for fiscal years after July 1, 2008, have been reduced by a net loss of at least 0.50 percent from the fiscal year before July 1, 2008. The fiscal year in which this section becomes effective is the first fiscal year after July 1, 2008.

(b) The department ~~((shall))~~ must determine sales and use tax collection net losses under this section as provided in RCW 82.14.500 (2) and (3). The department ~~((shall))~~ must provide written notice of its determinations to public facilities districts. Determinations by the department of a public facilities district's sales and use tax collection net losses as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020 are final and not appealable.

(c) A public facilities district may increase its rate of tax after it has received written notice from the department as provided in (b) of this subsection. The increase in the rate of tax must be made in 0.001 percent increments and must be the least amount necessary to mitigate the net loss in sales and use tax collections as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. The increase in the rate of tax is subject to RCW 82.14.055.

(3) The tax imposed under subsection (1) of this section ~~((shall))~~ must be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue ~~((shall))~~ must

perform the collection of such taxes on behalf of the county at no cost to the public facilities district. During the 2011-2013 fiscal biennium, distributions by the state to a public facilities district based on the additional rate authorized in subsection (2) of this section must be reduced by 3.4 percent.

(4) No tax may be collected under this section before August 1, 2000. The tax imposed in this section ~~((shall))~~ expires when the bonds issued for the construction of the regional center and related parking facilities are retired, but not more than twenty-five years after the tax is first collected.

(5) Moneys collected under this section ~~((shall))~~ may only be used for the purposes set forth in RCW 35.57.020 and must be matched with an amount from other public or private sources equal to thirty-three percent of the amount collected under this section ~~((; provided that)); however,~~ amounts generated from nonvoter approved taxes authorized under chapter 35.57 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW ~~((shall))~~ do not constitute a public or private source. For the purpose of this section, public or private sources includes, but is not limited to cash or in-kind contributions used in all phases of the development or improvement of the regional center, land that is donated and used for the siting of the regional center, cash or in-kind contributions from public or private foundations, or amounts attributed to private sector partners as part of a public and private partnership agreement negotiated by the public facilities district.

(6) The combined total tax levied under this section ~~((shall))~~ may not be greater than 0.037 percent. If both a public facilities district created under chapter 35.57 RCW and a public facilities district created under chapter 36.100 RCW impose a tax under this section, the tax imposed by a public facilities district created under chapter 35.57 RCW ~~((shall))~~ must be credited against the tax imposed by a public facilities district created under chapter 36.100 RCW.

(7) A public facilities district created under chapter 36.100 RCW is not eligible to impose the tax under this section if the legislative authority of the county where the public facilities district is located has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

**Sec. 964.** RCW 82.14.500 and 2007 c 6 s 903 are each amended to read as follows:

(1)(a) In order to mitigate local sales tax revenue net losses as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title, the state treasurer ~~((shall)), on July 1, 2011, and each July 1st thereafter, must~~ transfer into the streamlined sales and use tax mitigation account from the general fund ~~((the sum of thirty one million six hundred thousand dollars on July 1, 2008. On July 1, 2009, and each July 1st thereafter, the state treasurer shall transfer into the streamlined sales and use tax mitigation account from the general fund))~~ the sum required to mitigate actual net losses as determined under this section.

(b) During the 2011-2013 fiscal biennium, the amount that would otherwise be transferred under (a) of this subsection must be reduced by 3.4 percent.

(2) Beginning July 1, 2008, and continuing until the department determines annual losses under subsection (3) of this section, the department ~~((shall))~~ must determine the amount of local sales tax net loss each local taxing jurisdiction experiences as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title each calendar quarter. The department ~~((shall))~~ must determine losses by analyzing and comparing data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008, on a calendar quarter basis. The department's analysis may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section. To determine net losses, the

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department ~~((shall))~~ must reduce losses by the amount of voluntary compliance revenue for the calendar quarter analyzed. Beginning December 31, 2008, distributions ~~((shall))~~ must be made quarterly from the streamlined sales and use tax mitigation account by the state treasurer, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing its net losses for the previous calendar quarter. Distributions ~~((shall))~~ must be made on the last working day of each calendar quarter and ~~((shall))~~ must cease when distributions under subsection (3) of this section begin.

(3)(a) By December 31, 2009, or such later date the department in consultation with the oversight committee determines that sufficient data is available, the department ~~((shall))~~ must determine each local taxing jurisdiction's annual loss. The department ~~((shall))~~ must determine annual losses by comparing at least twelve months of data from tax return information and tax collections for each local taxing jurisdiction before and after July 1, 2008. The department ~~((shall))~~ is not ((be)) required to determine annual losses on a recurring basis, but may make any adjustments to annual losses as it deems proper as a result of the annual reviews provided in (b) of this subsection. Beginning the calendar quarter in which the department determines annual losses, and each calendar quarter thereafter, distributions ~~((shall))~~ must be made from the streamlined sales and use tax mitigation account by the state treasurer on the last working day of the calendar quarter, as directed by the department, to each local taxing jurisdiction, other than public facilities districts for losses in respect to taxes imposed under the authority of RCW 82.14.390, in an amount representing one-fourth of the jurisdiction's annual loss reduced by voluntary compliance revenue reported during the previous calendar quarter.

(b) The department's analysis of annual losses ~~((shall))~~ must be reviewed by December 1st of each year and may be revised and supplemented in consultation with the oversight committee as provided in subsection (4) of this section.

(4) The department ~~((shall))~~ must convene an oversight committee to assist in the determination of losses. The committee ~~((shall))~~ includes one representative of one city whose revenues are increased, one representative of one city whose revenues are reduced, one representative of one county whose revenues are increased, one representative of one county whose revenues are decreased, one representative of one transportation authority under RCW 82.14.045 whose revenues are increased, and one representative of one transportation authority under RCW 82.14.045 whose revenues are reduced, as a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW 82.14.020. Beginning July 1, 2008, the oversight committee ~~((shall))~~ must meet quarterly with the department to review and provide additional input and direction on the department's analyses of losses. Local taxing jurisdictions may also present to the oversight committee additional information to improve the department's analyses of the jurisdiction's loss. Beginning January 1, 2010, the oversight committee ~~((shall))~~ must meet at least annually with the department by December 1st.

(5) The rule-making provisions of chapter 34.05 RCW do not apply to this section.

**Sec. 965.** RCW 82.45.060 and 2005 c 450 s 1 are each amended to read as follows:

There is imposed an excise tax upon each sale of real property at the rate of one and twenty-eight one-hundredths percent of the selling price. An amount equal to six and one-tenth percent of the proceeds of this tax to the state treasurer ~~((shall))~~ must be deposited in the public works assistance account created in RCW 43.155.050. Except as otherwise provided in this section, an amount equal to one and six-tenths percent of the proceeds of this tax to the state

treasurer ~~((shall))~~ must be deposited in the city-county assistance account created in RCW 43.08.290. During the 2011-2013 fiscal biennium, 1.546 percent of the proceeds of this tax to the state treasurer must be deposited in the city-county assistance account.

**Sec. 966.** RCW 86.26.007 and 2009 c 564 s 961 are each amended to read as follows:

The flood control assistance account is hereby established in the state treasury. At the beginning of the 2005-2007 fiscal biennium, the state treasurer shall transfer three million dollars from the general fund to the flood control assistance account. Each biennium thereafter the state treasurer shall transfer four million dollars from the general fund to the flood control assistance account, except that during the 2009-2011 and 2011-2013 fiscal ((biennium)) biennia, the state treasurer shall transfer two million dollars from the general fund to the flood control assistance account. Moneys in the flood control assistance account may be spent only after appropriation for purposes specified under this chapter.

**Sec. 967.** RCW 90.71.370 and 2010 1st sp.s. c 36 s 6013 are each amended to read as follows:

(1) By December 1, 2008, and by September 1st of each even-numbered year beginning in 2010, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

- (a) Identify the funding needed by action agenda element;
- (b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and
- (c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

- (a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;
- (b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;
- (c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;
- (d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of the programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor

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and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) Water pollution control facilities financing, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

(5) During the 2009-2011 fiscal biennium, the council's review must result in a ranking of projects affecting the protection and recovery of the Puget Sound basin that are proposed in the governor's capital budget submitted under RCW 43.88.060. The ranking shall include recommendations for reallocation of total requested funds for Puget Sound basin projects to achieve the greatest positive outcomes for protection and recovery of Puget Sound and shall be submitted to the appropriate fiscal committees of the legislature no later than February 1, 2011.

(6) During the 2011-2013 fiscal biennium, the council shall by November 1, 2012, produce the state of the sound report as defined in subsection (3) of this section.

**NEW SECTION. Sec. 968. BUDGET SUSTAINABILITY.** The full disclosure of the long-term fiscal impacts of budget proposals under consideration by the legislature will improve the informed participation in the budget process of the

citizens of the state and their legislators and contribute to the sustainable use of the state's limited fiscal resources. For each proposed omnibus operating appropriations bill reported by a legislative fiscal committee or approved by either house of the legislature during the 2012 and 2013 legislative sessions, the relevant fiscal committee shall provide a public report that documents the policy-level proposals in the bill and the cost of each proposal in the current fiscal biennium and the estimated cost in the next ensuing fiscal biennium. This information shall also be provided by the governor for each proposed omnibus operating appropriations bill submitted to the legislature by the governor for the 2012 and 2013 legislative sessions.

(End of part)

**PART X  
GENERAL GOVERNMENT**

**Sec. 1001.** 2010 2nd sp.s. c 1 s 101 (uncodified) is amended to read as follows:

|   |                       |
|---|-----------------------|
| <b>FOR THE HOUSE OF REPRESENTATIVES</b>           |                       |
| General Fund--State Appropriation (FY 2010) ..... | \$33,505,000          |
| General Fund--State Appropriation (FY 2011) ..... | (\$30,934,000)        |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$30,918,000)</b> |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$64,439,000)</b> |
| .....   | \$64,423,000          |

**Sec. 1002.** 2010 2nd sp.s. c 1 s 102 (uncodified) is amended to read as follows:

|   |                       |
|---|-----------------------|
| <b>FOR THE SENATE</b>                             |                       |
| General Fund--State Appropriation (FY 2010) ..... | \$24,960,000          |
| General Fund--State Appropriation (FY 2011) ..... | (\$24,020,000)        |
| .....   | \$24,008,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$48,980,000)</b> |
| .....   | \$48,968,000          |

**Sec. 1003.** 2010 2nd sp.s. c 1 s 106 (uncodified) is amended to read as follows:

|   |                       |
|---|-----------------------|
| <b>FOR THE SUPREME COURT</b>                      |                       |
| General Fund--State Appropriation (FY 2010) ..... | \$6,912,000           |
| General Fund--State Appropriation (FY 2011) ..... | (\$6,844,000)         |
| .....   | \$6,965,000           |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$13,756,000)</b> |
| .....   | \$13,877,000          |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

**Sec. 1004.** 2010 2nd sp.s. c 1 s 107 (uncodified) is amended to read as follows:

|   |                      |
|---|----------------------|
| <b>FOR THE LAW LIBRARY</b>                        |                      |
| General Fund--State Appropriation (FY 2010) ..... | \$1,925,000          |
| General Fund--State Appropriation (FY 2011) ..... | (\$1,592,000)        |
| .....   | \$1,596,000          |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(\$3,517,000)</b> |
| .....   | \$3,521,000          |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest

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extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 1005. 2010 2nd sp.s. c 1 s 108 (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS

|   |                   |
|---|-------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$15,632,000      |
| General Fund--State Appropriation (FY 2011) ..... | (((\$15,517,000)) |
| .....   | \$15,593,000      |
| TOTAL APPROPRIATION .....                         | (((\$31,149,000)) |
| .....   | \$31,225,000      |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 1006. 2011 c 5 s 106 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$52,644,000       |
| General Fund--State Appropriation (FY 2011) ..... | (((\$49,260,000))  |
| .....   | \$49,196,000       |
| General Fund--Federal Appropriation .....         | \$979,000          |
| Judicial Information Systems Account--State       |                    |
| Appropriation.....                                | \$33,406,000       |
| Judicial Stabilization Trust Account--State       |                    |
| Appropriation.....                                | \$6,598,000        |
| TOTAL APPROPRIATION .....                         | (((\$142,887,000)) |
| .....   | \$142,823,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,800,000 of the general fund--state appropriation for fiscal year 2010 and \$1,387,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for school districts for petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed. This funding includes amounts school districts may expend on the cost of serving petitions filed under RCW 28A.225.030 by certified mail or by personal service or for the performance of service of process for any hearing associated with RCW 28A.225.030. Absences from school occurring in the months of May and June 2011 do not count towards the number of absences allowed under RCW 28A.225.030. Reductions in appropriations in this section reflect reduced workload associated with filing petitions generated through absences occurring in May and June.

(2)(a) \$8,252,000 of the general fund--state appropriation for fiscal year 2010 and \$7,534,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(b) Each fiscal year during the 2009-11 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and

at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(3) The distributions made under this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(4) \$5,700,000 of the judicial information systems account--state appropriation is provided solely for modernization and integration of the judicial information system.

(a) Of this amount, \$1,700,000 is for the development of a comprehensive enterprise-level information technology strategy and detailed business and operational plans in support of that strategy, and \$4,000,000 is to continue to modernize and integrate current systems and enhance case management functionality on an incremental basis.

(b) The amount provided in this subsection may not be expended without prior approval by the judicial information system committee. The administrator shall regularly submit project plan updates for approval to the judicial information system committee.

(c) The judicial information system committee shall review project progress on a regular basis and may require quality assurance plans. The judicial information systems committee shall provide a report to the appropriate committees of the legislature no later than November 1, 2011, on the status of the judicial information system modernization and integration, and the consistency of the project with the state's architecture, infrastructure and statewide enterprise view of service delivery.

(d) \$100,000 of the judicial information systems account--state appropriation is provided solely for the administrative office of the courts, in coordination with the judicial information system committee, to conduct an independent third-party executive-level review of the judicial information system. This review shall examine, at a minimum, the scope of the current project plan, governance structure, and organizational change management procedures. The review will also benchmark the system plans against similarly sized projects in other states or localities, review the large scale program risks, and estimate life cycle costs, including capital and on-going operational expenditures.

(5) \$3,000,000 of the judicial information systems account--state appropriation is provided solely for replacing computer equipment at state courts, and at state judicial agencies. The administrator for the courts shall prioritize equipment replacement purchasing and shall fund those items that are most essential or critical. By October 1, 2010, the administrative office of the courts shall report to the appropriate legislative fiscal committees on expenditures for equipment under this subsection.

(6) \$12,000 of the judicial information systems account--state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1954 (sealing juvenile records). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) ((\$106,000 of the general fund--state appropriation for fiscal year 2010 and \$106,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the twenty-third superior court judge position in Pierce county. The funds appropriated in this subsection shall be expended only if the judge is appointed and serving on the bench.

(8))) It is the intent of the legislature that the reductions in

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appropriations in this section shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

~~((9))~~ (8) \$44,000 of the judicial information systems account--state appropriation is provided solely to implement chapter 272, Laws of 2010 (SHB 2680; guardianship).

~~((10))~~ (9) \$274,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the office of public guardianship to provide guardianship services for low-income incapacitated persons.

~~((11))~~ (10) \$3,797,000 of the judicial information systems account--state appropriation is provided solely for continued planning and implementation of improvements to the court case management system.

~~((12))~~ (11) In accordance with RCW 43.135.055, the administrative office of the courts is authorized to adopt and increase the fees set forth in and previously authorized in section 6, chapter 491, Laws of 2009.

**Sec. 1007.** 2011 c 5 s 107 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$21,105,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>((13,612,000))</del> |
| .....   | \$14,727,000              |
| General Fund--Federal Appropriation .....         | \$8,082,000               |
| Archives and Records Management Account--State    |                           |
| Appropriation.....                                | \$8,990,000               |
| Charitable Organization Education Account--State  |                           |
| Appropriation.....                                | \$76,000                  |
| Department of Personnel Service Account--State    |                           |
| Appropriation.....                                | \$757,000                 |
| Election Account--State Appropriation .....       | \$77,000                  |
| Local Government Archives Account--State          |                           |
| Appropriation.....                                | \$11,515,000              |
| Election Account--Federal Appropriation .....     | \$31,163,000              |
| TOTAL APPROPRIATION .....                         | <del>((95,377,000))</del> |
| .....   | \$96,492,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,101,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2)(a) \$1,897,000 of the general fund--state appropriation for fiscal year 2010 and \$1,845,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2009-2011 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the

secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(3) The appropriations in this section are based upon savings assumed from the implementation of Senate Bill No. 6122 (election costs).

(4) In implementing budget reductions, the office of the secretary of state must make its first priority to maintain funding for the elections division.

(5) \$76,000 of the charitable organization education account--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute House Bill No. 2576 (corporation and charity fees). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$77,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for deposit to the election account.

**Sec. 1008.** 2011 c 5 s 108 (uncodified) is amended to read as follows:

FOR THE PUBLIC DISCLOSURE COMMISSION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,249,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>((1,969,000))</del> |
| .....   | \$1,967,000              |
| TOTAL APPROPRIATION .....                         | <del>((4,218,000))</del> |
| .....   | \$4,216,000              |

**Sec. 1009.** 2011 c 5 s 113 (uncodified) is amended to read as follows:

FOR THE ATTORNEY GENERAL

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$5,732,000                |
| General Fund--State Appropriation (FY 2011) ..... | <del>((5,272,000))</del>   |
| .....   | \$5,268,000                |
| General Fund--Federal Appropriation .....         | \$4,026,000                |
| New Motor Vehicle Arbitration Account--State      |                            |
| Appropriation.....                                | \$1,350,000                |
| Legal Services Revolving Account--State           |                            |
| Appropriation.....                                | <del>((224,523,000))</del> |
| .....   | \$225,760,000              |
| Tobacco Prevention and Control Account--State     |                            |
| Appropriation.....                                | \$270,000                  |
| TOTAL APPROPRIATION .....                         | <del>((241,173,000))</del> |
| .....   | \$242,406,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year. As part of its by agency report to the legislative fiscal committees and the office of financial

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management, the office of the attorney general shall include information detailing the agency's expenditures for its agency-wide overhead and a breakdown by division of division administration expenses.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on ways and means.

(3) The office of the attorney general is authorized to expend \$2,100,000 from the Zyprexa and other cy pres awards towards consumer protection costs in accordance with uses authorized in the court orders.

(4) The attorney general shall annually report to the fiscal committees of the legislature all new cy pres awards and settlements and all new accounts, disclosing their intended uses, balances, the nature of the claim or account, proposals, and intended timeframes for the expenditure of each amount. The report shall be distributed electronically and posted on the attorney general's web site. The report shall not be printed on paper or distributed physically.

(5) The executive ethics board must produce a report by the end of the calendar year for the legislature regarding performance measures on the efficiency and effectiveness of the board, as well as on performance measures to measure and monitor the ethics and integrity of all state agencies.

(6) \$53,000 of the legal services revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 3026 (school district compliance with state and federal civil rights laws).

**Sec. 1010.** 2011 c 5 s 114 (uncodified) is amended to read as follows:

|   |                  |
|---|------------------|
| FOR THE CASELOAD FORECAST COUNCIL                 |                  |
| General Fund--State Appropriation (FY 2010) ..... | \$766,000        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$660,000))   |
| .....   | \$658,000        |
| TOTAL APPROPRIATION .....                         | (((\$1,426,000)) |
| .....   | \$1,424,000      |

The appropriations in this section are subject to the following conditions and limitations: \$13,000 of the general fund--state appropriation for fiscal year 2010 and \$7,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Substitute House Bill No. 2106 (improving child welfare outcomes through the phased implementation of strategic and proven reforms). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 1011.** 2011 c 5 s 115 (uncodified) is amended to read as follows:

|   |                   |
|---|-------------------|
| FOR THE DEPARTMENT OF COMMERCE                          |                   |
| General Fund--State Appropriation (FY 2010) .....       | \$49,670,000      |
| General Fund--State Appropriation (FY 2011) .....       | (((\$36,739,000)) |
| .....   | \$36,710,000      |
| General Fund--Federal Appropriation .....               | \$385,601,000     |
| General Fund--Private/Local Appropriation.....          | \$10,972,000      |
| Public Works Assistance Account--State                  |                   |
| Appropriation.....                                      | \$2,974,000       |
| Tourism Development and Promotion Account--State        |                   |
| Appropriation.....                                      | \$798,000         |
| Drinking Water Assistance Administrative .....          |                   |
| Account--State Appropriation.....                       | \$433,000         |
| Lead Paint Account--State Appropriation .....           | \$35,000          |
| Building Code Council Account--State Appropriation .... | \$688,000         |
| Home Security Fund Account--State Appropriation..       | \$24,486,000      |
| Affordable Housing for All Account--State               |                   |
| Appropriation.....                                      | \$11,896,000      |

|   |                    |
|---|--------------------|
| Washington Auto Theft Prevention Authority              |                    |
| Account--State Appropriation.....                       | \$300,000          |
| Independent Youth Housing Account--State Appropriation  |                    |
| .....   | \$220,000          |
| County Research Services Account--State Appropriation   | \$469,000          |
| Community Preservation and Development Authority        |                    |
| Account--State Appropriation.....                       | \$350,000          |
| Financial Fraud and Identity Theft Crimes Investigation |                    |
| and Prosecution Account--State Appropriation.....       | \$1,166,000        |
| Low-Income Weatherization Assistance Account--State     |                    |
| Appropriation.....                                      | \$6,882,000        |
| City and Town Research Services Account--State          |                    |
| Appropriation.....                                      | \$2,246,000        |
| Manufacturing Innovation and Modernization              |                    |
| Account--State Appropriation.....                       | \$230,000          |
| Community and Economic Development Fee Account--State   |                    |
| Appropriation.....                                      | \$6,922,000        |
| Washington Housing Trust Account--State                 |                    |
| Appropriation.....                                      | \$15,348,000       |
| Prostitution Prevention and Intervention Account--      |                    |
| State Appropriation.....                                | \$125,000          |
| Public Facility Construction Loan Revolving             |                    |
| Account--State Appropriation.....                       | \$754,000          |
| TOTAL APPROPRIATION .....                               | (((\$559,304,000)) |
| .....   | \$559,275,000      |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,378,000 of the general fund--state appropriation for fiscal year 2010 and \$2,117,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities.

(2) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall collect payments on outstanding loans, and deposit them into the state general fund. Repayments of funds owed under the program shall be remitted to the department according to the terms included in the original loan agreements.

(3) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$89,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement section 2(7) of Engrossed Substitute House Bill No. 1959 (land use and transportation planning for marine container ports).

(4) \$102,000 of the building code council account--state appropriation is provided solely for the implementation of sections 3 and 7 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If sections 3 and 7 of the bill are not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(5)(a) \$10,500,000 of the general fund--federal appropriation is provided for training and technical assistance associated with low income weatherization programs. Subject to federal requirements, the department shall provide: (i) Up to \$4,000,000 to the state board for community and technical colleges to provide workforce training related to weatherization and energy efficiency; (ii) up to \$3,000,000 to the Bellingham opportunity council to provide workforce training related to energy efficiency and weatherization; and (iii) up to \$3,500,000 to community-based organizations and to community action agencies consistent with the provisions of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). Any funding remaining shall be expended in project 91000013, weatherization, in the omnibus capital appropriations act, Substitute House Bill No. 1216 (capital budget).

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(b) \$6,787,000 of the general fund--federal appropriation is provided solely for the state energy program, including not less than \$5,000,000 to provide credit enhancements consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings).

(c) Of the general fund--federal appropriation the department shall provide: \$14,500,000 to the Washington State University for the purpose of making grants for pilot projects providing community-wide urban, residential, and commercial energy efficiency upgrades consistent with the provisions of Engrossed Second Substitute Senate Bill No. 5649 (energy efficiency in buildings); \$500,000 to Washington State University to conduct farm energy assessments. In contracting with the Washington State University for the provision of these services, the total administration of Washington State University and the department shall not exceed 3 percent of the amounts provided.

(d) \$38,500,000 of the general fund--federal appropriation is provided for deposit in the energy recovery act account to establish a revolving loan program, consistent with the provisions of Engrossed Substitute House Bill No. 2289 (expanding energy freedom program).

(e) \$10,646,000 of the general fund--federal appropriation is provided pursuant to the energy efficiency and conservation block grant under the American reinvestment and recovery act. The department may use up to \$3,000,000 of the amount provided in this subsection to provide technical assistance for energy programs administered by the agency under the American reinvestment and recovery act.

(6) \$14,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5560 (state agency climate leadership). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(7) \$22,400,000 of the general fund--federal appropriation is provided solely for the justice assistance grant program and is contingent upon the department transferring: \$1,200,000 to the department of corrections for security threat mitigation, \$2,336,000 to the department of corrections for offender reentry, \$1,960,000 to the Washington state patrol for law enforcement activities, \$2,087,000 to the department of social and health services, division of alcohol and substance abuse for drug courts, and \$428,000 to the department of social and health services for sex abuse recognition training. The remaining funds shall be distributed by the department to local jurisdictions.

(8) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$18,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to KCTS public television to support Spanish language programming and the V-me Spanish language channel.

(9) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$447,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to resolution Washington to building statewide capacity for alternative dispute resolution centers and dispute resolution programs that guarantee that citizens have access to low-cost resolution as an alternative to litigation.

(10) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6015 (commercialization of technology). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(11) By June 30, 2011, the department shall request information that describes what jurisdictions have adopted, or are in the process of adopting, plans that address RCW 36.70A.020 and helps achieve the greenhouse gas emission reductions established in RCW

70.235.020. This information request in this subsection applies to jurisdictions that are required to review and if necessary revise their comprehensive plans in accordance with RCW 36.70A.130.

(12) During the 2009-11 fiscal biennium, the department shall allot all of its appropriations subject to allotment by object, account, and expenditure authority code to conform with the office of financial management's definition of an option 2 allotment. For those funds subject to allotment but not appropriation, the agency shall submit option 2 allotments to the office of financial management.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the state's participation in the Pacific Northwest economic region.

(14) \$712,000 of the general fund--state appropriation for fiscal year 2010 and \$559,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of crime victims advocacy. These funds shall be contracted with the 39 county prosecuting attorneys' offices to support victim-witness services. The funds must be prioritized to ensure a full-time victim-witness coordinator in each county. The office may retain only the amount currently allocated for this activity for administrative costs.

(15) \$306,000 of the general fund--state appropriation for fiscal year 2010 and \$274,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant to the retired senior volunteer program.

(16) \$65,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(17) \$371,000 of the general fund--state appropriation for fiscal year 2010 and \$290,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the northwest agriculture business center.

(18) The department shall administer its growth management act technical assistance so that smaller cities receive proportionately more assistance than larger cities or counties.

(19) \$212,000 of the general fund--federal appropriation is provided solely for implementation of Second Substitute House Bill No. 1172 (development rights transfer). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(20) \$69,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2227 (evergreen jobs act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(21) \$350,000 of the community development and preservation authority account--state appropriation is provided solely for a grant to a community development authority established under chapter 43.167 RCW. The community preservation and development's board of directors may contract with nonprofit community organizations to aid in mitigating the effects of increased public impact on urban neighborhoods due to events in stadia that have a capacity of over 50,000 spectators.

(22) \$300,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for a contract with a community group to build local community capacity and economic development within the state by strengthening political relationships between economically distressed communities and governmental institutions. The community group shall identify opportunities for collaboration and initiate activities and events that bring community organizations, local governments, and state agencies together to

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address the impacts of poverty, political disenfranchisement, and economic inequality on communities of color. These funds must be matched by other nonstate sources on an equal basis.

(23) \$1,800,000 of the home security fund--state appropriation is provided for transitional housing assistance or partial payments for rental assistance under the independent youth housing program.

(24) \$5,000,000 of the home security fund--state appropriation is provided solely for the operation, repair, and staffing of shelters in the homeless family shelter program.

(25) \$253,000 of the general fund--state appropriation for fiscal year 2010 and \$253,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington new Americans program.

(26) \$438,000 of the general fund--state appropriation for fiscal year 2010 and \$394,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington asset building coalitions.

(27) \$3,231,000 of the general fund--state appropriation for fiscal year 2010 and \$2,953,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for associate development organizations.

(28) \$5,400,000 of the community and economic development fee account is provided as follows: \$1,000,000 is provided solely for the department of commerce for services for homeless families through the Washington families fund; \$2,600,000 is provided solely for housing trust fund operations and maintenance; \$800,000 is provided solely for housing trust fund portfolio management; \$500,000 is provided solely for foreclosure counseling and support; and \$500,000 is provided solely for use as a reserve in the account.

(29) \$237,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to administer a competitive grant program to fund economic development activities designed to further regional cluster growth and to integrate its sector-based and cluster-based strategies with its support for the development of innovation partnership zones. Grant recipients must provide matching funds equal to the size of the grant. Grants may be awarded to support the formation of sector associations or cluster associations, the identification of the technology and commercialization needs of a sector or cluster, facilitating working relationships between a sector association or cluster association and an innovation partnership zone, expanding the operations of an innovation partnership zone, and developing and implementing plans to meet the technology development and commercialization needs of industry sectors, industry clusters, and innovation partnership zones. The projects receiving grants must not duplicate the purpose or efforts of industry skill panels but priority must be given to applicants that complement industry skill panels and will use the grant funds to build linkages and joint projects.

(30) \$62,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to:

(a) Develop a rural manufacturer export outreach program in conjunction with impact Washington. The program must provide outreach services to rural manufacturers in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters; and

(b) Develop export loan or loan guarantee programs in conjunction with the Washington economic development finance authority and the appropriate federal and private entities.

(31) \$750,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement the provisions of chapter 13, Laws of 2010 (global health program).

(32) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the creation of the Washington

entrepreneurial development and small business reference service in the department of commerce.

(a) The department must:

(i) In conjunction with and drawing on information compiled by the work force training and education coordinating board and the Washington economic development commission:

(A) Establish and maintain an inventory of the public and private entrepreneurial training and technical assistance services, programs, and resources available in the state;

(B) Disseminate information about available entrepreneurial development and small business assistance services, programs, and resources via in-person presentations and electronic and printed materials and undertake other activities to raise awareness of entrepreneurial training and small business assistance offerings; and

(C) Evaluate the extent to which existing entrepreneurial training and technical assistance programs in the state are effective and represent a consistent, integrated approach to meeting the needs of start-up and existing entrepreneurs;

(ii) Assist providers of entrepreneurial development and small business assistance services in applying for federal and private funding to support the entrepreneurial development and small business assistance activities in the state;

(iii) Distribute awards for excellence in entrepreneurial training and small business assistance; and

(iv) Report to the governor, the economic development commission, the work force training and education coordinating board, and the appropriate legislative committees its recommendations for statutory changes necessary to enhance operational efficiencies or enhance coordination related to entrepreneurial development and small business assistance.

(b) In carrying out the duties under this section, the department must seek the advice of small business owners and advocates, the Washington economic development commission, the work force training and education coordinating board, the state board for community and technical colleges, the employment security department, the Washington state microenterprise association, associate development organizations, impact Washington, the Washington quality award council, the Washington technology center, the small business export finance assistance center, the Spokane intercollegiate research and technology institute, representatives of the University of Washington business school and the Washington State University college of business and economics, the office of minority and women's business enterprises, the Washington economic development finance authority, and staff from small business development centers.

(c) The director may appoint an advisory board or convene such other individuals or groups as he or she deems appropriate to assist in carrying out the department's duties under this section.

(33) \$45,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a grant to HistoryLink.

**Sec. 1012.** 2010 2nd sp.s. c 1 s 116 (uncodified) is amended to read as follows:

|   |                          |
|---|--------------------------|
| <b>FOR THE OFFICE OF FINANCIAL MANAGEMENT</b>     |                          |
| General Fund--State Appropriation (FY 2010) ..... | \$21,089,000             |
| General Fund--State Appropriation (FY 2011) ..... | (((\$18,285,000))        |
| .....   | \$17,996,000             |
| General Fund--Federal Appropriation .....         | \$27,103,000             |
| General Fund--Private/Local Appropriation.....    | \$1,270,000              |
| State Auditing Services Revolving .....           | .....                    |
| Account--State Appropriation.....                 | \$25,000                 |
| Economic Development Strategic Reserve Account--  | .....                    |
| State Appropriation.....                          | \$278,000                |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>(((\$68,050,000))</b> |
| .....   | \$67,761,000             |

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The appropriations in this section are subject to the following conditions and limitations:

(1) \$188,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(2) The office of financial management shall conduct a study on alternatives for consolidating or transferring activities and responsibilities of the state lottery commission, state horse racing commission, state liquor control board, and the state gambling commission to achieve cost savings and regulatory efficiencies. In conducting the study, the office of financial management shall consult with the legislative fiscal committees. Further, the office of financial management shall establish an advisory group to include, but not be limited to, representatives of affected businesses, state agencies or entities, local governments, and stakeholder groups. The office of financial management shall submit a final report to the governor and the legislative fiscal committees by November 15, 2009.

(3) \$110,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Second Substitute Senate Bill No. 6578 (multiagency permitting teams). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(4) The office of financial management shall, with the assistance of the natural resources cabinet as created in executive order 09-07, reduce the number of facilities being leased by the state by consolidating, wherever possible, regional offices and storage facilities of the natural resource agencies. The office of financial management and the natural resources cabinet shall submit a report on the progress of this effort and the associated savings to the appropriate fiscal committees of the legislature no later than December 1, 2010.

(5)(a) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of the office of financial management:

(i) Conducting a technical and financial analysis of the state's plan for the consolidated state data center and office building; and

(ii) Developing a strategic business plan outlining the various options for use of the site that maximize taxpayer value consistent with the terms of the finance lease and related agreements.

(b) The analysis required in (a)(i) of this subsection must consist of, at a minimum, an assessment of the following issues:

(i) The total capital and operational costs for the proposed data center and office building;

(ii) The occupancy rate for the consolidated state data center, as compared to total capacity, that will result in revenue exceeding total capital and operating expenses;

(iii) The potential reallocation of resources that could result from the consolidation of state data centers and office space; and

(iv) The potential return on investment for the consolidated state data center and office building that may be realized without impairing any existing contractual rights under the terms of the financing lease and related agreements.

(c) This review must build upon the analysis and migration strategy for the consolidated state data center being prepared for the department of information services.

(d) The strategic plan must be submitted to the governor and the legislature by December 1, 2010.

(6) Appropriations in this section include amounts sufficient to implement Engrossed Substitute House Bill No. 3178 (technology efficiencies).

**Sec. 1013.** 2011 c 5 s 117 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS  
 Administrative Hearings Revolving Account--State  
 Appropriation..... ~~(\$34,468,000)~~  
 ..... \$34,805,000

The appropriation in this section is subject to the following conditions and limitations: \$725,000 of the administrative hearings revolving account--state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 1014.** 2011 c 5 s 118 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS  
 General Fund--State Appropriation (FY 2010) .....\$250,000  
 General Fund--State Appropriation (FY 2011) ..... ~~(\$227,000)~~  
 ..... \$226,000  
 TOTAL APPROPRIATION ..... ~~(\$477,000)~~  
 ..... \$476,000

**Sec. 1015.** 2011 c 5 s 119 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS  
 General Fund--State Appropriation (FY 2010) .....\$243,000  
 General Fund--State Appropriation (FY 2011) ..... ~~(\$210,000)~~  
 ..... \$221,000  
 TOTAL APPROPRIATION ..... ~~(\$453,000)~~  
 ..... \$464,000

**Sec. 1016.** 2011 c 5 s 120 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE  
 General Fund--State Appropriation (FY 2010) .....\$109,472,000  
 General Fund--State Appropriation (FY 2011).. ~~(\$107,662,000)~~  
 ..... \$107,169,000  
 Timber Tax Distribution Account--State Appropriation\$5,933,000  
 Waste Reduction/Recycling/Litter Control--State  
 Appropriation.....\$130,000  
 Waste Tire Removal Account--State Appropriation .....\$2,000  
 Real Estate Excise Tax Grant Account--State  
 Appropriation.....\$3,429,000  
 State Toxics Control Account--State Appropriation.....\$87,000  
 Oil Spill Prevention Account--State Appropriation.....\$19,000  
 TOTAL APPROPRIATION ..... ~~(\$226,734,000)~~  
 ..... \$226,241,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$469,000 of the general fund--state appropriation for fiscal year 2010 and \$374,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Substitute Senate Bill No. 5368 (annual property revaluation). If the bill is not enacted by June 30, 2009, the amounts in this subsection shall lapse.

(2) \$4,653,000 of the general fund--state appropriation for fiscal year 2010 and \$4,242,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of revenue enhancement strategies. The strategies must include increased out-of-state auditing and compliance, the purchase of third party data sources for enhanced audit selection, and increased traditional auditing and compliance efforts.

(3) \$3,127,000 of the general fund--state appropriation for fiscal year 2010 and \$1,737,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Senate Bill No. 6173 (sales tax compliance). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

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(4) \$1,294,000 of the general fund--state appropriation for fiscal year 2010 and \$3,085,000 of the general fund--state appropriation for fiscal year 2011 are for the implementation of Second Engrossed Substitute Senate Bill No. 6143 (excise tax law modifications). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) \$163,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement Substitute Senate Bill No. 6846 (enhanced 911 services). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(6) \$304,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for making the necessary preparations for implementation of the working families tax exemption pursuant to RCW 82.08.0206 in 2012.

Sec. 1017. 2011 c 5 s 121 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,346,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,195,000)</del> |
| .....   | <u>\$1,194,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$2,541,000)</del> |
| .....   | <u>\$2,540,000</u>       |

Sec. 1018. 2011 c 5 s 122 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$815,000                 |
| General Fund--State Appropriation (FY 2011) .....       | <del>(\$3,527,000)</del>  |
| .....   | <u>\$3,524,000</u>        |
| General Fund--Federal Appropriation .....               | \$2,956,000               |
| Building Code Council Account--State Appropriation .... | \$875,000                 |
| General Fund--Private/Local Appropriation.....          | \$84,000                  |
| General Administration Service Account--State           |                           |
| Appropriation.....                                      | \$31,397,000              |
| TOTAL APPROPRIATION .....                               | <del>(\$39,654,000)</del> |
| .....   | <u>\$39,651,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,000 of the general fund--state appropriation for fiscal year 2010 and \$14,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purposes of section 8 of Engrossed Second Substitute Senate Bill No. 5854 (built environment pollution). If section 8 of the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) \$3,197,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the payment of facilities and services charges, utilities and contracts charges, public and historic facilities charges, and capital projects surcharges allocable to the senate, house of representatives, statute law committee, and joint legislative systems committee. The department shall allocate charges attributable to these agencies among the affected revolving funds. The department shall enter into an interagency agreement with these agencies by July 1, 2010, to establish performance standards, prioritization of preservation and capital improvement projects, and quality assurance provisions for the delivery of services under this subsection. The agencies named in this subsection shall continue to enjoy all of the same rights of occupancy, support, and space use on the capitol campus as historically established.

(3) \$84,000 of the general fund--private/local appropriation and \$593,000 of the building code council account--state appropriation are provided solely to implement Engrossed Second Substitute House Bill No. 2658 (refocusing the department of commerce, including transferring programs). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(4) In accordance with RCW 46.08.172 and 43.135.055, the department is authorized to increase parking fees in fiscal year 2011 as necessary to meet the actual costs of conducting business.

Sec. 1019. 2011 c 5 s 125 (uncodified) is amended to read as follows:

FOR THE MILITARY DEPARTMENT

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....         | \$9,350,000                |
| General Fund--State Appropriation (FY 2011) .....         | <del>(\$7,898,000)</del>   |
| .....   | <u>\$7,890,000</u>         |
| General Fund--Federal Appropriation .....                 | \$168,599,000              |
| Enhanced 911 Account--State Appropriation.....            | \$44,508,000               |
| Disaster Response Account--State Appropriation .....      | \$28,350,000               |
| Disaster Response Account--Federal Appropriation .....    | \$114,496,000              |
| Military Department Rent and Lease Account--State         |                            |
| Appropriation.....  | \$612,000                  |
| Military Department Active State Service Account--Federal |                            |
| Appropriation.....  | \$592,000                  |
| Worker and Community Right-to-Know Account--State         |                            |
| Appropriation.....  | \$341,000                  |
| Nisqually Earthquake Account--State Appropriation.....    | \$307,000                  |
| Nisqually Earthquake Account--Federal Appropriation.....  | \$1,067,000                |
| TOTAL APPROPRIATION .....                                 | <del>(\$376,120,000)</del> |
| .....   | <u>\$376,112,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,326,000 of the disaster response account--state appropriation and \$114,496,000 of the disaster response account--federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(2) \$307,000 of the Nisqually earthquake account--state appropriation and \$1,067,000 of the Nisqually earthquake account--federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report to the office of financial management and the legislative fiscal committees on October 1st and February 1st of each year detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2009-2011 biennium based on current revenue and expenditure patterns.

(3) \$85,000,000 of the general fund--federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee; and

(b) The department shall submit an annual report to the office of financial management and the legislative fiscal committees detailing

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the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; and incremental changes from the previous estimate.

(4) \$500,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the military department to contract with the Washington information network 2-1-1 to operate a statewide 2-1-1 system. The department shall provide the entire amount for 2-1-1 and may not use any of the funds for administrative purposes.

Sec. 1020. 2011 c 5 s 126 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

|  |                          |
|--|--------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$2,667,000              |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$2,345,000)</del> |
| .....  | <u>\$2,344,000</u>       |
| Higher Education Personnel Services Account--State |                          |
| Appropriation.....                                 | \$250,000                |
| Department of Personnel Service Account--State     |                          |
| Appropriation.....                                 | \$3,263,000              |
| TOTAL APPROPRIATION .....                          | <del>(\$8,525,000)</del> |
| .....  | <u>\$8,524,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Substitute Senate Bill No. 6726 (language access provider bargaining).

Sec. 1021. 2011 c 5 s 127 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,371,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,230,000)</del> |
| .....   | <u>\$1,197,000</u>       |
| General Fund--Federal Appropriation .....         | \$2,293,000              |
| General Fund--Private/Local Appropriation.....    | \$14,000                 |
| TOTAL APPROPRIATION .....                         | <del>(\$4,908,000)</del> |
| .....   | <u>\$4,875,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$44,000 of the general fund--state appropriation for fiscal year 2011 is provided for implementation of Substitute House Bill No. 2704 (Washington main street program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 1022. 2011 c 5 s 128 (uncodified) is amended to read as follows:

FOR THE GROWTH MANAGEMENT HEARINGS BOARD

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,642,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,334,000)</del> |
| .....   | <u>\$1,331,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$2,976,000)</del> |
| .....   | <u>\$2,973,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: \$12,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for Substitute House Bill No. 2935 (hearings boards/environment and land use). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(End of part)

PART XI HUMAN SERVICES

Sec. 1101. 2010 1st sp.s. c 37 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES. (1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act.

(4) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP), the department may combine and transfer such medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons, nor expand beyond one county, during the 2009-2011 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot project, times the number of clients enrolled in the pilot project. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

(5)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, ~~(2010)~~ 2011, unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year ~~(2010)~~ 2011 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in (b) of this subsection.

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(b) To the extent that transfers under (a) of this subsection are insufficient to fund actual expenditures in excess of fiscal year ((2010)) 2011 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoptions support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

(6) The legislature finds that medicaid payment rates, as calculated by the department pursuant to the appropriations in this act, bear a reasonable relationship to the costs incurred by efficiently and economically operated facilities for providing quality services and will be sufficient to enlist enough providers so that care and services are available to the extent that such care and services are available to the general population in the geographic area. The legislature finds that cost reports, payment data from the federal government, historical utilization, economic data, and clinical input constitute reliable data upon which to determine the payment rates.

Sec. 1102. 2011 c 5 s 201 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--CHILDREN AND FAMILY SERVICES PROGRAM

|  |                                |
|--|--------------------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$315,002,000                  |
| General Fund--State Appropriation (FY 2011) ... (((\$287,643,000)) |                                |
| .....  | <u>\$285,342,000</u>           |
| General Fund--Federal Appropriation .....                          | (( <del>\$494,136,000</del> )) |
| .....  | <u>\$494,749,000</u>           |
| General Fund--Private/Local Appropriation.....                     | \$3,320,000                    |
| Home Security Fund Appropriation .....                             | \$8,406,000                    |
| Domestic Violence Prevention Account--State                        |                                |
| Appropriation.....   | \$1,154,000                    |
| Education Legacy Trust Account--State Appropriation ...            | \$725,000                      |
| TOTAL APPROPRIATION .....  | (((\$1,110,386,000))           |
| .....  | <u>\$1,108,698,000</u>         |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$937,000 of the general fund--state appropriation for fiscal year 2010 and \$696,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(2) \$369,000 of the general fund--state appropriation for fiscal year 2010, \$343,000 of the general fund--state appropriation for fiscal year 2011, and \$306,000 of the general fund--federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of

biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(3) \$2,500,000 of the general fund--state appropriation for fiscal year 2010 and \$46,000 of the general fund--state appropriation for fiscal year 2011, and \$2,098,000 of the home security fund--state appropriation are provided solely for secure crisis residential centers. Within appropriated amounts, the department shall collaborate with providers to maintain no less than forty-five beds that are geographically representative of the state. The department shall examine current secure crisis residential staffing requirements, flexible payment options, center specific waivers, and other appropriate methods to accomplish this outcome.

(4) A maximum of \$69,190,000 of the general fund--state appropriations and \$54,443,000 of the general fund--federal appropriations for the 2009-11 biennium shall be expended for behavioral rehabilitative services and these amounts are provided solely for this purpose. The department shall work with behavioral rehabilitative service providers to safely keep youth with emotional, behavioral, or medical needs at home, with relatives, or with other permanent placement resources and decrease the length of service through improved emotional, behavioral, or medical outcomes for children in behavioral rehabilitative services in order to achieve the appropriated levels.

(a) Contracted providers shall act in good faith and accept the hardest to serve children, to the greatest extent possible, in order to improve their emotional, behavioral, or medical conditions.

(b) The department and the contracted provider shall mutually agree and establish an exit date for when the child is to exit the behavioral rehabilitative service provider. The department and the contracted provider should mutually agree, to the greatest extent possible, on a viable placement for the child to go to once the child's treatment process has been completed. The child shall exit only when the emotional, behavioral, or medical condition has improved or if the provider has not shown progress toward the outcomes specified in the signed contract at the time of exit. This subsection (b) does not prevent or eliminate the department's responsibility for removing the child from the provider if the child's emotional, behavioral, or medical condition worsens or is threatened.

(c) The department is encouraged to use performance-based contracts with incentives directly tied to outcomes described in this section. The contracts should incentivize contracted providers to accept the hardest to serve children and incentivize improvement in children's emotional, mental, and medical well-being within the established exit date. The department is further encouraged to increase the use of behavioral rehabilitative service group homes, wrap around services to facilitate and support placement of youth at home with relatives, or other permanent resources, and other means to control expenditures.

(d) The total foster care per capita amount shall not increase more than four percent in the 2009-11 biennium and shall not include behavioral rehabilitative service.

(5) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures.

(6) \$13,387,000 of the general fund--state appropriation for fiscal year 2011 and \$6,231,000 of the general fund--federal

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appropriation are provided solely for the department to provide contracted prevention and early intervention services. The legislature recognizes the need for flexibility as the department transitions to performance-based contracts. The following services are included in the prevention and early intervention block grant: Crisis family intervention services, family preservation services, intensive family preservation services, evidence-based programs, public health nurses, and early family support services. The legislature intends for the department to maintain and build on existing evidence-based and research-based programs with the goal of utilizing contracted prevention and intervention services to keep children safe at home and to safely reunify families. Priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington state institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts and shall provide the legislature and governor a report regarding the allocation of resources in this subsection by September 30, 2010. The department shall expend federal funds under this subsection in compliance with federal regulations.

(7) \$36,000 of the general fund--state appropriation for fiscal year 2010, \$34,000 of the general fund--state appropriation for fiscal year 2011, and \$29,000 of the general fund--federal appropriation are provided solely for the implementation of chapter 465, Laws of 2007 (child welfare).

(8) \$125,000 of the general fund--state appropriation for fiscal year 2010 and \$118,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for continuum of care services. \$100,000 of this amount is for Casey family partners and \$25,000 of this amount is for volunteers of America crosswalk in fiscal year 2010. \$95,000 of this amount is for Casey family partners and \$23,000 of this amount is for volunteers of America crosswalk in fiscal year 2011.

(9) \$1,904,000 of the general fund--state appropriation for fiscal year 2010, \$1,441,000 of the general fund--state appropriation for fiscal year 2011, and \$335,000 of the general fund--federal appropriation are provided solely to contract with medical professionals for comprehensive safety assessments of high-risk families and for foster care assessments. The safety assessments will use validated assessment tools to guide intervention decisions through the identification of additional safety and risk factors. The department will maintain the availability of comprehensive foster care assessments and follow up services for children in out-of-home care who do not have permanent plans, comprehensive safety assessments for families receiving in-home child protective services or family voluntary services, and comprehensive safety assessments for families with an infant age birth to fifteen days where the infant was, at birth, diagnosed as substance exposed and the department received an intake referral related to the infant due to the substance exposure. The department must consolidate contracts, streamline administration, and explore efficiencies to achieve savings.

(10) \$7,679,000 of the general fund--state appropriation for fiscal year 2010, \$6,226,000 of the general fund--state appropriation for fiscal year 2011, and \$4,658,000 of the general fund--federal appropriation are provided solely for court-ordered supervised visits between parents and dependent children and for sibling visits. The department shall work collaboratively with the juvenile dependency courts and revise the supervised visit reimbursement procedures to stay within appropriations without impeding reunification outcomes between parents and dependent children. The department shall report to the legislative fiscal committees on September 30, 2010, and December 30, 2010, the number of children in foster care who

receive supervised visits, their frequency, length of time of each visit, and whether reunification is attained.

(11) \$145,000 of the general fund--state appropriation for fiscal year 2010, \$817,000 of the general fund--state appropriation for fiscal year 2011, and \$668,000 of the home security fund--state appropriation is provided solely for street youth program services.

(12) \$1,522,000 of the general fund--state appropriation for fiscal year 2010, \$1,256,000 of the general fund--state appropriation for fiscal year 2011, and \$1,372,000 of the general fund--federal appropriation are provided solely for the department to recruit foster parents. The recruitment efforts shall include collaborating with community-based organizations and current or former foster parents to recruit foster parents.

(13) \$493,000 of the general fund--state appropriation for fiscal year 2010, \$102,000 of the general fund--state appropriation for fiscal year 2011, \$466,000 of the general fund--private/local appropriation, \$182,000 of the general fund--federal appropriation, and \$725,000 of the education legacy trust account--state appropriation are provided solely for children's administration to contract with an educational advocacy provider with expertise in foster care educational outreach. Funding is provided solely for contracted education coordinators to assist foster children in succeeding in K-12 and higher education systems. Funding shall be prioritized to regions with high numbers of foster care youth and/or regions where backlogs of youth that have formerly requested educational outreach services exist. The department shall utilize private matching funds to maintain educational advocacy services.

(14) \$1,273,000 of the home security fund account--state appropriation is provided solely for HOPE beds.

(15) \$4,234,000 of the home security fund account--state appropriation is provided solely for the crisis residential centers.

(16) The appropriations in this section reflect reductions in the appropriations for the children's administration administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(17) Within the amounts appropriated in this section, the department shall contract for a pilot project with family and community networks in Whatcom county and up to four additional counties to provide services. The pilot project shall be designed to provide a continuum of services that reduce out-of-home placements and the lengths of stay for children in out-of-home placement. The department and the community networks shall collaboratively select the additional counties for the pilot project and shall collaboratively design the contract. Within the framework of the pilot project, the contract shall seek to maximize federal funds. The pilot project in each county shall include the creation of advisory and management teams which include members from neighborhood-based family advisory committees, residents, parents, youth, providers, and local and regional department staff. The Whatcom county team shall facilitate the development of outcome-based protocols and policies for the pilot project and develop a structure to oversee, monitor, and evaluate the results of the pilot projects. The department shall report the costs and savings of the pilot project to the appropriate committees of the legislature by November 1 of each year.

(18) \$157,000 of the general fund--state appropriation for fiscal year 2010 and \$78,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with a nonprofit entity for a reunification pilot project in Whatcom and Skagit counties. The contract for the reunification pilot project shall include a rate of \$46.16 per hour for evidence-based interventions, in combination with supervised visits, to provide

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3,564 hours of services to reduce the length of stay for children in the child welfare system. The contract shall also include evidence-based intensive parenting skills building services and family support case management services for 38 families participating in the reunification pilot project. The contract shall include the flexibility for the nonprofit entity to subcontract with trained providers.

(19) \$303,000 of the general fund--state appropriation for fiscal year 2010, \$392,000 of the general fund--state appropriation for fiscal year 2011, and \$241,000 of the general fund--federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 1961 (increasing adoptions act). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) \$98,000 of the general fund--state appropriation for fiscal year 2010 and \$49,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to contract with an agency that is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support.

(21) The legislature intends for the department to reduce the time a child remains in the child welfare system. The department shall establish a measurable goal and report progress toward meeting that goal to the legislature by January 15 of each fiscal year of the 2009-11 fiscal biennium. To the extent that actual caseloads exceed those assumed in this section, it is the intent of the legislature to address those issues in a manner similar to all other caseload programs.

(22) \$715,000 of the general fund--state appropriation for fiscal year 2010 and \$671,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for services provided through children's advocacy centers.

(23) \$10,000 of the general fund--state appropriation for fiscal year 2011 and \$3,000 of the general fund--federal appropriation are provided solely for implementation of chapter 224, Laws of 2010 (confinement alternatives). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(24) \$1,867,000 of the general fund--state appropriation for fiscal year 2010, \$1,677,000 of the general fund--state appropriation for fiscal year 2011, and \$4,379,000 of the general fund--federal appropriation are provided solely for the department to contract for medicaid treatment child care (MTCC) services. Children's administration case workers, local public health nurses and case workers from the temporary assistance for needy families program shall refer children to MTCC services, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC services.

(25) The department shall contract for at least one pilot project with adolescent services providers to deliver a continuum of short-term crisis stabilization services. The pilot project shall include adolescent services provided through secure crisis residential centers, crisis residential centers, and hope beds. The department shall work with adolescent service providers to maintain availability of adolescent services and maintain the delivery of services in a geographically representative manner. The department shall examine current staffing requirements, flexible payment options, center-specific licensing waivers, and other appropriate methods to achieve savings and streamline the delivery of services. The legislature intends for the pilot project to provide flexibility to the department to improve outcomes and to achieve more efficient utilization of existing resources, while meeting the statutory goals of the adolescent services programs. The department shall provide an update to the appropriate legislative

committees and governor on the status of the pilot project implementation by December 1, 2010.

(26) To ensure expenditures remain within available funds appropriated in this section as required by RCW 74.13A.005 and 74.13A.020, the secretary shall not set the amount of any adoption assistance payment or payments, made pursuant to RCW 26.33.320 and 74.13A.005 through 74.13A.080, to more than ninety percent of the foster care maintenance payment for that child had he or she remained in a foster family home during the same period. This subsection does not apply to adoption assistance agreements in existence on the effective date of this section.

(27) Receipts from fees per chapter 289, Laws of 2010, as deposited into the prostitution prevention and intervention account for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs shall be used to expand capacity for secure crisis residential centers and not supplant existing funding.

((28) The appropriations in this section reflect reductions to the foster care maintenance payment rates during fiscal year 2011.)

**Sec. 1103.** 2011 c 5 s 202 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--JUVENILE REHABILITATION PROGRAM

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....    | \$103,437,000              |
| General Fund--State Appropriation (FY 2011) .....    | <del>(\$90,240,000)</del>  |
| .....  | <u>\$89,127,000</u>        |
| General Fund--Federal Appropriation .....            | <del>(\$1,715,000)</del>   |
| .....  | <u>\$1,734,000</u>         |
| General Fund--Private/Local Appropriation.....       | <del>(\$1,899,000)</del>   |
| .....  | <u>\$1,931,000</u>         |
| Washington Auto Theft Prevention Authority Account-- |                            |
| State Appropriation.....                             | \$3,896,000                |
| Juvenile Accountability Incentive Account--Federal   |                            |
| Appropriation.....                                   | \$2,805,000                |
| State Efficiency and Restructuring Account--State    |                            |
| Appropriation.....                                   | \$4,958,000                |
| TOTAL APPROPRIATION .....                            | <del>(\$208,950,000)</del> |
| .....  | <u>\$207,888,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$353,000 of the general fund--state appropriation for fiscal year 2010 and \$331,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$3,408,000 of the general fund--state appropriation for fiscal year 2010 and \$2,716,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$3,716,000 of the general fund--state appropriation for fiscal year 2010 and \$3,482,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants,

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administration of the grants, and evaluations of programs funded by the grants.

(4) \$1,427,000 of the general fund--state appropriation for fiscal year 2010 and \$1,130,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) \$3,066,000 of the general fund--state appropriation for fiscal year 2010 and \$2,873,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to county juvenile courts for the following programs identified by the Washington state institute for public policy (institute) in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Functional family therapy, multi-systemic therapy, aggression replacement training and interagency coordination programs, or other programs with a positive benefit-cost finding in the institute's report. County juvenile courts shall apply to the juvenile rehabilitation administration for funding for program-specific participation and the administration shall provide grants to the courts consistent with the per-participant treatment costs identified by the institute.

(6) \$1,287,000 of the general fund--state appropriation for fiscal year 2010 and \$1,287,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for expansion of the following treatments and therapies in juvenile rehabilitation administration programs identified by the Washington state institute for public policy in its October 2006 report: "Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates": Multidimensional treatment foster care, family integrated transitions, and aggression replacement training. The administration may concentrate delivery of these treatments and therapies at a limited number of programs to deliver the treatments in a cost-effective manner.

(7)(a) For the fiscal year ending June 30, 2011, the juvenile rehabilitation administration shall administer a block grant, rather than categorical funding, of consolidated juvenile service funds, community juvenile accountability act grants, the chemical dependency disposition alternative funds, the mental health disposition alternative, and the sentencing disposition alternative for the purpose of serving youth adjudicated in the juvenile justice system. In making the block grant, the juvenile rehabilitation administration shall follow the following formula and will prioritize evidence-based programs and disposition alternatives and take into account juvenile courts program-eligible youth in conjunction with the number of youth served in each approved evidence-based program or disposition alternative: (i) Thirty-seven and one-half percent for the at-risk population of youth ten to seventeen years old; (ii) fifteen percent for moderate and high-risk youth; (iii) twenty-five percent for evidence-based program participation; (iv) seventeen and one-half percent for minority populations; (v) three percent for the chemical dependency disposition alternative; and (vi) two percent for the mental health and sentencing dispositional alternatives. Funding for the special sex offender disposition alternative (SSODA) shall not be included in the block grant, but allocated on the average daily population in juvenile courts. Funding for the evidence-based expansion grants shall be excluded from the block grant formula. Funds may be used for promising practices when approved by the juvenile rehabilitation administration and juvenile courts, through the community juvenile

accountability act committee, based on the criteria established in consultation with Washington state institute for public policy and the juvenile courts.

(b) It is the intent of the legislature that the juvenile rehabilitation administration phase the implementation of the formula provided in subsection (1) of this section by including a stop-loss formula of three percent in fiscal year 2011, five percent in fiscal year 2012, and five percent in fiscal year 2013. It is further the intent of the legislature that the evidence-based expansion grants be incorporated into the block grant formula by fiscal year 2013 and SSODA remain separate unless changes would result in increasing the cost benefit savings to the state as identified in (c) of this subsection.

(c) The juvenile rehabilitation administration and the juvenile courts shall establish a block grant funding formula oversight committee with equal representation from the juvenile rehabilitation administration and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee will be cochaired by the juvenile rehabilitation administration and the juvenile courts, who will also have the ability to change members of the committee as needed to achieve its purpose. Initial members will include one juvenile court representative from the finance committee, the community juvenile accountability act committee, the risk assessment quality assurance committee, the executive board of the Washington association of juvenile court administrators, the Washington state center for court research, and a representative of the superior court judges association; two representatives from the juvenile rehabilitation administration headquarters program oversight staff, two representatives of the juvenile rehabilitation administration regional office staff, one representative of the juvenile rehabilitation administration fiscal staff and a juvenile rehabilitation administration division director. The committee may make changes to the formula categories other than the evidence-based program and disposition alternative categories if it is determined the changes will increase statewide service delivery or effectiveness of evidence-based program or disposition alternative resulting in increased cost benefit savings to the state. Long-term cost benefit must be considered. Percentage changes may occur in the evidence-based program or disposition alternative categories of the formula should it be determined the changes will increase evidence-based program or disposition alternative delivery and increase the cost benefit to the state. These outcomes will also be considered in determining when evidence-based expansion or special sex offender disposition alternative funds should be included in the block grant or left separate.

(d) The juvenile courts and administrative office of the courts shall be responsible for collecting and distributing information and providing access to the data systems to the juvenile rehabilitation administration and the Washington state institute for public policy related to program and outcome data. The juvenile rehabilitation administration and the juvenile courts will work collaboratively to develop program outcomes that reinforce the greatest cost benefit to the state in the implementation of evidence-based practices and disposition alternatives.

(e) By December 1, 2010, the Washington state institute for public policy shall report to the office of financial management and appropriate committees of the legislature on the administration of the block grant authorized in this subsection. The report shall include the criteria used for allocating the funding as a block grant and the participation targets and actual participation in the programs subject to the block grant.

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(8) \$3,700,000 of the Washington auto theft prevention authority account--state appropriation is provided solely for competitive grants to community-based organizations to provide at-risk youth intervention services, including but not limited to, case management, employment services, educational services, and street outreach intervention programs. Projects funded should focus on preventing, intervening, and suppressing behavioral problems and violence while linking at-risk youth to pro-social activities. The department may not expend more than \$1,850,000 per fiscal year. The costs of administration must not exceed four percent of appropriated funding for each grant recipient. Each entity receiving funds must report to the juvenile rehabilitation administration on the number and types of youth served, the services provided, and the impact of those services upon the youth and the community.

(9) The appropriations in this section assume savings associated with the transfer of youthful offenders age eighteen or older whose sentences extend beyond age twenty-one to the department of corrections to complete their sentences. Prior to transferring an offender to the department of corrections, the juvenile rehabilitation administration shall evaluate the offender to determine the offender's physical and emotional suitability for transfer.

**Sec. 1104.** 2011 c 5 s 203 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MENTAL HEALTH PROGRAM

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

|  |                        |
|--|------------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$273,648,000          |
| General Fund--State Appropriation (FY 2011) ... (((\$263,993,000)) |                        |
| .....  | <u>\$271,260,000</u>   |
| General Fund--Federal Appropriation .....                          | (((\$520,024,000))     |
| .....  | <u>\$513,373,000</u>   |
| General Fund--Private/Local Appropriation.....                     | \$16,951,000           |
| Hospital Safety Net Assessment Fund--State                         |                        |
| Appropriation.....   | \$3,476,000            |
| TOTAL APPROPRIATION .....  | (((\$1,078,092,000))   |
| .....  | <u>\$1,078,708,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$113,689,000 of the general fund--state appropriation for fiscal year 2010 and \$101,089,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for persons and services not covered by the medicaid program. This is a reduction of \$11,606,000 each fiscal year from the nonmedicaid funding that was allocated for expenditure by regional support networks during fiscal year 2009 prior to supplemental budget reductions. This \$11,606,000 reduction shall be distributed among regional support networks proportional to each network's share of the total state population. To the extent possible, levels of regional support network spending shall be maintained in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance.

(b) \$10,400,000 of the general fund--state appropriation for fiscal year 2010, \$8,814,000 of the general fund--state appropriation for fiscal year 2011, and \$1,300,000 of the general fund--federal appropriation are provided solely for the department and regional support networks to contract for implementation of high-intensity program for active community treatment (PACT) teams. The department shall work with regional support networks and the center for medicare and medicaid services to integrate eligible components of the PACT service delivery model into medicaid capitation rates no later than January 2011, while maintaining

consistency with all essential elements of the PACT evidence-based practice model.

(c) \$6,500,000 of the general fund--state appropriation for fiscal year 2010 and \$6,091,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the western Washington regional support networks to provide either community- or hospital campus-based services for persons who require the level of care provided by the program for adaptive living skills (PALS) at western state hospital.

(d) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall be 192 per day. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall be 617 per day during the first quarter of fiscal year 2010, 587 per day through the second quarter of fiscal year 2011, and 557 per day thereafter. Beds in the program for adaptive living skills (PALS) are not included in the preceding bed allocations. The department shall separately charge regional support networks for persons served in the PALS program.

(e) From the general fund--state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund--state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(f) \$4,582,000 of the general fund--state appropriation for fiscal year 2010 and \$4,582,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon release from confinement.

(g) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

(h) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$703,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who were discharged from the state hospitals as part of the expanding community services initiative. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

(i) \$1,500,000 of the general fund--state appropriation for fiscal year 2010 and \$1,500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Spokane regional support network to implement services to reduce utilization and the census at eastern state hospital. Such services shall include:

(i) High intensity treatment team for persons who are high utilizers of psychiatric inpatient services, including those with co-occurring disorders and other special needs;

(ii) Crisis outreach and diversion services to stabilize in the community individuals in crisis who are at risk of requiring inpatient care or jail services;

(iii) Mental health services provided in nursing facilities to individuals with dementia, and consultation to facility staff treating those individuals; and

(iv) Services at the sixteen-bed evaluation and treatment facility.

At least annually, the Spokane regional support network shall assess the effectiveness of these services in reducing utilization at eastern state hospital, identify services that are not optimally effective, and modify those services to improve their effectiveness.

(j) The department shall return to the Spokane regional support network fifty percent of the amounts assessed against the network

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during the last six months of calendar year 2009 for state hospital utilization in excess of its contractual limit. The regional support network shall use these funds for operation during its initial months of a new sixteen-bed evaluation and treatment facility that will enable the network to reduce its use of the state hospital, and for diversion and community support services for persons with dementia who would likely otherwise require care at the state hospital.

(k) The department is directed to identify and implement program efficiencies and benefit changes in its delivery of medicaid managed-care services that are sufficient to operate within the state and federal appropriations in this section. Such actions may include but are not limited to methods such as adjusting the care access standards; improved utilization management of ongoing, recurring, and high-intensity services; and increased uniformity in provider payment rates. The department shall ensure that the capitation rate adjustments necessary to accomplish these efficiencies and changes are distributed uniformly and equitably across all regional support networks statewide. The department is directed to report to the relevant legislative fiscal and policy committees at least thirty days prior to implementing rate adjustments reflecting these changes.

(l) In developing the new medicaid managed care rates under which the public mental health managed care system will operate during the five years beginning in fiscal year 2011, the department should seek to estimate the reasonable and necessary cost of efficiently and effectively providing a comparable set of medically necessary mental health benefits to persons of different acuity levels regardless of where in the state they live. Actual prior period spending in a regional administrative area shall not be a key determinant of future payment rates. The department shall report to the office of financial management and to the relevant fiscal and policy committees of the legislature on its proposed new waiver and mental health managed care rate-setting approach by October 1, 2009, and again at least sixty days prior to implementation of new capitation rates.

(m) In implementing the new public mental health managed care payment rates for fiscal year 2011, the department shall to the maximum extent possible within each regional support network's allowable rate range establish rates so that there is no increase or decrease in the total state and federal funding that the regional support network would receive if it were to continue to be paid at its October 2009 through June 2010 rates. The department shall additionally revise the draft rates issued January 28, 2010, to more accurately reflect the lower practitioner productivity inherent in the delivery of services in extremely rural regions in which a majority of the population reside in frontier counties, as defined and designated by the national center for frontier communities.

(n) \$1,529,000 of the general fund--state appropriation for fiscal year 2010 and \$1,529,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to reimburse Pierce and Spokane counties for the cost of conducting 180-day commitment hearings at the state psychiatric hospitals.

(o) The legislature intends and expects that regional support networks and contracted community mental health agencies shall make all possible efforts to, at a minimum, maintain current compensation levels of direct care staff. Such efforts shall include, but not be limited to, identifying local funding that can preserve client services and staff compensation, achieving administrative reductions at the regional support network level, and engaging stakeholders on cost-savings ideas that maintain client services and staff compensation. For purposes of this section, "direct care staff" means persons employed by community mental health agencies whose primary responsibility is providing direct treatment and support to people with mental illness, or whose primary

responsibility is providing direct support to such staff in areas such as client scheduling, client intake, client reception, client records-keeping, and facilities maintenance.

(p) Regional support networks may use local funds to earn additional federal medicaid match, provided the locally matched rate does not exceed the upper-bound of their federally allowable rate range, and provided that the enhanced funding is used only to provide medicaid state plan or waiver services to medicaid clients. Additionally, regional support networks may use a portion of the state funds allocated in accordance with (a) of this subsection to earn additional medicaid match, but only to the extent that the application of such funds to medicaid services does not diminish the level of crisis and commitment, community inpatient, residential care, and outpatient services presently available to persons not eligible for medicaid.

(2) INSTITUTIONAL SERVICES

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$119,423,000        |
| General Fund--State Appropriation (FY 2011) ... (( | (\$112,514,000))     |
| .....  | <u>\$111,365,000</u> |
| General Fund--Federal Appropriation .....          | ((                   |
| .....  | <u>\$154,399,000</u> |
| General Fund--Private/Local Appropriation.....     | ((                   |
| .....  | <u>\$64,789,000</u>  |
| TOTAL APPROPRIATION .....                          | ((                   |
| .....  | <u>\$449,976,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state psychiatric hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$231,000 of the general fund--state appropriation for fiscal year 2008 and \$216,000 of the general fund--state appropriation for fiscal year 2009 are provided solely for a community partnership between western state hospital and the city of Lakewood to support community policing efforts in the Lakewood community surrounding western state hospital. The amounts provided in this subsection (2)(b) are for the salaries, benefits, supplies, and equipment for one full-time investigator, one full-time police officer, and one full-time community service officer at the city of Lakewood.

(c) \$45,000 of the general fund--state appropriation for fiscal year 2010 and \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for payment to the city of Lakewood for police services provided by the city at western state hospital and adjacent areas.

(d) \$187,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for support of the psychiatric security review panel established pursuant to Senate Bill No. 6610. If Senate Bill No. 6610 is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(3) SPECIAL PROJECTS

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,819,000        |
| General Fund--State Appropriation (FY 2011) ..... | \$1,961,000        |
| General Fund--Federal Appropriation .....         | ((                 |
| .....   | <u>\$2,538,000</u> |
| TOTAL APPROPRIATION .....                         | ((                 |
| .....   | <u>\$6,318,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$1,511,000 of the general fund--state appropriation for fiscal year 2010 and \$1,416,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for children's evidence based mental health services. Funding is sufficient to continue serving children at the same levels as fiscal year 2009.

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(b) \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for consultation, training, and technical assistance to regional support networks on strategies for effective service delivery in very sparsely populated counties.

(c) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with chapter 263, Laws of 2010.

(d) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the Washington state institute for public policy for completion of the research reviews to be conducted in accordance with section 1, chapter 280, Laws of 2010.

(e) \$56,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of sections 2 and 3, chapter 280, Laws of 2010. The department shall use these funds to contract with the Washington state institute for public policy for completion of an assessment of (i) the extent to which the number of persons involuntarily committed for 3, 14, and 90 days is likely to increase as a result of the revised commitment standards; (ii) the availability of community treatment capacity to accommodate that increase; (iii) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (iv) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly-funded medical care, and state psychiatric hospitalizations.

(4) PROGRAM SUPPORT

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,078,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$3,722,000)</del>  |
| .....   | <u>\$4,002,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$7,207,000)</del>  |
| .....   | <u>\$6,920,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$15,007,000)</del> |
| .....   | <u>\$15,000,000</u>       |

The department is authorized and encouraged to continue its contract with the Washington state institute for public policy to provide a longitudinal analysis of long-term mental health outcomes as directed in chapter 334, Laws of 2001 (mental health performance audit); to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

**Sec. 1105.** 2011 c 5 s 204 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--DEVELOPMENTAL DISABILITIES PROGRAM

(1) COMMUNITY SERVICES

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$307,348,000                |
| General Fund--State Appropriation (FY 2011) ...   | <del>(\$321,752,000)</del>   |
| .....   | <u>\$329,639,000</u>         |
| General Fund--Federal Appropriation .....         | <del>(\$890,274,000)</del>   |
| .....   | <u>\$870,232,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>(\$1,519,374,000)</del> |
| .....   | <u>\$1,507,219,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b)(i) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be

scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(ii) \$508,000 of the general fund--state appropriation for fiscal year 2011 and \$822,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reductions to in-home care that are taken in (b)(i) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(c) Amounts appropriated in this section are sufficient to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services by April 1, 2011. The rates paid to vendors under this contract shall also be made consistent. In its description of activities the agency shall include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled. The department shall begin reporting to the office of financial management on these activities beginning in fiscal year 2010.

(d) \$302,000 of the general fund--state appropriation for fiscal year 2010, \$831,000 of the general fund--state appropriation for fiscal year 2011, and \$1,592,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(e)(i) \$682,000 of the general fund--state appropriation for fiscal year 2010, \$1,651,000 of the general fund--state appropriation for fiscal year 2011, and \$1,678,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(ii) The federal portion of the amounts in this subsection ~~((~~(\$)~~))~~ is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(iii) Expenditures for the purposes specified in this subsection ~~((~~(\$)~~))~~ shall not exceed the amounts provided in this subsection.

(f) Within the amounts appropriated in this subsection (1), the department shall implement all necessary rules to facilitate the transfer to a department home and community-based services (HCBS) waiver of all eligible individuals who (i) currently receive services under the existing state-only employment and day program or the existing state-only residential program, and (ii) otherwise meet the waiver eligibility requirements. The amounts appropriated are sufficient to ensure that all individuals currently receiving services under the state-only employment and day and state-only residential programs who are not transferred to a department HCBS waiver will continue to receive services.

(g) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(h) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

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(i) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

- (i) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;
- (ii) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and
- (iii) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(j) The amounts appropriated in this subsection reflect a reduction in funds available for employment and day services. In administering this reduction the department shall negotiate with counties and their vendors so that this reduction, to the greatest extent possible, is achieved by reducing vendor rates and allowable contract administrative charges (overhead) and not through reductions to direct client services or direct service delivery or programs.

(k) As part of the needs assessment instrument, the department may collect data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department may ensure that this information is collected as part of the client assessment process.

(l) \$116,000 of the general fund--state appropriation for fiscal year 2010, \$2,133,000 of the general fund--state appropriation for fiscal year 2011, and \$1,772,000 of the general fund--federal appropriation are provided solely for employment services and required waiver services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients.

(m) \$81,000 of the general fund--state appropriation for fiscal year 2010, \$599,000 of the general fund--state appropriation for fiscal year 2011, and \$1,111,000 of the general fund--federal appropriation are provided solely for the department to provide employment and day services for eligible students who are currently on a waiver and will graduate from high school during fiscal years 2010 and 2011.

(n) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(o) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the restoration of direct support to local organizations that utilize parent-to-parent networks and communication to promote access and quality of care for individuals with developmental disabilities and their families.

(2) INSTITUTIONAL SERVICES

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,422,000         |
| General Fund--State Appropriation (FY 2011) ..... | (\$62,551,000)       |
| .....   | <u>\$66,554,000</u>  |
| General Fund--Federal Appropriation .....         | (\$205,440,000)      |
| .....   | <u>\$200,262,000</u> |
| General Fund--Private/Local Appropriation.....    | (\$22,357,000)       |

|                           |                      |
|---------------------------|----------------------|
| .....                     | <u>\$22,657,000</u>  |
| TOTAL APPROPRIATION ..... | (\$351,770,000)      |
| .....                     | <u>\$350,895,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(b) The developmental disabilities program is authorized to use funds appropriated in this subsection to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(c) \$721,000 of the general fund--state appropriation for fiscal year 2010 and \$721,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to fulfill its contracts with the school districts under chapter 28A.190 RCW to provide transportation, building space, and other support services as are reasonably necessary to support the educational programs of students living in residential habilitation centers.

(d) In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) PROGRAM SUPPORT

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,407,000        |
| General Fund--State Appropriation (FY 2011) ..... | \$1,341,000        |
| General Fund--Federal Appropriation .....         | (\$1,263,000)      |
| .....   | <u>\$1,277,000</u> |
| TOTAL APPROPRIATION .....                         | (\$4,011,000)      |
| .....   | <u>\$4,025,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this subsection reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) SPECIAL PROJECTS

|   |                     |
|---|---------------------|
| General Fund--Federal Appropriation ..... | (\$10,171,000)      |
| .....                                     | <u>\$10,157,000</u> |

The appropriation in this subsection is subject to the following conditions and limitations: The appropriations in this subsection are available solely for the infant toddler early intervention program and the money follows the person program as defined by this federal grant.

**Sec. 1106.** 2011 c 5 s 205 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--AGING AND ADULT SERVICES PROGRAM

|   |                        |
|---|------------------------|
| General Fund--State Appropriation (FY 2010) .....     | \$616,837,000          |
| General Fund--State Appropriation (FY 2011) ...       | (\$606,962,000)        |
| .....   | <u>\$647,131,000</u>   |
| General Fund--Federal Appropriation .....             | (\$1,917,607,000)      |
| .....   | <u>\$1,922,938,000</u> |
| General Fund--Private/Local Appropriation.....        | \$18,013,000           |
| Traumatic Brain Injury Account--State Appropriation.. | \$4,136,000            |
| Skilled Nursing Facility Safety Net Assessment        |                        |
| Fund--State Appropriation .....                       | \$13,988,000           |
| TOTAL APPROPRIATION .....                             | (\$3,163,555,000)      |
| .....   | <u>\$3,223,043,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

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(1) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed \$169.85 for fiscal year 2010 and shall not exceed ~~((~~\$161.86~~))~~ \$167.02 for fiscal year 2011, including the rate add-on described in subsection (12) of this section. There will be no adjustments for economic trends and conditions in fiscal years 2010 and 2011. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the component rate allocations established in accordance with chapter 74.46 RCW. When no economic trends and conditions factor for either fiscal year is defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the component rate allocations established in accordance with chapter 74.46 RCW.

(a) \$2,093,000 of the skilled nursing facility safety net assessment fund--state appropriation and \$2,609,000 of the general fund--federal appropriation are provided solely for an acuity based add-on to the direct care rate. The department shall determine the resident acuity add-on pursuant to House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) using a nine percent add-on for facilities in the highest acuity quartile, a six percent add-on for facilities in the next quartile, three percent for facilities in the next quartile, and a negative one percent add-on for facilities in the lowest acuity quartile. If House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) is not enacted, the amounts provided in this subsection shall lapse. For fiscal year 2011, this add-on shall not be included in the rate limit specified in this subsection and shall not be included in settlement calculations for calendar year 2011.

(b) \$844,000 of the skilled nursing facility safety net assessment fund--state appropriation and \$1,053,000 of the general fund--federal appropriation are provided solely for a rate enhancement available to all nursing facilities participating in the state's medicaid program. The add-on shall be calculated as follows: Seven percent add-on to the direct care rate, three percent add-on to the therapy care rate, and five percent add-on to each of the support services, and operations components. If House Bill No. 1722 or Substitute Senate Bill No. 5581 (nursing home safety net assessment) is not enacted, the amounts provided in this subsection shall lapse. For fiscal year 2011, this add-on shall not be included in the rate limit specified in this subsection and shall not be included in settlement calculations for calendar year 2011.

(c) The rate add-ons provided in (a) and (b) of this subsection are discretionary and are provided in addition to the base nursing facility rate. The legislature has examined actual nursing facility cost information and finds that the nursing facility rates funded pursuant to the budget dials specified in (a) of this subsection are sufficient to reimburse efficient and economically operating homes. The legislature's choice to fund the add-ons specified in (a) and (b) of this subsection in any year is not indicative of an obligation to fund the add-ons in any subsequent year.

(2) After examining actual nursing facility cost information, the legislature finds that the medicaid nursing facility rates calculated pursuant to Substitute House Bill No. 3202 or Substitute Senate Bill No. 6872 (nursing facility medicaid payments) provide sufficient reimbursement to efficient and economically operating nursing facilities and bears a reasonable relationship to costs.

(3) In accordance with chapter 74.46 RCW, the department shall issue no additional certificates of capital authorization for fiscal year 2010 and no new certificates of capital authorization for fiscal year 2011 and shall grant no rate add-ons to payment rates for

capital improvements not requiring a certificate of need and a certificate of capital authorization for fiscal year 2011.

(4) The long-term care program may develop and pay enhanced rates for exceptional care to nursing homes for persons with traumatic brain injuries who are transitioning from hospital care. The cost per patient day for caring for these clients in a nursing home setting may be equal to or less than the cost of caring for these clients in a hospital setting.

(5) Within the appropriations of this section, the department shall reduce all seventeen payment levels of the seventeen-level payment system from the fiscal year 2009 levels for boarding homes, boarding homes contracted as assisted living, and adult family homes. Excluded from the reductions are exceptional care rate add-ons. The long-term care program may develop add-ons to pay exceptional care rates to adult family homes and boarding homes with specialty contracts to provide support for the following specifically eligible clients:

(a) Persons with AIDS or HIV-related diseases who might otherwise require nursing home or hospital care;

(b) Persons with Alzheimer's disease and related dementia who might otherwise require nursing home care; and

(c) Persons with co-occurring mental illness and long-term care needs who are eligible for expanded community services and who might otherwise require state and local psychiatric hospital care.

Within amounts appropriated, exceptional add-on rates for AIDS/HIV, dementia specialty care, and expanded community services may be standardized within each program.

(6)(a) Amounts appropriated in this section reflect a reduction to funds appropriated for in-home care. The department shall reduce the number of in-home hours authorized. The reduction shall be scaled based on the acuity level of care recipients. The largest hour reductions shall be to lower acuity patients and the smallest hour reductions shall be to higher acuity patients. In doing so, the department shall comply with all maintenance of effort requirements contained in the American reinvestment and recovery act.

(b) \$3,070,000 of the general fund--state appropriation for fiscal year 2011 and \$4,980,000 of the general fund--federal appropriation are provided solely for the department to partially restore the reduction to in-home care that are taken in (a) of this subsection. The department will use the same formula to restore personal care hours that it used to reduce personal care hours.

(7) \$536,000 of the general fund--state appropriation for fiscal year 2010, \$1,477,000 of the general fund--state appropriation for fiscal year 2011, and \$2,830,000 of the general fund--federal appropriation are provided solely for health care benefits pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(8)(a) \$1,212,000 of the general fund--state appropriation for fiscal year 2010, \$2,934,000 of the general fund--state appropriation for fiscal year 2011, and \$2,982,000 of the general fund--federal appropriation are provided solely for the state's contribution to the training partnership, as provided in RCW 74.39A.360, pursuant to a collective bargaining agreement negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(b) \$330,000 of the general fund--state appropriation for fiscal year 2010, \$660,000 of the general fund--state appropriation for fiscal year 2011, and \$810,000 of the general fund--federal appropriation are provided solely for transfer from the department to the training partnership, as provided in RCW 74.39A.360, for infrastructure and instructional costs associated with training of individual providers, pursuant to a collective bargaining agreement

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negotiated with the exclusive bargaining representative of individual providers established under RCW 74.39A.270.

(c) The federal portion of the amounts in this subsection is contingent upon federal approval of participation in contributions to the trust and shall remain unallotted and placed in reserve status until the office of financial management and the department of social and health services receive federal approval.

(d) Expenditures for the purposes specified in this subsection shall not exceed the amounts provided in this subsection.

(9) Within the amounts appropriated in this section, the department may expand the new freedom waiver program to accommodate new waiver recipients throughout the state. As possible, and in compliance with current state and federal laws, the department shall allow current waiver recipients to transfer to the new freedom waiver.

(10) Individuals receiving services as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(11) \$3,955,000 of the general fund--state appropriation for fiscal year 2010, \$3,972,000 of the general fund--state appropriation for fiscal year 2011, and \$10,190,000 of the general fund--federal appropriation are provided solely for the continued operation of community residential and support services for persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration.

(12) Within the funds provided, the department shall continue to provide an add-on per medicaid resident day per facility not to exceed \$1.57. The add-on shall be used to increase wages, benefits, and/or staffing levels for certified nurse aides; or to increase wages and/or benefits for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than \$15 in calendar year 2008, according to cost report data. The add-on may also be used to address resulting wage compression for related job classes immediately affected by wage increases to low-wage workers. The department shall continue reporting requirements and a settlement process to ensure that the funds are spent according to this subsection. The department shall adopt rules to implement the terms of this subsection.

(13) \$1,840,000 of the general fund--state appropriation for fiscal year 2010 and \$1,759,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for operation of the volunteer services program. Funding shall be prioritized towards serving populations traditionally served by long-term care services to include senior citizens and persons with disabilities.

(14) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on

each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(15) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(16) The department shall contract for housing with service models, such as cluster care, to create efficiencies in service delivery and responsiveness to unscheduled personal care needs by clustering hours for clients that live in close proximity to each other.

(17) The department shall not pay a home care agency licensed under chapter 70.127 RCW for personal care services provided by a family member, pursuant to Substitute House Bill No. 2361 (modifying state payments for in-home care).

(18) \$209,000 of the general fund--state appropriation for fiscal year 2010, \$732,000 of the general fund--state appropriation for fiscal year 2011, and \$1,293,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(19) In accordance with RCW 18.51.050, 18.20.050, and 43.135.055, the department is authorized to increase nursing facility and boarding home fees in fiscal year 2011 as necessary to meet the actual costs of conducting the licensure, inspection, and regulatory programs.

(a) \$1,035,000 of the general fund--private/local appropriation assumes that the current annual renewal license fee for nursing facilities shall be increased to \$327 per bed beginning in fiscal year 2011.

(b) \$1,806,000 of the general fund--local appropriation assumes that the current annual renewal license fee for boarding homes shall be increased to \$106 per bed beginning in fiscal year 2011.

(20) \$2,566,000 of the traumatic brain injury account--state appropriation is provided solely to continue services for persons with traumatic brain injury (TBI) as defined in RCW 74.31.020 through 74.31.050. The TBI advisory council shall provide a report to the legislature by December 1, 2010, on the effectiveness of the functions overseen by the council and shall provide recommendations on the development of critical services for individuals with traumatic brain injury.

(21) The automatic award of additional hours of personal care for people with special meal preparation or incontinence needs is eliminated. Authorization of service hours will be based upon the individual's assessed needs.

(22) For calendar year 2009, the department shall calculate split settlements covering two periods January 1, 2009, through June 30,

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2009, and July 1, 2009, through December 31, 2009. For the second period beginning July 1, 2009, the department may partially or totally waive settlements only in specific cases where a nursing home can demonstrate significant decreases in costs from the first period.

(23) \$72,000 of the traumatic brain injury account appropriation and \$116,000 of the general fund--federal appropriation are provided solely for a direct care rate add-on to any nursing facility specializing in the care of residents with traumatic brain injuries where more than 50 percent of residents are classified with this condition based upon the federal minimum data set assessment.

(24) \$69,000 of the general fund--state appropriation for fiscal year 2010, \$1,289,000 of the general fund--state appropriation for fiscal year 2011, and \$2,050,000 of the general fund--federal appropriation are provided solely for the department to maintain enrollment in the adult day health services program. New enrollments are authorized for up to 1,575 clients or to the extent that appropriated funds are available to cover additional clients.

(25) \$937,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract for the provision of an individual provider referral registry.

(26) \$94,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the general fund--federal appropriation are provided solely for the department to contract with a consultant to evaluate and make recommendations on a pay-for-performance payment subsidy system. The department shall organize one workgroup meeting with the consultant where nursing home stakeholders may provide input on pay-for-performance ideas. The consultant shall review pay-for-performance strategies used in other states to sustain and enhance quality-improvement efforts in nursing facilities. The evaluation shall include a review of the centers for medicare and medicaid services demonstration project to explore the feasibility of pay-for-performance systems in medicare certified nursing facilities. The consultant shall develop a report to include:

(a) Best practices used in other states for pay-for-performance strategies incorporated into medicaid nursing home payment systems;

(b) The relevance of existing research to Washington state;

(c) A summary and review of suggestions for pay-for-performance strategies provided by nursing home stakeholders in Washington state; and

(d) An evaluation of the effectiveness of a variety of performance measures.

(27) \$4,100,000 of the general fund--state appropriation for fiscal year 2010, \$4,174,000 of the general fund--state appropriation for fiscal year 2011, and \$8,124,000 of the general fund--federal appropriation are provided for the operation of the management services division of the aging and disability services administration. This includes but is not limited to the budget, contracts, accounting, decision support, information technology, and rate development activities for programs administered by the aging and disability services administration. Nothing in this subsection is intended to exempt the management services division of the aging and disability services administration from reductions directed by the secretary. However, funds provided in this subsection shall not be transferred elsewhere within the department nor used for any other purpose.

(28) The department is authorized to place long-term care clients residing in nursing homes and paid for with state only funds into less restrictive community care settings while continuing to meet the client's care needs.

(29) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in section 206(19), chapter 37, Laws of 2010 1st sp.s.

**Sec. 1107.** 2011 c 5 s 206 (uncodified) is amended to read as follows:

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FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ECONOMIC SERVICES PROGRAM

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) .....               | \$564,242,000                |
| General Fund--State Appropriation (FY 2011) ...                 | <del>(\$540,549,000)</del>   |
|   | <u>\$567,683,000</u>         |
| General Fund--Federal Appropriation .....                       | <del>(\$1,219,423,000)</del> |
|   | <u>\$1,268,032,000</u>       |
| General Fund--Private/Local Appropriation.....                  | \$37,816,000                 |
| Administrative Contingency Account--State<br>Appropriation..... | \$24,336,000                 |
| TOTAL APPROPRIATION .....                                       | <del>(\$2,386,366,000)</del> |
|   | <u>\$2,462,109,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$303,393,000 of the general fund--state appropriation for fiscal year 2010, ~~(\$285,057,000)~~ \$285,699,000 of the general fund--state appropriation for fiscal year 2011 net of child support pass-through recoveries, \$24,336,000 of the administrative contingency account--state appropriation, and ~~(\$778,606,000)~~ \$863,146,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program. The department shall use moneys from the administrative contingency account for WorkFirst job placement services provided by the employment security department. Within the amounts provided for the WorkFirst program, the department may provide assistance using state-only funds for families eligible for temporary assistance for needy families. In addition, within the amounts provided for WorkFirst the department shall:

(a) ~~(Establish a career services work transition program;~~

~~(b))~~ Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months;

~~((e))~~ ~~(b)~~ Submit a report electronically by October 1, 2009, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2009-2011 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels;

~~((f))~~ ~~(c)~~ Provide quarterly fiscal reports to the office of financial management and the legislative fiscal committees detailing information on the amount expended from general fund--state and general fund--federal by activity.

(2) The department may establish a career services work transition program.

(3) The department and the office of financial management shall electronically report quarterly the expenditures, maintenance of effort allotments, expenditure amounts, and caseloads for the WorkFirst program to the legislative fiscal committees.

~~((3))~~ ~~(4)~~ \$16,783,000 of the general fund--state appropriation for fiscal year 2011 and ~~(\$62,000,000)~~ \$19,027,000 of the general fund--federal appropriation are provided solely for all components of the WorkFirst program in order to maintain services to January 2011. The legislature intends to work with the governor to design and implement fiscal and programmatic modifications to provide for the sustainability of the program. The funding in this subsection assumes that no other expenditure reductions will be made prior to January 2011 other than those assumed in the appropriation levels in this act.

~~((4))~~ ~~(5)~~ \$94,322,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$76,979,000)~~ \$94,104,000 of the general

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fund--state appropriation for fiscal year 2011, net of recoveries, are provided solely for cash assistance and other services to recipients in the cash program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), including persons in the unemployable, expedited, and aged, blind, and disabled components of the program. It is the intent of the legislature that the lifeline incapacity determination and progressive evaluation process regulations be carefully designed to accurately identify those persons who have been or will be incapacitated for at least ninety days. The incapacity determination and progressive evaluation process regulations in effect on January 1, 2010, cannot be amended until at least September 30, 2010; except that provisions related to the use of administrative review teams may be amended, and obsolete terminology and functional assessment language may be updated on or after July 1, 2010, in a manner that only minimally impacts the outcome of incapacity evaluations. After September 30, 2010, the incapacity determination and progressive evaluation process regulations may be amended only if the reports under (a) and (b) of this subsection have been submitted, and find that expenditures will exceed the appropriated level by three percent or more.

(a) The department and the caseload forecast council shall, by September 21, 2010, submit a report to the legislature based upon the most recent caseload forecast and actual expenditure data available, as to whether expenditures for the lifeline-unemployable grants in fiscal year 2011 will exceed \$69,648,000 for fiscal year 2011 in the 2010 supplemental operating budget by three percent or more. If expenditures will exceed the appropriated amount for lifeline-unemployable grants by three percent or more, the department may adopt regulations modifying incapacity determination and progressive evaluation process regulations after September 30, 2010.

(b) On or before September 21, 2010, the department shall submit a report to the relevant policy and fiscal committees of the legislature that includes the following information regarding any regulations proposed for adoption that would modify the lifeline incapacity determination and progressive evaluation process:

(i) A copy of the proposed changes and a concise description of the changes;

(ii) A description of the persons who would likely be affected by adoption of the regulations, including their impairments, age, education, and work history;

(iii) An estimate of the number of persons who, on a monthly basis through June 2013, would be denied lifeline benefits if the regulations were adopted, expressed as a number, as a percentage of total applicants, and as a percentage of the number of persons granted lifeline benefits in each month;

(iv) An estimate of the number of persons who, on a monthly basis through June 2013, would have their lifeline benefits terminated following an eligibility review if the regulations were adopted, expressed as a number, as a percentage of the number of persons who have had an eligibility review in each month, and as a percentage of the total number of persons currently receiving lifeline-unemployable benefits in each month; and

(v) Intended improvements in employment or treatment outcomes among persons receiving lifeline benefits that could be attributable to the changes in the regulations.

(c) Within these amounts:

(i) The department shall aggressively pursue opportunities to transfer lifeline clients to general assistance expedited coverage and to facilitate client applications for federal supplemental security income when the client's incapacities indicate that he or she would be likely to meet the federal disability criteria for supplemental security income. The department shall initiate and file the federal supplemental security income interim agreement as quickly as possible in order to maximize the recovery of federal funds;

(ii) The department shall review the lifeline caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

(iii) The department shall actively coordinate with local workforce development councils to expedite access to worker retraining programs for lifeline clients in those regions of the state with the greatest number of such clients;

(iv) By July 1, 2009, the department shall enter into an interagency agreement with the department of veterans' affairs to establish a process for referral of veterans who may be eligible for veteran's services. This agreement must include outstationing department of veterans' affairs staff in selected community service office locations in King and Pierce counties to facilitate applications for veterans' services; and

(v) In addition to any earlier evaluation that may have been conducted, the department shall intensively evaluate those clients who have been receiving lifeline benefits for twelve months or more as of July 1, 2009, or thereafter, if the available medical and incapacity related evidence indicates that the client is unlikely to meet the disability standard for federal supplemental security income benefits. The evaluation shall identify services necessary to eliminate or minimize barriers to employment, including mental health treatment, substance abuse treatment and vocational rehabilitation services. The department shall expedite referrals to chemical dependency treatment, mental health and vocational rehabilitation services for these clients.

(vi) The appropriations in this subsection reflect a change in the earned income disregard policy for lifeline clients. It is the intent of the legislature that the department shall adopt the temporary assistance for needy families earned income policy for the lifeline program.

~~((5))~~ (6) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for naturalization services.

~~((6))~~ (7) \$3,550,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for refugee employment services, of which \$2,650,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services; and \$2,050,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for refugee employment services, of which \$1,540,000 is provided solely for the department to pass through to statewide refugee assistance organizations for limited English proficiency pathway services.

~~((7))~~ (8) The appropriations in this section reflect reductions in the appropriations for the economic services administration's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

~~((8))~~ (9) \$855,000 of the general fund--state appropriation for fiscal year 2011, \$719,000 of the general fund--federal appropriation, and \$2,907,000 of the general fund--private/local appropriation are provided solely for the implementation of the opportunity portal, the food stamp employment and training program, and the disability lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

~~((9))~~ (10) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to award grants to small mutual assistance or small community-based

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organizations that contract with the department for immigrant and refugee assistance services. The funds shall be awarded to provide funding for community groups to provide transitional assistance, language skills, and other resources to improve refugees' economic self-sufficiency through the effective use of social services, financial services, and medical assistance.

~~((4))~~ (11) To ensure expenditures remain within available funds appropriated in this section, the legislature establishes the benefit under the state food assistance program, made pursuant to RCW 74.08A.120, to be fifty percent of the federal supplemental nutrition assistance program benefit amount.

**Sec. 1108.** 2011 c 5 s 207 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ALCOHOL AND SUBSTANCE ABUSE PROGRAM

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$81,982,000               |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$77,065,000)</del>  |
| .....  | <u>\$77,818,000</u>        |
| General Fund--Federal Appropriation .....          | <del>(\$151,574,000)</del> |
| .....  | <u>\$152,619,000</u>       |
| General Fund--Private/Local Appropriation.....     | \$2,718,000                |
| Criminal Justice Treatment Account--State          |                            |
| Appropriation.....                                 | \$17,743,000               |
| Problem Gambling Account--State Appropriation..... | \$1,456,000                |
| TOTAL APPROPRIATION .....                          | <del>(\$332,538,000)</del> |
| .....  | <u>\$334,336,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the department may contract with the University of Washington and community-based providers for the provision of the parent-child assistance program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount.

(2) Within the amounts appropriated in this section, the department shall continue to provide for chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable patients.

(3) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(4) Funding is provided for the implementation of the lifeline program under Second Substitute House Bill No. 2782 (security lifeline act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(5) \$3,500,000 of the general fund--federal appropriation (from the substance abuse prevention and treatment federal block grant) is provided solely for the continued funding of existing county drug and alcohol use prevention programs.

**Sec. 1109.** 2011 c 5 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--MEDICAL ASSISTANCE PROGRAM

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,697,203,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,737,303,000)</del> |
| .....   | <u>\$1,816,016,000</u>       |
| General Fund--Federal Appropriation .....         | <del>(\$6,047,405,000)</del> |
| .....   | <u>\$5,901,950,000</u>       |
| General Fund--Private/Local Appropriation.....    | <del>(\$38,509,000)</del>    |
| .....   | <u>\$37,397,000</u>          |

Emergency Medical Services and Trauma Care Systems

|  |                              |
|--|------------------------------|
| Trust Account--State Appropriation .....   | \$15,075,000                 |
| Tobacco Prevention and Control Account--   |                              |
| State Appropriation.....                   | <del>(\$4,464,000)</del>     |
| .....                                      | <u>\$3,798,000</u>           |
| Hospital Safety Net Assessment Fund--State |                              |
| Appropriation.....                         | <del>(\$260,057,000)</del>   |
| .....                                      | <u>\$254,974,000</u>         |
| TOTAL APPROPRIATION .....                  | <del>(\$9,800,016,000)</del> |
| .....                                      | <u>\$9,726,413,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(3) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(4) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(5) ~~(In accordance with RCW 74.46.625,)~~ \$6,000,000 of the general fund--federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments. The supplemental payments are subject to retrospective interim and final cost settlements based on the nursing homes' as-filed and final medicare cost reports. The timing of the interim and final cost settlements shall be at the department's discretion. During either the interim cost settlement or the final cost settlement, the department shall recoup from the public hospital districts the supplemental payments that exceed the medicaid cost limit and/or the medicare upper payment limit. The department shall apply federal rules for identifying the eligible incurred medicaid costs and the medicare upper payment limit.

(6) \$649,000 of the general fund--federal appropriation and \$644,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(7) \$5,729,000 of the general fund--state appropriation for fiscal year 2011, and \$5,776,000 of the general fund--federal appropriation are provided solely for grants to nonrural hospitals.

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The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients, and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) The department shall continue the inpatient hospital certified public expenditures program for the 2009-11 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. The department shall submit reports to the governor and legislature by November 1, 2009, and by November 1, 2010, that evaluate whether savings continue to exceed costs for this program. If the certified public expenditures (CPE) program in its current form is no longer cost-effective to maintain, the department shall submit a report to the governor and legislature detailing cost-effective alternative uses of local, state, and federal resources as a replacement for this program. During fiscal year 2010 and fiscal year 2011, hospitals in the program shall be paid and shall retain one hundred percent of the federal portion of the allowable hospital cost for each medicaid inpatient fee-for-service claim payable by medical assistance and one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Inpatient medicaid payments shall be established using an allowable methodology that approximates the cost of claims submitted by the hospitals. Payments made to each hospital in the program in each fiscal year of the biennium shall be compared to a baseline amount. The baseline amount will be determined by the total of (a) the inpatient claim payment amounts that would have been paid during the fiscal year had the hospital not been in the CPE program based on the reimbursement rates developed, implemented, and consistent with policies approved in the 2009-11 biennial operating appropriations act (chapter 564, Laws of 2009) and in effect on July 1, 2009, (b) one half of the indigent assistance disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005, and (c) all of the other disproportionate share hospital payment amounts paid to and retained by each hospital during fiscal year 2005 to the extent the same disproportionate share hospital programs exist in the 2009-11 biennium. If payments during the fiscal year exceed the hospital's baseline amount, no additional payments will be made to the hospital except the federal portion of allowable disproportionate share hospital payments for which the hospital can certify allowable match. If payments during the fiscal year are less than the baseline amount, the hospital will be paid a state grant equal to the difference between payments during the fiscal year and the applicable baseline amount. Payment of the state grant shall be made in the applicable fiscal year and distributed in monthly payments. The grants will be recalculated and redistributed as the baseline is updated during the fiscal year. The grant payments are subject to an interim settlement within eleven months after the end of the fiscal year. A final settlement shall be performed. To the extent that either settlement determines that a hospital has received funds in excess of what it would have received as described in this subsection, the hospital must repay the excess amounts to the state when requested. \$20,403,000 of the general fund--state appropriation for fiscal year 2010, of which \$6,570,000 is appropriated in section ((204(4))) 1104(1) of this act, and ((~~\$29,480,000~~) \$15,113,000) of the general fund--state appropriation for fiscal year 2011, of which \$6,570,000 is appropriated in section ((204(4))) 1104(1) of this act, are provided solely for state grants for the participating hospitals. CPE hospitals will receive the inpatient and outpatient reimbursement rate restorations in section 9 and rate increases in section 10(1)(b) of Engrossed Second Substitute House Bill No. 2956 (hospital safety

net assessment) funded through the hospital safety net assessment fund rather than through the baseline mechanism specified in this subsection.

(9) The department is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the department determines it is cost-effective to do so.

(10) \$93,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--federal appropriation are provided solely for the department to pursue a federal Medicaid waiver pursuant to Second Substitute Senate Bill No. 5945 (Washington health partnership plan). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) The department shall require managed health care systems that have contracts with the department to serve medical assistance clients to limit any reimbursements or payments the systems make to providers not employed by or under contract with the systems to no more than the medical assistance rates paid by the department to providers for comparable services rendered to clients in the fee-for-service delivery system.

(12) A maximum of ((~~\$241,141,000~~) \$247,809,000) in total funds from the general fund--state, general fund--federal, and tobacco and prevention control account--state appropriations may be expended in the fiscal biennium for the medical program pursuant to chapter 8, Laws of 2010 1st sp. sess. (security lifeline act), and these amounts are provided solely for this program. Of these amounts, \$10,749,000 of the general fund--state appropriation for fiscal year 2010 and \$10,892,000 of the general fund--federal appropriation are provided solely for payments to hospitals for providing outpatient services to low income patients who are recipients of lifeline benefits. Pursuant to RCW 74.09.035, the department shall not expend for the lifeline medical care services program any amounts in excess of the amounts provided in this subsection.

(13) Mental health services shall be included in the services provided through the managed care system for lifeline clients under chapter 8, Laws of 2010 1st sp. sess. In transitioning lifeline clients to managed care, the department shall attempt to deliver care to lifeline clients through medical homes in community and migrant health centers. The department, in collaboration with the carrier, shall seek to improve the transition rate of lifeline clients to the federal supplemental security income program. The department shall renegotiate the contract with the managed care plan that provides services for lifeline clients to maximize state retention of future hospital savings as a result of improved care coordination. The department, in collaboration with stakeholders, shall propose a new name for the lifeline program.

(14) The department shall evaluate the impact of the use of a managed care delivery and financing system on state costs and outcomes for lifeline medical clients. Outcomes measured shall include state costs, utilization, changes in mental health status and symptoms, and involvement in the criminal justice system.

(15) The department shall report to the governor and the fiscal committees of the legislature by June 1, 2010, on its progress toward achieving a twenty percentage point increase in the generic prescription drug utilization rate.

(16) State funds shall not be used by hospitals for advertising purposes.

(17) \$24,356,000 of the general fund--private/local appropriation and \$35,707,000 of the general fund--federal appropriation are provided solely for the implementation of professional services supplemental payment programs. The department shall seek a medicaid state plan amendment to create a professional services supplemental payment program for University of Washington medicine professional providers no later than July 1,

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2009. The department shall apply federal rules for identifying the shortfall between current fee-for-service medicaid payments to participating providers and the applicable federal upper payment limit. Participating providers shall be solely responsible for providing the local funds required to obtain federal matching funds. Any incremental costs incurred by the department in the development, implementation, and maintenance of this program will be the responsibility of the participating providers. Participating providers will retain the full amount of supplemental payments provided under this program, net of any potential costs for any related audits or litigation brought against the state. The department shall report to the governor and the legislative fiscal committees on the prospects for expansion of the program to other qualifying providers as soon as feasibility is determined but no later than December 31, 2009. The report will outline estimated impacts on the participating providers, the procedures necessary to comply with federal guidelines, and the administrative resource requirements necessary to implement the program. The department will create a process for expansion of the program to other qualifying providers as soon as it is determined feasible by both the department and providers but no later than June 30, 2010.

(18) \$9,075,000 of the general fund--state appropriation for fiscal year 2010, \$8,588,000 of the general fund--state appropriation for fiscal year 2011, and \$39,747,000 of the general fund--federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system. The amounts provided in this subsection are conditioned on the department satisfying the requirements of section 902 of this act.

(19) \$506,000 of the general fund--state appropriation for fiscal year 2011 and \$657,000 of the general fund--federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1373 (children's mental health). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(20) Pursuant to 42 U.S.C. Sec. 1396(a)(25), the department shall pursue insurance claims on behalf of medicaid children served through its in-home medically intensive child program under WAC 388-551-3000. The department shall report to the Legislature by December 31, 2009, on the results of its efforts to recover such claims.

(21) The department may, on a case-by-case basis and in the best interests of the child, set payment rates for medically intensive home care services to promote access to home care as an alternative to hospitalization. Expenditures related to these increased payments shall not exceed the amount the department would otherwise pay for hospitalization for the child receiving medically intensive home care services.

(22) \$425,000 of the general fund--state appropriation for fiscal year 2010 and \$790,000 of the general fund--federal appropriation are provided solely to continue children's health coverage outreach and education efforts under RCW 74.09.470. These efforts shall rely on existing relationships and systems developed with local public health agencies, health care providers, public schools, the women, infants, and children program, the early childhood education and assistance program, child care providers, newborn visiting nurses, and other community-based organizations. The department shall seek public-private partnerships and federal funds that are or may become available to provide on-going support for outreach and education efforts under the federal children's health insurance program reauthorization act of 2009.

(23) The department, in conjunction with the office of financial management, shall implement a prorated inpatient payment policy.

(24) The department will pursue a competitive procurement process for antihemophilic products, emphasizing evidence-based

medicine and protection of patient access without significant disruption in treatment.

(25) The department will pursue several strategies towards reducing pharmacy expenditures including but not limited to increasing generic prescription drug utilization by 20 percentage points and promoting increased utilization of the existing mail-order pharmacy program.

(26) The department shall reduce reimbursement for over-the-counter medications while maintaining reimbursement for those over-the-counter medications that can replace more costly prescription medications.

(27) The department shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(28) The department shall target funding for maternity support services towards pregnant women with factors that lead to higher rates of poor birth outcomes, including hypertension, a preterm or low birth weight birth in the most recent previous birth, a cognitive deficit or developmental disability, substance abuse, severe mental illness, unhealthy weight or failure to gain weight, tobacco use, or African American or Native American race. The department shall prioritize evidence-based practices for delivery of maternity support services. To the extent practicable, the department shall develop a mechanism to increase federal funding for maternity support services by leveraging local public funding for those services.

(29) \$260,036,000 of the hospital safety net assessment fund--state appropriation and \$255,448,000 of the general fund--federal appropriation are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2956 (hospital safety net assessment). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(30) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$53,000 of the general fund--federal appropriation are provided solely to implement Substitute House Bill No. 1845 (medical support obligations).

(31) \$63,000 of the general fund--state appropriation for fiscal year 2010, \$583,000 of the general fund--state appropriation for fiscal year 2011, and \$864,000 of the general fund--federal appropriation are provided solely to implement Engrossed House Bill No. 2194 (extraordinary medical placement for offenders). The department shall work in partnership with the department of corrections to identify services and find placements for offenders who are released through the extraordinary medical placement program. The department shall collaborate with the department of corrections to identify and track cost savings to the department of corrections, including medical cost savings, and to identify and track expenditures incurred by the aging and disability services program for community services and by the medical assistance program for medical expenses. A joint report regarding the identified savings and expenditures shall be provided to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010. If this bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(32) \$73,000 of the general fund--state appropriation for fiscal year 2011 and \$50,000 of the general fund--federal appropriation is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence pursuant to chapter 224, Laws of 2010 (Substitute Senate Bill No. 6639).

(33) Sufficient amounts are provided in this section to provide full benefit dual eligible beneficiaries with medicare part D prescription drug copayment coverage in accordance with RCW 74.09.520 until December 31, 2010.

(34) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government

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administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect providers, direct client services, or direct service delivery or programs.

(35) \$331,000 of the general fund--state appropriation for fiscal year 2010, \$331,000 of the general fund--state appropriation for fiscal year 2011, and \$1,228,000 of the general fund--federal appropriation are provided solely for the department to support the activities of the Washington poison center. The department shall seek federal authority to receive matching funds from the federal government through the children's health insurance program.

(36) \$528,000 of the general fund--state appropriation and \$2,955,000 of the general fund--federal appropriation are provided solely for the implementation of the lifeline program under chapter 8, Laws of 2010 1st sp. sess. (security lifeline act).

(37) Reductions in dental services are to be achieved by focusing on the fastest growing areas of dental care. Reductions in preventative care, particularly for children, will be avoided to the extent possible.

(38) \$1,307,000 of the general fund--state appropriation for fiscal year 2011 and \$1,770,000 of the general fund--federal appropriation are provided solely to continue to provide dental services in calendar year 2011 for qualifying adults with developmental disabilities. Services shall include preventive, routine, and emergent dental care, and support for continued operation of the dental education in care of persons with disabilities (DECOD) program at the University of Washington.

(39) The department shall develop the capability to implement apple health for kids express lane eligibility enrollments for children receiving basic food assistance by June 30, 2011.

(40)(a) The department, in coordination with the health care authority, shall actively continue to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide federal matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW and the medical care services program under RCW 74.09.035.

(b) If the waiver in (a) of this subsection is granted, the department and the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(41) \$704,000 of the general fund--state appropriation for fiscal year 2010, \$812,000 of the general fund--state appropriation for fiscal year 2011, and \$1,516,000 of the general fund--federal appropriation are provided solely for maintaining employer-sponsored insurance program staff, coordination of benefits unit staff, the payment integrity audit team, and family planning nursing.

(42) Every effort shall be made to maintain current employment levels and achieve administrative savings through vacancies and employee attrition. Efficiencies shall be implemented as soon as possible in order to minimize actual reduction in force. The department shall implement a management strategy that minimizes disruption of service and negative impacts on employees.

(43) \$1,199,000 of the general fund--private/local appropriation for fiscal year 2011 and \$1,671,000 of the general fund--federal appropriation are provided solely to support medical airlift services.

(44) \$5,000,000 of the general fund--state appropriation for fiscal year 2011 and \$7,191,000 of the general fund--federal appropriation are provided solely for payments to federally qualified health clinics and rural health centers under a new alternative payment methodology that ~~((the department shall develop in consultation with the legislature and the office of financial~~

~~management)) reimburses the clinics and centers at rates that are five percent higher than the rates that would be provided under the federal prospective payment system.~~

(45) \$33,000 of the general fund--state appropriation for fiscal year 2011 and \$61,000 of the general fund--federal appropriation are provided solely to continue operation by a nonprofit organization of a toll-free line that assists families to learn about and enroll in apple health for kids, which provides publicly funded medical and dental care for families with incomes below 300 percent of the federal poverty level.

(46) \$150,000 of the general fund--~~((state))~~ private/local appropriation for fiscal year 2011 and \$150,000 of the general fund--federal appropriation are provided solely for initiation of a prescriptive practices improvement collaborative focusing upon atypical antipsychotics and other medications commonly used in the treatment of severe and persistent mental illnesses among adults. The project shall promote collaboration among community mental health centers, other major prescribers of atypical antipsychotic medications to adults enrolled in state medical assistance programs, and psychiatrists, pharmacists, and other specialists at the University of Washington department of psychiatry and/or other research universities. The collaboration shall include patient-specific prescriber consultations by psychiatrists and pharmacists specializing in treatment of severe and persistent mental illnesses among adults; production of profiles to assist prescribers and clinics track their prescriptive practices and their patients' medication use and adherence relative to evidence-based practice guidelines, other prescribers, and patients at other clinics; and in-service seminars at which participants can share and increase their knowledge of evidence-based and other effective prescriptive practices. For purposes of this effort, the department shall enter into an interagency agreement with the office of the attorney general for expenditure of \$150,000 of the state's proceeds of the cy pres settlement in State of Washington vs. AstraZeneca (Seroquel).

(47) \$75,000 of the general fund--state appropriation for fiscal year 2011 and \$75,000 of the general fund--federal appropriation are provided solely to assist with development and implementation of evidence-based strategies regarding the appropriate, safe, and effective role of C-section surgeries and early induced labor in births and neonatal care. The strategies shall be identified and implemented in consultation with clinical research specialists, physicians, hospitals, advanced registered nurse practitioners, and organizations concerned with maternal and child health.

(48) \$700,000 of the general fund--state appropriation for fiscal year 2011 and \$700,000 of the general fund--federal appropriation are provided solely to pay federally designated rural health clinics their full encounter rate for prenatal and well-child visits, whether delivered under a managed care contract or fee-for-service, effective January 1, 2011. In reconciling managed care enhancement payments for calendar year 2009, the department shall treat well-child and prenatal care visits as encounters subject to the clinic's encounter rate.

**Sec. 1110.** 2011 c 5 s 209 (uncodified) is amended to read as follows:

|   |                            |
|---|----------------------------|
| FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--VOCATIONAL REHABILITATION PROGRAM       |                            |
| General Fund--State Appropriation (FY 2010) .....   | \$10,327,000               |
| General Fund--State Appropriation (FY 2011) .....   | (\$9,443,000)              |
| .....   | <u>\$9,438,000</u>         |
| General Fund--Federal Appropriation .....   | \$107,848,000              |
| Telecommunications Devices for the Hearing and Speech Impaired--State Appropriation ..... | \$6,056,000                |
| TOTAL APPROPRIATION .....   | <del>(\$133,674,000)</del> |
| .....   | <u>\$133,669,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) The vocational rehabilitation program shall coordinate closely with the economic services program to serve lifeline clients under chapter 8, Laws of 2010 1st sp. sess. who are referred for eligibility determination and vocational rehabilitation services, and shall make every effort, within the requirements of the federal rehabilitation act of 1973, to serve these clients.

(2) \$80,000 of the telecommunications devices for the hearing and speech impaired account--state appropriation is provided solely for the office of deaf and hard of hearing to enter into an interagency agreement with the department of services for the blind to support contracts for services that provide employment support and help with life activities for deaf-blind individuals in King county.

Sec. 1111. 2011 c 5 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--SPECIAL COMMITMENT PROGRAM

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$48,827,000              |
| General Fund--State Appropriation (FY 2011) ....  | <del>(\$48,536,000)</del> |
| .....   | <u>\$49,131,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$97,363,000)</del> |
| .....   | <u>\$97,958,000</u>       |

Sec. 1112. 2011 c 5 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--ADMINISTRATION AND SUPPORTING SERVICES PROGRAM

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$33,579,000               |
| General Fund--State Appropriation (FY 2011) ....        | <del>(\$27,745,000)</del>  |
| .....   | <u>\$25,308,000</u>        |
| General Fund--Federal Appropriation .....               | <del>(\$51,304,000)</del>  |
| .....   | <u>\$49,594,000</u>        |
| General Fund--Private/Local Appropriation.....          | \$1,121,000                |
| Institutional Impact Account--State Appropriation ..... | \$22,000                   |
| TOTAL APPROPRIATION .....                               | <del>(\$113,771,000)</del> |
| .....   | <u>\$109,624,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(1) \$333,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$300,000)~~ \$281,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state mentors program to continue its public-private partnerships to provide technical assistance and training to mentoring programs that serve at-risk youth.

(2) \$445,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$445,000)~~ \$417,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(3) \$178,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$178,000)~~ \$167,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the juvenile detention alternatives initiative.

(4) Amounts appropriated in this section reflect a reduction to the family policy council. The family policy council shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

(5) Amounts appropriated in this section reflect a reduction to the council on children and families. The council on children and families shall reevaluate staffing levels and administrative costs to ensure to the extent possible a maximum ratio of grant moneys provided and administrative costs.

Sec. 1113. 2011 c 5 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--PAYMENTS TO OTHER AGENCIES PROGRAM

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$61,985,000               |
| General Fund--State Appropriation (FY 2011) ....  | <del>(\$63,793,000)</del>  |
| .....   | <u>\$65,210,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$56,855,000)</del>  |
| .....   | <u>\$56,321,000</u>        |
| TOTAL APPROPRIATION .....                         | <del>(\$182,633,000)</del> |
| .....   | <u>\$183,516,000</u>       |

Sec. 1114. 2011 c 5 s 213 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....    | \$208,258,000              |
| General Fund--State Appropriation (FY 2011) ...      | <del>(\$108,749,000)</del> |
| .....  | <u>\$112,085,000</u>       |
| General Fund--Federal Appropriation .....            | <del>(\$31,975,000)</del>  |
| .....  | <u>\$35,215,000</u>        |
| State Health Care Authority Administration Account-- |                            |
| State Appropriation.....                             | \$34,880,000               |
| Medical Aid Account--State Appropriation .....       | \$527,000                  |
| Basic Health Plan Stabilization Account--State       |                            |
| Appropriation.....                                   | \$6,000,000                |
| TOTAL APPROPRIATION .....                            | <del>(\$390,389,000)</del> |
| .....  | <u>\$396,965,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents eligible to participate in the basic health plan as subsidized enrollees and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals that are paid to deliver basic health plan services and that choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue

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service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4)(a) In order to maximize the funding appropriated for the basic health plan, the health care authority is directed to make modifications that will reduce the total number of subsidized enrollees to approximately 65,000 by January 1, 2010. In addition to the reduced enrollment, other modifications may include changes in enrollee premium obligations, changes in benefits, enrollee cost-sharing, and termination of the enrollment of individuals concurrently enrolled in a medical assistance program as provided in Substitute House Bill No. 2341.

(b) The health care authority shall coordinate with the department of social and health services to negotiate a medicaid section 1115 waiver with the federal centers for medicare and medicaid services that would provide matching funds for services provided to persons enrolled in the basic health plan under chapter 70.47 RCW.

(c) If the waiver in (b) of this subsection is granted, the health care authority may implement the waiver if it allows the program to remain within appropriated levels, after providing notice of its terms and conditions to the relevant policy and fiscal committees of the legislature in writing thirty days prior to the planned implementation date of the waiver.

(5) \$250,000 of the general fund--state appropriation for fiscal year 2010 and \$250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5360 (community collaboratives). If the bill is not enacted by June 30, 2009, the amounts provided in this section shall lapse.

(6) The authority shall seek public-private partnerships and federal funds that are or may become available to implement health information technology projects under the federal American recovery and reinvestment act of 2009.

(7) \$20,000 of the general fund--state appropriation for fiscal year 2010 and \$63,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of chapter 220, Laws of 2010 (accountable care organizations).

(8) As soon as practicable after February 28, 2011, enrollment in the subsidized basic health plan shall be limited to only include persons who qualify as subsidized enrollees as defined in RCW 70.47.020 and who (a) qualify for services under 1115 medicaid demonstration project number 11-W-00254/10; or (b) are foster parents licensed under chapter 74.15 RCW.

(9) \$1,500,000 of the general fund--federal appropriation is provided solely for planning and implementation of a health benefit exchange under the federal patient protection and affordable care act. Within the amounts provided in this subsection, funds used by the authority for information technology projects are conditioned on the authority satisfying the requirements of section 902, chapter 564, Laws of 2009.

**Sec. 1115.** 2011 c 5 s 214 (uncodified) is amended to read as follows:

FOR THE HUMAN RIGHTS COMMISSION

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,638,000        |
| General Fund--State Appropriation (FY 2011) ..... | (\$2,353,000))     |
| .....   | <u>\$2,350,000</u> |
| General Fund--Federal Appropriation .....         | \$1,584,000        |
| TOTAL APPROPRIATION .....                         | (\$6,575,000))     |
| .....   | <u>\$6,572,000</u> |

**Sec. 1116.** 2011 c 5 s 215 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

|   |                 |
|---|-----------------|
| General Fund--State Appropriation (FY 2010) ..... | \$17,273,000    |
| General Fund--State Appropriation (FY 2011) ..... | (\$16,721,000)) |

|  |                     |
|--|---------------------|
| .....  | <u>\$16,803,000</u> |
| General Fund--Federal Appropriation .....              | \$143,000           |
| General Fund--Private/Local Appropriation.....         | (\$1,378,000))      |
| .....  | <u>\$1,382,000</u>  |
| Death Investigations Account--State Appropriation..... | \$148,000           |
| Municipal Criminal Justice Assistance Account--        |                     |
| State Appropriation.....                               | \$460,000           |
| Washington Auto Theft Prevention Authority Account--   |                     |
| State Appropriation.....                               | \$6,432,000         |
| TOTAL APPROPRIATION .....                              | (\$42,555,000))     |
| .....  | <u>\$42,641,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,191,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington association of sheriffs and police chiefs to continue to develop, maintain, and operate the jail booking and reporting system (JBRS) and the statewide automated victim information and notification system (SAVIN).

(2) \$5,000,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000,000 of the general fund--state appropriation for fiscal year 2011, are provided to the Washington association of sheriffs and police chiefs solely to verify the address and residency of registered sex offenders and kidnapping offenders under RCW 9A.44.130. The Washington association of sheriffs and police chiefs shall:

(a) Enter into performance-based agreements with units of local government to ensure that registered offender address and residency are verified:

- (i) For level I offenders, every twelve months;
- (ii) For level II offenders, every six months; and
- (iii) For level III offenders, every three months.

For the purposes of this subsection, unclassified offenders and kidnapping offenders shall be considered at risk level I unless in the opinion of the local jurisdiction a higher classification is in the interest of public safety.

(b) Collect performance data from all participating jurisdictions sufficient to evaluate the efficiency and effectiveness of the address and residency verification program; and

(c) Submit a report on the effectiveness of the address and residency verification program to the governor and the appropriate committees of the house of representatives and senate by December 31, each year.

The Washington association of sheriffs and police chiefs may retain up to three percent of the amount provided in this subsection for the cost of administration. Any funds not disbursed for address and residency verification or retained for administration may be allocated to local prosecutors for the prosecution costs associated with failing-to-register offenses.

(3) \$30,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the implementation of Second Substitute House Bill No. 2078 (persons with developmental disabilities in correctional facilities or jails). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) (~~(\$171,000)~~) \$75,000 of the general fund--local appropriation is provided solely to purchase ammunition for the basic law enforcement academy. Jurisdictions with one hundred or more full-time commissioned officers shall reimburse to the criminal justice training commission the costs of ammunition, based on the average cost of ammunition per cadet, for cadets that they enroll in the basic law enforcement academy.

(5) The criminal justice training commission may not run a basic law enforcement academy class of fewer than 30 students.

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**Sec. 1117.** 2011 c 5 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....                          | \$24,975,000         |
| General Fund--State Appropriation (FY 2011) .....                          | (((\$18,120,000))    |
| .....  | <u>\$17,876,000</u>  |
| General Fund--Federal Appropriation .....                                  | \$11,316,000         |
| Asbestos Account--State Appropriation .....                                | \$923,000            |
| Electrical License Account--State Appropriation .....                      | \$36,977,000         |
| Farm Labor Revolving Account--Private/Local Appropriation .....            | \$28,000             |
| Worker and Community Right-to-Know Account--State Appropriation .....      | \$1,987,000          |
| Public Works Administration Account--State Appropriation .....             | \$6,021,000          |
| Manufactured Home Installation Training Account--State Appropriation ..... | (((\$143,000))       |
| .....  | <u>\$135,000</u>     |
| Accident Account--State Appropriation .....                                | \$250,509,000        |
| Accident Account--Federal Appropriation .....                              | \$13,621,000         |
| Medical Aid Account--State Appropriation .....                             | \$249,232,000        |
| Medical Aid Account--Federal Appropriation .....                           | \$3,186,000          |
| Plumbing Certificate Account--State Appropriation .....                    | \$1,704,000          |
| Pressure Systems Safety Account--State Appropriation .....                 | \$4,144,000          |
| TOTAL APPROPRIATION .....  | (((\$622,886,000))   |
| .....  | <u>\$622,634,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees related to factory assembled structures, contractor registration, electricians, plumbers, asbestos removal, boilers, elevators, and manufactured home installers. These increases are necessary to support expenditures authorized in this section, consistent with chapters 43.22, 18.27, 19.28, and 18.106 RCW, RCW 49.26.130, and chapters 70.79, 70.87, and 43.22A RCW.

(2) \$424,000 of the accident account--state appropriation and \$76,000 of the medical aid account--state appropriation are provided solely for implementation of a community agricultural worker safety grant at the department of agriculture. The department shall enter into an interagency agreement with the department of agriculture to implement the grant.

(3) \$4,850,000 of the medical aid account--state appropriation is provided solely to continue the program of safety and health as authorized by RCW 49.17.210 to be administered under rules adopted pursuant to chapter 34.05 RCW, provided that projects funded involve workplaces insured by the medical aid fund, and that priority is given to projects fostering accident prevention through cooperation between employers and employees or their representatives.

(4) \$150,000 of the medical aid account--state appropriation is provided solely for the department to contract with one or more independent experts to evaluate and recommend improvements to the rating plan under chapter 51.18 RCW, including analyzing how risks are pooled, the effect of including worker premium contributions in adjustment calculations, incentives for accident and illness prevention, return-to-work practices, and other sound risk-management strategies that are consistent with recognized insurance principles.

(5) The department shall continue to conduct utilization reviews of physical and occupational therapy cases at the 24th visit. The department shall continue to report performance measures and targets for these reviews on the agency web site. The reports are due September 30th for the prior fiscal year and must include the amount spent and the estimated savings per fiscal year.

(6) The appropriations in this section reflect reductions in the appropriations for the department of labor and industries' administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing administrative costs only.

(7) \$500,000 of the accident account--state appropriation is provided solely for the department to contract with one or more independent experts to oversee and assist the department's implementation of improvements to the rating plan under chapter 51.18 RCW, in collaboration with the department and with the department's work group of retrospective rating and workers' compensation stakeholders. The independent experts will validate the impact of recommended changes on retrospective rating participants and nonparticipants, confirm implementation technology changes, and provide other implementation assistance as determined by the department.

(8) \$194,000 of the accident account--state appropriation and \$192,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5346 (health care administrative procedures).

(9) \$131,000 of the accident account--state appropriation and \$128,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5613 (stop work orders).

(10) \$68,000 of the accident account--state appropriation and \$68,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5688 (registered domestic partners).

(11) \$320,000 of the accident account--state appropriation and \$147,000 of the medical aid account--state appropriation are provided solely for implementation of Senate Bill No. 5873 (apprenticeship utilization).

(12) \$73,000 of the general fund--state appropriation for fiscal year 2010, \$66,000 of the general fund--state appropriation for fiscal year 2011, \$606,000 of the accident account--state appropriation, and \$600,000 of the medical aid account--state appropriation are provided solely for the implementation of House Bill No. 1555 (underground economy).

(13) \$574,000 of the accident account--state appropriation and \$579,000 of the medical account--state appropriation are provided solely for the implementation of House Bill No. 1402 (industrial insurance appeals).

(14) Within statutory guidelines, the boiler program shall explore opportunities to increase program efficiency. Strategies may include the consolidation of routine multiple inspections to the same site and trip planning to ensure the least number of miles traveled.

(15) \$16,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the crime victims compensation program to pay claims for mental health services for crime victim compensation program clients who have an established relationship with a mental health provider and subsequently obtain coverage under the medicaid program or the medical care services program under chapter 74.09 RCW. Prior to making such payment, the program must have determined that payment for the specific treatment or provider is not available under the medicaid or medical care services program. In addition, the program shall make efforts to contact any healthy options or medical care services health plan in which the client may be enrolled to help the client obtain authorization to pay the claim on an out-of-network basis.

(16) \$48,000 of the accident account--state appropriation and \$48,000 of the medical aid account--state appropriation are provided solely for the implementation of Substitute House Bill No. 2789 (issuance of subpoenas for purposes of agency investigations of

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underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(17) \$71,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Senate Bill No. 6349 (farm internship program). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(18) \$127,000 of the general fund--state appropriation for fiscal year 2010 and \$133,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to provide benefits in excess of the cap established by sections 1 and 2, chapter 122, Laws of 2010. These benefits shall be paid for claimants who were determined eligible for and who were receiving crime victims' compensation benefits because they were determined to be permanently and totally disabled, as defined by RCW 51.08.160, prior to April 1, 2010. The director shall establish, by May 1, 2010, a process to aid crime victims' compensation recipients in identifying and applying for appropriate alternative benefit programs.

(19) \$155,000 of the public works administration account--state appropriation is provided solely for the implementation of Engrossed House Bill No. 2805 (offsite prefabricated items). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 1118.** 2011 c 5 s 217 (uncodified) is amended to read as follows:

FOR THE INDETERMINATE SENTENCE REVIEW BOARD

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,882,000        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,659,000))   |
| .....   | <u>\$1,657,000</u> |
| TOTAL APPROPRIATION .....                         | (((\$3,541,000))   |
| .....   | <u>\$3,539,000</u> |

**Sec. 1119.** 2011 c 5 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,913,000        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,865,000))   |
| .....   | <u>\$1,755,000</u> |
| Charitable, Educational, Penal, and Reformatory   |                    |
| Institutions Account--State Appropriation .....   | \$10,000           |
| TOTAL APPROPRIATION .....                         | (((\$3,788,000))   |
| .....   | <u>\$3,678,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations: In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(2) FIELD SERVICES

|   |              |
|---|--------------|
| General Fund--State Appropriation (FY 2010) ..... | \$4,885,000  |
| General Fund--State Appropriation (FY 2011) ..... | \$4,964,000  |
| General Fund--Federal Appropriation .....         | \$2,382,000  |
| General Fund--Private/Local Appropriation .....   | \$4,512,000  |
| Veterans Innovations Program Account--State       |              |
| Appropriation .....                               | \$897,000    |
| Veteran Estate Management Account--Private/Local  |              |
| Appropriation .....                               | \$1,072,000  |
| TOTAL APPROPRIATION .....                         | \$18,712,000 |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall collaborate with the department of social and health services to identify and assist eligible general assistance unemployable clients to access the federal department of veterans affairs benefits.

(b) \$648,000 of the veterans innovations program account--state appropriation is provided solely for the department to continue support for returning combat veterans through the veterans innovation program, including emergency financial assistance through the defenders' fund and long-term financial assistance through the competitive grant program.

(c) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(3) INSTITUTIONAL SERVICES

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$3,318,000         |
| ((General Fund--State Appropriation (FY 2011) ..... | \$1,793,000))       |
| General Fund--Federal Appropriation .....           | (((\$50,931,000))   |
| .....   | <u>\$52,965,000</u> |
| General Fund--Private/Local Appropriation .....     | (((\$34,189,000))   |
| .....   | <u>\$34,791,000</u> |
| TOTAL APPROPRIATION .....                           | (((\$90,231,000))   |
| .....   | <u>\$91,074,000</u> |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) In addition to other reductions, the appropriations in this section reflect reductions targeted specifically to state government administrative costs. These administrative reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(b) The reductions in this subsection shall be achieved through savings from contract revisions and shall not impact the availability of goods and services for residents of the three state veterans homes.

**Sec. 1120.** 2011 c 5 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....        | \$98,414,000         |
| General Fund--State Appropriation (FY 2011) .....        | (((\$72,427,000))    |
| .....  | <u>\$72,269,000</u>  |
| General Fund--Federal Appropriation .....                | (((\$564,379,000))   |
| .....  | <u>\$567,818,000</u> |
| General Fund--Private/Local Appropriation .....          | \$162,237,000        |
| Hospital Data Collection Account--State Appropriation .. | \$218,000            |
| Health Professions Account--State Appropriation .....    | \$82,850,000         |
| Aquatic Lands Enhancement Account--State Appropriation   |                      |
| .....  | \$603,000            |
| Emergency Medical Services and Trauma Care Systems       |                      |
| Trust Account--State Appropriation .....                 | \$13,206,000         |
| Safe Drinking Water Account--State Appropriation .....   | \$2,731,000          |
| Drinking Water Assistance Account--Federal               |                      |
| Appropriation .....                                      | \$22,862,000         |
| Waterworks Operator Certification--State                 |                      |
| Appropriation .....                                      | \$1,522,000          |
| Drinking Water Assistance Administrative Account--       |                      |
| State Appropriation .....                                | \$326,000            |
| State Toxics Control Account--State Appropriation .....  | \$4,348,000          |
| Medical Test Site Licensure Account--State               |                      |
| Appropriation .....                                      | \$2,261,000          |
| Youth Tobacco Prevention Account--State Appropriation    |                      |
| .....  | \$1,512,000          |
| Public Health Supplemental Account--Private/Local        |                      |
| Appropriation .....                                      | \$3,804,000          |
| Community and Economic Development Fee Account--State    |                      |
| Appropriation .....                                      | \$298,000            |
| Accident Account--State Appropriation .....              | \$292,000            |
| Medical Aid Account--State Appropriation .....           | \$48,000             |

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Tobacco Prevention and Control Account--State

|  |                              |
|--|------------------------------|
| Appropriation.....                         | \$41,196,000                 |
| Biotoxin Account--State Appropriation..... | \$1,163,000                  |
| TOTAL APPROPRIATION .....                  | <del>(\$1,076,697,000)</del> |
|  | <u>\$1,079,978,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department of health and the state board of health shall not implement any new or amended rules pertaining to primary and secondary school facilities until the rules and a final cost estimate have been presented to the legislature, and the legislature has formally funded implementation of the rules through the omnibus appropriations act or by statute. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(2) In accordance with RCW 43.70.250 and 43.135.055, the department is authorized to establish and raise fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section. This authorization applies to fees for the review of sewage tank designs, fees related to regulation and inspection of farmworker housing, and fees associated with the following professions: Acupuncture, dental, dentist, mental health counselor, nursing, nursing assistant, optometry, radiologic technologist, recreational therapy, respiratory therapy, social worker, cardiovascular invasive specialist, and practitioners authorized under chapter 18.240 RCW.

(3) Pursuant to RCW 43.135.055 and RCW 43.70.250, the department is authorized to establish fees by the amount necessary to fully support the cost of activities related to the administration of long-term care worker certification. The department is further authorized to increase fees by the amount necessary to implement the regulatory requirements of the following bills: House Bill No. 1414 (health care assistants), House Bill No. 1740 (dental residency licenses), and House Bill No. 1899 (retired active physician licenses).

(4) \$764,000 of the health professions account--state appropriation is provided solely for the medical quality assurance commission to maintain disciplinary staff and associated costs sufficient to reduce the backlog of disciplinary cases and to continue to manage the disciplinary caseload of the commission.

(5) \$57,000 of the general fund--state appropriation for fiscal year 2010 and \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the midwifery licensure and regulatory program to offset a reduction in revenue from fees. The department shall convene the midwifery advisory committee on a quarterly basis to address issues related to licensed midwifery. The appropriations in this section assume that the current application and renewal fee for midwives shall be increased by fifty dollars and all other fees for midwives be adjusted accordingly.

(6) Funding for the human papillomavirus vaccine shall not be included in the department's universal vaccine purchase program in

fiscal year 2010. Remaining funds for the universal vaccine purchase program shall be used to continue the purchase of all other vaccines included in the program until May 1, 2010, at which point state funding for the universal vaccine purchase program shall be discontinued.

(7) Beginning July 1, 2010, the department, in collaboration with the department of social and health services, shall maximize the use of existing federal funds, including section 317 of the federal public health services act direct assistance as well as federal funds that may become available under the American recovery and reinvestment act, in order to continue to provide immunizations for low-income, nonmedicaid eligible children up to three hundred percent of the federal poverty level in state-sponsored health programs.

(8) The department shall eliminate outreach activities for the health care directives registry and use the remaining amounts to maintain the contract for the registry and minimal staffing necessary to administer the basic entry functions for the registry.

(9) Funding in this section reflects a temporary reduction of resources for the 2009-11 fiscal biennium for the state board of health to conduct health impact reviews.

(10) Pursuant to RCW 43.135.055 and 43.70.125, the department is authorized to adopt rules to establish a fee schedule to apply to applicants for initial certification surveys of health care facilities for purposes of receiving federal health care program reimbursement. The fees shall only apply when the department has determined that federal funding is not sufficient to compensate the department for the cost of conducting initial certification surveys. The fees for initial certification surveys may be established as follows: Up to \$1,815 for ambulatory surgery centers, up to \$2,015 for critical access hospitals, up to \$980 for end stage renal disease facilities, up to \$2,285 for home health agencies, up to \$2,285 for hospice agencies, up to \$2,285 for hospitals, up to \$520 for rehabilitation facilities, up to \$690 for rural health clinics, and up to \$7,000 for transplant hospitals.

(11) Funding for family planning grants for fiscal year 2011 is reduced in the expectation that federal funding shall become available to expand coverage of services for individuals through programs at the department of social and health services. In the event that such funding is not provided, the legislature intends to continue funding through a supplemental appropriation at fiscal year 2010 levels. \$4,360,000 of the general fund--state appropriation is provided solely for the department of health-funded family planning clinic grants due to federal funding not becoming available.

(12) \$16,000,000 of the tobacco prevention and control account--state appropriation is provided solely for local health jurisdictions to conduct core public health functions as defined in RCW 43.70.514.

(13) \$100,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1414 (health care assistants). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(14) \$42,000 of the health professions account--state appropriation is provided solely to implement Substitute House Bill No. 1740 (dentistry license issuance). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(15) \$23,000 of the health professions account--state appropriation is provided solely to implement Second Substitute House Bill No. 1899 (retired active physician licenses). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(16) \$12,000 of the general fund--state appropriation for fiscal year 2010 and \$67,000 of the general fund--private/local appropriation are provided solely to implement House Bill No. 1510

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(birth certificates). If the bill is not enacted by June 30, 2009, the amount provided in this section shall lapse.

(17) \$31,000 of the health professions account is provided for the implementation of Second Substitute Senate Bill No. 5850 (human trafficking). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(18) \$282,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5752 (dentists cost recovery). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(19) \$106,000 of the health professions account is provided for the implementation of Substitute Senate Bill No. 5601 (speech language assistants). If the bill is not enacted by June 2009, the amount provided in this subsection shall lapse.

(20) Subject to existing resources, the department of health is encouraged to examine, in the ordinary course of business, current and prospective programs, treatments, education, and awareness of cardiovascular disease that are needed for a thriving and healthy Washington.

(21) \$390,000 of the health professions account--state appropriation is provided solely to implement chapter 169, Laws of 2010 (nursing assistants). The amount provided in this subsection is from fee revenue authorized by Engrossed Substitute Senate Bill No. 6582.

(22) \$10,000 of the health professions account--state appropriation for fiscal year 2010 and \$40,000 of the health professions account--state appropriation for fiscal year 2011 are provided solely for the department to study cost effective options for collecting demographic data related to the health care professions workforce to be submitted to the legislature by December 1, 2010.

(23) \$66,000 of the health professions account--state appropriation is provided solely to implement chapter 209, Laws of 2010 (pain management).

(24) \$10,000 of the health professions account--state appropriation is provided solely to implement chapter 92, Laws of 2010 (cardiovascular invasive specialists).

... (25) \$23,000 of the general fund--state appropriation is provided solely to implement chapter 182, Laws of 2010 (tracking ephedrine, etc.).....

(26) The department is authorized to coordinate a tobacco cessation media campaign using all appropriate media with the purpose of maximizing the use of quit-line services and youth smoking prevention.

(27) It is the intent of the legislature that the reductions in appropriations to the AIDS/HIV programs shall be achieved, to the greatest extent possible, by reducing those state government administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing these programs.

(28) \$400,000 of the state toxics control account--state appropriation is provided solely for granting to a willing local public entity to provide emergency water supplies or water treatment for households with individuals at high public health risk from nitrate-contaminated wells in the lower Yakima basin.

(29) \$100,000 of the state toxics control account--state appropriation is provided solely for an interagency contract to the department of ecology to grant to agencies involved in improving groundwater quality in the lower Yakima Valley. These agencies will develop a local plan for improving water quality and reducing nitrate contamination. The department of ecology will report to the appropriate committees of the legislature and to the office of financial management no later than December 1, 2010, summarizing progress towards developing and implementing this plan.

(30) In accordance with RCW 43.135.055, the department is authorized to adopt and increase all fees set forth in and previously authorized in section 221(2), chapter 37, Laws of 2010 1st sp.s.

NEW SECTION. Sec. 1121. A new section is added to 2009 c 564 (uncodified) to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2011, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund--state appropriations for fiscal year 2011 between programs. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any deviations from appropriation levels. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

Sec. 1122. 2011 c 5 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

|   |                            |
|---|----------------------------|
| <u>(1) ADMINISTRATION AND SUPPORT SERVICES</u>    |                            |
| General Fund--State Appropriation (FY 2010) ..... | \$55,772,000               |
| General Fund--State Appropriation (FY 2011) ..... | (\$51,929,000)             |
|   | \$48,131,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$107,701,000)</del> |
|   | <u>\$103,903,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) Within funds appropriated in this section, the department shall seek contracts for chemical dependency vendors to provide chemical dependency treatment of offenders in corrections facilities, including corrections centers and community supervision facilities, which have demonstrated effectiveness in treatment of offenders and are able to provide data to show a successful treatment rate.

(b) \$35,000 of the general fund--state appropriation for fiscal year 2010 and \$35,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

|  |                              |
|--|------------------------------|
| <u>(2) CORRECTIONAL OPERATIONS</u>                   |                              |
| General Fund--State Appropriation (FY 2010) .....    | \$458,503,000                |
| General Fund--State Appropriation (FY 2011) ..       | (\$562,084,000)              |
|  | <u>\$568,330,000</u>         |
| General Fund--Federal Appropriation .....            | <del>(\$186,651,000)</del>   |
|  | <u>\$186,652,000</u>         |
| Washington Auto Theft Prevention Authority Account-- |                              |
| State Appropriation.....                             | \$5,936,000                  |
| State Efficiency and Restructuring Account--State    |                              |
| Appropriation.....                                   | \$34,522,000                 |
| TOTAL APPROPRIATION .....                            | <del>(\$1,247,696,000)</del> |
|  | <u>\$1,253,943,000</u>       |

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The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as a recovery of costs.

(b) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(c) During the 2009-11 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(d) The Harborview medical center and the University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(e) A political subdivision which is applying for funding to mitigate one-time impacts associated with construction or expansion of a correctional institution, consistent with WAC 137-12A-030, may apply for the mitigation funds in the fiscal biennium in which the impacts occur or in the immediately succeeding fiscal biennium.

(f) Within amounts provided in this subsection, the department, jointly with the department of social and health services, shall identify the number of offenders released through the extraordinary medical placement program, the cost savings to the department of corrections, including estimated medical cost savings, and the costs for medical services in the community incurred by the department of social and health services. The department and the department of social and health services shall jointly report to the office of financial management and the appropriate fiscal committees of the legislature by November 30, 2010.

(g) \$11,863,000 of the general fund--state appropriation for fiscal year 2010, \$7,953,000 of the general fund--state appropriation for fiscal year 2011, and \$2,336,000 of the general fund--private/local appropriation are provided solely for in-prison evidence-based programs and for the reception diagnostic center program as part of the offender re-entry initiative.

(h) The appropriations in this subsection are based on savings assumed from the closure of the McNeil Island corrections center, the Ahtanum View corrections center, and the Pine Lodge corrections center for women.

(3) COMMUNITY SUPERVISION

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$150,729,000              |
| General Fund--State Appropriation (FY 2011) ...   | <del>(\$134,840,000)</del> |
| .....   | <u>\$133,549,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$285,569,000)</del> |
| .....   | <u>\$284,278,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this

subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$2,083,000 of the general fund--state appropriation for fiscal year 2010 and \$2,083,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Senate Bill No. 5525 (state institutions/release). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(c) The appropriations in this subsection are based upon savings assumed from the implementation of Engrossed Substitute Senate Bill No. 5288 (supervision of offenders).

(d) \$2,791,000 of the general fund--state appropriation for fiscal year 2010 and \$2,680,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for evidence-based community programs and for community justice centers as part of the offender re-entry initiative.

(e) \$418,300 of the general fund--state appropriation for fiscal year 2010 is provided solely for the purposes of settling all claims in *Hilda Solis, Secretary of Labor, United States Department of Labor v. State of Washington, Department of Corrections*, United States District Court, Western District of Washington, Cause No. C08-cv-05362-RJB. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If settlement is not fully executed by June 30, 2010, the amount provided in this subsection shall lapse.

(f) \$984,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for supplemental services that will be provided to offenders in lieu of a prison sentence, pursuant to chapter 224, Laws of 2010 (confinement alternatives).

(4) CORRECTIONAL INDUSTRIES

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,574,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,441,000)</del> |
| .....   | <u>\$2,642,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$5,015,000)</del> |
| .....   | <u>\$5,216,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations: \$132,000 of the general fund--state appropriation for fiscal year 2010 and \$132,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$40,728,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$38,629,000)</del> |
| .....   | <u>\$38,995,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$79,357,000)</del> |
| .....   | <u>\$79,723,000</u>       |

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state prison institutions may use funds appropriated in this subsection to rent uniforms from correctional industries in accordance with existing legislative mandates.

(b) The state prison medical facilities may use funds appropriated in this subsection to purchase goods and supplies through hospital or other group purchasing organizations when it is cost effective to do so.

(c) Funding in this section may not be used to purchase radios or base station repeaters related to the movement to narrowband frequencies, or for reprogramming existing narrowband radios.

**Sec. 1123.** 2011 c 5 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

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|   |                           |
|---|---------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,504,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,160,000)</del>  |
| .....   | <u>\$2,158,000</u>        |
| General Fund--Federal Appropriation .....         | <del>(\$18,116,000)</del> |
| .....   | <u>\$18,416,000</u>       |
| General Fund--Private/Local Appropriation.....    | \$30,000                  |
| TOTAL APPROPRIATION .....                         | <del>(\$22,810,000)</del> |
| .....   | <u>\$23,108,000</u>       |

|   |                            |
|---|----------------------------|
| Federal Appropriation.....                                    | <del>(\$348,000,000)</del> |
| .....   | <u>\$370,397,000</u>       |
| Administrative Contingency Account--State Appropriation ..... | \$345,000                  |
| Employment Service Administrative Account--State .....        | \$37,775,000               |
| Appropriation.....  | \$37,775,000               |
| TOTAL APPROPRIATION .....                                     | <del>(\$750,684,000)</del> |
| .....   | <u>\$775,539,000</u>       |

**Sec. 1124.** 2011 c 5 s 222 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$962,000                |
| General Fund--State Appropriation (FY 2011).....  | <del>(\$844,000)</del>   |
| .....   | <u>\$843,000</u>         |
| TOTAL APPROPRIATION .....                         | <del>(\$1,806,000)</del> |
| .....   | <u>\$1,805,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the amounts appropriated in this section, the sentencing guidelines commission, in partnership with the courts, shall develop a plan to implement an evidence-based system of community custody for adult felons that will include the consistent use of evidence-based risk and needs assessment tools, programs, supervision modalities, and monitoring of program integrity. The plan for the evidence-based system of community custody shall include provisions for identifying cost-effective rehabilitative programs; identifying offenders for whom such programs would be cost-effective; monitoring the system for cost-effectiveness; and reporting annually to the legislature. In developing the plan, the sentencing guidelines shall consult with: The Washington state institute for public policy; the legislature; the department of corrections; local governments; prosecutors; defense attorneys; victim advocate groups; law enforcement; the Washington federation of state employees; and other interested entities. The sentencing guidelines commission shall report its recommendations to the governor and the legislature by December 1, 2009.

(2)(a) Except as provided in subsection (b), during the 2009-11 biennium, the reports required by RCW 9.94A.480(2) and 9.94A.850(2) (d) and (h) shall be prepared within the available funds and may be delayed or suspended at the discretion of the commission.

(b) The commission shall submit the analysis described in section 15 of Engrossed Substitute Senate Bill No. 5288 no later than December 1, 2011.

(3) Within the amounts appropriated in this section, the sentencing guidelines commission shall survey the practices of other states relating to offenders who violate any conditions of their community custody. In conducting the survey, the sentencing guidelines commission shall perform a review of the research studies to determine if a mandatory minimum confinement policy is an evidence-based practice, investigate the implementation of such a policy in other states, and estimate the fiscal impacts of implementing such a policy in Washington state. The sentencing guidelines commission shall report its findings to the governor and the legislature by December 1, 2010.

**Sec. 1125.** 2011 c 5 s 223 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$2,054,000                |
| General Fund--State Appropriation (FY 2011) .....  | <del>(\$4,735,000)</del>   |
| .....  | <u>\$4,219,000</u>         |
| General Fund--Federal Appropriation .....          | <del>(\$324,135,000)</del> |
| .....  | <u>\$327,109,000</u>       |
| General Fund--Private/Local Appropriation.....     | \$33,640,000               |
| Unemployment Compensation Administration Account-- |                            |

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$59,829,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903 (d) and (f) of the social security act (Reed act). This amount is authorized to continue current unemployment insurance functions and department services to employers and job seekers.

(2) \$17,327,000 of the unemployment compensation administration account--federal appropriation is provided from amounts made available to the state by section 903(d) and (f) of the social security act (Reed act). This amount is authorized to fund the replacement of the unemployment insurance tax information system (TAXIS) for the employment security department. This section is subject to section 902 of this act. After the effective date of this section, the employment security department may not incur further obligations for the replacement of the unemployment insurance tax information system (TAXIS). Nothing in this act prohibits the department from meeting obligations incurred prior to the effective date of this section.

(3) \$110,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5804 (leaving part time work voluntarily).

(4) \$1,263,000 of the unemployment compensation administration account--federal appropriation is provided solely for implementation of Senate Bill No. 5963 (unemployment insurance).

(5) \$159,000 of the unemployment compensation account--federal appropriation is provided solely for the implementation of House Bill No. 1555 (underground economy) from funds made available to the state by section 903(d) of the social security act (Reed act).

(6) \$295,000 of the administrative contingency--state appropriation for fiscal year 2010 is provided solely for the implementation of House Bill No. 2227 (evergreen jobs act).

(7) \$2,000,000 of the general fund--state appropriation for fiscal year 2010 and ~~(\$4,682,000)~~ \$4,182,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Senate Bill No. 5809 (WorkForce employment and training).

(8) \$444,000 of the unemployment compensation administration account--federal appropriation is provided solely for the implementation of Substitute Senate Bill No. 6524 (unemployment insurance penalties and contribution rates) from funds made available to the state by section 903 (d) or (f) of the social security act (Reed 12 act). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(9) \$232,000 of the unemployment compensation administration account--federal appropriation from funds made available to the state by section 903(c) or (f) of the social security act (Reed act) is provided solely for the implementation of Substitute House Bill No. 2789 (underground economic activity). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(10) \$577,000 of the unemployment compensation administration account--federal appropriation is from amounts available to the state by section 903 (d), (f), and (g) of the social security act (Reed

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act). This amount is provided solely for implementation of chapter 4, Laws of 2011 (unemployment insurance program).

(11) \$11,000 of the unemployment compensation administration account--federal appropriation is from amounts available to the state by section 903 (d), (f), and (g) of the social security act (Reed act). This amount is provided solely for implementation of chapter 4, Laws of 2011 (unemployment insurance program).

(End of part)

**PART XII  
NATURAL RESOURCES**

**Sec. 1201.** 2011 c 5 s 301 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....        | \$58,552,000               |
| General Fund--State Appropriation (FY 2011) .....        | <del>(\$46,925,000)</del>  |
| .....  | <u>\$46,392,000</u>        |
| General Fund--Federal Appropriation .....                | \$82,079,000               |
| General Fund--Private/Local Appropriation.....           | \$16,688,000               |
| Special Grass Seed Burning Research Account--State       |                            |
| Appropriation.....                                       | \$14,000                   |
| Reclamation Account--State Appropriation .....           | <del>(\$3,649,000)</del>   |
| .....  | <u>\$3,640,000</u>         |
| Flood Control Assistance Account--State Appropriation    | \$1,943,000                |
| State Emergency Water Projects Revolving Account--       |                            |
| State Appropriation.....                                 | \$240,000                  |
| Waste Reduction/Recycling/Litter Control--State          |                            |
| Appropriation.....                                       | <del>(\$12,467,000)</del>  |
| .....  | <u>\$12,440,000</u>        |
| State Drought Preparedness Account--State                |                            |
| Appropriation.....                                       | \$4,000,000                |
| State and Local Improvements Revolving Account           |                            |
| (Water Supply Facilities)--State Appropriation.....      | \$424,000                  |
| Freshwater Aquatic Algae Control Account--State          |                            |
| Appropriation.....                                       | \$508,000                  |
| Water Rights Tracking System Account--State              |                            |
| Appropriation.....                                       | \$116,000                  |
| Site Closure Account--State Appropriation .....          | \$922,000                  |
| Wood Stove Education and Enforcement Account--State      |                            |
| Appropriation.....                                       | \$582,000                  |
| Worker and Community Right-to-Know Account--State        |                            |
| Appropriation.....                                       | \$1,663,000                |
| State Toxics Control Account--State Appropriation        |                            |
| .....  | <del>(\$106,642,000)</del> |
| .....  | <u>\$106,391,000</u>       |
| State Toxics Control Account--Private/Local              |                            |
| Appropriation.....                                       | \$379,000                  |
| Local Toxics Control Account--State                      |                            |
| Appropriation.....                                       | <del>(\$24,690,000)</del>  |
| .....  | <u>\$24,670,000</u>        |
| Water Quality Permit Account--State                      |                            |
| Appropriation.....                                       | <del>(\$37,018,000)</del>  |
| .....  | <u>\$36,899,000</u>        |
| Underground Storage Tank Account--State                  |                            |
| Appropriation.....                                       | <del>(\$3,270,000)</del>   |
| .....  | <u>\$3,259,000</u>         |
| Biosolids Permit Account--State Appropriation.....       | \$1,866,000                |
| Hazardous Waste Assistance Account--State                |                            |
| Appropriation.....                                       | <del>(\$5,880,000)</del>   |
| .....  | <u>\$5,858,000</u>         |
| Air Pollution Control Account--State Appropriation ..... | \$1,565,000                |
| Oil Spill Prevention Account--State                      |                            |

|  |                            |
|--|----------------------------|
| Appropriation.....                                       | <del>(\$10,599,000)</del>  |
| .....  | <u>\$10,568,000</u>        |
| Air Operating Permit Account--State                      |                            |
| Appropriation.....                                       | <del>(\$2,758,000)</del>   |
| .....  | <u>\$2,748,000</u>         |
| Freshwater Aquatic Weeds Account--State Appropriation    |                            |
| .....  | \$1,693,000                |
| Oil Spill Response Account--State Appropriation.....     | \$7,077,000                |
| Metals Mining Account--State Appropriation.....          | \$14,000                   |
| Water Pollution Control Revolving Account--State         |                            |
| Appropriation.....                                       | \$535,000                  |
| Water Pollution Control Revolving Account--Federal       |                            |
| Appropriation.....                                       | \$2,210,000                |
| Water Rights Processing Account--State Appropriation.... | \$68,000                   |
| TOTAL APPROPRIATION .....                                | <del>(\$437,036,000)</del> |
| .....  | <u>\$436,003,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$170,000 of the oil spill prevention account--state appropriation is provided solely for a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(2) \$240,000 of the woodstove education and enforcement account--state appropriation is provided solely for citizen outreach efforts to improve understanding of burn curtailments, the proper use of wood heating devices, and public awareness of the adverse health effects of woodsmoke pollution.

(3) \$3,000,000 of the general fund--private/local appropriation is provided solely for contracted toxic-site cleanup actions at sites where multiple potentially liable parties agree to provide funding.

(4) \$3,600,000 of the local toxics account--state appropriation is provided solely for the standby emergency rescue tug stationed at Neah Bay.

(5) \$811,000 of the state toxics account--state appropriation is provided solely for oversight of toxic cleanup at facilities that treat, store, and dispose of hazardous wastes.

(6) \$1,456,000 of the state toxics account--state appropriation is provided solely for toxic cleanup at sites where willing parties negotiate prepayment agreements with the department and provide necessary funding.

(7) \$558,000 of the state toxics account--state appropriation and \$3,000,000 of the local toxics account--state appropriation are provided solely for grants and technical assistance to Puget Sound-area local governments engaged in updating shoreline master programs.

(8) \$950,000 of the state toxics control account--state appropriation is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery, beginning in fiscal year 2011.

(9) RCW 70.105.280 authorizes the department to assess reasonable service charges against those facilities that store, treat, incinerate, or dispose of dangerous or extremely hazardous waste that involves both a nonradioactive hazardous component and a radioactive component. Service charges may not exceed the costs to the department in carrying out the duties in RCW 70.105.280. The current service charges do not meet the costs of the department to carry out its duties. Pursuant to RCW 43.135.055 and 70.105.280, the department is authorized to increase the service charges no greater than 18 percent for fiscal year 2010 and no greater than 15 percent for fiscal year 2011. Such service charges shall include all costs of public participation grants awarded to qualified entities by the department pursuant to RCW 70.105D.070(5) for facilities at which such grants are recognized as a component of a community relations or public participation plan

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authorized or required as an element of a consent order, federal facility agreement or agreed order entered into or issued by the department pursuant to any federal or state law governing investigation and remediation of releases of hazardous substances. Public participation grants funded by such service charges shall be in addition to, and not in place of, any other grants made pursuant to RCW 70.105D.070(5). Costs for the public participation grants shall be billed individually to the mixed waste facility associated with the grant.

(10) The department is authorized to increase the following fees in the 2009-2011 biennium as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Environmental lab accreditation, dam safety and inspection, biosolids permitting, air emissions new source review, and manufacturer registration and renewal.

(11) \$63,000 of the state toxics control account--state appropriation is provided solely for implementation of Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(12) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$181,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(13) \$150,000 of the general fund--state appropriation for fiscal year 2010 and \$141,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for watershed planning implementation grants to continue ongoing efforts to develop and implement water agreements in the Nooksack Basin and the Bertrand watershed. These amounts are intended to support project administration; monitoring; negotiations in the Nooksack watershed between tribes, the department, and affected water users; continued implementation of a flow augmentation project; plan implementation in the Fishtrap watershed; and the development of a water bank.

(14) \$215,000 of the general fund--state appropriation for fiscal year 2010 and \$220,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to provide watershed planning implementation grants for WRIA 32 to implement Substitute House Bill No. 1580 (pilot local water management program). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(15) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$187,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the purpose of supporting the trust water rights program and processing trust water right transfer applications that improve instream flow.

(16)(a) The department shall convene a stock water working group that includes: Legislators, four members representing agricultural interests, three members representing environmental interests, the attorney general or designee, the director of the department of ecology or designee, the director of the department of agriculture or designee, and affected federally recognized tribes shall be invited to send participants.

(b) The group shall review issues surrounding the use of permit-exempt wells for stock-watering purposes and may develop recommendations for legislative action.

(c) The working group shall meet periodically and report its activities and recommendations to the governor and the appropriate legislative committees by December 1, 2009.

(17) \$73,000 of the water quality permit account--state appropriation is provided solely to implement Substitute House Bill

No. 1413 (water discharge fees). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(18) The department shall continue to work with the Columbia Snake River irrigators' association to determine how seasonal water operation and maintenance conservation can be utilized. In implementing this proviso, the department shall also consult with the Columbia River policy advisory group as appropriate.

(19) The department shall track any changes in costs, wages, and benefits that would have resulted if House Bill No. 1716 (public contract living wages), as introduced in the 2009 regular session of the legislature, were enacted and made applicable to contracts and related subcontracts entered into, renewed, or extended during the 2009-11 biennium. The department shall submit a report to the house of representatives commerce and labor committee and the senate labor, commerce, and consumer protection committee by December 1, 2011. The report shall include data on any aggregate changes in wages and benefits that would have resulted during the 2009-11 biennium.

(20) Within amounts appropriated in this section the department shall develop recommendations by December 1, 2009, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts throughout the state. The department shall consider options including but not limited to, a producer-funded program, a recycler-supported or recycle fee program, a consumer fee at the time of purchase, general fund appropriations, or a currently existing dedicated account. The department shall involve and consult with stakeholders including persons who represent retailers, waste haulers, recyclers, mercury-containing light manufacturers or wholesalers, cities, counties, environmental organizations and other interested parties. The department shall report its findings and recommendations for a recycling program for mercury-containing lights to the appropriate committees of the legislature by December 1, 2009.

(21) \$140,000 of the freshwater aquatic algae control account--state appropriation is provided solely for grants to cities, counties, tribes, special purpose districts, and state agencies for capital and operational expenses used to manage and study excessive saltwater algae with an emphasis on the periodic accumulation of sea lettuce on Puget Sound beaches.

(22) By December 1, 2009, the department in consultation with local governments shall conduct a remedial action grant financing alternatives report. The report shall address options for financing the remedial action grants identified in the department's report, entitled "House Bill 1761, Model Toxics Control Accounts Ten-Year Financing Plan" and shall include but not be limited to the following: (a) Capitalizing cleanup costs using debt insurance; (b) capitalizing cleanup costs using prefunded cost-cap insurance; (c) other contractual instruments with local governments; and (d) an assessment of overall economic benefits of the remedial action grants funded using the instruments identified in this section.

(23) \$220,000 of the site closure account--state appropriation is provided solely for litigation expenses associated with the lawsuit filed by energy solutions, inc., against the Northwest interstate compact on low-level radioactive waste management and its executive director.

(24) \$68,000 of the water rights processing account--state appropriation is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6267 (water rights processing). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(25) \$10,000 of the state toxics control account--state appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5543 (mercury-containing lights). If the

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bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(26) \$300,000 of the state toxics control account--state appropriation is provided solely for piloting and evaluating two coordinated, multijurisdictional permitting teams for nontransportation projects.

(27)(a) \$4,000,000 of the state drought preparedness account--state appropriation is provided solely for response to a drought declaration pursuant to chapter 43.83B RCW. If such a drought declaration occurs, the department of ecology may provide funding to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions that may affect public health and safety, drinking water supplies, agricultural activities, or fish and wildlife survival.

(b) Projects or measures for which funding will be provided must be connected with a water system, water source, or water body that is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. The department shall issue guidelines outlining grant program and matching fund requirements within ten days of a drought declaration.

(28) In accordance with RCW 43.135.055, the department is authorized to increase the fees set forth in and previously authorized in section 302(10), chapter 564, Laws of 2009.

(29) In accordance with RCW 43.135.055, the department is authorized to adopt and increase the fees set forth in and previously authorized in sections 3, 5, 7, and 12, chapter 285, Laws of 2010.

**Sec. 1202.** 2011 c 5 s 302 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....            | \$23,176,000         |
| General Fund--State Appropriation (FY 2011) .....            | (\$18,309,000)       |
| .....  | <u>\$18,275,000</u>  |
| General Fund--Federal Appropriation .....                    | \$6,892,000          |
| General Fund--Private/Local Appropriation.....               | \$73,000             |
| Winter Recreation Program Account--State Appropriation ..... | \$1,556,000          |
| Off Road Vehicle Account--State Appropriation .....          | \$239,000            |
| Snowmobile Account--State Appropriation .....                | \$4,842,000          |
| Aquatic Lands Enhancement Account--State Appropriation ..... | \$368,000            |
| Recreation Resources Account--State Appropriation....        | \$9,469,000          |
| NOVA Program Account--State Appropriation .....              | \$9,164,000          |
| Parks Renewal and Stewardship Account--State .....           |                      |
| Appropriation.....   | \$72,975,000         |
| Parks Renewal and Stewardship Account--Private/Local .....   |                      |
| Appropriation.....   | \$300,000            |
| TOTAL APPROPRIATION .....                                    | (\$147,363,000)      |
| .....  | <u>\$147,329,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$79,000 of the general fund--state appropriation for fiscal year 2010 and \$74,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a grant for the operation of the Northwest avalanche center.

(2) Proceeds received from voluntary donations given by motor vehicle registration applicants shall be used solely for the operation and maintenance of state parks.

(3) With the passage of Substitute House Bill No. 2339 (state parks system donation), the legislature finds that it has provided sufficient funds to ensure that all state parks remain open during the 2009-11 biennium. The commission shall not close state parks unless the bill is not enacted by June 30, 2009, or revenue

collections are insufficient to fund the ongoing operation of state parks. By January 10, 2010, the commission shall provide a report to the legislature on their budget and resources related to operating parks for the remainder of the biennium.

(4) The commission shall work with the department of general administration to evaluate the commission's existing leases with the intention of increasing net revenue to state parks. The commission shall provide to the office of financial management and the legislative fiscal committees no later than September 30, 2009, a list of leases the commission proposes be managed by the department of general administration.

**Sec. 1203.** 2011 c 5 s 303 (uncodified) is amended to read as follows:

FOR THE RECREATION AND CONSERVATION FUNDING BOARD

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2010) .....            | \$1,486,000         |
| General Fund--State Appropriation (FY 2011) .....            | (\$1,312,000)       |
| .....  | <u>\$1,311,000</u>  |
| General Fund--Federal Appropriation .....                    | \$10,427,000        |
| General Fund--Private/Local Appropriation.....               | \$250,000           |
| Aquatic Lands Enhancement Account--State Appropriation ..... | \$278,000           |
| Firearms Range Account--State Appropriation .....            | \$39,000            |
| Recreation Resources Account--State Appropriation....        | \$2,738,000         |
| NOVA Program Account--State Appropriation .....              | \$1,059,000         |
| TOTAL APPROPRIATION .....                                    | (\$17,589,000)      |
| .....  | <u>\$17,588,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$204,000 of the general fund--state appropriation for fiscal year 2010 and \$194,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute House Bill No. 2157 (salmon recovery). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(2) The recreation and conservation office, under the direction of the salmon recovery funding board, shall assess watershed and regional-scale capacity issues relating to the support and implementation of salmon recovery. The assessment shall examine priority setting and incentives to further promote coordination to ensure that effective and efficient mechanisms for delivery of salmon recovery funding board funds are being utilized. The salmon recovery funding board shall distribute its operational funding to the appropriate entities based on this assessment.

(3) The recreation and conservation office shall negotiate an agreement with the Puget Sound partnership to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work, legislative coordination, and policy and administrative support of various boards and councils.

**Sec. 1204.** 2010 2nd sp.s. c 1 s 305 (uncodified) is amended to read as follows:

FOR THE ENVIRONMENTAL HEARINGS OFFICE

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,108,000        |
| General Fund--State Appropriation (FY 2011) ..... | (\$1,035,000)      |
| .....   | <u>\$1,034,000</u> |
| TOTAL APPROPRIATION .....                         | (\$2,143,000)      |
| .....   | <u>\$2,142,000</u> |

The appropriations in this section are subject to the following conditions and limitations: \$46,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for tenant

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improvement costs associated with moving the office to a new location.

Sec. 1205. 2010 2nd sp.s. c 1 s 306 (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$7,556,000         |
| General Fund--State Appropriation (FY 2011) ..... | (((\$6,751,000))    |
| .....   | <u>\$6,750,000</u>  |
| General Fund--Federal Appropriation .....         | \$1,178,000         |
| TOTAL APPROPRIATION .....                         | (((\$15,485,000))   |
| .....   | <u>\$15,484,000</u> |

The appropriations in this section are subject to the following conditions and limitations: In order to maintain a high degree of customer service and accountability for conservation districts, \$125,000 is to support the conservation commission's administrative activities related to the processing of conservation district invoices and budgeting.

Sec. 1206. 2011 c 5 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF FISH AND WILDLIFE

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....            | \$41,263,000         |
| General Fund--State Appropriation (FY 2011) .....            | (((\$30,560,000))    |
| .....  | <u>\$31,053,000</u>  |
| General Fund--Federal Appropriation .....                    | \$88,799,000         |
| General Fund--Private/Local Appropriation.....               | \$47,211,000         |
| Off Road Vehicle Account--State Appropriation .....          | \$413,000            |
| Aquatic Lands Enhancement Account--State Appropriation ..... | \$6,739,000          |
| Recreational Fisheries Enhancement--State                    |                      |
| Appropriation.....   | \$3,472,000          |
| Warm Water Game Fish Account--State Appropriation            | \$2,861,000          |
| Eastern Washington Pheasant Enhancement Account--            |                      |
| State Appropriation.....                                     | \$851,000            |
| Aquatic Invasive Species Enforcement Account--State          |                      |
| Appropriation.....   | \$207,000            |
| Aquatic Invasive Species Prevention Account--State           |                      |
| Appropriation.....   | \$833,000            |
| Wildlife Account--State Appropriation .....                  | \$86,998,000         |
| Wildlife Account--Federal Appropriation .....                | \$101,000            |
| Wildlife Account--Private/Local Appropriation.....           | \$39,000             |
| Game Special Wildlife Account--State Appropriation .....     | \$2,367,000          |
| Game Special Wildlife Account--Federal Appropriation         | \$3,426,000          |
| Game Special Wildlife Account--Private/Local                 |                      |
| Appropriation.....   | \$487,000            |
| Wildlife Rehabilitation Account--State Appropriation .....   | \$269,000            |
| Regional Fisheries Salmonid Recovery Account--               |                      |
| Federal Appropriation.....                                   | \$5,001,000          |
| Oil Spill Prevention Account--State Appropriation.....       | \$876,000            |
| Oyster Reserve Land Account--State Appropriation.....        | \$916,000            |
| TOTAL APPROPRIATION .....                                    | (((\$323,689,000))   |
| .....  | <u>\$324,182,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$294,000 of the aquatic lands enhancement account--state appropriation is provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.

(2) \$355,000 of the general fund--state appropriation for fiscal year 2010 and \$422,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to implement a pilot project with the Confederated Tribes of the Colville Reservation to develop expanded recreational fishing opportunities on Lake Rufus Woods and its northern shoreline and to conduct joint enforcement of lake fisheries on Lake Rufus Woods and adjoining waters, pursuant to state and tribal intergovernmental

agreements developed under the Columbia River water supply program. For the purposes of the pilot project:

(a) A fishing permit issued to a nontribal member by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods;

(b) The Colville Tribes have agreed to provide to holders of its nontribal member fishing permits a means to demonstrate that fish in their possession were lawfully taken in Lake Rufus Woods;

(c) A Colville tribal member identification card shall satisfy the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods;

(d) The department and the Colville Tribes shall jointly designate fishing areas on the north shore of Lake Rufus Woods for the purposes of enhancing access to the recreational fisheries on the lake; and

(e) The Colville Tribes have agreed to recognize a fishing license issued under RCW 77.32.470 or RCW 77.32.490 as satisfying the nontribal member fishing permit requirements of Colville tribal law on the reservation portion of the waters of Lake Rufus Woods and at designated fishing areas on the north shore of Lake Rufus Woods;

(3) Prior to submitting its 2011-2013 biennial operating and capital budget request related to state fish hatcheries to the office of financial management, the department shall contract with the hatchery scientific review group (HSRG) to review this request. This review shall: (a) Determine if the proposed requests are consistent with HSRG recommendations; (b) prioritize the components of the requests based on their contributions to protecting wild salmonid stocks and meeting the recommendations of the HSRG; and (c) evaluate whether the proposed requests are being made in the most cost effective manner. The department shall provide a copy of the HSRG review to the office of financial management with their agency budget proposal.

(4) Within existing funds, the department shall continue implementing its capital program action plan dated September 1, 2007, including the purchase of the necessary maintenance and support costs for the capital programs and engineering tools. The department shall report to the office of financial management and the appropriate committees of the legislature, its progress in implementing the plan, including improvements instituted in its capital program, by September 30, 2010.

(5) \$1,232,000 of the state wildlife account--state appropriation is provided solely to implement Substitute House Bill No. 1778 (fish and wildlife). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$400,000 of the general fund--state appropriation for fiscal year 2010 and \$400,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. army corps of engineers.

(7) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for removal of derelict gear in Washington waters.

(8) The department of fish and wildlife shall dispose of all Cessna aircraft it currently owns. The proceeds from the aircraft shall be deposited into the state wildlife account. Disposal of the aircraft must occur no later than June 30, 2010. The department shall coordinate with the department of natural resources on the installation of fire surveillance equipment into its Partenavia aircraft. The department shall make its Partenavia aircraft available to the department of natural resources on a cost-reimbursement basis for its use in coordinating fire suppression efforts. The two

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agencies shall develop an interagency agreement that defines how they will share access to the plane.

(9) \$50,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for an electron project fish passage study consistent with the recommendations and protocols contained in the 2008 electron project downstream fish passage final report.

(10) \$60,000 of the general fund--state appropriation for fiscal year 2010 and \$60,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(11) If sufficient new revenues are not identified to continue hatchery operations, within the constraints of legally binding tribal agreements, the department shall dispose of, by removal, sale, lease, reversion, or transfer of ownership, the following hatcheries: McKernan, Colville, Omak, Bellingham, Arlington, and Mossyrock. Disposal of the hatcheries must occur by June 30, 2011, and any proceeds received from disposal shall be deposited in the state wildlife account. Within available funds, the department shall provide quarterly reports on the progress of disposal to the office of financial management and the appropriate fiscal committees of the legislature. The first report shall be submitted no later than September 30, 2009.

(12) \$100,000 of the eastern Washington pheasant enhancement account--state appropriation is provided solely for the department to support efforts to enhance permanent and temporary pheasant habitat on public and private lands in Grant, Franklin, and Adams counties. The department may support efforts by entities including conservation districts, nonprofit organizations, and landowners, and must require such entities to provide significant nonstate matching resources, which may be in the form of funds, material, or labor.

(13) Within the amounts appropriated in this section, the department of fish and wildlife shall develop a method for allocating its administrative and overhead costs proportionate to program fund use. As part of its 2011-2013 biennial operating budget, the department shall submit a decision package that rebalances expenditure authority for all agency funds based upon proportionate contributions.

(14) Within the amounts appropriated in this section, the department shall identify additional opportunities for partnerships in order to keep fish hatcheries operational. Such partnerships shall aim to maintain fish production and salmon recovery with less reliance on state operating funds.

(15) Within the amounts appropriated in this section, the department shall work with stakeholders to develop a long-term funding model that sustains the department's work of conserving species and habitat, providing sustainable recreational and commercial opportunities and using sound business practices. The funding model analysis shall assess the appropriate uses of each fund source and whether the department's current and projected revenue levels are adequate to sustain its current programs. The department shall report its recommended funding model including supporting analysis and stakeholder participation summary to the office of financial management and the appropriate committees of the legislature by October 1, 2010.

(16) By October 1, 2010, the department shall enter into an interagency agreement with the department of natural resources for land management services for the department's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. In the agreement, the department shall define its roles and responsibilities.

A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(17) Prior to opening game management unit 490 to public hunting, the department shall complete an environmental impact statement that includes an assessment of how public hunting activities will impact the ongoing protection of the public water supply.

(18) The department must work with appropriate stakeholders to facilitate the disposition of salmon to best utilize the resource, increase revenues to regional fisheries enhancement groups, and enhance the provision of nutrients to food banks. By November 1, 2010, the department must provide a report to the appropriate committees of the legislature summarizing these discussions, outcomes, and recommendations. After November 1, 2010, the department shall not solicit or award a surplus salmon disposal contract without first giving due consideration to implementing the recommendations developed during the stakeholder process.

(19) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for increased fish production at Voight Creek hatchery.

**Sec. 1207.** 2011 c 5 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....        | \$48,822,000         |
| General Fund--State Appropriation (FY 2011) .....        | (((\$37,321,000))    |
| .....  | <u>\$37,302,000</u>  |
| General Fund--Federal Appropriation .....                | \$28,784,000         |
| General Fund--Private/Local Appropriation.....           | \$2,369,000          |
| Forest Development Account--State Appropriation ....     | \$41,640,000         |
| Off Road Vehicle Account--State Appropriation .....      | \$4,406,000          |
| Surveys and Maps Account--State Appropriation .....      | \$2,332,000          |
| Aquatic Lands Enhancement Account--State                 |                      |
| Appropriation.....                                       | \$8,315,000          |
| Resources Management Cost Account--State                 |                      |
| Appropriation.....                                       | \$78,704,000         |
| Surface Mining Reclamation Account--State                |                      |
| Appropriation.....                                       | \$3,494,000          |
| Disaster Response Account--State Appropriation .....     | \$5,000,000          |
| Forest and Fish Support Account--State Appropriation     | \$8,000,000          |
| Aquatic Land Dredged Material Disposal Site              |                      |
| Account--State Appropriation.....                        | \$1,333,000          |
| Natural Resources Conservation Areas Stewardship         |                      |
| Account--State Appropriation.....                        | \$184,000            |
| State Toxics Control Account--State Appropriation.....   | \$720,000            |
| Air Pollution Control Account--State Appropriation ..... | \$478,000            |
| NOVA Program Account--State Appropriation .....          | \$974,000            |
| Derelict Vessel Removal Account--State Appropriation     | \$1,749,000          |
| Agricultural College Trust Management Account--          |                      |
| State Appropriation.....                                 | \$1,941,000          |
| TOTAL APPROPRIATION .....                                | (((\$276,566,000))   |
| .....  | <u>\$276,547,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,355,000 of the general fund--state appropriation for fiscal year 2010 and \$327,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(2) \$22,670,000 of the general fund--state appropriation for fiscal year 2010, \$15,089,000 of the general fund--state appropriation for fiscal year 2011, and \$5,000,000 of the disaster response account--state appropriation are provided solely for emergency fire suppression. None of the general fund and disaster

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response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations. The department of natural resources shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from the disaster response account. This work shall be done in coordination with the military department.

(3) \$5,000,000 of the forest and fish support account--state appropriation is provided solely for adaptive management, monitoring, and participation grants to tribes. If federal funding for this purpose is reinstated, the amount provided in this subsection shall lapse.

(4) \$600,000 of the derelict vessel removal account--state appropriation is provided solely for removal of derelict and abandoned vessels that have the potential to contaminate Puget Sound.

(5) \$666,000 of the general fund--federal appropriation is provided solely to implement House Bill No. 2165 (forest biomass energy project). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(6) \$5,000 of the general fund--state appropriation for fiscal year 2010 and \$5,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute House Bill No. 1038 (specialized forest products). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) \$440,000 of the state general fund--state appropriation for fiscal year 2010 and \$440,000 of the state general fund--state appropriation for fiscal year 2011 are provided solely for forest work crews that support correctional camps and are contingent upon continuing operations of Naselle youth camp at the level provided in fiscal year 2008. The department shall consider using up to \$2,000,000 of the general fund--federal appropriation to support and utilize correctional camp crews to implement natural resource projects approved by the federal government for federal stimulus funding.

(8) The department of natural resources shall dispose of the King Air aircraft it currently owns. Before disposal and within existing funds, the department shall transfer specialized equipment for fire surveillance to the department of fish and wildlife's Partenavia aircraft. Disposal of the aircraft must occur no later than June 30, 2010, and the proceeds from the sale of the aircraft shall be deposited into the forest and fish support account.

(9) \$30,000 of the general fund--state appropriation for fiscal year 2010 and \$28,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute Bill No. 5560 (agency climate leadership). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$1,030,000 of the aquatic lands enhancement account--state appropriation for fiscal year 2011 is provided solely for continuing scientific studies already underway as part of the adaptive management process. Funds may not be used to initiate new studies unless the department secures new federal funding for the adaptive management process.

(11) Within available funds, the department of natural resources shall review the statutory method for determining aquatic lands lease rates for private marinas, public marinas not owned and operated by port districts, yacht clubs, and other entities leasing state land for boat moorage. The review shall consider alternative methods for determining rents for these entities for a fair distribution of rent, consistent with the department management mandates for state aquatic lands.

(12) \$37,000 of the general fund--state appropriation for fiscal year 2011 and \$100,000 of the aquatic lands enhancement account--state appropriation are provided solely to install up to twenty mooring buoys in Eagle Harbor and to remove abandoned boats, floats, and other trespassing structures.

(13) By October 1, 2010, the department shall enter into an interagency agreement with the department of fish and wildlife for providing land management services on the department of fish and wildlife's wildlife conservation and recreation lands. Land management services may include but are not limited to records management, real estate services such as surveying, and land acquisition and disposal services. The interagency agreement shall describe business processes, service delivery expectations, cost, and timing. A draft agreement shall be submitted to the office of financial management and the appropriate fiscal committees of the legislature by July 1, 2010.

(14) \$41,000 of the forest development account--state appropriation, \$44,000 of the resources management account--state appropriation, and \$2,000 of the agricultural college trust management account--state appropriation are provided solely for the implementation of Second Substitute House Bill No. 2481 (DNR forest biomass agreements). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

**Sec. 1208.** 2011 c 5 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2010) .....            | \$12,320,000        |
| General Fund--State Appropriation (FY 2011) .....            | (\$15,391,000)      |
| .....  | <u>\$15,366,000</u> |
| General Fund--Federal Appropriation .....                    | \$21,047,000        |
| General Fund--Private/Local Appropriation.....               | \$193,000           |
| Aquatic Lands Enhancement Account--State Appropriation ..... | \$2,564,000         |
| State Toxics Control Account--State Appropriation.....       | \$4,724,000         |
| Water Quality Permit Account--State Appropriation .....      | \$61,000            |
| TOTAL APPROPRIATION .....                                    | (\$56,300,000)      |
| .....  | <u>\$56,275,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$350,000 of the aquatic lands enhancement account appropriation is provided solely for funding to the Pacific county noxious weed control board to eradicate remaining spartina in Willapa Bay.

(2) \$19,000 of the general fund--state appropriation for fiscal year 2010 and \$6,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5797 (solid waste handling permits). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) The department is authorized to establish or increase the following fees in the 2009-11 biennium as necessary to meet the actual costs of conducting business: Christmas tree grower licensing, nursery dealer licensing, plant pest inspection and testing, and commission merchant licensing.

(4) \$5,179,000 of the general fund--state appropriation for fiscal year 2011 and \$2,782,000 of the general fund--federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6341 (food assistance/department of agriculture). Within amounts appropriated in this subsection, \$65,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to

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this contract. If the bill is not enacted by June 30, 2010, the amounts provided in this subsection shall lapse.

(5) The department shall, if public or private funds are available, partner with eligible public and private entities with experience in food collection and distribution to review funding sources for eight full-time volunteers in the AmeriCorps VISTA program to conduct outreach to local growers, agricultural donors, and community volunteers. Public and private partners shall also be utilized to coordinate gleaning unharvested tree fruits and fresh produce for distribution to individuals throughout Washington state.

(6) When reducing laboratory activities and functions, the department shall not impact any research or analysis pertaining to bees.

**Sec. 1209.** 2011 c 5 s 307 (uncodified) is amended to read as follows:

FOR THE PUGET SOUND PARTNERSHIP

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2010) .....            | \$3,143,000         |
| General Fund--State Appropriation (FY 2011) .....            | (\$2,528,000)       |
| .....  | <u>\$2,525,000</u>  |
| General Fund--Federal Appropriation .....                    | \$8,096,000         |
| Aquatic Lands Enhancement Account--State Appropriation ..... | \$493,000           |
| State Toxics Control Account--State Appropriation.....       | \$794,000           |
| TOTAL APPROPRIATION .....                                    | (\$15,054,000)      |
| .....  | <u>\$15,051,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$305,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for measuring water and habitat quality to determine watershed health and assist salmon recovery.

(2) \$794,000 of the state toxics control account--state appropriation is provided solely for activities that contribute to Puget Sound protection and recovery, including provision of independent advice and assessment of the state's oil spill prevention, preparedness, and response programs, including review of existing activities and recommendations for any necessary improvements. The partnership may carry out this function through an existing committee, such as the ecosystem coordination board or the leadership council, or may appoint a special advisory council. Because this is a unique statewide program, the partnership may invite participation from outside the Puget Sound region.

(3) Within the amounts appropriated in this section, the Puget Sound partnership shall facilitate an ongoing monitoring consortium to integrate monitoring efforts for storm water, water quality, watershed health, and other indicators to enhance monitoring efforts in Puget Sound.

(4) The Puget Sound partnership shall work with Washington State University and the environmental protection agency to secure funding for the beach watchers program.

(5) \$839,000 of the general fund--state appropriation for fiscal year 2010 and \$608,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support public education and volunteer programs. The partnership is directed to distribute the majority of funding as grants to local organizations, local governments, and education, communication, and outreach network partners. The partnership shall track progress for this activity through the accountability system of the Puget Sound partnership.

(6) The Puget Sound partnership shall negotiate an agreement with the recreation and conservation office to consolidate or share certain administrative functions currently performed by each agency independently. The agencies shall proportionately share the costs of such shared functions. Examples of shared functions may include, but are not limited to, support for personnel, information technology, grant and contract management, invasive species work,

legislative coordination, and policy and administrative support of various boards and councils.

(End of part)

**PART XIII  
TRANSPORTATION**

**Sec. 1301.** 2011 c 5 s 401 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....           | \$1,436,000         |
| General Fund--State Appropriation (FY 2011) .....           | (\$1,322,000)       |
| .....   | <u>\$1,320,000</u>  |
| Architects' License Account--State Appropriation .....      | \$923,000           |
| Professional Engineers' Account--State .....                |                     |
| Appropriation.....  | \$3,568,000         |
| Real Estate Commission Account--State Appropriation.....    | \$9,987,000         |
| Master License Account--State Appropriation .....           | \$15,718,000        |
| Uniform Commercial Code Account--State Appropriation .....  | \$3,090,000         |
| Real Estate Education Account--State Appropriation .....    | \$276,000           |
| Real Estate Appraiser Commission Account--State .....       |                     |
| Appropriation.....  | \$1,683,000         |
| Business and Professions Account--State Appropriation ..... | \$15,188,000        |
| Real Estate Research Account--State Appropriation.....      | \$471,000           |
| Geologists' Account--State Appropriation.....               | \$53,000            |
| Derelict Vessel Removal Account--State Appropriation.....   | \$31,000            |
| TOTAL APPROPRIATION .....                                   | (\$53,746,000)      |
| .....   | <u>\$53,744,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, the department is authorized to increase fees for cosmetologists, funeral directors, cemeteries, court reporters and appraisers. These increases are necessary to support the expenditures authorized in this section, consistent with RCW 43.24.086.

(2) \$1,352,000 of the business and professions account--state appropriation is provided solely to implement Substitute Senate Bill No. 5391 (tattoo and body piercing). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(3) \$358,000 of the business and professions account--state appropriation is provided solely to implement Senate Bill No. 6126 (professional athletics). If the bill is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(4) \$151,000 of the real estate research account appropriation is provided solely to implement chapter 156, Laws of 2010 (real estate broker licensure fees).

(5) \$158,000 of the architects' license account--state appropriation is provided solely to implement chapter 129, Laws of 2010 (architect licensing).

(6) \$60,000 of the master license account--state appropriation is provided solely to implement chapter 174, Laws of 2010 (vaccine association). The amount provided in this subsection shall be from fee revenue authorized in chapter 174, Laws of 2010.

**Sec. 1302.** 2011 c 5 s 402 (uncodified) is amended to read as follows:

FOR THE STATE PATROL

|  |                     |
|--|---------------------|
| General Fund--State Appropriation (FY 2010) .....      | \$38,977,000        |
| General Fund--State Appropriation (FY 2011) .....      | (\$33,292,000)      |
| .....  | <u>\$32,867,000</u> |
| General Fund--Federal Appropriation .....              | \$15,793,000        |
| General Fund--Private/Local Appropriation.....         | \$4,986,000         |
| Death Investigations Account--State Appropriation..... | \$5,580,000         |

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|  |                            |
|--|----------------------------|
| Enhanced 911 Account--State Appropriation.....                             | \$603,000                  |
| County Criminal Justice Assistance Account--State<br>Appropriation.....    | \$3,146,000                |
| Municipal Criminal Justice Assistance Account--State<br>Appropriation..... | \$1,255,000                |
| Fire Service Trust Account--State Appropriation.....                       | \$131,000                  |
| Disaster Response Account--State Appropriation .....                       | \$8,002,000                |
| Fire Service Training Account--State Appropriation ....                    | \$8,821,000                |
| Aquatic Invasive Species Enforcement Account--State<br>Appropriation.....  | \$54,000                   |
| State Toxics Control Account--State Appropriation.....                     | \$509,000                  |
| Fingerprint Identification Account--State<br>Appropriation.....            | \$10,454,000               |
| TOTAL APPROPRIATION .....  | <del>(\$131,603,000)</del> |
|  | <u>\$131,178,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account--state appropriation is provided solely for two FTEs in the office of the state director of fire protection to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) \$8,000,000 of the disaster response account--state appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 and 43.43.964. The state patrol shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on current and planned expenditures from this account. This work shall be done in coordination with the military department.

(3) The 2010 legislature will review the use of king air planes by the executive branch and the adequacy of funding in this budget regarding maintaining and operating the planes to successfully accomplish their mission.

(4) The appropriations in this section reflect reductions in the appropriations for the agency's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs.

(5) \$400,000 of the fire service training account--state appropriation is provided solely for the firefighter apprenticeship training program.

(6) \$48,000 of the fingerprint identification account--state appropriation is provided solely to implement Substitute House Bill No. 1621 (consumer loan companies). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(7) In accordance with RCW 43.43.942, 46.52.085, and 43.135.055, the state patrol is authorized to increase the following fees in fiscal year 2011 as necessary to meet the actual costs of conducting business and the appropriation levels in this section: Collision records requests; fire training academy courses; and fire training academy dorm accommodations.

(8) \$24,000 of the fingerprint identification account--state appropriation is provided solely for implementation of chapter 47, Laws of 2010 (criminal background checks).

(End of part)

**PART XIV  
EDUCATION**

**Sec. 1401.** 2011 c 5 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

|   |                            |
|---|----------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$35,415,000               |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$30,196,000)</del>  |
|   | <u>\$30,336,000</u>        |
| General Fund--Federal Appropriation .....         | \$87,081,000               |
| TOTAL APPROPRIATION .....                         | <del>(\$152,692,000)</del> |
|   | <u>\$152,832,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) A maximum of \$23,096,000 of the general fund--state appropriation for fiscal year 2010 and \$20,070,000 of the general fund--state appropriation for fiscal year 2011 is for state agency operations.

(a) \$11,226,000 of the general fund--state appropriation for fiscal year 2010 and \$9,709,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) Within amounts appropriated in this subsection (1)(a), the office of the superintendent of public instruction, consistent with WAC 392-121-182 (alternative learning experience requirements) which requires documentation of alternative learning experience student headcount and full-time equivalent (FTE) enrollment claimed for basic education funding, shall provide, monthly, accurate monthly headcount and FTE enrollments for students in alternative learning experience (ALE) programs as well as information about resident and serving districts.

(iii) Within amounts provided in this subsection (1)(a), the state superintendent of public instruction shall share best practices with school districts regarding strategies for increasing efficiencies and economies of scale in school district noninstructional operations through shared service arrangements and school district cooperatives, as well as other practices.

(b) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a science, technology, engineering, and mathematics (STEM) working group to develop a comprehensive plan with a shared vision, goals, and measurable objectives to improve policies and practices to ensure that a pathway is established for elementary schools, middle schools, high schools, postsecondary degree programs, and careers in the areas of STEM, including improving practices for recruiting, preparing, hiring, retraining, and supporting teachers and instructors while creating pathways to boost student success, close the achievement gap, and prepare every student to be college and career ready. The working group shall be composed of the director of STEM at the office of the superintendent of public instruction who shall be the chair of the working group, and at least one representative from the state board of education, professional educator standards board, state board of community and technical colleges, higher education coordinating board, workforce training and education coordinating board, the achievement gap oversight and accountability committee, and others with appropriate expertise. The working group shall develop a comprehensive plan and a report with recommendations, including a timeline for specific actions to be taken, which is due to the governor and the appropriate committees of the legislature by December 1, 2010.

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(c) \$920,000 of the general fund--state appropriation for fiscal year 2010 and \$491,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research and development activities associated with the development of options for new school finance systems, including technical staff, reprogramming, and analysis of alternative student funding formulae. Within this amount is \$150,000 for the state board of education for further development of accountability systems, and \$150,000 for the professional educator standards board for continued development of teacher certification and evaluation systems.

(d) \$965,000 of the general fund--state appropriation for fiscal year 2010 and \$887,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(e) \$5,366,000 of the general fund--state appropriation for fiscal year 2010 and \$3,103,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the professional educator standards board for the following:

(i) \$1,070,000 in fiscal year 2010 and \$985,000 in fiscal year 2011 are for the operation and expenses of the Washington professional educator standards board;

(ii) \$4,106,000 of the general fund--state appropriation for fiscal year 2010 and \$1,936,000 of the general fund--state appropriation for fiscal year 2011 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(f)(ii) is also provided for the recruiting Washington teachers program.

(iii) \$102,000 of the general fund--state appropriation for fiscal year 2010 is provided for the implementation of Second Substitute Senate Bill No. 5973 (student achievement gap). \$94,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the ongoing work of the achievement gap oversight and accountability committee and implementation of the committee's recommendations.

(f) \$1,349,000 of the general fund--state appropriation for fiscal year 2010 and \$144,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.

(g) \$1,140,000 of the general fund--state appropriation for fiscal year 2010 and \$1,227,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902 of this act.

(h) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to promote the financial literacy of students. The effort will be coordinated through the financial education public-private partnership. It is expected that nonappropriated funds available to the public-private partnership will be sufficient to continue financial literacy activities.

(i) To the maximum extent possible, in adopting new agency rules or making any changes to existing rules or policies related to the fiscal provisions in the administration of part V of this act, the office of the superintendent of public instruction shall attempt to request approval through the normal legislative budget process.

(j) \$44,000 of the general fund--state appropriation for fiscal year 2010 and \$45,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of

Substitute Senate Bill No. 5248 (enacting the interstate compact on educational opportunity for military children).

(k) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$700,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the implementation of Substitute Senate Bill No. 5410 (online learning).

(l) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$12,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(m) \$2,518,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Substitute House Bill No. 2776 (K-12 education funding). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(n) \$89,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3026 (state and federal civil rights laws). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(o) Beginning in the 2010-11 school year, the superintendent of public instruction shall require all districts receiving general apportionment funding for alternative learning experience (ALE) programs as defined in WAC 392-121-182 to provide separate financial accounting of expenditures for the ALE programs offered in district or with a provider, including but not limited to private companies and multidistrict cooperatives.

(p) \$55,000 of the general fund--state appropriation for fiscal year 2011 is provided to the office of the superintendent of public instruction solely to convene a technical working group to establish standards, guidelines, and definitions for what constitutes a basic education program for highly capable students and the appropriate funding structure for such a program, and to submit recommendations to the legislature for consideration. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders. The working group must consult with and seek input from nationally recognized experts; researchers and academics on the unique educational, emotional, and social needs of highly capable students and how to identify such students; representatives of national organizations and associations for educators or advocates for highly capable students; school district representatives who are educators, counselors, and classified school employees involved with highly capable programs; parents of students who have been identified as highly capable; representatives from the federally recognized tribes; and representatives of cultural, linguistic, and racial minority groups and the community of persons with disabilities. The working group shall make recommendations to the quality education council and to appropriate committees of the legislature by December 1, 2010. The recommendations shall take into consideration that access to the program for highly capable students is not an individual entitlement for any particular student. The recommendations shall seek to minimize underrepresentation of any particular demographic or socioeconomic group by better identification, not lower standards or quotas, and shall include the following:

(i) Standardized state-level identification procedures, standards, criteria, and benchmarks, including a definition or definitions of a highly capable student. Students who are both highly capable and are students of color, are poor, or have a disability must be addressed;

(ii) Appropriate programs and services that have been shown by research and practice to be effective with highly capable students

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but maintain options and flexibility for school districts, where possible;

(iii) Program administration, management, and reporting requirements for school districts;

(iv) Appropriate educator qualifications, certification requirements, and professional development and support for educators and other staff who are involved in programs for highly capable students;

(v) Self-evaluation models to be used by school districts to determine the effectiveness of the program and services provided by the school district for highly capable programs;

(vi) An appropriate state-level funding structure; and

(vii) Other topics deemed to be relevant by the working group.

(q) \$1,000,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(r) \$24,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for implementation of Substitute Senate Bill No. 6759 (requiring a plan for a voluntary program of early learning as a part of basic education). If the bill is not enacted by June 30, 2010, the amounts provided in this subsection (1)(r) shall lapse.

(s) \$950,000 of the general fund--state appropriation for fiscal year 2010 ((§)) and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for office of the attorney general costs related to *McCleary v. State of Washington*.

(2) \$12,320,000 of the general fund--state appropriation for fiscal year 2010, \$10,127,000 of the general fund--state appropriation for fiscal year 2011, and \$55,890,000 of the general fund--federal appropriation are for statewide programs.

(a) HEALTH AND SAFETY

(i) \$2,541,000 of the general fund--state appropriation for fiscal year 2010 and \$2,381,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$94,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iii) \$9,670,000 of the general fund--federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies.

(iv) \$96,000 of the general fund--state appropriation for fiscal year 2010 and \$90,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve

manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(v) \$70,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the youth suicide prevention program.

(vi) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$47,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) TECHNOLOGY

(i) \$1,842,000 of the general fund--state appropriation for fiscal year 2010 and \$1,635,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(ii) \$1,475,000 of the general fund--state appropriation for fiscal year 2010, \$1,045,000 of the general fund--state appropriation for fiscal year 2011, and \$435,000 of the general fund--federal appropriation are provided solely for implementing a comprehensive data system to include financial, student, and educator data. The office of the superintendent of public instruction will convene a data governance group to create a comprehensive needs-requirement document, conduct a gap analysis, and define operating rules and a governance structure for K-12 data collections.

(c) GRANTS AND ALLOCATIONS

(i) \$1,329,000 of the general fund--state appropriation for fiscal year 2010 and \$664,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the special services pilot project to include up to seven participating districts. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.016.

(ii) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$750,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(iii) \$25,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(iv) \$175,000 of the general fund--state appropriation for fiscal year 2010 and \$87,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for incentive grants for districts and pilot projects to develop preapprenticeship programs. Incentive grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(v) \$2,898,000 of the general fund--state appropriation for fiscal year 2010 and \$2,924,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as

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grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(vi) \$627,000 of the general fund--state appropriation for fiscal year 2010 and \$225,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of a statewide program for comprehensive dropout prevention, intervention, and retrieval.

(vii) \$40,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection (2)(c)(vii), the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quetzal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs.

(viii) \$60,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for a pilot project to encourage bilingual high school students to pursue public school teaching as a profession. Using the full amounts of the appropriation under this subsection, the office of the superintendent of public instruction shall contract with the Latino/a educational achievement project (LEAP) to work with school districts to identify and mentor not fewer than fifty bilingual students in their junior year of high school, encouraging them to become bilingual instructors in schools with high English language learner populations. Students shall be mentored by bilingual teachers and complete a curriculum developed and approved by the participating districts.

(ix) \$145,000 of the general fund--state appropriation for fiscal year 2010 and \$37,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction to enhance the reading skills of students with dyslexia by implementing the findings of the dyslexia pilot program. Funds shall be used to provide information and training to classroom teachers and reading specialists, for development of a dyslexia handbook, and to take other statewide actions to improve the reading skills of students with dyslexia. The training program shall be delivered regionally through the educational service districts.

(x) \$97,000 of the general fund--state appropriation for fiscal year 2010 and \$48,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to support vocational student leadership organizations.

(xi) \$100,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for drop-out prevention programs at the office of the superintendent of public instruction including the jobs for America's graduates (JAG) program.

**Sec. 1402.** 2011 c 5 s 502 (uncodified) is amended to read as follows:

|   |                        |
|---|------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR GENERAL APPORTIONMENT |                        |
| General Fund--State Appropriation (FY 2010) .....                       | \$5,126,153,000        |
| General Fund--State Appropriation (FY 2011) (((\$4,887,369,000))        |                        |
| .....   | <u>\$4,623,555,000</u> |
| General Fund--Federal Appropriation .....                               | \$208,098,000          |
| TOTAL APPROPRIATION .....   | (\$10,221,620,000))    |
| .....   | <u>\$9,957,806,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) The appropriations in this section include federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund), which shall be used to support general apportionment program funding. In distributing general apportionment allocations under this section for the 2010-11 school year, the superintendent shall include the entire allocation from the federal funds provided through section 101 of Public Law No. 111-226 (education jobs fund) as part of each district's general apportionment allocation.

(2) Allocations for certificated staff salaries for the 2009-10 and 2010-11 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii)(A)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grades K through three in digital or online learning programs as defined in WAC 392-121-182, as in effect on November 1, 2009: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades K through three and, for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(II) For all other districts for the 2009-10 school year, a minimum of forty-nine certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010 school year from September 1, 2010, through January 31, 2011, a minimum of forty-nine certificated instructional staff units per thousand full-time equivalent students in grades K through three, with additional certificated instructional staff units to equal the documented staffing level in grades K through three, up to a maximum of fifty and seventy-five one-hundredths certificated instructional staff units per thousand full-time equivalent students in grades K through three.

(B)(I) For districts that enroll fewer than 25 percent of their total full-time equivalent student enrollment in grade four in digital or online learning programs defined in WAC 392-121-182 as in effect on November 1, 2009: For the 2009-10 school year, fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grade four, and for the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, forty-six and twenty-seven one-hundredths certificated instructional staff units per thousand full-time equivalent students in grade four.

(II) For all other districts:

For the 2009-10 school year, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated

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instructional staff units to equal the documented staffing level in grade four, up to a maximum of fifty-three and two-tenths certificated instructional staff units per 1,000 FTE students.

For the portion of the 2010-11 school year from September 1, 2010, through January 31, 2011, a minimum of forty-six certificated instructional staff units per 1,000 full-time equivalent (FTE) students in grade four, and additional certificated instructional staff units to equal the documented staffing level in grade four, up to a maximum of forty-six and twenty-seven one-hundredths certificated instructional staff units per 1,000 FTE students;

(iii) For the portion of the 2010-11 school year beginning February 1, 2010:

(A) Forty-nine certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through three;

(B) Forty-six certificated instructional staff units per thousand full-time equivalent students in grade 4;

(iv) All allocations for instructional staff units per thousand full-time equivalent students above forty-nine in grades kindergarten through three and forty-six in grade four shall occur in apportionments in the monthly periods prior to February 1, 2011;

(v) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 5-12;

(vi) Certificated staff allocations in this subsection (2)(a) exceeding the statutory minimums established in RCW 28A.150.260 shall not be considered part of basic education;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students;

(B) Middle school vocational STEM programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.8 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(C) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2010-11 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs and vocational middle-school shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

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(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2009-10 and 2010-11 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (h) of this section, one classified staff unit for each 2.94 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each 58.75 average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than

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one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.43 percent in the 2009-10 school year and 14.43 percent in the 2010-11 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 16.59 percent in the 2009-10 school year and 16.59 percent in the 2010-11 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (g) of this section, there shall be provided a maximum of \$10,179 per certificated staff unit in the 2009-10 school year and a maximum of \$10,424 per certificated staff unit in the 2010-11 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$24,999 per certificated staff unit in the 2009-10 school year and a maximum of \$25,399 per certificated staff unit in the 2010-11 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$19,395 per certificated staff unit in the 2009-10 school year and a maximum of \$19,705 per certificated staff unit in the 2010-11 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$607.44 for the 2009-10 and 2010-11 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) Funding in this section is sufficient to provide additional service year credits to educational staff associates pursuant to chapter 403, Laws of 2007.

(10)(a) The superintendent may distribute a maximum of \$5,452,000 outside the basic education formula during fiscal years 2010 and 2011 as follows:

(i) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to

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chapter 52.04 RCW, a maximum of \$567,000 may be expended in fiscal year 2010 and a maximum of \$576,000 may be expended in fiscal year 2011;

(ii) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2010 fiscal year and a maximum of \$600,000 for the 2011 fiscal year;

(iii) A maximum of \$403,000 may be expended for school district emergencies; and

(iv) A maximum of \$485,000 for fiscal year 2010 and \$436,000 for fiscal year 2011 may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(b) Funding in this section is sufficient to fund a maximum of 1.6 FTE enrollment for skills center students pursuant to chapter 463, Laws of 2007.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 4.0 percent from the 2008-09 school year to the 2009-10 school year and 4.0 percent from the 2009-10 school year to the 2010-11 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (g) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

(13) General apportionment payments to the Steilacoom historical school district shall reflect changes to operation of the Harriet Taylor elementary school consistent with the timing of reductions in correctional facility capacity and staffing.

(14) (~~(\$2,500,000)~~) \$15,500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the superintendent for financial contingency funds for eligible school districts. Of the amount provided in this subsection, \$2,500,000 is for school districts needing financial assistance as a result of budget reductions included in this act. Of the amount provided in this subsection, \$13,000,000 is for school districts needing financial assistance as a result of delaying a portion of the June apportionment payment. The financial contingency funds shall be allocated to eligible districts in the form of an advance of their respective general apportionment allocations.

(a) Eligibility:

The superintendent shall determine a district's eligibility for receipt of financial contingency funds, and districts shall be eligible only if the following conditions are met:

(i) A petition is submitted by the school district as provided in RCW 28A.510.250 and WAC 392-121-436; and

(ii) The district's projected general fund balance for the month of March is less than one-half of one percent of its budgeted general fund expenditures as submitted to the superintendent for the 2010-11 school year on the F-196 report.

(b) Calculations:

The superintendent shall calculate the financial contingency allocation to each district as the lesser of:

(i) The amount set forth in the school district's resolution;

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(ii) An amount not to exceed 10 percent of the total amount to become due and apportionable to the district from September 1st through August 31st of the current school year;

(iii) The highest negative monthly cash and investment balance of the general fund between the date of the resolution and May 31st of the school year based on projections approved by the county treasurer and the educational service district.

(c) Repayment:

For any amount allocated to a district in state fiscal year 2011, the superintendent shall deduct in state fiscal year 2012 from the district's general apportionment the amount of the emergency contingency allocation and any earnings by the school district on the investment of a temporary cash surplus due to the emergency contingency allocation. Repayments or advances will be accomplished by a reduction in the school district's apportionment payments on or before June 30th of the school year following the distribution of the emergency contingency allocation. All disbursements, repayments, and outstanding allocations to be repaid of the emergency contingency pool shall be reported to the office of financial management and the appropriate fiscal committees of the legislature on July 1st and January 1st of each year.

**Sec. 1403.** 2010 1st sp.s. c 37 s 504 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) ..... | (\$4,414,000)        |
| General Fund--State Appropriation (FY 2011) ..... | (((\$1,806,000)))    |
| .....   | <u>(\$1,539,000)</u> |
| General Fund--Federal Appropriation .....         | (\$1,000)            |
| TOTAL APPROPRIATION .....                         | (((\$6,221,000)))    |
| .....   | <u>(\$5,954,000)</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Additional salary adjustments as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary adjustments shall be provided to all districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule.

(b) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These adjustments shall ensure a minimum salary allocation for certificated administrative staff of \$57,986 in the 2009-10 school year and \$57,986 in the 2010-11 school year.

(c) Additional salary adjustments to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These salary adjustments ensure a minimum salary allocation for classified staff of \$31,865 in the 2009-10 school year and \$31,865 in the 2010-11 school year.

(d) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at rates 13.79 percent for the 2009-10 school year and 13.79 percent for the 2010-11 school year for certificated staff and 13.09 percent for the 2009-10 school year and 13.09 percent for the 2010-11 school year for classified staff.

(e) The appropriations in this section include the increased or decreased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Changes for general apportionment (basic education) are based on

the salary allocation schedules and methodology in sections 502 and 503 of this act. Changes for special education result from changes in each district's basic education allocation per student. Changes for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act. The appropriations in this section provide incremental fringe benefit alterations based on formula adjustments as follows:

|   | School Year |          |
|---|-------------|----------|
|   | 2009-10     | 2010-11  |
| Pupil Transportation (per weighted pupil mile)                    | \$0         | \$0      |
| Highly Capable (per formula student)                              | (\$1.49)    | (\$2.98) |
| Transitional Bilingual Education (per eligible bilingual student) | (\$3.93)    | (\$7.86) |
| Learning Assistance (per formula student)                         | (\$1.18)    | (\$2.36) |

(f) The appropriations in this section include no salary adjustments for substitute teachers.

(2) \$44,213,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$732.00 per month for the 2009-10 and 2010-11 school years. The appropriations in this section provide for a rate increase to \$745.00 per month for the 2009-10 school year and \$768.00 per month for the 2010-11 school year. The adjustments to health insurance benefits are at the following rates:

|   | School Year |         |
|---|-------------|---------|
|   | 2009-10     | 2010-11 |
| Pupil Transportation (per weighted pupil mile)                    | \$0.12      | \$0.33  |
| Highly Capable (per formula student)                              | \$0.79      | \$2.22  |
| Transitional Bilingual Education (per eligible bilingual student) | \$2.11      | \$5.83  |
| Learning Assistance (per formula student)                         | \$0.54      | \$1.49  |

(3) The rates specified in this section are subject to revision each year by the legislature.

**Sec. 1404.** 2011 c 5 s 503 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PUPIL TRANSPORTATION

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$317,116,000        |
| General Fund--State Appropriation (FY 2011) ...   | (((\$296,408,000))   |
| .....   | <u>\$297,393,000</u> |
| TOTAL APPROPRIATION .....                         | (((\$613,524,000))   |
| .....   | <u>\$614,509,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$878,000 of this fiscal year 2010 appropriation and a maximum of \$803,000 of the fiscal year 2011 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) Allocations for transportation of students shall be based on reimbursement rates of \$48.15 per weighted mile in the 2009-10 school year and \$48.37 per weighted mile in the 2010-11 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(4) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(5) The superintendent of public instruction shall base depreciation payments for school district buses on the pre-sales tax five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

(6) Funding levels in this section reflect reductions from the implementation of Substitute House Bill No. 1292 (authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks).

**Sec. 1405.** 2011 c 5 s 504 (uncodified) is amended to read as follows:

|  |                            |
|--|----------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL FOOD SERVICE PROGRAMS |                            |
| General Fund--State Appropriation (FY 2010) .....                              | \$3,159,000                |
| General Fund--State Appropriation (FY 2011) .....                              | \$7,111,000                |
| General Fund--Federal Appropriation .....                                      | <del>(\$448,588,000)</del> |
| .....  | <u>\$505,188,000</u>       |
| TOTAL APPROPRIATION .....  | <del>(\$458,858,000)</del> |
| .....  | <u>\$515,458,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund--state appropriation for fiscal year 2010 is provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund--state appropriation for fiscal year 2010 is provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

(4) \$7,111,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for state matching money for federal child nutrition programs, and may support the meals for kids program through the following allowable uses:

(a) Elimination of breakfast copays for eligible public school students and lunch copays for eligible public school students in grades kindergarten through third grade who are eligible for reduced price lunch;

(b) Assistance to school districts and authorized public and private nonprofit organizations for supporting summer food service

programs, and initiating new summer food service programs in low-income areas; and

(c) Reimbursements to school districts for school breakfasts served to students eligible for free and reduced price lunch, pursuant to chapter 287, Laws of 2005.

**Sec. 1406.** 2011 c 5 s 505 (uncodified) is amended to read as follows:

|  |                              |
|--|------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SPECIAL EDUCATION PROGRAMS |                              |
| General Fund--State Appropriation (FY 2010) .....                            | \$632,136,000                |
| General Fund--State Appropriation (FY 2011) ...                              | <del>(\$626,099,000)</del>   |
| .....  | <u>\$627,316,000</u>         |
| General Fund--Federal Appropriation .....                                    | <del>(\$664,601,000)</del>   |
| .....  | <u>\$675,618,000</u>         |
| Education Legacy Trust Account--State  |                              |
| Appropriation.....   | \$756,000                    |
| TOTAL APPROPRIATION.....   | <del>(\$1,923,592,000)</del> |
| .....  | <u>\$1,935,826,000</u>       |

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall continue to implement the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers, and (ii) students eligible for the mandatory special education program and who are age three or four, or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2009-10 and 2010-11 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied

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by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools in the 2009-10 school year. In the 2010-11 school year, the per student allocation under this subsection (5)(b) shall include the same factors as in the 2009-10 school year, but shall also include the classified staff enhancements included in section 502(3)(b).

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age four enrollment and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund--state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, \$19,512,000 of the general fund--state appropriation and \$29,574,000 of the general fund--federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in this subsection (8) in any fiscal year, the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state and federal revenues related to services for special education-eligible students. Awards associated with (b) and (c) of this subsection shall not exceed the total of a district's specific determination of need.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services. The safety net awards to school districts shall be adjusted to reflect amounts awarded under (b) of this subsection.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999. The state safety net oversight committee shall ensure that safety net documentation and awards are based on current medicaid revenue amounts.

(g) Beginning with the 2010-11 school year award cycle, the office of the superintendent of public instruction shall make award determinations for state safety net funding in August of each school year. Determinations on school district eligibility for state safety net awards shall be based on analysis of actual expenditure data from the current school year.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund--state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(14) A school district may carry over from one year to the next year up to 10 percent of the general fund--state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(15) \$262,000 of the general fund--state appropriation for fiscal year 2010 and \$251,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

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(16) \$50,000 of the general fund--state appropriation for fiscal year 2010, \$50,000 of the general fund--state appropriation for fiscal 2011, and \$100,000 of the general fund--federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction.

Sec. 1407. 2010 1st sp.s. c 37 s 509 (uncodified) is amended to read as follows:

|  |                                |
|--|--------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR LOCAL EFFORT ASSISTANCE      |                                |
| General Fund--State Appropriation (FY 2010) .....                              | \$93,141,000                   |
| General Fund--State Appropriation (FY 2011) ... (( <del>\$286,911,000</del> )) |                                |
| .....  | <u>\$285,980,000</u>           |
| General Fund--Federal Appropriation .....                                      | \$157,043,000                  |
| TOTAL APPROPRIATION .....  | (( <del>\$537,095,000</del> )) |
| .....  | <u>\$536,164,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$157,043,000 of the general fund--federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009 (ARRA) fiscal stabilization funds to restore state reductions for local effort assistance payments.

(2) \$21,808,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Substitute House Bill No. 2893 (school levies). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

Sec. 1408. 2010 1st sp.s. c 37 s 510 (uncodified) is amended to read as follows:

|  |                               |
|--|-------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR INSTITUTIONAL EDUCATION PROGRAMS |                               |
| General Fund--State Appropriation (FY 2010) .....                                  | \$18,059,000                  |
| General Fund--State Appropriation (FY 2011) .....                                  | (( <del>\$19,006,000</del> )) |
| .....  | <u>\$20,063,000</u>           |
| TOTAL APPROPRIATION .....  | (( <del>\$37,065,000</del> )) |
| .....  | <u>\$38,122,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund--state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) \$228,000 of the general fund--state appropriation for fiscal year 2010 and ((~~\$228,000~~)) \$509,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 1409. 2011 c 5 s 507 (uncodified) is amended to read as follows:

|  |                               |
|--|-------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS |                               |
| General Fund--State Appropriation (FY 2010) .....                                      | \$9,189,000                   |
| General Fund--State Appropriation (FY 2011) .....                                      | (( <del>\$9,162,000</del> ))  |
| .....  | <u>\$9,137,000</u>            |
| TOTAL APPROPRIATION .....  | (( <del>\$18,351,000</del> )) |
| .....  | <u>\$18,326,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$401.08 per funded student for the 2009-10 school year and \$401.08 per funded student for the 2010-11 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. For the 2009-10 and 2010-11 school years, the number of funded students shall be a maximum of 2.314 percent of each district's full-time equivalent basic education enrollment.

(3) \$90,000 of the fiscal year 2010 appropriation and \$81,000 of the fiscal year 2011 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

(4) \$170,000 of the fiscal year 2010 appropriation and \$153,000 of the fiscal year 2011 appropriation are provided for the centrum program at Fort Worden state park.

Sec. 1410. 2011 c 5 s 508 (uncodified) is amended to read as follows:

|   |                                |
|---|--------------------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM PROGRAMS |                                |
| General Fund--State Appropriation (FY 2010) .....                       | \$93,642,000                   |
| General Fund--State Appropriation (FY 2011) .....                       | (( <del>\$85,691,000</del> ))  |
| .....   | <u>\$83,143,000</u>            |
| General Fund--Federal Appropriation .....                               | \$154,627,000                  |
| Education Legacy Trust Account--State Appropriation.....                | (( <del>\$98,981,000</del> ))  |
| .....   | <u>\$98,610,000</u>            |
| TOTAL APPROPRIATION .....   | (( <del>\$432,941,000</del> )) |
| .....   | <u>\$430,022,000</u>           |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$35,804,000 of the general fund--state appropriation for fiscal year 2010, \$31,850,000 of the general fund--state appropriation for fiscal year 2011, \$1,350,000 of the education legacy trust account--state appropriation, and \$17,869,000 of the general fund--federal appropriation are provided solely for development and implementation of the Washington state assessment system, including: (i) Development and implementation of retake assessments for high school students who are not successful in one or more content areas; and (ii) development and implementation of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development and implementation of alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student assessment results, on or around June 10th of each year.

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(2) \$3,249,000 of the general fund--state appropriation for fiscal year 2010 and \$3,249,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the design of the state assessment system and the implementation of end of course assessments for high school math.

(3) Within amounts provided in subsections (1) and (2) of this section, the superintendent of public instruction, in consultation with the state board of education, shall develop a statewide high school end-of-course assessment measuring student achievement of the state science standards in biology to be implemented statewide in the 2011-12 school year. By December 1, 2010, the superintendent of public instruction shall recommend whether additional end-of-course assessments in science should be developed and in which content areas. Any recommendation for additional assessments must include an implementation timeline and the projected cost to develop and administer the assessments.

(4) \$1,014,000 of the education legacy trust account appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of two additional professional development days for fourth and fifth grade teachers during the 2008-2009 school year. The allocations shall be made based on the calculations of certificated instructional staff units for fourth and fifth grade provided in section 502 of this act and on the calculations of compensation provided in sections 503 and 504 of this act. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(5) \$3,241,000 of the education legacy trust fund appropriation is provided solely for allocations to districts for salaries and benefits for the equivalent of three additional professional development days for middle and high school math and science teachers during the 2008-2009 school year, as well as specialized training for one math and science teacher in each middle school and high school during the 2008-2009 school year. Districts may use the funding to support additional days for professional development as well as job-embedded forms of professional development.

(6) \$3,773,000 of the education legacy trust account--state appropriation is provided solely for a math and science instructional coaches program pursuant to chapter 396, Laws of 2007. Funding shall be used to provide grants to schools and districts to provide salaries, benefits, and professional development activities for up to twenty-five instructional coaches in middle and high school math and twenty-five instructional coaches in middle and high school science in each year of the biennium; and up to \$300,000 may be used by the office of the superintendent of public instruction to administer and coordinate the program.

(7) \$1,740,000 of the general fund--state appropriation for fiscal year 2010 ~~((and \$1,775,000 of the general fund--state appropriation for fiscal year 2011 are))~~ is provided solely to allow approved middle and junior high school career and technical education programs to receive enhanced vocational funding. The office of the superintendent of public instruction shall provide allocations to districts for middle and junior high school students in accordance with the funding formulas provided in section 502 of this act. If Second Substitute Senate Bill No. 5676 is enacted the allocations are formula-driven, otherwise the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall adjust funding to stay within the amounts provided in this subsection. Beginning in school year 2010-11, middle and junior high vocational programs will be funded out of general apportionment.

(8) \$139,000 of the general fund--state appropriation for fiscal year 2010 and \$93,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for (a) staff at the office of the superintendent of public instruction to coordinate and promote

efforts to develop integrated math, science, technology, and engineering programs in schools and districts across the state; and (b) grants of \$2,500 to provide twenty middle and high school teachers each year professional development training for implementing integrated math, science, technology, and engineering program in their schools.

(9) \$1,473,000 of the general fund--state appropriation for fiscal year 2010 and \$197,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state leadership and assistance for science education reform (LASER) regional partnership activities coordinated at the Pacific science center, including instructional material purchases, teacher and principal professional development, and school and community engagement events. Funding shall be distributed to the various LASER activities in a manner proportional to LASER program spending during the 2007-2009 biennium.

(10) ~~(\$88,981,000)~~ \$88,610,000 of the education legacy trust account--state appropriation is provided solely for grants for voluntary full-day kindergarten at the highest poverty schools, as provided in chapter 400, Laws of 2007. The office of the superintendent of public instruction shall provide allocations to districts for recipient schools in accordance with the funding formulas provided in section 502 of this act. Each kindergarten student who enrolls for the voluntary full-day program in a recipient school shall count as one-half of one full-time equivalent student for the purpose of making allocations under this subsection. Although the allocations are formula-driven, the office of the superintendent shall consider the funding provided in this subsection as a fixed amount, and shall limit the number of recipient schools so as to stay within the amounts appropriated each fiscal year in this subsection. The funding provided in this subsection is estimated to provide full-day kindergarten programs for 20 percent of kindergarten enrollment. Funding priority shall be given to schools with the highest poverty levels, as measured by prior year free and reduced priced lunch eligibility rates in each school. Additionally, as a condition of funding, school districts must agree to provide the full-day program to the children of parents who request it in each eligible school. For the purposes of calculating a school district levy base, funding provided in this subsection shall be considered a state block grant program under RCW 84.52.0531.

(a) Of the amounts provided in this subsection, a maximum of \$272,000 may be used for administrative support of the full-day kindergarten program within the office of the superintendent of public instruction.

(b) Student enrollment pursuant to this program shall not be included in the determination of a school district's overall K-12 FTE for the allocation of student achievement programs and other funding formulas unless specifically stated.

(11) \$700,000 of the general fund--state appropriation for fiscal year 2010 and \$450,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the development of a leadership academy for school principals and administrators. The superintendent of public instruction shall contract with an independent organization to design, field test, and implement a state-of-the-art education leadership academy that will be accessible throughout the state. Initial development of the content of the academy activities shall be supported by private funds. Semiannually the independent organization shall report on amounts committed by foundations and others to support the development and implementation of this program. Leadership academy partners, with varying roles, shall include the state level organizations for school administrators and principals, the superintendent of public instruction, the professional educator standards board, and others as the independent organization shall identify.

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(12) \$105,754,000 of the general fund--federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(13) \$1,960,000 of the general fund--state appropriation for fiscal year 2010 and \$761,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Funding in this subsection shall be used for focused assistance programs for individual schools or school districts. The office of the superintendent of public instruction shall report to the fiscal committees of the legislature by September 1, 2011, providing an accounting of the uses of focused assistance funds during the 2009-11 fiscal biennium, including a list of schools served and the types of services provided.

(14) \$1,667,000 of the general fund--state appropriation for fiscal year 2010 is provided solely to eliminate the lunch co-pay for students in grades kindergarten through third grade that are eligible for reduced price lunch.

(15) \$5,285,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for: (a) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (b) to eliminate the breakfast co-pay for students eligible for reduced price lunch; and (c) for additional assistance for school districts initiating a summer food service program.

(16) \$1,003,000 of the general fund--state appropriation for fiscal year 2010 and \$528,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2009 through August 31, 2011.

(17) \$3,269,000 of the general fund--state appropriation for fiscal year 2010 and \$3,594,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(18) \$1,861,000 of the general fund--state appropriation for fiscal year 2010 and \$1,836,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW.

(19) \$225,000 of the general fund--state appropriation for fiscal year 2010 and \$150,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the operation of the center for the improvement of student learning pursuant to RCW 28A.300.130.

(20) \$246,000 of the education legacy trust account--state appropriation is provided solely for costs associated with the office

of the superintendent of public instruction's statewide director of technology position.

(21)(a) \$28,715,000 of the general fund--state appropriation for fiscal year 2010 and (~~(\$36,168,000)~~ \$35,395,000) of the general fund--state appropriation for fiscal year 2011 are provided solely for the following bonuses for teachers who hold valid, unexpired certification from the national board for professional teaching standards and who are teaching in a Washington public school, subject to the following conditions and limitations:

(i) For national board certified teachers, a bonus of \$5,000 per teacher beginning in the 2007-08 school year and adjusted for inflation in each school year thereafter in which Initiative 732 cost of living adjustments are provided;

(ii) An additional \$5,000 annual bonus shall be paid to national board certified teachers who teach in either: (A) High schools where at least 50 percent of student headcount enrollment is eligible for federal free or reduced price lunch, (B) middle schools where at least 60 percent of student headcount enrollment is eligible for federal free or reduced price lunch, or (C) elementary schools where at least 70 percent of student headcount enrollment is eligible for federal free or reduced price lunch;

(iii) The superintendent of public instruction shall adopt rules to ensure that national board certified teachers meet the qualifications for bonuses under (a)(ii) of this subsection for less than one full school year receive bonuses in a pro-rated manner; and

(iv) During the 2009-10 and 2010-11 school years, and within the available state and federal appropriations, certificated instructional staff who have met the eligibility requirements and have applied for certification from the national board for professional teaching standards may receive a conditional two thousand dollars or the amount set by the office of the superintendent of public instruction to contribute toward the current assessment fee, not including the initial up-front candidacy payment. The fee shall be an advance on the first annual bonus under RCW 28A.405.415. The assessment fee for national certification is provided in addition to compensation received under a district's salary schedule adopted in accordance with RCW 28A.405.200 and shall not be included in calculations of a district's average salary and associated salary limitation under RCW 28A.400.200. Recipients who fail to receive certification after three years are required to repay the assessment fee, not including the initial up-front candidacy payment, as set by the national board for professional teaching standards and administered by the office of the superintendent of public instruction. The office of the superintendent of public instruction shall adopt rules to define the terms for initial grant of the assessment fee and repayment, including applicable fees.

(b) Included in the amounts provided in this subsection are amounts for mandatory fringe benefits.

(22) \$2,475,000 of the general fund--state appropriation for fiscal year 2010 and \$456,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for secondary career and technical education grants pursuant to chapter 170, Laws of 2008. This funding may additionally be used to support FIRST Robotics programs. In fiscal year 2011, if equally matched by private donations, \$300,000 of the appropriation shall be used to support FIRST Robotics programs, including FIRST Robotics professional development.

(23) \$75,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the implementation of House Bill No. 2621 (K-12 school resource programs). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(24) \$300,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the local farms-healthy kids

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program as described in chapter 215, Laws of 2008. The program is suspended in the 2011 fiscal year, and not eliminated.

(25) \$2,348,000 of the general fund--state appropriation for fiscal year 2010 and \$1,000,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for a beginning educator support program. School districts and/or regional consortia may apply for grant funding beginning in the 2009-10 school year. The superintendent shall implement this program in 5 to 15 school districts and/or regional consortia. The program provided by a district and/or regional consortia shall include: A paid orientation; assignment of a qualified mentor; development of a professional growth plan for each beginning teacher aligned with professional certification; release time for mentors and new teachers to work together, and teacher observation time with accomplished peers. \$250,000 may be used to provide state-wide professional development opportunities for mentors and beginning educators. The superintendent of public instruction shall adopt rules to establish and operate a research-based beginning educator support program no later than August 31, 2009. OSPI must evaluate the program's progress and may contract for this work. A report to the legislature about the beginning educator support program is due November 1, 2010.

(26) \$390,000 of the education legacy trust account--state appropriation is provided solely for the development and implementation of diagnostic assessments, consistent with the recommendations of the Washington assessment of student learning work group.

(27) Funding within this section is provided for implementation of Engrossed Substitute Senate Bill No. 5414 (statewide assessments and curricula).

(28) \$530,000 of the general fund--state appropriation for fiscal year 2010 and \$265,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(29) Funding for the community learning center program, established in RCW 28A.215.060, and providing grant funding for the 21st century after-school program, is suspended and not eliminated.

(30) \$2,357,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6696 (education reform). Of the amount provided, \$142,000 is provided to the professional educators' standards board and \$120,000 is provided to the system of the educational service districts, to fulfill their respective duties under the bill.

Sec. 1411. 2010 1st sp.s. c 37 s 514 (uncodified) is amended to read as follows:

|   |                      |
|---|----------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL BILINGUAL PROGRAMS |                      |
| General Fund--State Appropriation (FY 2010) .....                                 | \$76,419,000         |
| General Fund--State Appropriation (FY 2011) .....                                 | (\$77,672,000)       |
| .....   | <u>\$79,912,000</u>  |
| General Fund--Federal Appropriation .....   | \$65,263,000         |
| TOTAL APPROPRIATION .....   | (\$219,354,000)      |
| .....   | <u>\$221,594,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) The superintendent shall distribute a maximum of \$901.46 per eligible bilingual student in the 2009-10 school year and

\$901.46 in the 2010-11 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

(3) The superintendent may withhold up to 1.5 percent of the school year allocations to school districts in subsection (2) of this section, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to track current and former transitional bilingual program students.

(5) The general fund--federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

Sec. 1412. 2010 1st sp.s. c 37 s 515 (uncodified) is amended to read as follows:

|   |                      |
|---|----------------------|
| FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR THE LEARNING ASSISTANCE PROGRAM |                      |
| General Fund--State Appropriation (FY 2010) .....                                 | \$103,865,000        |
| General Fund--State Appropriation (FY 2011) .....                                 | (\$110,312,000)      |
| .....   | <u>\$114,240,000</u> |
| General Fund--Federal Appropriation .....   | (\$53,925,000)       |
| .....   | <u>\$580,425,000</u> |
| Education Legacy Trust Account--State Appropriation                               | \$47,980,000         |
| TOTAL APPROPRIATION .....   | (\$816,082,000)      |
| .....   | <u>\$846,510,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund--state appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of \$281.71 per funded student for the 2009-10 school year and \$283.00 per funded student for the 2010-11 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the following as appropriate:

(i) The district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year; and

(ii) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch exceeded forty percent, subtract forty percent from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the prior school year.

(d) In addition to the amounts allocated in (b) and (c) of this subsection, an additional amount shall be allocated to school districts with high concentrations of poverty and English language learner students, subject to the following rules and conditions:

(i) To qualify for additional funding under this subsection, a district's October headcount enrollment in grades kindergarten through grade twelve must have at least twenty percent enrolled in the transitional bilingual instruction program based on an average of the program headcount taken in October and May of the prior school year; and must also have at least forty percent eligible for free or reduced price lunch based on October headcount enrollment in grades kindergarten through twelve in the prior school year.

(ii) Districts meeting the specifications in (d)(i) of this subsection shall receive additional funded students for the learning

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assistance program at the rates specified in subsection (1)(b) of this section. The number of additional funded student units shall be calculated by subtracting twenty percent from the district's percent transitional bilingual instruction program enrollment as defined in (d)(i) of this subsection, and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(2) Allocations made pursuant to subsection (1) of this section shall be adjusted to reflect ineligible applications identified through the annual income verification process required by the national school lunch program, as recommended in the report of the state auditor on the learning assistance program dated February, 2010.

(3) The general fund--federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

(4) A school district may carry over from one year to the next up to 10 percent of the general fund--state or education legacy trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(5) School districts are encouraged to coordinate the use of these funds with other federal, state, and local sources to serve students who are below grade level and to make efficient use of resources in meeting the needs of students with the greatest academic deficits.

(6) Within amounts appropriated in this section, funding is provided for the implementation of extended learning programs required in chapter 328, Laws of 2008.

**Sec. 1413.** 2010 1st sp.s. c 37 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR STUDENT ACHIEVEMENT PROGRAMS**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$19,000             |
| General Fund--State Appropriation (FY 2011) ..... | (((25,730,000))      |
| .....   | <u>\$25,417,000</u>  |
| General Fund--Federal Appropriation .....         | \$200,295,000        |
| TOTAL APPROPRIATION .....                         | (((226,044,000))     |
| .....   | <u>\$225,731,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of \$131.16 per FTE student for the 2009-10 school year and \$0 per FTE student for the 2010-11 school year. For the purposes of this section, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year, as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge,

and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) The superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

(4) \$200,295,000 of the general fund--federal appropriation for fiscal year 2010 is provided solely for American recovery and reinvestment act of 2009 (ARRA) fiscal stabilization funds to restore state reductions for the student achievement program.

**Sec. 1414.** 2010 1st sp.s. c 37 s 517 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

(1) Appropriations made in this act to the office of the superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, except as expressly provided in subsection (2) of this section.

(2) The appropriations to the office of the superintendent of public instruction in this act shall be expended for the programs and amounts specified in this act. However, after May 1, (~~2010~~) 2011, unless specifically prohibited by this act and after approval by the director of financial management, the superintendent of public instruction may transfer state general fund appropriations for fiscal year (~~2010~~) 2011 among the following programs to meet the apportionment schedule for a specified formula in another of these programs: General apportionment; employee compensation adjustments; pupil transportation; special education programs; institutional education programs; transitional bilingual programs; and student achievement and learning assistance programs.

(3) The director of financial management shall notify the appropriate legislative fiscal committees in writing prior to approving any allotment modifications or transfers under this section.

(End of part)

**PART XV  
HIGHER EDUCATION**

**Sec. 1501.** 2011 c 5 s 601 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$269,571,000        |
| General Fund--State Appropriation (FY 2011) ...     | (((259,706,000))     |
| .....   | <u>\$259,552,000</u> |
| General Fund--Federal Appropriation .....           | \$43,971,000         |
| Education Legacy Trust Account--State Appropriation | \$54,534,000         |
| Accident Account--State Appropriation .....         | \$6,750,000          |
| Medical Aid Account--State Appropriation .....      | \$6,540,000          |
| Biotoxin Account--State Appropriation.....          | \$449,000            |
| TOTAL APPROPRIATION .....                           | (((641,521,000))     |
| .....   | <u>\$641,367,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

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(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for forestry research by the Olympic natural resources center.

(4) \$150,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the William D. Ruckelshaus center for facilitation, support, and analysis to support the nurse staffing steering committee in its work to apply best practices related to patient safety and nurse staffing.

(5) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$54,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the University of Washington geriatric education center to provide a voluntary adult family home certification program. In addition to the minimum qualifications required under RCW 70.128.120, individuals participating in the voluntary adult family home certification program shall complete fifty-two hours of class requirements as established by the University of Washington geriatric education center. Individuals completing the requirements of RCW 70.128.120 and the voluntary adult family home certification program shall be issued a certified adult family home license by the department of social and health services. The department of social and health services shall adopt rules implementing the provisions of this subsection.

(6) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$52,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the center for international trade in forest products in the college of forest resources.

(7) \$250,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for joint planning to increase the number of residency positions and programs in eastern Washington and Spokane within the existing Washington, Wyoming, Alaska, Montana, Idaho (WWAMI) regional medical education program partnership between the University of Washington school of medicine, Washington State University, and area physicians and hospitals. The joint planning efforts are to include preparation of applications for new residency programs in family medicine, internal medicine, obstetrics, psychiatry and general surgery; business plans for those new programs; and for increasing the number of positions in existing programs among regional academic and hospital partners and networks. The results of the joint planning efforts, including the status of the application preparation and business plan, must be reported to the house of representatives committee on higher education and the senate committee on higher education and workforce development by December 1, 2010.

(8) \$25,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for implementation of chapter 164, Laws of 2010 (local government infrastructure). The University of Washington shall use a qualified researcher to report the percentage probability that the application's assumptions and estimates of jobs created and increased tax receipts will be achieved by the projects. In making this report, the qualified researcher shall work with the

department of revenue and the applicants to develop a series of factors that are based on available economic metrics and sound principles.

(9) Appropriations in section 609 of this act reflect reductions to the state need grant. The University of Washington shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, the University of Washington shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1502.** 2011 c 5 s 602 (uncodified) is amended to read as follows:

|  |                      |
|--|----------------------|
| FOR WASHINGTON STATE UNIVERSITY                                    |                      |
| General Fund--State Appropriation (FY 2010) .....                  | \$169,462,000        |
| General Fund--State Appropriation (FY 2011) ... (((\$170,699,000)) |                      |
| .....  | <u>\$170,590,000</u> |
| General Fund--Federal Appropriation .....                          | \$15,772,000         |
| Education Legacy Trust Account--State Appropriation                | \$34,435,000         |
| TOTAL APPROPRIATION .....  | (((\$390,368,000))   |
| .....  | <u>\$390,259,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and regents shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) When implementing reductions for fiscal year 2010 and fiscal year 2011, Washington State University shall minimize reductions to extension services and agriculture extension services. Agriculture extension includes:

(a) Faculty with extension appointments working within the following departments in the college of agricultural, human, and natural resource sciences with extension appointments: Animal sciences, crop and soil sciences, entomology, horticulture, and plant pathology;

(b) The portion of county extension educators' appointments assigned to the "agricultural programs" area;

(c) Staff with extension appointments and extension operating allocations located at the irrigated agriculture research and extension center (Prosser), northwest Washington research and extension center (Mt. Vernon), and tree fruit research and extension center (Wenatchee); and

(d) Extension contributions to the center for precision agricultural systems, center for sustaining agriculture and natural resources, and the agriculture weather network.

(4) \$75,000 of the general fund--state appropriation for fiscal year 2010 and \$75,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for research related to honeybee colony collapse disease.

(5) Appropriations in section 609 of this act reflect reductions to the state need grant. Washington State University shall use locally held funds to provide a commensurate amount of aid to eligible

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students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Washington State University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1503.** 2011 c 5 s 603 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$34,689,000        |
| General Fund--State Appropriation (FY 2011) .....   | (\$35,126,000)      |
| .....   | <u>\$35,106,000</u> |
| General Fund--Federal Appropriation .....           | \$5,522,000         |
| Education Legacy Trust Account--State Appropriation | \$16,041,000        |
| TOTAL APPROPRIATION .....                           | (\$91,378,000)      |
| .....   | <u>\$91,358,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the northwest autism center.

(4) Appropriations in section 609 of this act reflect reductions to the state need grant. Eastern Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Eastern Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1504.** 2011 c 5 s 604 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$30,289,000        |
| General Fund--State Appropriation (FY 2011) .....   | (\$32,383,000)      |
| .....   | <u>\$32,337,000</u> |
| General Fund--Federal Appropriation .....           | \$6,975,000         |
| Education Legacy Trust Account--State Appropriation | \$19,012,000        |
| TOTAL APPROPRIATION .....                           | (\$88,659,000)      |
| .....   | <u>\$88,613,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or

beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) Appropriations in section 609 of this act reflect reductions to the state need grant. Central Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Central Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1505.** 2011 c 5 s 605 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) .....   | \$20,514,000        |
| General Fund--State Appropriation (FY 2011) .....   | (\$17,728,000)      |
| .....   | <u>\$17,714,000</u> |
| General Fund--Federal Appropriation .....           | \$2,366,000         |
| Education Legacy Trust Account--State Appropriation | \$5,417,000         |
| TOTAL APPROPRIATION .....                           | (\$46,025,000)      |
| .....   | <u>\$46,011,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the college shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3)(a) At least \$100,000 of the general fund--state appropriation for fiscal year 2010 shall be expended on the labor education and research center.

(b) In fiscal year 2011 the labor education and research center shall be transferred from The Evergreen State College to south Seattle community college.

(4) \$100,000 of the general fund--state appropriation for fiscal year 2010 and \$100,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the Washington state institute for public policy to report to the legislature regarding efficient and effective programs and policies. The report shall calculate the return on investment to taxpayers from evidence-based prevention and intervention programs and policies that influence crime, K-12 education outcomes, child maltreatment, substance abuse, mental health, public health, public assistance, employment, and housing. The institute for public policy shall provide the legislature with a comprehensive list of programs and policies that improve these outcomes for children and adults in Washington and result in more cost-efficient use of public resources. The institute shall submit interim reports by December 15, 2009, and October 1, 2010, and a final report by June 30, 2011. The institute may receive additional funds from a private organization for the purpose of conducting this study.

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(5) To the extent federal or private funding is available for this purpose, the Washington state institute for public policy and the center for reinventing public education at the University of Washington shall examine the relationship between participation in pension systems and teacher quality and mobility patterns in the state. The department of retirement systems shall facilitate researchers' access to necessary individual-level data necessary to effectively conduct the study. The researchers shall ensure that no individually identifiable information will be disclosed at any time. An interim report on project findings shall be completed by November 15, 2010, and a final report shall be submitted to the governor and to the relevant committees of the legislature by October 15, 2011.

(6) At least \$200,000 of the general fund--state appropriation for fiscal year 2010 and at least \$200,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Washington center for undergraduate education.

(7) \$15,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to examine the need for and methods to increase the availability of nonfood items, such as personal hygiene supplies, soaps, paper products, and other items, to needy persons in the state. The study shall examine existing private and public programs that provide such products, and develop recommendations for the most cost-effective incentives for private and public agencies to increase local distribution outlets and local and regional networks of supplies. A final report shall be delivered to the legislature and the governor by December 1, 2009.

(8) \$17,000 of the general fund--state appropriation for fiscal year 2010 and \$42,000 of the general fund--state appropriation for fiscal year 2011 are provided to the Washington state institute for public policy to implement Second Substitute House Bill No. 2106 (child welfare outcomes). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(9) \$54,000 of the general fund--state appropriation for fiscal year 2010 and \$23,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Substitute Senate Bill No. 5882 (racial disproportionality). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute of public policy to evaluate the adequacy of and access to financial aid and independent living programs for youth in foster care. The examination shall include opportunities to improve efficiencies within these programs. The institute shall report its findings by December 1, 2009.

(11) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the Washington state institute for public policy to conduct an assessment of the general assistance unemployable program and other similar programs. The assessment shall include a review of programs in other states that provide similar services and will include recommendations on promising approaches that both improve client outcomes and reduce state costs. A report is due by December 1, 2009.

(12) To the extent funds are available, the Washington state institute for public policy is encouraged to continue the longitudinal analysis of long-term mental health outcomes directed in chapter 334, Laws of 2001 (mental health performance audit), to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders); and to assess program outcomes and cost effectiveness of the children's mental health pilot projects as required by chapter 372, Laws of 2006.

(13) \$50,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the institute for public policy to provide research support to the council on quality education.

(14) At least \$119,207 of the general fund--state appropriation for fiscal year 2011 shall be expended on the longhouse center.

(15) At least \$103,146 of the general fund--state appropriation for fiscal year 2011 shall be expended on the Northwest Indian applied research institute.

(16) Appropriations in section 609 of this act reflect reductions to the state need grant. The Evergreen State College shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, The Evergreen State College shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1506.** 2011 c 5 s 606 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

|  |                      |
|--|----------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$43,146,000         |
| General Fund--State Appropriation (FY 2011) .... (((\$46,359,000)) |                      |
| .....  | <u>\$46,310,000</u>  |
| General Fund--Federal Appropriation .....                          | \$8,885,000          |
| Education Legacy Trust Account--State Appropriation \$12,917,000   |                      |
| TOTAL APPROPRIATION .....  | (((\$111,307,000))   |
| .....  | <u>\$111,258,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) In implementing the appropriations in this section, the president and governing board shall seek to minimize impacts on student services and instructional programs by maximizing reductions in administration and other non-instructional activities.

(2) Because higher education is an essential driver of economic recovery and development, the university shall maintain, and endeavor to increase, enrollment and degree production levels at or beyond their academic year 2008-09 levels in the following high-demand fields: Biological and biomedical sciences; computer and information sciences; education with specializations in special education, math, or science; engineering and engineering technology; health professions and related clinical sciences; and mathematics and statistics.

(3) Appropriations in section 609 of this act reflect reductions to the state need grant. Western Washington University shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, Western Washington University shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1507.** 2011 c 5 s 607 (uncodified) is amended to read as follows:

FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

|  |                        |
|--|------------------------|
| General Fund--State Appropriation (FY 2010) .....                  | \$631,804,000          |
| General Fund--State Appropriation (FY 2011) ... (((\$603,296,000)) |                        |
| .....  | <u>\$603,511,000</u>   |
| General Fund--Federal Appropriation .....                          | \$17,171,000           |
| Education Legacy Trust Account--State Appropriation \$95,035,000   |                        |
| Opportunity Express Account--State Appropriation ... \$18,556,000  |                        |
| TOTAL APPROPRIATION .....  | (((\$1,365,862,000))   |
| .....  | <u>\$1,366,077,000</u> |

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The appropriations in this section are subject to the following conditions and limitations:

(1) \$28,761,000 of the general fund--state appropriation for fiscal year 2010, \$28,761,000 of the general fund--state appropriation for fiscal year 2011, and \$17,556,000 of the opportunity express account--state appropriation are provided solely as special funds for training and related support services, including financial aid, as specified in RCW 28C.04.390. Funding is provided to support at least 6,200 full-time equivalent students in fiscal year 2010 and at least 9,984 full-time equivalent students in fiscal year 2011.

(2) \$2,725,000 of the general fund--state appropriation for fiscal year 2010 and \$2,725,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for administration and customized training contracts through the job skills program. The state board shall make an annual report by January 1st of each year to the governor and to the appropriate policy and fiscal committees of the legislature regarding implementation of this section, listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the results of the partnerships supported by these funds.

(3) Of the amounts appropriated in this section, \$3,500,000 is provided solely for the student achievement initiative.

(4) When implementing the appropriations in this section, the state board and the trustees of the individual community and technical colleges shall minimize impact on academic programs, maximize reductions in administration, and shall at least maintain, and endeavor to increase, enrollment opportunities and degree and certificate production in high employer-demand fields of study at their academic year 2008-09 levels.

(5) Within the board's 2009-11 biennial budget allocation to Bellevue College, and pursuant to RCW 28B.50.810, the college may implement, on a tuition and fee basis, an additional applied baccalaureate degree in interior design. This program is intended to provide students with additional opportunities to earn baccalaureate degrees and to respond to emerging job and economic growth opportunities. The program reviews and approval decisions required by RCW 28B.50.810 (3) and (4) shall be completed by July 31, 2009, so that the degree may be offered during the 2009-10 academic year.

(6) In accordance with the recommendations of the higher education coordinating board's 2008 *Kitsap region higher education center study*, the state board shall facilitate development of university centers by allocating thirty 2-year and 4-year partnership full-time enrollment equivalencies to Olympic College and ten 2-year and 4-year partnership full-time enrollment equivalencies to Peninsula College. The colleges shall use the allocations to establish a partnership with a baccalaureate university or universities for delivery of upper division degree programs in the Kitsap region. The Olympic and Peninsula Community College districts shall additionally work together to ensure coordinated development of these and other future baccalaureate opportunities through coordinated needs assessment, planning, and scheduling.

(7) By September 1, 2009, the state board for community and technical colleges, the higher education coordinating board, and the office of financial management shall review and to the extent necessary revise current 2009-11 performance measures and targets based on the level of state, tuition, and other resources appropriated or authorized in this act and in the omnibus 2009-11 omnibus capital budget act. The boards and the office of financial management shall additionally develop new performance targets for the 2011-13 and the 2013-15 biennia that will guide and measure the community and technical college system's contributions to achievement of the state's higher education master plan goals.

(8) \$2,250,000 of the general fund--state appropriation for fiscal year 2010 and \$2,250,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the hospital employee education and training program under which labor, management, and college partnerships develop or expand and evaluate training programs for incumbent hospital workers that lead to careers in nursing and other high-demand health care occupations. The board shall report student progress, outcomes, and costs to the relevant fiscal and policy committees of the legislature by November 2009 and November 2010.

(9) Community and technical colleges are not required to send mass mailings of course catalogs to residents of their districts. Community and technical colleges shall consider lower cost alternatives, such as mailing postcards or brochures that direct individuals to online information and other ways of acquiring print catalogs.

(10) \$1,112,000 of the general fund--state appropriation for fiscal year 2010 and \$1,113,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the state board to enhance online distance learning and open courseware technology. Funds shall be used to support open courseware, open textbooks, open licenses to increase access, affordability and quality of courses in higher education. The state board for community and technical colleges shall select the most appropriate courses to support open courseware based solely upon criteria of maximizing the value of instruction and reducing costs of textbooks and other instructional materials for the greatest number of students in higher education, regardless of the type of institution those students attend.

(11) \$158,000 of the general fund--state appropriation for fiscal year 2011 is provided solely to implement House Bill No. 2694 (B.S. in nursing/university center). If the bill is not enacted by June 30, 2010, the amount provided in this subsection shall lapse.

(12)(a) The labor education and research center is transferred from The Evergreen State College to south Seattle community college and shall begin operations on July 1, 2010.

(b) At least \$164,000 of the general fund--state appropriation for fiscal year 2011 shall be expended on the labor education and research center to provide outreach programs and direct educational and research services to labor unions and worker-centered organizations.

(13) \$1,000,000 of the opportunity express account--state appropriation is provided solely for the opportunity grant program as specified in RCW 28B.50.271.

(14) \$1,750,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the state board for community and technical colleges to contract with the aerospace training and research center on Paine field in Everett, Washington to support industry-identified training in the aerospace sector.

(15) Sufficient amounts are provided in this section to implement the food stamp employment and training program under Second Substitute House Bill No. 2782 (security lifeline act).

(16) Appropriations in section 609 of this act reflect reductions to the state need grant. The state board for community and technical colleges shall use locally held funds to provide a commensurate amount of aid to eligible students who would have received state need grant payments through the appropriations in section 609 of this act.

By September 1, 2011, the state board for community and technical colleges shall report to the appropriate legislative fiscal and policy committees regarding the implementation of this section. The report shall provide detail on the number of students provided aid under this subsection and the amount of aid provided to each student.

**Sec. 1508.** 2011 c 5 s 608 (uncodified) is amended to read as follows:

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FOR THE HIGHER EDUCATION COORDINATING BOARD--POLICY COORDINATION AND ADMINISTRATION

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$6,402,000         |
| General Fund--State Appropriation (FY 2011) ..... | (\$5,183,000)       |
| .....   | <u>\$5,339,000</u>  |
| General Fund--Federal Appropriation .....         | \$4,332,000         |
| TOTAL APPROPRIATION .....                         | (\$15,917,000)      |
| .....   | <u>\$16,073,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Within the funds appropriated in this section, the higher education coordinating board shall complete a system design planning project that defines how the current higher education delivery system can be shaped and expanded over the next ten years to best meet the needs of Washington citizens and businesses for high quality and accessible post-secondary education. The board shall propose policies and specific, fiscally feasible implementation recommendations to accomplish the goals established in the 2008 *strategic master plan for higher education*. The project shall specifically address the roles, missions, and instructional delivery systems both of the existing and of proposed new components of the higher education system; the extent to which specific academic programs should be expanded, consolidated, or discontinued and how that would be accomplished; the utilization of innovative instructional delivery systems and pedagogies to reach both traditional and nontraditional students; and opportunities to consolidate institutional administrative functions. The study recommendations shall also address the proposed location, role, mission, academic program, and governance of any recommended new campus, institution, or university center. During the planning process, the board shall inform and actively involve the chairs from the senate and house of representatives committees on higher education, or their designees. The board shall report the findings and recommendations of this system design planning project to the governor and the appropriate committees of the legislature by December 1, 2009.

(2) \$146,000 of the general fund--state appropriation for fiscal year 2010 and \$65,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to administer Engrossed Second Substitute House Bill No. 2021 (revitalizing student financial aid). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(3) \$167,000 of the general fund--state appropriation for fiscal year 2010 and \$67,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to implement Engrossed Second Substitute House Bill No. 1946 (regarding higher education online technology). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

(4) \$350,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the higher education coordinating board to contract with the Pacific Northwest university of health sciences to conduct training and education of health care professionals to promote osteopathic physician services in rural and underserved areas of the state.

**Sec. 1509.** 2011 c 5 s 609 (uncodified) is amended to read as follows:

|   |                      |
|---|----------------------|
| FOR THE HIGHER EDUCATION COORDINATING BOARD--FINANCIAL AID AND GRANT PROGRAMS |                      |
| General Fund--State Appropriation (FY 2010) .....                             | \$188,332,000        |
| General Fund--State Appropriation (FY 2011) .....                             | (\$96,833,000)       |
| .....   | <u>\$182,683,000</u> |
| General Fund--Federal Appropriation .....                                     | \$13,129,000         |

|  |                     |
|--|---------------------|
| Education Legacy Trust Account--State                  |                     |
| Appropriation.....                                     | (\$116,060,000)     |
| .....  | <u>\$30,210,000</u> |
| Opportunity Pathways Account--State Appropriation..... | \$73,500,000        |
| TOTAL APPROPRIATION .....                              | \$487,854,000       |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$178,726,000 of the general fund--state appropriation for fiscal year 2010, \$95,187,000 of the general fund--state appropriation for fiscal year 2011, \$109,188,000 of the education legacy trust account appropriation, \$73,500,000 of the opportunity pathways appropriation, and \$2,545,000 of the general fund--federal appropriation are provided solely for student financial aid payments under the state need grant; the state work study program including up to a four percent administrative allowance; the Washington scholars program; and the Washington award for vocational excellence. State need grant and the Washington award for vocational excellence shall be adjusted to offset the cost of the resident undergraduate tuition increases, limited to those tuition increases authorized under this act. The Washington scholars program shall provide awards sufficient to offset ninety percent of the total tuition and fee award.

(2)(a) Within the funds appropriated in this section, eligibility for the state need grant shall include students with family incomes at or below 70 percent of the state median family income (MFI), adjusted for family size. Awards for all students shall be adjusted by the estimated amount by which Pell grant increases exceed projected increases in the noninstructional costs of attendance. Awards for students with incomes between 51 and 70 percent of the state median shall be prorated at the following percentages of the award amount granted to those with incomes below 51 percent of the MFI: 70 percent for students with family incomes between 51 and 55 percent MFI; 65 percent for students with family incomes between 56 and 60 percent MFI; 60 percent for students with family incomes between 61 and 65 percent MFI; and 50 percent for students with family incomes between 66 and 70 percent MFI.

(b) Grant awards for students at private four-year colleges shall be set at the same level as the student would receive if attending one of the public research universities.

(3) To the maximum extent practicable, the board shall provide state work study subsidies only to resident students during the 2010-11 academic year. Additionally, in order to provide work opportunities to as many resident students as possible, the board is encouraged to increase the proportion of student wages that is to be paid by both proprietary and nonprofit, public, and private employers.

(4) \$3,872,000 of the education legacy trust account--state appropriation is provided solely for the passport to college scholarship program pursuant to chapter 28B.117 RCW. The higher education coordinating board shall contract with a college scholarship organization with expertise in managing scholarships for low-income, high-potential students and foster care children and young adults to administer the program. Of the amount in this subsection, \$39,000 is provided solely for the higher education coordinating board for administration of the contract and the remaining shall be contracted out to the organization for the following purposes:

(a) \$384,000 is provided solely for program administration, and

(b) \$3,449,000 is provided solely for student financial aid for up to 151 students and to fund student support services. Funds are provided for student scholarships, provider training, and for incentive payments to the colleges they attend for individualized student support services which may include, but are not limited to, college and career advising, counseling, tutoring, costs incurred for

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students while school is not in session, personal expenses, health insurance, and emergency services.

(5) \$1,250,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for the health professional scholarship and loan program. The funds provided in this subsection shall be:

(a) Prioritized for health care deliver sites demonstrating a commitment to serving the uninsured; and (b) allocated between loan repayments and scholarships proportional to current program allocations.

(6) For fiscal year 2010 and fiscal year 2011, the board shall defer loan or conditional scholarship repayments to the future teachers conditional scholarship and loan repayment program for up to one year for each participant if the participant has shown evidence of efforts to find a teaching job but has been unable to secure a teaching job per the requirements of the program.

(7) \$246,000 of the general fund--state appropriation for fiscal year 2010 and \$246,000 of the general fund--state appropriation for fiscal year 2011 are for community scholarship matching grants and its administration. To be eligible for the matching grant, nonprofit groups organized under section 501(c)(3) of the federal internal revenue code must demonstrate they have raised at least \$2,000 in new moneys for college scholarships after the effective date of this section. Groups may receive no more than one \$2,000 matching grant per year and preference shall be given to groups affiliated with scholarship America. Up to a total of \$46,000 per year of the amount appropriated in this section may be awarded to a nonprofit community organization to administer scholarship matching grants, with preference given to an organization affiliated with scholarship America.

(8) \$500,000 of the general fund--state appropriation for fiscal year 2010 and \$500,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for state need grants provided to students enrolled in three to five credit-bearing quarter credits, or the equivalent semester credits. Total state expenditures on this program shall not exceed the amounts provided in this subsection.

(9) \$2,500,000 of the education legacy trust account--state appropriation is provided solely for the gaining early awareness and readiness for undergraduate programs project.

(10) \$75,000 of the general fund--state appropriation for fiscal year 2010 is provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(11) \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for continuation of the leadership 1000 scholarship sponsorship and matching program.

(12) In 2010 and 2011, the board shall continue to designate Washington scholars and scholar-alternates and to recognize them at award ceremonies as provided in RCW 28A.600.150, but state funding is provided for award of only one scholarship per legislative district during the 2010-11 academic year. After the 2010-11 academic year, and as provided in RCW 28B.76.660, the board may distribute grants to these eligible students to the extent that funds are appropriated for this purpose.

(13) Fiscal year 2011 appropriations in this section reflect general fund-state reductions to the state need grant. In implementing these reductions, the board shall reduce state need grant payments to each of the following institutions in the following amounts:

|   |              |
|---|--------------|
| University of Washington.....                       | \$5,658,000  |
| Washington State University .....                   | \$3,718,000  |
| Eastern Washington University .....                 | \$765,000    |
| Central Washington University .....                 | \$705,000    |
| The Evergreen State College .....                   | \$386,000    |
| Western Washington University.....                  | \$1,010,000  |
| State Board for Community and Technical Colleges .. | \$13,143,000 |

If any of these institutions has received state need grant payments in excess of the amount to which it is entitled after application of the reductions in this section, that institution shall remit to the board the amount of the overpayment.

**Sec. 1510.** 2011 c 5 s 612 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF EARLY LEARNING

|   |                      |
|---|----------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$60,400,000         |
| General Fund--State Appropriation (FY 2011) .....       | (\$19,335,000))      |
| .....   | <u>\$19,302,000</u>  |
| General Fund--Federal Appropriation .....               | \$266,004,000        |
| Opportunity Pathways Account--State Appropriation ..... | \$40,000,000         |
| TOTAL APPROPRIATION .....                               | (((\$385,739,000))   |
| .....   | <u>\$385,706,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$54,878,000 of the general fund--state appropriation for fiscal year 2010 and \$14,405,000 of the general fund--state appropriation for fiscal year 2011, and \$40,000,000 of the opportunity pathways account appropriation are provided solely for early childhood education and assistance program services. This appropriation temporarily reduces the number of slots for the 2009-11 fiscal biennium for the early childhood education and assistance program. The department shall reduce slots where providers serve both federal headstart and early childhood education and assistance program children, to the greatest extent possible, in order to achieve no reduction of slots across the state. The amounts in this subsection also reflect reductions to the administrative expenditures for the early childhood education and assistance program. The department shall reduce administrative expenditures, to the greatest extent possible, prior to reducing early childhood education and assistance program slots. Of these amounts, \$10,284,000 is a portion of the biennial amount of state matching dollars required to receive federal child care and development fund grant dollars.

(2) \$1,000,000 of the general fund--federal appropriation is provided to the department to contract with Thrive by Five, Washington for a pilot project for a quality rating and improvement system to provide parents with information they need to choose quality child care and education programs and to improve the quality of early care and education programs. The department in collaboration with Thrive by Five shall operate the pilot projects in King, Yakima, Clark, Spokane, and Kitsap counties. The department shall use child care development fund quality money for this purpose.

(3) \$425,000 of the general fund--state appropriation for fiscal year 2010, \$213,000 of the general fund--state appropriation for fiscal year 2011, and \$850,000 of the general fund--federal appropriation are provided solely for child care resource and referral network services. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(4) \$750,000 of the general fund--state appropriation for fiscal year 2010 and \$1,500,000 of the general fund--federal appropriation are provided solely for the career and wage ladder program created by chapter 507, Laws of 2005. The general fund--federal funding represents moneys from the American recovery and reinvestment act of 2009 (child care development block grant).

(5) \$50,000 of the general fund--state appropriation for fiscal year 2010 and \$50,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for the department to work with stakeholders and the office of the superintendent of public instruction to identify and test a kindergarten assessment process and tools in geographically diverse school districts. School districts may participate in testing the kindergarten assessment

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process on a voluntary basis. The department shall report to the legislature on the kindergarten assessment process not later than January 15, 2011. Expenditure of amounts provided in this subsection is contingent on receipt of an equal match from private sources. As matching funds are made available, the department may expend the amounts provided in this subsection.

(6) \$1,600,000 of the general fund--federal appropriation is provided solely for the department to fund programs to improve the quality of infant and toddler child care through training, technical assistance, and child care consultation.

(7) \$200,000 of the general fund--state appropriation for fiscal year 2010 and \$200,000 of the general fund--state appropriation for fiscal year 2011 are provided solely to develop and provide culturally relevant supports for parents, family, and other caregivers.

(8) The legislature notes that the department of early learning is developing a plan for improving child care licensing and is consulting, as practicable, with parents, licensed child care providers, and stakeholders from the child care community. The plan shall outline the processes and specify the resources necessary for improvements such as continuing licenses, child care licensing technology, and weighted child care regulations, including development of risk-based decision making models and inclusive, evidence-based rule making. The department shall submit to the appropriate committees of the legislature a plan by January 15, 2011.

(9) The department is the lead agency for and recipient of the federal child care and development fund grant. Amounts within this grant shall be used to fund child care licensing, quality initiatives, agency administration, and other costs associated with child care subsidies. The department shall transfer a portion of this grant to the department of social and health services to partially fund the child care subsidies paid by the department of social and health services on behalf of the department of early learning.

(10) The department shall use child care development fund money to satisfy the federal audit requirement of the improper payments act (IPIA) of 2002. In accordance with the IPIA's rules, the money spent on the audits will not count against the five percent state limit on administrative expenditures.

(11) Within available amounts, the department in consultation with the office of financial management and the department of social and health services shall report quarterly enrollments and active caseload for the working connections child care program to the legislative fiscal committees. The report shall also identify the number of cases participating in both temporary assistance for needy families and working connections child care.

(12) The appropriations in this section reflect reductions in the appropriations for the department's administrative expenses. It is the intent of the legislature that these reductions shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or program.

(13) \$500,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for the department to contract with the private-public partnership established in chapter 43.215 RCW for home visitation programs. Of this amount, \$200,000 of the general fund--state appropriation for fiscal year 2011 is provided solely for expenditure into the home visiting services account created in Part IX of this act to be used for contracts for home visitation with the private-public partnership.

(14) In accordance to RCW 43.215.255(2) and 43.135.055, the department is authorized to increase child care center licensure fees by fifty-two dollars for the first twelve children and an additional four dollars per additional child in fiscal year 2011 for costs to the department for the licensure activity, including costs of necessary inspection.

(15) In accordance with RCW 43.135.055, the department of early learning is authorized to adopt and increase the fees set forth in and previously authorized in section 3, chapter 231, Laws of 2010.

(16) As of January 31, 2011, the department may not adopt, enforce, or implement any rules or policies restricting the eligibility of consumers for child care subsidy benefits to a countable income level below one hundred seventy-five percent of the federal poverty guidelines.

**Sec. 1511.** 2011 c 5 s 613 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$5,902,000         |
| General Fund--State Appropriation (FY 2011) ..... | (\$5,509,000)       |
| .....   | <u>\$5,506,000</u>  |
| General Fund--Private/Local Appropriation.....    | \$1,942,000         |
| TOTAL APPROPRIATION .....                         | (\$13,353,000)      |
| .....   | <u>\$13,350,000</u> |

The appropriations in this section are subject to the following conditions and limitations: \$271,000 of the general fund--private/local appropriation is provided solely for the school for the blind to offer short course programs, allowing students the opportunity to leave their home schools for short periods and receive intensive training. The school for the blind shall provide this service to the extent that it is funded by contracts with school districts and educational services districts.

**Sec. 1512.** 2011 c 5 s 614 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE CENTER FOR CHILDHOOD DEAFNESS AND HEARING LOSS

|   |                     |
|---|---------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$8,593,000         |
| General Fund--State Appropriation (FY 2011) ..... | (\$8,230,000)       |
| .....   | <u>\$8,226,000</u>  |
| General Fund--Private/Local Appropriation.....    | \$526,000           |
| TOTAL APPROPRIATION .....                         | (\$17,349,000)      |
| .....   | <u>\$17,345,000</u> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$210,000 of the general fund--private/local appropriation is provided solely for the operation of the shared reading video outreach program. The school for the deaf shall provide this service to the extent it is funded by contracts with school districts and educational service districts.

(2) \$25,000 of the general fund--state appropriation for fiscal year 2010 and \$25,000 of the general fund--state appropriation for fiscal year 2011 are provided solely for implementation of Engrossed Second Substitute House Bill No. 1879 (deaf and hard of hearing). If the bill is not enacted by June 30, 2009, the amounts provided in this subsection shall lapse.

**Sec. 1513.** 2011 c 5 s 615 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE ARTS COMMISSION

|   |                    |
|---|--------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,844,000        |
| General Fund--State Appropriation (FY 2011) ..... | (\$1,230,000)      |
| .....   | <u>\$1,228,000</u> |
| General Fund--Federal Appropriation .....         | (\$1,944,000)      |
| .....   | <u>\$2,107,000</u> |
| General Fund--Private/Local Appropriation.....    | \$1,052,000        |
| TOTAL APPROPRIATION .....                         | (\$6,070,000)      |
| .....   | <u>\$6,210,000</u> |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce

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spending in those areas that shall have the least impact on implementing its mission.

Sec. 1514. 2011 c 5 s 616 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$2,592,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$2,381,000)</del> |
| .....   | <u>\$2,379,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$4,973,000)</del> |
| .....   | <u>\$4,971,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

Sec. 1515. 2011 c 5 s 617 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

|   |                          |
|---|--------------------------|
| General Fund--State Appropriation (FY 2010) ..... | \$1,612,000              |
| General Fund--State Appropriation (FY 2011) ..... | <del>(\$1,490,000)</del> |
| .....   | <u>\$1,489,000</u>       |
| TOTAL APPROPRIATION .....                         | <del>(\$3,102,000)</del> |
| .....   | <u>\$3,101,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: It is the intent of the legislature that the reductions in appropriations in this section shall be achieved, to the greatest extent possible, by reducing those administrative costs that do not affect direct client services or direct service delivery or programs. The agency shall, to the greatest extent possible, reduce spending in those areas that shall have the least impact on implementing its mission.

(End of part)

**PART XVI  
SPECIAL APPROPRIATIONS**

Sec. 1601. 2010 1st sp.s. c 37 s 701 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT

|   |                              |
|---|------------------------------|
| General Fund--State Appropriation (FY 2010) .....       | \$842,590,000                |
| General Fund--State Appropriation (FY 2011) ...         | <del>(\$894,284,000)</del>   |
| .....   | <u>\$878,400,000</u>         |
| State Building Construction Account--State              |                              |
| Appropriation.....                                      | \$11,707,000                 |
| Columbia River Basin Water Supply Development Account-- |                              |
| State Appropriation.....                                | \$117,000                    |
| Hood Canal Aquatic Rehabilitation Bond Account--State   |                              |
| Appropriation.....                                      | \$11,000                     |
| State Taxable Building Construction Account--State      |                              |
| Appropriation.....                                      | \$1,136,000                  |
| Gardner-Evans Higher Education Construction Account--   |                              |
| State Appropriation.....                                | \$260,000                    |
| Debt-Limit Reimbursable Bond Retirement Account--State  |                              |
| Appropriation.....                                      | \$2,612,000                  |
| TOTAL APPROPRIATION .....                               | <del>(\$1,752,717,000)</del> |
| .....   | <u>\$1,736,833,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for expenditure into the debt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2010 shall be expended into the debt-limit general fund bond retirement account by June 30, 2010.

Sec. 1602. 2010 1st sp.s. c 37 s 702 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE

|  |                            |
|--|----------------------------|
| General Fund--State Appropriation (FY 2010) .....    | \$26,436,000               |
| General Fund--State Appropriation (FY 2011) .....    | <del>(\$27,773,000)</del>  |
| .....  | <u>\$27,709,000</u>        |
| School Construction and Skill Centers Building       |                            |
| Account--State Appropriation.....                    | \$477,000                  |
| Nondebt-Limit Reimbursable Bond Retirement Account-- |                            |
| State Appropriation.....                             | <del>(\$140,872,000)</del> |
| .....  | <u>\$135,872,000</u>       |
| TOTAL APPROPRIATION .....                            | <del>(\$195,558,000)</del> |
| .....  | <u>\$190,494,000</u>       |

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for expenditure into the nondebt-limit general fund bond retirement account. The entire general fund--state appropriation for fiscal year 2010 shall be expended into the nondebt-limit general fund bond retirement account by June 30, 2010.

Sec. 1603. 2010 1st sp.s. c 37 s 703 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

|  |                          |
|--|--------------------------|
| General Fund--State Appropriation (FY 2010) .....  | \$1,357,000              |
| General Fund--State Appropriation (FY 2011) .....  | \$1,357,000              |
| State Building Construction Account--State         |                          |
| Appropriation.....                                 | \$1,273,000              |
| Columbia River Basin Water Supply Development      |                          |
| Account--State Appropriation.....                  | <del>(\$9,000)</del>     |
| .....  | <u>\$13,000</u>          |
| Hood Canal Aquatic Rehabilitation Bond Account--   |                          |
| State Appropriation.....                           | \$1,000                  |
| State Taxable Building Construction Account--State |                          |
| Appropriation.....                                 | <del>(\$72,000)</del>    |
| .....  | <u>\$131,000</u>         |
| Gardner-Evans Higher Education Construction        |                          |
| Account--State Appropriation.....                  | \$18,000                 |
| School Construction and Skill Centers Building     |                          |
| Account--State Appropriation .....                 | <del>(\$30,000)</del>    |
| .....  | <u>\$51,000</u>          |
| TOTAL APPROPRIATION .....                          | <del>(\$4,117,000)</del> |
| .....  | <u>\$4,201,000</u>       |

Sec. 1604. 2010 1st sp.s. c 37 s 709 (uncodified) is amended to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management, except as otherwise provided, as follows:

- (1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:
  - (a) Gerald S. Morrow, claim number 99970006.....\$20,567
  - (b) Darrell R. Baumgart, claim number 99970007.....\$4,528
  - (c) William Davis, claim number 99970008.....\$8,093

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|   |           |
|---|-----------|
| (d) Gene T. Strader, claim number 99970009 .....  | \$33,875  |
| (e) Cecilio Cortez, claim number 99970012.....  | \$17,055  |
| (f) Alexander D. Coble, claim number 99970013 .....   | \$302,110 |
| (g) James W. Jolly, claim number 99970017 .....   | \$28,884  |
| (h) James Jay Olsen, claim number 99970018 .....  | \$97,220  |
| (i) Todd E. Miller, claim number 99970019.....  | \$6,957   |
| (j) Sean S. DeHart, claim number 99970021.....  | \$52,062  |
| (k) Thomas L. Raglin, Jr., claim number 99970022.....   | \$4,360   |
| (l) Matthew Smitham, claim number 99970016.....   | \$8,100   |
| (m) John R. Frederick, claim number 99970020.....   | \$7,719   |
| (n) Justin C. Federmeyer, claim number 99970023.....  | \$29,728  |
| (o) David R. Palmer, claim number 99970024.....   | \$4,250   |
| (p) Ian K. Berghoffer, claim number 99970026 .....  | \$33,455  |
| (q) Darryl L. Koenen, claim number 99970027 .....   | \$23,077  |
| (r) Lee J. Stites, claim number 99970028.....   | \$7,502   |
| (s) Bobby G. Ewing, claim number 99970029.....  | \$51,093  |
| (t) Dylan Friesz, claim number 99970030.....  | \$10,200  |
| (u) Kevin L. Lund, claim number 99970031 .....  | \$11,402  |
| (v) Rodney C. Price, claim number 99970033 .....  | \$11,250  |
| (w) Matthew S. Lovacs, claim number 99970034.....   | \$25,700  |
| (x) Christopher A. Peeler, claim number 99970035.....   | \$47,923  |
| (y) Dwayne Myatt-Perez, claim number 99970036 .....   | \$70,000  |
| (z) Roland L. Savage, claim number 99970037 .....   | \$48,752  |
| (aa) Horace G. Graham, claim number 99970038.....   | \$7,674   |
| (bb) Kenneth L. Werner, claim number 99900039.....  | \$33,162  |
| (cc) Mark A. Peterson, claim number 99970040.....   | \$61,940  |
| (dd) Phillip C. Sly, claim number 99970042.....   | \$3,349   |
| (ee) Sandra Colebourn, claim number 99970043 .....  | \$10,615  |
| (ff) Joseph B. Wiggins, claim number 99970044.....  | \$3,500   |
| (2) Payment of death benefit, pursuant to RCW 41.04.017: Estate of Erik Anderson, claim number 99970014 ..... | \$150,000 |

**Sec. 1605.** 2010 1st sp.s. c 37 s 710 (uncodified) is amended to read as follows:

**STRATEGIC PRINTING STRATEGY.** (1) The office of financial management shall work with the appropriate state agencies to generate savings of \$1,500,000 from the state general fund that can arise from a strategic printing strategy. ~~((From appropriations in this act, the office of financial management shall reduce general fund state allotments by \$1,500,000 for fiscal year 2011 to reflect the savings from the strategic printing strategy. The allotment reductions shall be placed in unallotted status and remain unexpended.))~~

(2) The office of financial management, with the assistance of the department of information services and the department of printing, shall conduct an analysis of the state's printing processes to identify the most reasonable strategies of attaining a statewide savings target of \$1,500,000 without affecting direct program activities. The strategies shall include, but not be limited to, standardizing envelopes, utilizing print management, and streamlining processes. Pursuant to RCW 41.06.142(3), the strategies shall also include, on the approval of the office of financial management, pilot projects to authorize state agencies and institutions to directly acquire printing services. The analysis shall identify savings by agency and fund that will result from the implementation of a strategic printing strategy. The results of this analysis shall then be provided to the director of financial management and appropriate legislative committees by July 1, 2010. The director shall use the analysis as the basis to achieve the savings identified in subsection (1) of this section.

**Sec. 1606.** 2011 c 5 s 703 (uncodified) is amended to read as follows:

**INFORMATION TECHNOLOGY**

Pursuant to section 11, chapter 282, Laws of 2010 (state government technology use), the office of financial management shall work with the appropriate state agencies to generate savings of

\$30,000,000 from technology efficiencies from the state general fund. From appropriations in this act, the office of financial management shall reduce general fund--state allotments by ~~((24,841,000))~~ \$16,209,000 for fiscal year 2011. The office of financial management shall, utilizing existing fund balance, reduce the data processing revolving account rates in an amount to reflect up to half of the reductions identified in this section. The office of financial management may use savings or existing fund balances from information technology accounts to achieve savings in this section. The allotment reductions shall be placed in unallotted status and remain unexpended. Nothing in this section is intended to impact revenue collection efforts by the department of revenue.

**Sec. 1607.** 2009 c 564 s 719 (uncodified) is amended to read as follows:

|  |   |
|--|---|
| FOR THE OFFICE OF FINANCIAL MANAGEMENT--O'BRIEN BUILDING IMPROVEMENT |   |
| General Fund--State Appropriation (FY 2010) .....                    | \$1,435,000                                 |
| General Fund--State Appropriation (FY 2011) .....                    | <del>((1,435,000))</del> <u>\$1,884,000</u> |
| TOTAL APPROPRIATION .....  | <del>((2,870,000))</del> <u>\$3,319,000</u> |

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for expenditure into the general administration services account for payment of principal, interest, and financing expenses associated with the certificate of participation for the O'Brien building improvement, project number 20081007.

(End of part)

**PART XVII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 1701.** 2010 1st sp.s. c 37 s 801 (uncodified) is amended to read as follows:

|  |   |
|--|---|
| FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION   |   |
| General Fund Appropriation for fire insurance premium distributions .....                                  | <del>((7,572,000))</del> <u>\$7,888,000</u>   |
| General Fund Appropriation for public utility district excise tax distributions.....                       | <del>((47,342,000))</del> <u>\$45,125,000</u> |
| General Fund Appropriation for prosecuting attorney distributions.....                                     | <del>((6,281,000))</del> <u>\$5,804,000</u>   |
| General Fund Appropriation for boating safety and education distributions .....                            | <del>((4,854,000))</del> <u>\$3,954,000</u>   |
| General Fund Appropriation for other tax distributions.....  | <del>((50,000))</del> <u>\$55,000</u>         |
| General Fund Appropriation for habitat conservation program distributions.....                             | <del>((3,000,000))</del> <u>\$2,642,000</u>   |
| Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies..... | \$2,544,000                                   |
| Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution.....           | \$170,000                                     |
| Timber Tax Distribution Account Appropriation for distribution to "timber" counties.....                   | <del>((36,651,000))</del> <u>\$31,519,000</u> |
| County Criminal Justice Assistance Appropriation.....  | <del>((68,528,000))</del> <u>\$66,216,000</u> |

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Municipal Criminal Justice Assistance

|   |                 |
|---|-----------------|
| Appropriation.....  | (\$27,175,000)  |
| .....   | \$25,510,000    |
| City-County Assistance Account Appropriation for local government financial assistance distribution .....   | (\$27,366,000)  |
| .....   | \$23,845,000    |
| Liquor Excise Tax Account Appropriation for liquor excise tax distribution .....  | (\$58,268,000)  |
| .....   | \$58,822,000    |
| Streamline Sales and Use Tax Account Appropriation for distribution to local taxing jurisdictions to mitigate the unintended revenue redistribution effect of the sourcing law changes..... | (\$50,056,000)  |
| .....   | \$51,535,000    |
| Columbia River Water Delivery Account Appropriation for the Confederated Tribes of the Colville Reservation .....   | (\$7,315,000)   |
| .....   | \$7,257,000     |
| Columbia River Water Delivery Account Appropriation for the Spokane Tribe of Indians .....  | (\$4,644,000)   |
| .....   | \$4,704,000     |
| Liquor Revolving Account Appropriation for liquor profits distribution.....   | (\$68,741,000)  |
| .....   | \$64,670,000    |
| Liquor Revolving Account Appropriation for additional liquor profits distribution to local governments  | \$18,677,000    |
| TOTAL APPROPRIATION .....   | (\$439,234,000) |
| .....   | \$420,937,000   |

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

Sec. 1702. 2009 c 564 s 802 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT

|  |               |
|--|---------------|
| Impaired Driver Safety Account Appropriation ..... | (\$2,351,000) |
| .....  | \$2,467,000   |

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2009-11 biennium in accordance with RCW 82.14.310. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

Sec. 1703. 2009 c 564 s 803 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--FOR THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT

|  |               |
|--|---------------|
| Impaired Driver Safety Account Appropriation ..... | (\$1,543,000) |
| .....  | \$1,645,000   |

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2009-11 biennium to all cities ratably based on population as last determined by the office of financial management. The distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be

made to the county in which the city is located. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

NEW SECTION. Sec. 1704. 2010 1st sp.s. c 37 s 802 (uncodified) is repealed.

Sec. 1705. 2011 c 5 s 801 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

|  |               |
|--|---------------|
| State Treasurer's Service Account: For transfer to the state general fund, \$16,400,000 for fiscal year 2010 and \$29,400,000 for fiscal year 2011.....  | \$45,800,000  |
| Waste Reduction, Recycling and Litter Control Account: For transfer to the state general fund, \$3,000,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011 .....   | \$6,000,000   |
| State Toxics Control Account: For transfer to the state general fund, \$15,340,000 for fiscal year 2010 and \$37,780,000 for fiscal year 2011.....   | \$53,120,000  |
| Local Toxics Control Account: For transfer to the state general fund, \$37,060,000 for fiscal year 2010 and \$65,759,000 for fiscal year 2011.....   | \$102,819,000 |
| Education Construction Account: For transfer to the state general fund, \$105,228,000 for fiscal year 2010 and \$106,451,000 for fiscal year 2011.....   | \$211,679,000 |
| Aquatics Lands Enhancement Account: For transfer to the state general fund, \$8,520,000 for fiscal year 2010 and \$12,550,000 for fiscal year 2011.....  | \$21,070,000  |
| Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account.....  | \$28,600,000  |
| Economic Development Strategic Reserve Account: For transfer to the state general fund, \$2,500,000 for fiscal year 2010 and \$3,900,000 for fiscal year 2011 .....  | \$6,400,000   |
| Tobacco Settlement Account: For transfer to the state general fund, in an amount not to exceed by more than \$26,000,000 the actual amount of the annual payment to the tobacco settlement account .....   | \$204,098,000 |
| Tobacco Settlement Account: For transfer to the life sciences discovery fund, in an amount not to exceed \$26,000,000 less than the actual amount of the strategic contribution supplemental payment to the tobacco settlement account .....     | \$39,170,000  |
| General Fund: For transfer to the streamline sales and use tax account, \$24,274,000 for fiscal year 2010 and \$24,182,000 for fiscal year 2011.....   | \$48,456,000  |
| State Convention and Trade Center Account: For transfer to the state convention and trade center operations account, \$1,000,000 for fiscal year 2010 <del>(and \$3,100,000 for fiscal year 2011 .....</del> <del>\$4,100,000)</del> \$1,000,000 |               |
| Tobacco Prevention and Control Account: For transfer to the state general fund, \$1,961,000 for fiscal year 2010 and \$3,000,000 for fiscal year 2011.....   | \$4,961,000   |
| Nisqually Earthquake Account: For transfer to the disaster response account for fiscal year 2010.....  | \$500,000     |
| Judicial Information Systems Account: For transfer to the state general fund, \$3,250,000 for fiscal   |               |

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year 2010 and \$3,250,000 for fiscal year 2011.....\$6,500,000  
 Department of Retirement Systems Expense Account: For transfer to the state general fund, \$1,000,000 for fiscal year 2010 and \$1,500,000 for fiscal year 2011 .....\$2,500,000  
 State Emergency Water Projects Account: For transfer to the state general fund, \$390,000 for fiscal year 2011.....\$390,000  
 The Charitable, Educational, Penal, and Reformatory Institutions Account: For transfer to the state general fund, \$5,550,000 for fiscal year 2010 and \$4,450,000 for fiscal year 2011 ..... \$10,000,000  
 Energy Freedom Account: For transfer to the state general fund, \$4,038,000 for fiscal year 2010 and \$2,978,000 for fiscal year 2011 .....\$7,016,000  
 Thurston County Capital Facilities Account: For transfer to the state general fund, \$8,604,000 for fiscal year 2010 and \$5,156,000 for fiscal year 2011.....\$13,760,000  
 Public Works Assistance Account: For transfer to the state general fund, \$279,640,000 for fiscal year 2010 and (~~(\$229,560,000)~~) \$39,744,000 for fiscal year 2011..... (~~(\$509,200,000)~~) \$319,384,000  
 Budget Stabilization Account: For transfer to the state general fund for fiscal year 2010.....\$45,130,000  
 Liquor Revolving Account: For transfer to the state general fund, \$31,000,000 for fiscal year 2010 and \$31,000,000 for fiscal year 2011 .....\$62,000,000  
 Public Works Assistance Account: For transfer to the city-county assistance account, \$5,000,000 on July 1, 2009, and \$5,000,000 on July 1, 2010 .....\$10,000,000  
 Public Works Assistance Account: For transfer to the drinking water assistance account, \$6,930,000 for fiscal year 2010 and \$4,000,000 for fiscal year 2011.....\$10,930,000  
 Shared Game Lottery Account: For transfer to the education legacy trust account, \$3,600,000 for fiscal year 2010 and \$2,400,000 for fiscal year 2011 .....\$6,000,000  
 State Lottery Account: For transfer to the education legacy trust account, \$9,500,000 for fiscal year 2010 and \$9,500,000 for fiscal year 2011.....\$19,000,000  
 College Faculty Awards Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund and \$1,957,000 for fiscal year 2011 .....\$5,957,000  
 Washington Distinguished Professorship Trust Fund: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund and \$2,966,000 for fiscal year 2011 .....\$8,966,000  
 Washington Graduate Fellowship Trust Account: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance of the fund and \$1,008,000 for fiscal year 2011 .....\$3,008,000  
 GET Ready for Math and Science Scholarship Account: For transfer to the state general fund for fiscal year 2010, an amount not to exceed the actual cash balance not comprised of or needed to match private contributions .....\$1,800,000  
 Financial Services Regulation Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011.....\$9,000,000

Data Processing Revolving Fund: For transfer to the state general fund, \$5,632,000 for fiscal year 2010 and \$4,159,000 for fiscal year 2011.....\$9,791,000  
 Public Service Revolving Account: For transfer to the state general fund, \$8,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011.....\$15,000,000  
 Water Quality Capital Account: For transfer to the state general fund, \$278,000 for fiscal year 2011 .....\$278,000  
 Performance Audits of Government Account: For transfer to the state general fund, \$10,000,000 for fiscal year 2010 and \$7,000,000 for fiscal year 2011 .....\$17,000,000  
 Job Development Account: For transfer to the state general fund, \$20,930,000 for fiscal year 2010.....\$20,930,000  
 Savings Incentive Account: For transfer to the state general fund, \$10,117,000 for fiscal year 2010 and \$32,075,000 for fiscal year 2011 .....\$42,192,000  
 Education Savings Account: For transfer to the state general fund, \$90,690,000 for fiscal year 2010 and \$53,384,000 for fiscal year 2011.....\$144,074,000  
 Cleanup Settlement Account: For transfer to the state efficiency and restructuring account for fiscal year 2011 .....\$39,480,000  
 Disaster Response Account: For transfer to the state drought preparedness account, \$4,000,000 for fiscal year 2010 .....\$4,000,000  
 Washington State Convention and Trade Center Account: For transfer to the state general fund, \$10,000,000 for fiscal year 2011. The transfer in this section shall occur on June 30, 2011, only if by that date the Washington state convention and trade center is not transferred to a public facilities district pursuant to Substitute Senate Bill No. 6889 (convention and trade center).....\$10,000,000  
 Institutional Welfare/Betterment Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2010 and \$2,000,000 for fiscal year 2011.....\$4,000,000  
 Future Teacher Conditional Scholarship Account: For transfer to the state general fund, \$2,150,000 for fiscal year 2010 and \$2,150,000 for fiscal year 2011.....\$4,300,000  
 Fingerprint Identification Account: For transfer to the state general fund, \$800,000 for fiscal year 2011.....\$800,000  
 Prevent or Reduce Owner-Occupied Foreclosure Program Account: For transfer to the financial education public-private partnership account for fiscal year 2010, an amount not to exceed the actual cash balance of the fund as of June 30, 2010..... \$300,000  
 Nisqually Earthquake Account: For transfer to the state general fund for fiscal year 2011 .....\$696,000  
 Disaster Response Account: For transfer to the state general fund for fiscal year 2011 .....\$14,500,000  
 Washington Auto Theft Prevention Account: For transfer to the state general fund, \$1,500,000 for fiscal year 2011 .....\$1,500,000  
 Tourism Enterprise Account: For transfer to the state general fund, \$590,000 for fiscal year 2011 .....\$590,000  
 Tourism Development and Promotion Account: For transfer to the state general fund, \$205,000 for fiscal year 2011 .....\$205,000

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Life Sciences Discovery Fund: For transfer to the basic health plan stabilization account .....\$6,000,000

Life Sciences Discovery Fund: For transfer to the state general fund for fiscal year 2011 .....\$2,200,000

Industrial Insurance Premium Refund Account: For transfer to the state general fund, \$4,500,000 for fiscal year 2011 .....\$4,500,000

Distressed County Assistance Account: For transfer to the state general fund, \$205,000 for fiscal year 2011 .....\$ 205,000

State Drought Preparedness Account: For transfer to the state general fund, \$4,000,000 for fiscal year 2011.....\$4,000,000

Freshwater Aquatic Algae Control Account: For transfer to the state general fund, \$400,000 for fiscal year 2011 .....\$400,000

Freshwater Aquatic Weeds Account: For transfer to the state general fund, \$300,000 for fiscal year 2011.....\$300,000

Liquor Control Board Construction and Maintenance Account: For transfer to the state general fund for fiscal year 2011 .....\$3,000,000

(End of part)

**PART XVIII  
MISCELLANEOUS**

NEW SECTION. Sec. 1801. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1802. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately, except for section 942 of this act which takes effect June 30, 2011.

(End of part)"

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MOTION

Senator Chase moved that the following amendment by Senator Chase to the committee striking amendment be adopted:

On page 42, line 22, decrease the General Fund-State appropriation for Fiscal Year 2012 by \$3,000,000

On page 42, line 23, decrease the General Fund-State appropriation for Fiscal Year 2013 by \$3,150,000

On page 42, line 24, decrease the General Fund-Federal appropriation by \$26,071,000

On page 42, line 27, decrease the State Efficiency and Restructuring Account-State appropriation by \$13,659,000

On page 42, line 29, decrease the Community Residential Investment Account-State appropriation by \$12,300,000

Adjust totals accordingly

On page 45, beginning on line 34, strike all material through and including line 25 on page 46.

On page 47, line 1, increase the General Fund-State appropriation for Fiscal Year 2012 by \$7,545,000

On page 47, line 2, increase the General Fund-State appropriation for Fiscal Year 2013 by \$7,545,000

On page 47, line 3, increase the General Fund-Federal appropriation by \$11,435,000

On page 47, line 4, increase the General Fund-Local appropriation by \$2,316,000

On page 47, line 6, decrease the State Efficiency and Restructuring Account-State appropriation by \$3,715,000

Adjust all totals accordingly

On page 47, beginning on line 27 strike all material through an including line 32

Senators Chase and Roach spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Murray, Prentice and Zarelli spoke against adoption of the amendment to the committee striking amendment.

MOTION

Senator Chase demanded a roll call vote.

The President declared that at least one-sixth of the Senate did not join the demand and the demand was not sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 42, line 22 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Chase failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Tom moved that the following amendment by Senator Tom to the committee striking amendment be adopted:

On page 42, line 22, decrease the General Fund-State appropriation for Fiscal Year 2012 by \$503,000

On page 42, line 23, decrease the General Fund-State appropriation for Fiscal Year 2013 by \$518,000

On page 42, line 24, decrease the General Fund-Federal appropriation by \$1,021,000

Adjust the totals accordingly

On page 44, beginning on line 29, strike all material through and including line 34.

On page 48, line 3, decrease the General Fund-State appropriation for Fiscal Year 2012 by \$1,903,000

On page 48, line 4, decrease the General Fund-State appropriation for Fiscal Year 2013 by \$1,994,000

On page 48, line 5, decrease the General Fund-Federal appropriation by \$3,898,000

Adjust the totals accordingly

On page 52, beginning on line 12, strike all material through and including line 17.

On page 105, line 34, increase the General Fund--State appropriation for Fiscal Year 2012 by \$1,771,000

On page 105, line 35, increase the General Fund--State appropriation for Fiscal Year 2013 by \$2,2240,000

Adjust the total appropriation accordingly.

On page 117, line 36, after "April ", strike "11, 2011, at 11:11 hours" and insert "14, 2011, at 16:10 hours"

On page 118, line 16, after "0 ", strike "33,027 33,919 34,843" and insert " 34,048 34,968 35,920"

On page 118, line 17, after "1 ", strike "33,472 34,376 35,312" and insert "34,506 35,439 36,403"

On page 118, line 18, after "2 ", strike "33,895 34,808 35,754" and insert "34,943 35,884 36,859"

On page 119, line 8, after "0 ", strike "33,027 33,919 34,843" and insert " 34,048 34,968 35,920"

On page 119, line 9, after "1 ", strike "33,472 34,376 35,312" and insert "34,506 35,439 36,403"

On page 119, line 10, after "2 ", strike "33,895 34,808 35,754" and insert "34,943 35,884 36,859"

On page 120, line 19, after "as provided in RCW 28A.400.200(2).", insert " It is the Legislature's intent that, in school years 2011-12 and 2012-13, certificated instructional staff with a baccalaureate degree plus 30 credits or less, and with two years of experience or fewer, be exempt from the public school employee three-percent salary reduction."

On page 123, line 30, increase the General Fund--State appropriation for Fiscal Year 2012 by \$227,000

On page 123, line 31, increase the General Fund--State appropriation for Fiscal Year 2013 by \$289,000

Adjust the total appropriation accordingly.

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On page 128, line 11, increase the General Fund—State appropriation for Fiscal Year 2012 by \$4,000

On page 128, line 12, increase the General Fund--State appropriation for Fiscal Year 2013 by \$5,000

Adjust the total appropriation accordingly.

On page 133, line 36, increase the General Fund—State appropriation for Fiscal Year 2012 by \$34,000

On page 133, line 37, increase the General Fund--State appropriation for Fiscal Year 2013 by \$44,000

Adjust the total appropriation accordingly.

On page 136, line 5, increase the General Fund—State appropriation for Fiscal Year 2012 by \$49,000

On page 136, line 6, increase the General Fund--State appropriation for Fiscal Year 2013 by \$63,000

Adjust the total appropriation accordingly.

Senators Tom, Pflug and Ericksen spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Murray, Zarelli, Kohl-Welles, Brown and Keiser spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 42, line 22 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Tom failed and the amendment to the committee striking amendment was not adopted by a rising vote.

MOTION

Senator Chase moved that the following amendment by Senator Chase to the committee striking amendment be adopted:

On page 47, after line 32, insert the following:

"(e) The department shall keep all RHCs open until there are sufficient community options and support services and appropriate safety precautions and supports available to serve the clients who currently reside in these residential habilitation centers. The department is directed to admit those individuals who are at "immediate risk" or in need of "immediate stabilization." Any fiscal assumptions related to moving people from residential habilitation centers to the community must factor in adequate funding to provide oversight in a fractured system that is as good or better than the current oversight achieved in the institutional settings in the state. The assumptions must take into account protection needed for very vulnerable individuals in small isolated settings around the state, not just for the relatively few years that aging individuals reside in them. The oversight needed in community settings for people with developmental disabilities is for the lifespan of individuals, which means decades."

Senator Chase spoke in favor of adoption of the amendment to the committee striking amendment.

POINT OF ORDER

Senator Pridemore: "Mr. President, according to Reed's Rules, 212, as well as Senate Rules, 29, members who are speaking are to address their comments to the President not to the body. Wanted to point that out Mr. President."

REPLY BY THE PRESIDENT

President Owen: "Your point is well taken Senator. Senator Chase."

Senator Murray spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 47, after line 32 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Chase failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker to the committee striking amendment be adopted:

On page 68, after line 4, insert the following:

"(40) The department shall collaborate closely with the Washington state hospital and medical associations in identification of the diagnostic codes and retroactive review procedures that will be used to determine whether an emergency room visit is a non-emergency condition to assure that conditions that require emergency treatment continue to be covered."

Senators Keiser and Murray spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 68, after line 4 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

MOTION

Senator Schoesler moved that the following amendment by Senator Schoesler to the committee striking amendment be adopted:

On page 97, after line 2, insert

"New Section. Sec. 312. For the Department of Agriculture, the Department of Ecology, and the State Conservation Commission

(1) The directors of the department of agriculture, the department of ecology, and the conservation commission shall coordinate a process to examine the issue of achieving the state's water quality objectives relating to livestock operations. The directors shall determine what personnel are assigned to this activity and may provide oversight to the process. In implementing this process, the directors shall involve representatives of involved agencies, stakeholders, and tribes. The topics to be considered include:

(a) The appropriate background and training for personnel that conduct inspections of and provide technical assistance to livestock operators and whether personnel need to be specifically trained and assigned to serve this function;

(b) The roles and relationships between technical assistance, inspection, and enforcement, and the concept of customer service;

(c) The use, availability, and limitations of DNA testing as a water quality diagnosis tool and the recommendation of water quality testing protocols needed for livestock operations investigations;

(d) The availability and constraints of state and federal programs for planning, installation, maintenance of conservation and pollution control practices, and review of alternative practices;

(e) The extent of known water quality problems relating to livestock operations;

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(f) Best methods to achieve state water quality objectives in the context of a system that includes both regulatory and incentive-based approaches;

(g) A review of considerations used to determine water quality standards, including those applicable to the shellfish industry; and

(h) The availability of state and federal funding and whether it is being appropriately allocated.

(2) The directors identified in subsection (1) of this section shall develop recommendations for the administration and improvement of the program, including recommendations on the use of DNA technology. The directors shall provide a written summary of the activities and recommendations to the legislature and the governor by December 1, 2011.

(3) The activities under this section must be completed to the extent feasible from within existing fiscal resources available to the involved state agencies.

(4) This section expires December 31, 2011."

Senators Schoesler and Murray spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Schoesler on page 97, line 2 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Schoesler carried and the amendment to the committee striking amendment was adopted by voice vote.

#### MOTION

Senator Kastama moved that the following amendment by Senator Kastama and others to the committee striking amendment be adopted:

On page 193, after line 29, insert the following:

" **Sec. 928.** RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under RCW 41.80.001 and 41.80.010 through 41.80.130.

During the 2011-13 fiscal biennium, except as required by a collective bargaining agreement in place on the effective date of this section, a manager whose position is eliminated as a result of the provisions of section 729 of this act and who is hired or transferred to a different position shall be compensated at a level no higher than that which is commensurate with the employee's new position.

During the 2011-13 biennium, unless required by a collective bargaining agreement in place on the effective date of this section, no manager shall have the right of reversion to a classified position in the event that the employee's position is eliminated as a result of the provisions of section 729 of this act unless the employee was employed in the classified position in question, or a substantially

equivalent classified position, within the three year period prior to the effective date of this act.

**Sec. 929.** RCW 41.06.070 and 2010 c 271 s 801 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

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(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under \*chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of commerce to administer energy policy functions;

(aa) The manager of the energy facility site evaluation council;

(bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

(cc) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such

exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

During the 2011-13 fiscal biennium, except as required by a collective bargaining agreement in place on the effective date of this section, an employee whose position exempt under this chapter is eliminated as a result of the provisions of section 729 and who is hired or transferred to a different position exempt under the provisions of this chapter shall be compensated at a level no higher than that which is commensurate with the employee's new position.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under \*chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary, except that during the 2011-13 biennium, unless required by a

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collective bargaining agreement in place on the effective date of this section, no employee shall have the right of reversion to a classified position in the event that the employee's position is eliminated as a result of the provisions of section 729 of this act unless the employee was employed in the classified position in question, or a substantially equivalent classified position, within the three year period prior to the effective date of this act.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW."

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senators Kastama and Murray spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Kastama and others on page 193, after line 29 to the committee striking amendment to Engrossed Substitute House Bill No. 1087.

The motion by Senator Kastama carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Engrossed Substitute House Bill No. 1087.

The motion by Senator Murray carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 19.30.030, 28C.04.535, 36.22.175, 40.14.025, 40.14.027, 41.50.110, 41.60.050, 41.80.010, 41.80.020, 43.08.190, 43.09.475, 43.19.501, 43.20A.725, 43.79.201, 43.79.465, 43.88.150, 43.135.045, 43.185C.060, 43.185C.190, 43.350.070, 46.66.080, 66.08.170, 66.08.190, 66.08.235, 67.70.260, 70.93.180, 70.105D.070, 70.105D.130, 79.64.040, 79.105.150, 80.36.430, 82.08.160, 82.14.310, 82.14.320, 82.14.330, 82.14.390, 82.14.500, 82.45.060, 86.26.007, and 90.71.370; reenacting and amending RCW 43.79.480, 43.155.050, and 43.330.250; amending 2011 c 5 ss 106, 107, 108, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126, 127, 128, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 301, 302, 303, 304, 305, 306, 307, 401, 402, 501, 502, 503, 504, 505, 507, 508, 601, 602, 603, 604, 605, 606, 607, 608, 609, 612, 613, 614, 615, 616, 617, 703, and 801 (uncodified); amending 2010 2nd sp.s. c 1 ss 101, 102, 106, 107, 108, 116, 305, and 306 (uncodified); amending 2010 1st sp.s. c 37 ss 201, 504, 509, 510, 514, 515, 516, 517, 701, 702, 703, 709, 710, 801, and 802 (uncodified); amending 2009 c 564 ss 719, 802, and 803 (uncodified); adding a new section to 2009 c 564 (uncodified); adding new sections to 2011 c ... (ESHB 1175) (uncodified); creating new sections; repealing 2010 1st sp.s. c 37 s 802 (uncodified); making appropriations; providing an effective date; and declaring an emergency."

#### MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1087 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### POINT OF ORDER

Senator Sheldon: "Mr. President, I ask that you announce the number of votes necessary to pass Engrossed Substitute House Bill No. 1087. Mr. President, section 942 of Engrossed Substitute House Bill No. 1087 requires the State Treasurer to transfer eighty-five million dollars from the liquor revolving fund to the general fund in the 2011-13 bienniums. Mr. President, the liquor revolving account does not contain an additional unallocated eighty-five million dollars. Mr. President, section 942 of Engrossed Substitute House Bill No. 1087 the bill clearly imposes a tax and not a regulatory fee. The plain purpose of the added mark up is general fund revenue as opposed to liquor regulations. This constitutes quote, unquote 'raising taxes' as provided in Initiative 1053. The legislature can only raise taxes if supported by a two-thirds vote of each body. I request that you rule that a two-thirds super-majority of thirty-three votes is required in order to pass Engrossed Substitute House Bill No. 1087."

Senator Murray spoke against the point of order.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Sheldon as to the application of Initiative Number 1053 to Engrossed House Bill 1087 as amended by the Senate, the President finds and rules as follows:

The President believes that this is an issue of first impression, and he asks for the body's patience as he sets forth this analysis.

Section 949 of the bill as amended transfers eighty-five million dollars from the liquor revolving fund to the state general fund for the next fiscal biennium. Senator Sheldon argues that, because there may be insufficient funds in the account presently, this action amounts to a tax under I-1053 because additional revenue would be necessary to make up any shortfall.

Dealing first with the transfer, the President believes that merely moving money that is already raised between accounts—without actually raising the money or changing the specific purpose for which it may be used at the point or time of collection—is not, in and of itself, an action which 'raises revenue' as that term is used in I-1053. This practice, commonly known as 'sweeping' of accounts, does not constitute any sort of revenue increase, and thus only a simple majority vote is needed to effect such a transfer.

Senator Sheldon argues, however, that the sweeping of the account when it has an insufficient balance effectively results in a tax increase, because some other state action will be needed to cover the shortfall. It is possible—perhaps even likely—that Senator Sheldon is correct: the transfer will leave an insufficient balance in the account which the Liquor Control Board can only make up by raising liquor prices. This is not, however, the only possible outcome. Possibly the Board would make additional service or facility cuts, or perhaps it would take some other action to cover the difference. Perhaps the estimates in this budget are incorrect, and there will be sufficient sums to cover the transfer. In fact, perhaps many possible things could happen, many different scenarios could eventuate—but it is not possible, at this point in time, to determine with precision which scenario will ultimately come to pass.

The President can determine, however, that all of the possibilities rely on subsequent agency action, not legislative action—and it is legislative action that I-1053 addresses.

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Because the account transfer language found in the bill in and of itself is not an action or combination of actions of the legislature which raises revenue, it does not require a two-thirds vote.

For these reasons, only a constitutional majority vote of twenty-five is necessary and Senator Sheldon's point is not well-taken."

Senators Murray, Zarelli, Hargrove, Hobbs, Brown, Hewitt, McAuliffe and Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1087 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1087 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Brown, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Chase, Ericksen, Fain, Hill, Holmquist Newbry, Litzow, Pflug, Roach, Sheldon and Stevens

Excused: Senators Morton and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Murray: "Thank you Mr. President. Well, as you all know the real heroes of any budget process are the budget staff. First of all, they asked, they sort of begged, not to be brought into the wings so they're all watching us from their offices. So, that aside, our non partisan analytical staff as well as our two partisan caucus staff help write this budget, did so much to make this vote possible. Put in incredible long hours, from early morning to late nights, weekends. I'm sure their families have not seen them for months now. They deserve a large thanks for their incredible skill and hard work so let's hear it for them."

#### MOTION

At 5:30 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, April 19, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## ONE HUNDREDTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Tuesday, April 19, 2011

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Hewitt, Parlette and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Clayton McAuliffe and Logan Corbin, presented the Colors. Senator Shin offered the prayer.

## MOTION

On motion of Senator Ericksen, Senators Benton, Parlette and Zarelli were excused.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Eide, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

April 15, 2011

SB 5534 Prime Sponsor, Senator Murray: Concerning the business and occupation taxation of newspapers. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5534 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Rockefeller.

Passed to Committee on Rules for second reading.

April 15, 2011

SB 5920 Prime Sponsor, Senator Murray: Limiting the annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5920 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway and Fraser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baumgartner.

Passed to Committee on Rules for second reading.

April 15, 2011

SB 5929 Prime Sponsor, Senator Keiser: Concerning enrollment in state purchased medical programs by children ineligible for federally financed care. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5929 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

March 22, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JAMES GLOVER, appointed March 22, 2011, for the term ending October 1, 2014, as Member of the Small Business Export Finance Assistance Center Board of Directors.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Economic Development, Trade & Innovation.

## MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

## MESSAGE FROM THE HOUSE

ONE HUNDREDTH DAY, APRIL 19, 2011

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April 18, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

HOUSE BILL NO. 1544,  
 SUBSTITUTE HOUSE BILL NO. 1560,  
 ENGROSSED HOUSE BILL NO. 1969,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SJM 8010 by Senators Stevens, Benton, Baxter, Pflug, Ericksen, Swecker, Zarelli, Carrell, Holmquist Newbry, Becker, Honeyford and Schoesler

Requesting the transportation security administration reconsider its use of the pat down search procedures adopted on October 28, 2010.

Referred to Committee on Transportation.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

At 9:43 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:18 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5625 with the following amendment(s): 5625 AMH ELHS PALC 039

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.215.260 and 2006 c 265 s 307 are each amended to read as follows:

(1) Each agency shall make application for a license or ~~(renewal of)~~ the continuation of a full license to the department on forms prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license or continuation of a full license within ninety days. A license or continuation shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental

requirements consistent with ~~((the title))~~ this chapter, except that an initial license may be issued as provided in RCW 43.215.280. The department shall consider whether an agency is in good standing, as defined in subsection (4)(b) of this section, before granting a continuation of a full license. Full licenses provided for in this chapter shall ~~((be issued for a period of three years))~~ continue to remain valid so long as the licensee meets the requirements for a nonexpiring license in subsection (2) of this section. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

(2) In order to qualify for a nonexpiring full license, a licensee must meet the following requirements on an annual basis as established from the date of initial licensure:

- (a) Submit the annual licensing fee;
- (b) Submit a declaration to the department indicating the licensee's intent to continue operating a licensed child care program, or the intent to cease operation on a date certain;
- (c) Submit a declaration of compliance with all licensing rules; and
- (d) Submit background check applications on the schedule established by the department.

(3) If a licensee fails to meet the requirements in subsection (2) of this section for continuation of a full license, the license expires and the licensee must submit a new application for licensure under this chapter.

(4)(a) The department shall establish time frames for monitoring visits of nonexpiring licensees not less than every eighteen months for family day care providers and not less than every twelve months for child day care centers and school-age programs. It is not the intent of the legislature to limit more frequent monitoring as determined by the department.

(b) For the purpose of this section, an agency is considered to be in good standing if in the intervening period between monitoring visits that agency does not have any of the following:

- (i) Valid complaints;
- (ii) A history of noncompliance related to those valid complaints or pending from prior monitoring visits; or
- (iii) Other information that when evaluated would result in a finding of noncompliance with this section.

(c) The department shall consider whether an agency is in good standing when determining the most appropriate approach and process for monitoring visits, for the purposes of administrative efficiency while protecting children consistent with this chapter. If the department determines that an agency is not in good standing, the department may issue a probationary license, as provided in RCW 43.215.290.

**Sec. 2.** RCW 43.215.290 and 2006 c 265 s 310 are each amended to read as follows:

(1) The department may issue a probationary license to a licensee who has had ~~((a))~~ an initial, expiring, or other license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

- (a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and
- (b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) Before issuing a probationary license, the department shall, in writing, refer the licensee to the child care resource and referral network or other appropriate resource for technical assistance. The

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department may issue a probationary license pursuant to subsection (1) of this section if within fifteen working days after the department has sent its referral:

(a) The licensee, in writing, has refused the department's referral for technical assistance; or

(b) The licensee has failed to respond in writing to the department's referral for technical assistance.

(3) If the licensee accepts the department's referral for technical assistance issued under subsection (2) of this section, the department, the licensee, and the technical assistance provider shall meet within thirty days after the licensee's acceptance. The licensee and the department, in consultation with the technical assistance provider, shall develop a plan to correct the areas of noncompliance identified by the department. If after sixty days, the licensee has not corrected the areas of noncompliance identified in the plan developed in consultation with the technical assistance provider, the department may issue a probationary license pursuant to subsection (1) of this section.

(4) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

~~((3))~~ (5) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

~~((4))~~ (6) An existing license is invalidated when a probationary license is issued.

~~((5))~~ (7) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

~~((6))~~ (8) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

**Sec. 3.** RCW 43.215.270 and 2006 c 265 s 308 are each amended to read as follows:

(1) If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

(2) License renewal under this section does not apply to nonexpiring licenses described in RCW 43.215.260."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5625 and ask the House to recede therefrom.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5625 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5625 and asked the House to recede therefrom.

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5749 with the following amendment(s): 5749-S AMH ENGR H2505.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.95.020 and 2007 c 405 s 8 are each amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Board" means the higher education coordinating board as defined in chapter 28B.76 RCW.

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the executive director of the higher education coordinating board, or their designees, and two members to be appointed by the governor for four-year terms, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

(9) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

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(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

**Sec. 2.** RCW 28B.95.030 and 2005 c 272 s 2 are each amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the executive director of the board. The committee shall be supported by staff of the board.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit. Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit.

(7) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(8) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

**Sec. 3.** RCW 28B.95.080 and 1997 c 289 s 8 are each amended to read as follows:

The governing body shall annually evaluate, and cause to be evaluated by (~~a nationally recognized~~) the state actuary, the soundness of the account and determine the additional assets needed, if any, to defray the obligations of the account. The governing body shall also adopt an actuarially sound and prudently predictable reserving strategy that provides long-term assets to meet the long-term obligations of the account.

If funds are (~~not sufficient~~) determined by the governing body, based on actuarial analysis to be insufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

If there are insufficient numbers of new purchases to ensure the actuarial soundness of the account, the governing body shall request such funds from the legislature as are required to ensure the integrity of the program. Funds may be appropriated directly to the account or appropriated under the condition that they be repaid at a later date.

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The repayment shall be made at such time that the account is again determined to be actuarially sound.

**Sec. 4.** RCW 28B.95.150 and 2001 c 184 s 2 are each amended to read as follows:

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, ~~((a qualified actuarial consulting firm with appropriate expertise to evaluate such plans))~~ the state actuary, the legislative fiscal and higher education committees, and the institutions of higher education.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development of a college savings program. This loan must be repaid with interest before the conclusion of the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

(3) If such a college savings program is established, the college savings program account is created in the custody of the state treasurer for the purpose of administering the college savings program. If created, the account shall be a discrete nontreasury account in the custody of the state treasurer. Interest earnings shall be retained in accordance with RCW 43.79A.040. Disbursements from the account, except for program administration, are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment provisions, but without appropriation.

(4) The committee, after consultation with the state investment board, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

(5) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

(6) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, promotion, and marketing; compliance with internal revenue service standards; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

(7) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

**Sec. 5.** RCW 44.44.040 and 2003 c 295 s 4 and 2003 c 92 s 2 are each reenacted and amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and firefighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. Reimbursement for services shall be made to the state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

(8) Provide actuarial assistance to the committee on advanced tuition payments pursuant to chapter 28B.95 RCW. Reimbursement for services shall be made to the state actuary under RCW 39.34.130."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Tom moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5749 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Tom that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5749 and request a conference thereon.

The motion by Senator Tom carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5749 and requested of the House a conference thereon by voice vote.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 5749 and the House amendment(s) thereto: Senators Brown, Hewitt and Tom.

#### MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

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MOTION

On motion of Senator King, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1053 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1053 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Kline that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1053 and request a conference thereon.

The motion by Senator Kline carried and the Senate refused to recede in the Senate amendment(s) to Substitute House Bill No. 1053 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1053 and the House amendment(s) thereto: Senators Hargrove, Kline and Pflug.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 14, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1516 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1516 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1516 and request a conference thereon.

The motion by Senator Haugen carried and the Senate refused to recede in the Senate amendment(s) to Substitute House Bill No. 1516 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1516 and the House amendment(s) thereto: Senators Haugen, King and White.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 15, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1793 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1793 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1793 and request a conference thereon.

The motion by Senator Hargrove carried and the Senate refused to recede in the Senate amendment(s) to Substitute House Bill No. 1793 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1793 and the House amendment(s) thereto: Senators Harper, Carrell and Hargrove.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5784 with the following amendment(s): 5784-S AMH HARR H2426.2

On page 2, beginning on line 19, strike all of section 2 and insert the following:

"Sec. 2. RCW 43.372.070 and 2010 c 145 s 10 are each amended to read as follows:

(1) The marine resources stewardship trust account is created in the state treasury. All receipts from income derived from the investment of amounts credited to the account, any grants, gifts, or donations to the state for the purposes of marine management planning, marine spatial planning, data compilation, research, or monitoring, and any appropriations made to the account must be

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deposited in the account. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may only be used for the purposes of marine management planning, marine spatial planning, research, monitoring, implementation of the marine management plan, and for the restoration or enhancement of marine habitat or resources.

(3) When moneys are deposited into the marine resources stewardship trust account, the governor must provide recommendations on expenditures from the account to the appropriate committees of the legislature prior to the next regular legislative session. The recommended projects and activities must be consistent with:

(a) The allowable uses of the marine resources stewardship trust account; and

(b) The priority areas identified in the west coast governor's agreement on ocean health, entered into on September 18, 2006, and recognized in section 1 of this act."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Litzow moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5784.

Senators Litzow and Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Litzow that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5784.

The motion by Senator Litzow carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5784 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5784, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5784, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Holmquist Newbry and Honeyford

Excused: Senators Hewitt, Parlette and Zarelli

SUBSTITUTE SENATE BILL NO. 5784, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5067,  
SUBSTITUTE SENATE BILL NO. 5326,  
SUBSTITUTE SENATE BILL NO. 5350,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5371,

SUBSTITUTE SENATE BILL NO. 5392,  
SUBSTITUTE SENATE BILL NO. 5394,  
SECOND SUBSTITUTE SENATE BILL NO. 5427,  
SUBSTITUTE SENATE BILL NO. 5436,  
SUBSTITUTE SENATE BILL NO. 5445,  
SUBSTITUTE SENATE BILL NO. 5451,  
SUBSTITUTE SENATE BILL NO. 5452,  
SUBSTITUTE SENATE BILL NO. 5504.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5540 with the following amendment(s): 5540-S AMH TR H2409.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that the safe transportation of children to and from school is a shared responsibility of the school district and the driving public. In order to increase public awareness of their responsibility, it is the intent of the legislature that the state superintendent of public instruction coordinate with school districts and any other relevant agencies who voluntarily choose to participate in a national stop arm violation day annually between March 1st and May 15th.

NEW SECTION. Sec. 2. A new section is added to chapter 46.63 RCW to read as follows:

(1) School districts may install and operate automated school bus safety cameras on school buses to be used for the detection of violations of RCW 46.61.370(1) if the use of the cameras is approved by a vote of the school district board of directors. School districts are not required to take school buses out of service if the buses are not equipped with automated school bus safety cameras or functional automated safety cameras. Further, school districts shall be held harmless from and not liable for any criminal or civil liability arising under the provisions of this section.

(a) Automated school bus safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(b) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (2)(a)(i) of this section. The law enforcement officer issuing the notice of infraction shall include a certificate or facsimile of the notice, based upon inspection of photographs, microphotographs, or electronic images produced by an automated school bus safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated school bus safety camera may respond to the notice by mail.

(c) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (2) of this section. If appropriate under the circumstances, a renter identified under subsection (2)(a)(i) of this section is responsible for an infraction.

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(d) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(e) If a school district installs and operates an automated school bus safety camera under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment. Further, any repair, replacement, or administrative work costs related to installing or repairing automated school bus safety cameras must be solely paid for by the manufacturer or vendor of the cameras. Before entering into a contract with the manufacturer or vendor of the equipment used under this subsection (1)(e), the school district must follow the competitive bid process as outlined in RCW 28A.335.190(1).

(f) Any revenue collected from infractions detected through the use of automated school bus safety cameras, less the administration and operating costs of the cameras, must be remitted to school districts for school zone safety projects as determined by the school district using the automated school bus safety cameras. The administration and operating costs of the cameras includes infraction enforcement and processing costs that are incurred by local law enforcement or local courts.

(2)(a) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction is issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(i) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred;

(ii) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection (2)(a)(ii) must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(iii) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

(b) Timely mailing of a statement under this subsection to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(3) For purposes of this section, "automated school bus safety camera" means a device that is affixed to a school bus that is synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a vehicle at the time the vehicle is detected for an infraction identified in RCW 46.61.370(1).

**Sec. 3.** RCW 46.61.370 and 1997 c 80 s 1 are each amended to read as follows:

(1) The driver of a vehicle upon overtaking or meeting from either direction any school bus which has stopped on the roadway for the purpose of receiving or discharging any school children shall stop the vehicle before reaching such school bus when there is in operation on said school bus a visual signal as specified in RCW

46.37.190 and said driver shall not proceed until such school bus resumes motion or the visual signals are no longer activated.

(2) The driver of a vehicle upon a highway divided into separate roadways as provided in RCW 46.61.150 need not stop upon meeting a school bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging school children.

(3) The driver of a vehicle upon a highway with three or more marked traffic lanes need not stop upon meeting a school bus which is proceeding in the opposite direction and is stopped for the purpose of receiving or discharging school children.

(4) The driver of a school bus shall actuate the visual signals required by RCW 46.37.190 only when such bus is stopped on the roadway for the purpose of receiving or discharging school children.

(5) The driver of a school bus may stop completely off the roadway for the purpose of receiving or discharging school children only when the school children do not have to cross the roadway. The school bus driver shall actuate the hazard warning lamps as defined in RCW 46.37.215 before loading or unloading school children at such stops.

(6) Except as provided in subsection (7) of this section, a person found to have committed an infraction of subsection (1) of this section shall be assessed a monetary penalty equal to twice the total penalty assessed under RCW 46.63.110. This penalty may not be waived, reduced, or suspended. Fifty percent of the money so collected shall be deposited into the school zone safety account in the custody of the state treasurer and disbursed in accordance with RCW 46.61.440(~~((3))~~) (5).

(7) An infraction of subsection (1) of this section detected through the use of an automated school bus safety camera under section 2 of this act is not a part of the registered owner's driving record under RCW 46.52.101 and 46.52.120, and must be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued for a violation of this section detected through the use of an automated school bus safety camera shall not exceed twice the monetary penalty for a violation of this section as provided under RCW 46.63.110.

**Sec. 4.** RCW 46.63.030 and 2007 c 101 s 1 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of a photo enforcement system under RCW 46.63.160; (~~((6))~~)

(e) When the infraction is detected through the use of an automated school bus safety camera under section 2 of this act; or

(f) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

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(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering--Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

**Sec. 5.** RCW 46.63.030 and 2010 c 249 s 5 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction; ~~((e))~~

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170; or

(e) When the infraction is detected through the use of an automated school bus safety camera under section 2 of this act.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering--Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

**Sec. 6.** RCW 46.63.075 and 2005 c 167 s 3 are each amended to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of a photo enforcement system under RCW 46.63.160, ~~((e))~~ detected through the use of an automated traffic

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safety camera under RCW 46.63.170, or detected through the use of an automated school bus safety camera under section 2 of this act, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.160 or 46.63.170, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

**Sec. 7.** RCW 46.63.075 and 2010 c 249 s 7 are each amended to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under RCW 46.63.170 or detected through the use of an automated school bus safety camera under section 2 of this act, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.170, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

**Sec. 8.** RCW 46.16A.120 and 2010 c 161 s 430 are each amended to read as follows:

(1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a photo enforcement system under RCW 46.63.160, ~~((and))~~ the use of automated traffic safety cameras under RCW 46.63.170, and the use of automated school bus safety cameras under section 2 of this act may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Photo enforcement infractions issued under RCW 46.63.030(1)(d); ~~((and))~~

(c) Automated traffic safety camera infractions issued under RCW 46.63.030(1)~~((e))~~ (f); and

(d) Automated school bus safety camera infractions issued under RCW 46.63.030(1)(e).

(2) Violations and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations and infractions on the matching vehicle records; and

(b) Send notice approximately one hundred twenty days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations and infractions received by the department one hundred twenty days or more before the current vehicle registration expiration date will be included in the notice. Violations and infractions received by the department later than one hundred twenty days before the current vehicle

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registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other infractions issued under RCW 46.63.030(1)(d) for the vehicle unless:

(a) The outstanding ~~(standing, (stopping,))~~ stopping, or parking violations were received by the department within one hundred twenty days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation and infraction provided in this section and the registered owner pays the surcharge required under RCW 46.17.030.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations or infractions; and

(b) Remove the outstanding violations and infractions from the vehicle record.

**Sec. 9.** RCW 46.16A.120 and 2010 c 249 s 10 are each amended to read as follows:

((1) To renew a vehicle license, an applicant shall satisfy all listed standing, stopping, and parking violations, and civil penalties issued under RCW 46.63.160 for the vehicle incurred while the vehicle was registered in the applicant's name and forwarded to the department pursuant to RCW 46.20.270(3). For the purposes of this section, "listed" standing, stopping, and parking violations, and civil penalties issued under RCW 46.63.160 include only those violations for which notice has been received from state or local agencies or courts by the department one hundred twenty days or more before the date the vehicle license expires and that are placed on the records of the department. Notice of such violations received by the department later than one hundred twenty days before that date that are not satisfied shall be considered by the department in connection with any applications for license renewal in any subsequent license year. The renewal application may be processed by the department or its agents only if the applicant:

(a) Presents a preprinted renewal application showing no listed standing, stopping, or parking violations, or civil penalties issued under RCW 46.63.160, or in the absence of such presentation, the agent verifies the information that would be contained on the preprinted renewal application; or

(b) If listed standing, stopping, or parking violations, or civil penalties issued under RCW 46.63.160 exist, presents proof of payment and pays a fifteen dollar surcharge.

(2) The surcharge shall be allocated as follows:

(a) Ten dollars shall be deposited in the motor vehicle fund to be used exclusively for the administrative costs of the department of licensing; and

(b) Five dollars shall be retained by the agent handling the renewal application to be used by the agent for the administration of this section.

(3) If there is a change in the registered owner of the vehicle, the department shall forward the information regarding the change to the state or local charging jurisdiction and release any hold on the renewal of the vehicle license resulting from parking violations or civil penalties issued under RCW 46.63.160 incurred while the certificate of license registration was in a previous registered owner's name.

(4) The department shall send to all registered owners of vehicles who have been reported to have outstanding listed parking violations or civil penalties issued under RCW 46.63.160, at the time of renewal, a statement setting out the dates and jurisdictions in

which the violations occurred as well as the amounts of unpaid fines and penalties relating to them and the surcharge to be collected.)

(1) Each court and government agency located in this state having jurisdiction over standing, stopping, and parking violations, the use of a photo toll system under RCW 46.63.160, the use of automated traffic safety cameras under RCW 46.63.170, and the use of automated school bus safety cameras under section 2 of this act may forward to the department any outstanding:

(a) Standing, stopping, and parking violations;

(b) Civil penalties for toll nonpayment detected through the use of photo toll systems issued under RCW 46.63.160;

(c) Automated traffic safety camera infractions issued under RCW 46.63.030(1)(d); and

(d) Automated school bus safety camera infractions issued under RCW 46.63.160(1)(e).

(2) Violations, civil penalties, and infractions described in subsection (1) of this section must be reported to the department in the manner described in RCW 46.20.270(3).

(3) The department shall:

(a) Record the violations, civil penalties, and infractions on the matching vehicle records; and

(b) Send notice approximately one hundred twenty days in advance of the current vehicle registration expiration date to the registered owner listing the dates and jurisdictions in which the violations, civil penalties, and infractions occurred, the amounts of unpaid fines and penalties, and the surcharge to be collected. Only those violations, civil penalties, and infractions received by the department one hundred twenty days or more before the current vehicle registration expiration date will be included in the notice. Violations, civil penalties, and infractions received by the department later than one hundred twenty days before the current vehicle registration expiration date that are not satisfied will be delayed until the next vehicle registration expiration date.

(4) The department, county auditor or other agent, or subagent appointed by the director shall not renew a vehicle registration if there are any outstanding standing, stopping, and parking violations, and other civil penalties issued under RCW 46.63.160 for the vehicle unless:

(a) The outstanding standing, stopping, or parking violations and civil penalties were received by the department within one hundred twenty days before the current vehicle registration expiration;

(b) There is a change in registered ownership; or

(c) The registered owner presents proof of payment of each violation, civil penalty, and infraction provided in this section and the registered owner pays the surcharge required under RCW 46.17.030.

(5) The department shall:

(a) Forward a change in registered ownership information to the court or government agency who reported the outstanding violations, civil penalties, or infractions; and

(b) Remove the outstanding violations, civil penalties, and infractions from the vehicle record.

**NEW SECTION. Sec. 10.** Sections 5, 7, and 9 of this act take effect upon certification by the secretary of transportation that the new statewide tolling operations center and photo toll system are fully operational. A notice of certification must be filed with the code reviser for publication in the state register. If a certificate is not issued by the secretary of transportation by December 1, 2012, sections 5, 7, and 9 of this act are null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5540.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5540.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5540 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5540, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5540, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senator Pflug

Excused: Senators Hewitt, Parlette and Zarelli

SUBSTITUTE SENATE BILL NO. 5540, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 6, 2011

#### MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5579 with the following amendment(s): 5579-S AMH JUDI H2157.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 10.14.150 and 2005 c 196 s 1 are each amended to read as follows:

(1) The district courts shall have original jurisdiction and cognizance of any civil actions and proceedings brought under this chapter, except the district court shall transfer such actions and proceedings to the superior court when it is shown that (a) the respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(2) Municipal courts may exercise jurisdiction and cognizance of any civil actions and proceedings brought under this chapter by adoption of local court rule, except the municipal court shall transfer such actions and proceedings to the superior court when it is shown that (a) the respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the

effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(3) Superior courts shall have concurrent jurisdiction to receive transfer of antiharassment petitions in cases where a district or municipal court judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer. The municipal and district courts shall have jurisdiction and cognizance of any criminal actions brought under RCW 10.14.120 and 10.14.170.

**Sec. 2.** RCW 10.14.020 and 2001 c 260 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Unlawful harassment" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. The course of conduct shall be such as would cause a reasonable person to suffer substantial emotional distress, and shall actually cause substantial emotional distress to the petitioner, or, when the course of conduct would cause a reasonable parent to fear for the well-being of their child.

(2) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

**Sec. 3.** RCW 10.14.080 and 2001 c 311 s 1 are each amended to read as follows:

(1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 10.14.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 10.14.070 and 10.14.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing. The ex parte order and notice of hearing shall include at a minimum the date and time of the hearing set by the court to determine if the temporary order should be made effective for one year or more, and notice that if the respondent should fail to appear or otherwise not respond, an order for protection will be issued against the respondent pursuant to the provisions of this chapter, for a minimum of one year from the date of the hearing. The notice shall also include a brief statement of the provisions of the ex parte order and notify the respondent that a copy of the ex parte order and notice of hearing has been filed with the clerk of the court.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the

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order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. This limitation is not applicable to civil antiharassment protection orders issued under chapter 26.09, 26.10, or 26.26 RCW. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

(6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

- (a) Restraining the respondent from making any attempts to contact the petitioner;
- (b) Restraining the respondent from making any attempts to keep the petitioner under surveillance;
- (c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace; and
- (d) Considering the provisions of RCW 9.41.800.

(7) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall not prohibit the respondent from exercising constitutionally protected free speech. Nothing in this section prohibits the petitioner from utilizing other civil or criminal remedies to restrain conduct or communications not otherwise constitutionally protected.

(8) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall not prohibit the respondent from the use or enjoyment of real property to which the respondent has a cognizable claim unless that order is issued under chapter 26.09 RCW or under a separate action commenced with a summons and complaint to determine title or possession of real property.

(9) The court in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall not limit the respondent's right to care, control, or custody of the respondent's minor child, unless that order is issued under chapter 13.32A, 26.09, 26.10, or 26.26 RCW.

(10) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two such ex parte orders against the same

respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

~~((8))~~ (11) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

**Sec. 4.** RCW 9A.46.040 and 1985 c 288 s 4 are each amended to read as follows:

(1) Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, when any defendant charged with a crime involving harassment is released from custody before trial on bail or personal recognizance, the court authorizing the release may require that the defendant:

(a) Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

(b) Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

(2) An intentional violation of a court order issued under this section or an equivalent local ordinance is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW. A certified copy of the order shall be provided to the victim by the clerk of the court.

**Sec. 5.** RCW 9A.46.080 and 1985 c 288 s 8 are each amended to read as follows:

The victim shall be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim is involved. If a defendant is found guilty of a crime of harassment and a condition of the sentence restricts the defendant's ability to have contact with the victim or witnesses, the condition shall be recorded and a written certified copy of that order shall be provided to the victim or witnesses by the clerk of the court. Willful violation of a court order issued under this section or an equivalent local ordinance is a misdemeanor. The written order shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW and will subject a violator to arrest.

**NEW SECTION. Sec. 6.** A new section is added to chapter 10.14 RCW to read as follows:

Before granting an order under this chapter, the court may consult the judicial information system, if available, to determine criminal history or the pendency of other proceedings involving the parties."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5579.  
Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5579.

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The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5579 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5579, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5579, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senator Schoesler

Excused: Senators Hewitt, Parlette and Zarelli

SUBSTITUTE SENATE BILL NO. 5579, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5590 with the following amendment(s): 5590-S AMH JUDI TANG 106

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 61.24 RCW to read as follows:

(1) Whenever (a) consummation of a written agreement for the purchase and sale of owner-occupied residential real property would result in contractual sale proceeds that are insufficient to pay in full the obligation owed to a senior beneficiary of a deed of trust encumbering the residential real property; and (b) the seller makes a written offer to the senior beneficiary to accept the entire net proceeds of the sale in order to facilitate closing of the purchase and sale; then the senior beneficiary must, within one hundred twenty days after the receipt of the written offer, deliver to the seller, in writing, an acceptance, rejection, or counter-offer of the seller's written offer. The senior beneficiary may determine, in its sole discretion, whether to accept, reject, or counter-offer the seller's written offer.

(2) This section applies only when the written offer to the senior beneficiary is received by the senior beneficiary prior to the issuance of a notice of default. The offer must include a copy of the purchase and sale agreement. The offer must be sent to the address of the senior beneficiary or the address of a party acting as a servicer of the obligation secured by the deed of trust.

(3) A seller has a right of action for actual monetary damages incurred as a result of the senior beneficiary's failure to comply with the requirements of subsection (1) of this section.

(4) A senior beneficiary is not liable for the actions or inactions of any other lien holder.

(5)(a) This section does not apply to deeds of trust: (i) securing a commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to beneficiaries that are exempt from section 7, chapter \_\_\_ (2SHB 1362), laws of 2011, if enacted, or if not enacted, to beneficiaries that conduct fewer than two hundred fifty trustee sales per year.

(6) This section does not alter a beneficiary's right to issue a notice of default and does not lengthen or shorten any time period imposed or required under this chapter.

**Sec. 2.** RCW 61.24.127 and 2009 c 292 s 6 are each amended to read as follows:

(1) The failure of the borrower or grantor to bring a civil action to enjoin a foreclosure sale under this chapter may not be deemed a waiver of a claim for damages asserting:

(a) Common law fraud or misrepresentation;

(b) A violation of Title 19 RCW; ((~~or~~))

(c) Failure of the trustee to materially comply with the provisions of this chapter; or

(d) A violation of section 1 of this act.

(2) The nonwaived claims listed under subsection (1) of this section are subject to the following limitations:

(a) The claim must be asserted or brought within two years from the date of the foreclosure sale or within the applicable statute of limitations for such claim, whichever expires earlier;

(b) The claim may not seek any remedy at law or in equity other than monetary damages;

(c) The claim may not affect in any way the validity or finality of the foreclosure sale or a subsequent transfer of the property;

(d) A borrower or grantor who files such a claim is prohibited from recording a lis pendens or any other document purporting to create a similar effect, related to the real property foreclosed upon;

(e) The claim may not operate in any way to encumber or cloud the title to the property that was subject to the foreclosure sale, except to the extent that a judgment on the claim in favor of the borrower or grantor may, consistent with RCW 4.56.190, become a judgment lien on real property then owned by the judgment debtor; and

(f) The relief that may be granted for judgment upon the claim is limited to actual damages. However, if the borrower or grantor brings in the same civil action a claim for violation of chapter 19.86 RCW, arising out of the same alleged facts, relief under chapter 19.86 RCW is limited to actual damages, treble damages as provided for in RCW 19.86.090, and the costs of suit, including a reasonable attorney's fee.

~~((4)-(3))~~ (3) This section applies only to foreclosures of owner-occupied residential real property.

~~((5)-(4))~~ (4) This section does not apply to the foreclosure of a deed of trust used to secure a commercial loan.

**Sec. 3.** RCW 61.24.005 and 2009 c 292 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate of beneficiary" means any entity which controls, is controlled by, or is under common control with a beneficiary.

(2) "Beneficiary" means the holder of the instrument or document evidencing the obligations secured by the deed of trust, excluding persons holding the same as security for a different obligation.

(3) "Borrower" means a person or a general partner in a partnership, including a joint venture, that is liable for all or part of the obligations secured by the deed of trust under the instrument or other document that is the principal evidence of such obligations, or the person's successors if they are liable for those obligations under a written agreement with the beneficiary.

(4) "Commercial loan" means a loan that is not made primarily for personal, family, or household purposes.

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(5) "Fair value" means the value of the property encumbered by a deed of trust that is sold pursuant to a trustee's sale. This value shall be determined by the court or other appropriate adjudicator by reference to the most probable price, as of the date of the trustee's sale, which would be paid in cash or other immediately available funds, after deduction of prior liens and encumbrances with interest to the date of the trustee's sale, for which the property would sell on such date after reasonable exposure in the market under conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

(6) "Grantor" means a person, or its successors, who executes a deed of trust to encumber the person's interest in property as security for the performance of all or part of the borrower's obligations.

(7) "Guarantor" means any person and its successors who is not a borrower and who guarantees any of the obligations secured by a deed of trust in any written agreement other than the deed of trust.

(8) "Owner-occupied" means property that is the principal residence of the borrower.

(9) "Person" means any natural person, or legal or governmental entity.

(10) "Record" and "recorded" includes the appropriate registration proceedings, in the instance of registered land.

(11) "Residential real property" means property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit.

(12) "Senior beneficiary" means the beneficiary of a deed of trust that has priority over any other deeds of trust encumbering the same residential real property."

~~(13)~~ (13) "Tenant-occupied property" means property consisting solely of residential real property that is the principal residence of a tenant subject to chapter 59.18 RCW or other building with four or fewer residential units that is the principal residence of a tenant subject to chapter 59.18 RCW.

~~((14))~~ (14) "Trustee" means the person designated as the trustee in the deed of trust or appointed under RCW 61.24.010(2).

~~((15))~~ (15) "Trustee's sale" means a nonjudicial sale under a deed of trust undertaken pursuant to this chapter."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Benton moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5590.

Senator Benton spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5590.

The motion by Senator Benton carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5590 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5590, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5590, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Excused: Senators Hewitt, Parlette and Zarelli

SUBSTITUTE SENATE BILL NO. 5590, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:49 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:12 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through April 19, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through August 9, 2011 by voice vote.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175, by House Committee on Transportation (originally sponsored by Representatives Clibborn, Armstrong, Liias and Billig)

Making 2011-13 transportation appropriations. Revised for 1st Substitute: Making transportation appropriations for the 2009-2011 and 2011-2013 fiscal biennia.

The measure was read the second time.

MOTION

Senator Haugen moved that the following striking amendment by Senator Haugen and others be adopted:

Strike everything after the enacting clause and insert the following:

**"2011-2013 FISCAL BIENNIUM**

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be

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necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2013.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2012" or "FY 2012" means the fiscal year ending June 30, 2012.

(b) "Fiscal year 2013" or "FY 2013" means the fiscal year ending June 30, 2013.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose that is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

**2011-2013 FISCAL BIENNIUM**

**GENERAL GOVERNMENT AGENCIES--OPERATING  
NEW SECTION. Sec. 101. FOR THE DEPARTMENT  
OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

Motor Vehicle Account--State Appropriation \$430,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

**NEW SECTION. Sec. 102. FOR THE UTILITIES AND  
TRANSPORTATION COMMISSION**

Grade Crossing Protective Account--State

Appropriation.....\$504,000

**NEW SECTION. Sec. 103. FOR THE OFFICE OF  
FINANCIAL MANAGEMENT**

Motor Vehicle Account--State Appropriation .....\$2,216,000

Puget Sound Ferry Operations Account--State

Appropriation.....\$4,624,000

TOTAL APPROPRIATION .....\$6,840,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The office of financial management, in consultation with the transportation committees of the legislature, shall conduct a budget evaluation study for the new traffic management center proposed by the department of transportation. The study must consider data resulting from the plan identified in section 604 of this act. The budget evaluation study team approach using value engineering techniques must be utilized by the office of financial management in conducting the study. The office of financial management shall select the budget evaluation study team members, contract for the study, and report the results to the transportation committees of the legislature and the department of transportation in a timely manner following the study. Options reviewed must include use of existing facilities, including the Wheeler building data center in Olympia. Funds allocated for the new traffic management center must be used by the office of financial management through an interagency

agreement with the department of transportation to cover the cost of the study.

(2) \$4,480,000 of the Puget Sound ferry operations account--state appropriation is provided solely for marine insurance. The appropriation is intended to fully fund a two-year policy, and the office of financial management shall increase the deductible to \$10,000,000 and reduce components of the policy in order to keep the total cost of the two-year policy at or below the appropriation in this subsection.

(3) The office of financial management shall review the department of transportation's predesign requirements for Washington state ferry vessel and terminal projects and modify the requirements such that the requirements continue to meet legal mandates without placing an undue burden on the department.

(4) The office of financial management shall provide to the transportation committees of the legislature, on a quarterly basis, a listing of all demands to bargain with respect to ferry labor relations and the issue that gave rise to the demand to bargain.

(5) \$840,000 of the motor vehicle account--state appropriation is provided out of funds set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3) solely for the office of financial management to contract with the Washington state association of counties to identify, evaluate, and implement performance measures associated with county transportation activities. The performance measures must include, at a minimum, those related to safety, system preservation, mobility, environmental protection, and project completion. A report on the county transportation performance implementation project must be provided to the transportation committees of the legislature by December 31, 2012.

(6) \$169,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(7) \$40,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the state's share of the marine salary survey.

(8) The office of financial management shall study the available data regarding statewide transit, bicycle, and pedestrian trips and recommend additional performance measures that will effectively measure the state's performance in increasing transit ridership and bicycle and pedestrian trips. The office of financial management shall report its findings and recommendations to the transportation committees of the legislature by November 15, 2011, and integrate the new performance measures into the report prepared by the office of financial management pursuant to RCW 47.04.280 regarding progress towards achieving Washington state's transportation system policy goals.

**NEW SECTION. Sec. 104. FOR THE STATE PARKS  
AND RECREATION COMMISSION**

Motor Vehicle Account--State Appropriation .....\$986,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

**NEW SECTION. Sec. 105. FOR THE DEPARTMENT  
OF AGRICULTURE**

Motor Vehicle Account--State Appropriation .....\$1,210,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) \$686,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

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**NEW SECTION. Sec. 106. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

Motor Vehicle Account--State Appropriation .....\$513,000

**TRANSPORTATION AGENCIES—OPERATING**

**NEW SECTION. Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account--State Appropriation.....\$3,003,000  
Highway Safety Account--Federal Appropriation.....\$42,625,000  
Highway Safety Account--Local Appropriation .....\$50,000  
School Zone Safety Account--State Appropriation.....\$3,340,000  
TOTAL APPROPRIATION .....\$49,018,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,673,900 of the highway safety account--federal appropriation is provided solely for the conclusion of the target zero trooper pilot program, which the commission has developed and implemented in collaboration with the Washington state patrol. The pilot program must continue to demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall continue to apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program.

(2) The commission may oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population over one hundred ninety-five thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction.

(a) The commission shall comply with RCW 46.63.170 in administering the pilot projects.

(b) In order to ensure adequate time in the 2011-2013 fiscal biennium to evaluate the effectiveness of the pilot projects, any projects authorized by the commission must be authorized by December 31, 2011.

(c) By January 1, 2013, the commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding automated traffic safety cameras demonstrated by the pilot projects.

(3) \$460,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 (addressing DUI accountability). If chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(4) The commission shall conduct a review of the literature on potential safety benefits realized from drivers using their headlights and windshield wipers simultaneously and shall report to the transportation committees of the legislature by December 1, 2011.

(5) \$22,000,000 of the highway safety account--federal appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2011-2013 fiscal biennium.

**NEW SECTION. Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation.....\$948,000  
Motor Vehicle Account--State Appropriation .....\$2,161,000  
County Arterial Preservation Account--State  
Appropriation.....\$1,480,000  
TOTAL APPROPRIATION .....\$4,589,000

The appropriations in this section are subject to the following conditions and limitations: The county road administration board

shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**NEW SECTION. Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Transportation Improvement Account--State  
Appropriation.....\$3,707,000

The appropriation in this section is subject to the following conditions and limitations: The transportation improvement board shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**NEW SECTION. Sec. 204. FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account--State Appropriation .....\$2,060,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$200,000 of the motor vehicle account--state appropriation is for a study of Washington state ferries fares that recommends the most appropriate fare media for use with the reservation system and the implementation of demand management pricing and interoperability with other payment methods. The study must include direct collaboration with transportation commission members.

(2) \$150,000 of the motor vehicle account--state appropriation is for a study of the management organization structure at the Washington state ferries. The study results must make recommendations on changes to the organizational structure that will result in more efficient operations and a more balanced management organization structure scaled to the workforce.

(3) \$200,000 of the motor vehicle account--state appropriation is from the cities statewide fuel tax distributions under RCW 46.68.110(2) for the joint transportation committee to study and make recommendations on RCW 90.03.525. The study must include: (a) An inventory of state highways subject to the federal clean water act (40 C.F.R. Parts 122 through 124) (national pollutant discharge elimination system) that are within city boundaries; (b) a survey of cities that impose storm water fees or charges to the department of transportation, or otherwise manage storm water runoff from state highways within their jurisdiction; (c) case studies from a representative cross-section of cities on how the department and cities have used RCW 90.03.525; and (d) recommendations on how to achieve efficiencies in the cost and management of state highway storm water runoff within cities under RCW 90.03.525.

(4) \$425,000 of the motor vehicle account--state appropriation is for the joint transportation committee to conduct a study to evaluate the potential for financing state transportation projects using public- private partnerships. The study must compare the costs, advantages, and disadvantages of various forms of public-private partnerships with conventional financing. Projects to be evaluated include Interstate 405, state route number 509, state route number 167, the Columbia River crossing, and the Monroe bypass. At a minimum, the study must identify the public interest

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in the financing and construction of transportation projects, the public interest in the operation of transportation projects, and the provisions in public-private partnership agreements that best protect the public interest. To the extent possible, the study must identify the lowest-cost and best-value model for each project that best protects the public interest. In addition, the study must evaluate whether public-private partnerships serve the defined public interest including, but not limited to, the advantage and disadvantage of risk allocation, the effects of private versus public financing on the state's bonding capacity, the state's ability to retain public ownership of the asset, the process that would allow for the most transparency during the negotiation of terms of a public-private partnership agreement, and the state's ability to oversee the private entity's management of the asset. The study must identify any barriers to the implementation of funding models that best protect the public interest, including statutory and constitutional barriers. The committee shall issue a report of its evaluation to the house of representatives and senate transportation committees by December 16, 2011.

(5) \$100,000 of the motor vehicle account--state appropriation is for an investigation of the use of liquid natural gas on existing Washington state ferry vessels as well as the 144-car class vessels and report to the legislature by December 31, 2011.

**NEW SECTION. Sec. 205. FOR THE TRANSPORTATION COMMISSION**

|  |                    |
|--|--------------------|
| Motor Vehicle Account--State Appropriation .....       | \$2,142,000        |
| Multimodal Transportation Account--State Appropriation | \$112,000          |
| <b>TOTAL APPROPRIATION .....</b>                       | <b>\$2,254,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Consistent with RCW 43.135.055, 47.60.290, and 47.60.315, during the 2011-2013 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of fares for the Washington state ferry system only in amounts not greater than those sufficient to generate the amount of revenue required by the biennial transportation budget. When adjusting ferry fares, the commission must consider input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the current ferry user survey.

(2) Consistent with RCW 43.135.055 and 47.46.100, during the 2011-2013 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of toll charges applicable to the Tacoma Narrows bridge only in amounts not greater than those sufficient to support (a) any required costs for operating and maintaining the toll bridge, including the cost of insurance, (b) any amount required by law to meet the redemption of bonds and applicable interest payments, and (c) repayment of the motor vehicle fund.

(3) The total appropriation provided in this section includes funding to conduct a survey to gather data on users of the statewide transportation system, including the state ferry system, as required under chapter ... (Substitute Senate Bill No. 5128), Laws of 2011 (statewide transportation planning). However, if chapter ... (Substitute Senate Bill No. 5128), Laws of 2011 is not enacted by June 30, 2011, \$169,000 of the motor vehicle account--state appropriation lapses.

(4) Consistent with its authority in RCW 47.56.840, the transportation commission shall consider the need for a citizen advisory group that provides oversight on new tolled facilities.

**NEW SECTION. Sec. 206. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

|  |           |
|--|-----------|
| Motor Vehicle Account--State Appropriation ..... | \$702,000 |
|--|-----------|

The appropriation in this section is subject to the following conditions and limitations: The freight mobility strategic

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investment board shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**NEW SECTION. Sec. 207. FOR THE WASHINGTON STATE PATROL**

|   |                      |
|---|----------------------|
| Vehicle Licensing Fraud Account--State Appropriation .. | \$100,000            |
| State Patrol Highway Account--State                     |                      |
| Appropriation.....                                      | \$349,812,000        |
| State Patrol Highway Account--Federal                   |                      |
| Appropriation.....                                      | \$10,903,000         |
| State Patrol Highway Account--Private/Local             |                      |
| Appropriation.....                                      | \$3,369,000          |
| <b>TOTAL APPROPRIATION .....</b>                        | <b>\$364,184,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol must be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section is no longer part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The Washington state patrol shall continue to collaborate with the Washington traffic safety commission on the target zero trooper pilot program referenced in section 201(1) of this act.

(3) \$370,000 of the state patrol highway account--state appropriation is provided solely for costs associated with the pilot program described under section 216(5) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.

(4) \$12,655,000 of the total appropriation is provided solely for automobile fuel in the 2011-2013 fiscal biennium. The Washington state patrol shall analyze their fuel consumption and submit a report to the legislative transportation committees by December 31, 2011, on fuel conservation methods that could be used to minimize costs and ensure that the Washington state patrol is managing fuel consumption effectively.

(5) \$7,421,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

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(6) \$6,611,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(7) \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(8) \$1,200,000 of the total appropriation is provided solely for outfitting officers. The Washington state patrol shall prepare a cost-benefit analysis of the standard trooper uniform as compared to a battle dress uniform and uniforms used by other states and jurisdictions. The Washington state patrol shall report the results of the analysis to the transportation committees of the legislature by December 1, 2011.

(9) The Washington state patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(10) During the 2011-2013 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with Thurston county to transition the traffic accident investigations on Thurston county roads to Thurston county by July 1, 2013.

(11) \$100,000 of the vehicle licensing fraud account--state appropriation is provided solely to support the transportation portion of the vehicle license fraud program during the 2011-2013 fiscal biennium.

**NEW SECTION. Sec. 208. FOR THE DEPARTMENT OF LICENSING**

|  |                      |
|--|----------------------|
| Marine Fuel Tax Refund Account--State Appropriation..... | \$32,000             |
| Motorcycle Safety Education Account--State               |                      |
| Appropriation.....                                       | \$4,411,000          |
| Wildlife Account--State Appropriation .....              | \$859,000            |
| Highway Safety Account--State Appropriation.....         | \$149,904,000        |
| Highway Safety Account--Federal Appropriation.....       | \$2,884,000          |
| Motor Vehicle Account--State Appropriation .....         | \$78,586,000         |
| Motor Vehicle Account--Private/Local Appropriation..     | \$1,721,000          |
| Motor Vehicle Account--Federal Appropriation.....        | \$242,000            |
| Department of Licensing Services Account--State          |                      |
| Appropriation.....                                       | \$5,815,000          |
| Ignition Interlock Device Revolving Account--State       |                      |
| Appropriation.....                                       | \$1,315,000          |
| <b>TOTAL APPROPRIATION .....</b>                         | <b>\$245,769,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$62,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 (electric vehicle fee). If chapter ... (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(2) \$231,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter ... (Substitute Senate Bill No. 5800), Laws of 2011 (off-road motorcycles). If chapter ... (Substitute Senate Bill No. 5800), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(3) \$193,000 of the department of licensing services account--state appropriation is provided solely for a phased implementation of chapter ... (Substitute House Bill No. 1046), Laws of 2011 (vehicle and vessel quick titles). Funding is contingent upon revenues associated with the vehicle and vessel quick title program paying all direct and indirect expenditures

associated with the department's implementation of this subsection. If chapter ... (Substitute House Bill No. 1046), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(4) The department may seek federal funds to implement a driver's license and identicard biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards if applicants are provided the opportunity to opt out of participating in the program, which meets the requirement of RCW 46.20.037 that such a program be voluntary. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(5) \$1,938,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2011-2013 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(6) By December 31, 2011, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites the tow truck statutes (chapter 46.55 RCW) in plain language and is revenue and policy neutral.

(7) \$128,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute House Bill No. 1635), Laws of 2011 (driver's license exams). If chapter ... (Engrossed Substitute House Bill No. 1635), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(8) \$68,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 (driving under the influence). If chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(9) \$63,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Substitute House Bill No. 1237), Laws of 2011 (selective service system). If chapter ... (Substitute House Bill No. 1237), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(10) \$340,000 of the motor vehicle account--private/local appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute Senate Bill No. 5457), Laws of 2011 (congestion reduction charge). If chapter ... (Engrossed Substitute Senate Bill No. 5457), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(11) \$648,000 of the motor vehicle account--federal appropriation is provided solely for the implementation of chapter ... (House Bill No. 1229), Laws of 2011 (commercial drivers' licenses). If chapter ... (House Bill No. 1229), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(12) \$1,738,000 of the department of licensing services account-- state appropriation is provided solely for purchasing equipment for field licensing service offices and subagent offices.

**NEW SECTION. Sec. 209. FOR THE DEPARTMENT OF TRANSPORTATION-- TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

|   |              |
|---|--------------|
| High Occupancy Toll Lanes Operations Account--State |              |
| Appropriation.....                                  | \$1,295,000  |
| Motor Vehicle Account--State Appropriation .....    | \$550,000    |
| Tacoma Narrows Toll Bridge Account--State           |              |
| Appropriation.....                                  | \$23,429,000 |

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|  |                     |
|--|---------------------|
| State Route Number 520 Corridor Account--State |                     |
| Appropriation.....                             | \$27,295,000        |
| State Route Number 520 Civil Penalties         |                     |
| Account--State Appropriation.....              | \$4,622,000         |
| <b>TOTAL APPROPRIATION .....</b>               | <b>\$57,191,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of toll revenue by facility on all operating toll facilities and high occupancy toll lane systems, and an itemized depiction of the use of that revenue.

(2) \$4,622,000 of the state route number 520 civil penalties account--state appropriation and \$1,458,000 of the Tacoma Narrows toll bridge account--state appropriation are provided solely for expenditures related to the toll adjudication process. The department shall report quarterly on the civil penalty process to the office of financial management and the house of representatives and senate transportation committees beginning September 30, 2011. The reports must include a summary table for each toll facility that includes: The number of notices of civil penalty issued; the number of recipients who pay before the notice becomes a penalty; the number of recipients who request a hearing and the number who do not respond; workload costs related to hearings; the cost and effectiveness of debt collection activities; and revenues generated from notices of civil penalty.

(3) It is the intent of the legislature that transitioning to a statewide tolling operations center and preparing for all-electronic tolling on certain toll facilities will have no adverse revenue or expenditure impact on the Tacoma Narrows toll bridge account. Any increased costs related to this transition shall not be allocated to the Tacoma Narrows toll bridge account. All costs associated with the toll adjudication process are anticipated to be covered by revenue collected from the toll adjudication process.

(4) The department shall ensure that, at no cost to the Tacoma Narrows toll bridge account, new electronic tolling tag readers are installed on the Tacoma Narrows bridge as soon as practicable that are able to read existing and new electronic tolling tags.

(5) \$17,786,000 of the state route number 520 corridor account-- state appropriation is provided solely for nonvendor costs associated with tolling the state route number 520 bridge. Funds from the state route number 520 corridor account--state appropriation shall not be used to pay for items prohibited by Executive Order No. 1057, including subscriptions to technical publications, employee educational expenses, professional membership dues and fees, employee recognition and safety awards, meeting meals and light refreshments, commute trip reduction incentives, and employee travel.

**NEW SECTION. Sec. 210. FOR THE DEPARTMENT OF TRANSPORTATION-- INFORMATION TECHNOLOGY--PROGRAM C**

|   |                     |
|---|---------------------|
| Motor Vehicle Account--State Appropriation .....    | \$69,107,000        |
| Transportation Partnership Account--State           |                     |
| Appropriation.....                                  | \$1,460,000         |
| Multimodal Transportation Account--State            |                     |
| Appropriation.....                                  | \$363,000           |
| Transportation 2003 Account (Nickel Account)--State |                     |
| Appropriation.....                                  | \$1,460,000         |
| <b>TOTAL APPROPRIATION .....</b>                    | <b>\$72,390,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall consult with the office of financial management and the department of information services to: (a) Ensure that the department's current and future system development

is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) \$1,460,000 of the transportation partnership account--state appropriation and \$1,460,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for maintaining the department's project management reporting system.

(3) \$210,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(4) Beginning December 1, 2011, and on a quarterly basis thereafter, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the time, leave, and labor distribution system identified in section 601 of this act. The first report must include a detailed work plan for the development and integration of the system, including timelines and budget milestones. At a minimum, the ensuing reports must indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary. It is the intent of the legislature that the state auditor will provide advice based on the auditor's technical knowledge and expertise in the implementation and acquisition of the time, leave, and labor distribution system. It is further the intent of the legislature that if any portion of the system is leveraged in the future for the time, leave, and labor distribution of any other agencies, the motor vehicle account will be reimbursed proportionally for the development of the system since the funds from the motor vehicle account must be used exclusively for highway purposes in conformance with Article II, section 40 of the state Constitution. This must be accomplished through a loan arrangement with the current interest rate under the terms set by the office of the state treasurer at the time the system is deployed to additional agencies. If the motor vehicle account is not reimbursed for future use of the system, it is the intent of the legislature that reductions will be made to central service agency charges accordingly.

(5) \$502,000 of the motor vehicle account--state appropriation is provided solely to provide support for the transportation executive information system.

(6) If chapter ... (Substitute House Bill No. 1720), Laws of 2011 (department of enterprise services) is enacted, the department shall work with the department of enterprise services to:

(a) Make enhancements to the 511 traveler information system to provide a more timely and user friendly format; and

(b) Develop or purchase software that would allow public transportation users to enter in their start and end locations using a computer or mobile device to determine the public transportation options available to them.

**NEW SECTION. Sec. 211. FOR THE DEPARTMENT OF TRANSPORTATION-- FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING**

|  |              |
|--|--------------|
| Motor Vehicle Account--State Appropriation ..... | \$25,851,000 |
|--|--------------|

The appropriation in this section is subject to the following conditions and limitations:

(1) The department shall submit a predesign proposal for a new traffic management center to the office of financial management consistent with the process followed by nontransportation capital construction projects. The department shall not award a contract for construction of a new traffic management center until the predesign proposal has been submitted and the office of financial management has completed a budget evaluation study that indicates

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a new building is the recommended option for accommodating additional traffic management operations.

(2) \$850,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

**NEW SECTION. Sec. 212. FOR THE DEPARTMENT OF TRANSPORTATION-- AVIATION--PROGRAM F**

|  |             |
|--|-------------|
| Aeronautics Account--State Appropriation .....   | \$6,066,000 |
| Aeronautics Account--Federal Appropriation ..... | \$2,150,000 |
| TOTAL APPROPRIATION .....                        | \$8,216,000 |

The appropriations in this section are subject to the following conditions and limitations: \$200,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

**NEW SECTION. Sec. 213. FOR THE DEPARTMENT OF TRANSPORTATION-- PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H**

|  |              |
|--|--------------|
| Motor Vehicle Account--State Appropriation .....             | \$47,418,000 |
| Motor Vehicle Account--Federal Appropriation .....           | \$500,000    |
| Multimodal Transportation Account--State Appropriation ..... | \$250,000    |
| TOTAL APPROPRIATION .....                                    | \$48,168,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system. The department shall also provide updated information on six project milestones for projects funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis.

(2) \$3,754,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(3) It is the intent of the legislature that the real estate services division of the department will recover the cost of its efforts from future sale proceeds.

(4) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2011, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

**NEW SECTION. Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION-- ECONOMIC PARTNERSHIPS--PROGRAM K**

|  |           |
|--|-----------|
| Motor Vehicle Account--State Appropriation .....       | \$622,000 |
| Multimodal Transportation Account--State Appropriation | \$110,000 |
| TOTAL APPROPRIATION .....                              | \$732,000 |

The appropriations in this section are subject to the following conditions and limitations: The department shall conduct a study on the potential to generate revenue from off-premise outdoor advertising signs that are erected or maintained adjacent and visible to the interstate system highways, primary system highways, or scenic system highways. The study must provide an evaluation of the market for outdoor advertising signs, including an evaluation of the number of potential advertisers and the amount charged by other jurisdictions for sign permits, and must provide a recommendation for a revised fee structure that recognizes the market value for off-premise signs and considers charging differential fees based on the size, type, and location of the sign.

**NEW SECTION. Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION-- HIGHWAY MAINTENANCE--PROGRAM M**

|  |               |
|--|---------------|
| Motor Vehicle Account--State Appropriation .....   | \$380,327,000 |
| Motor Vehicle Account--Federal Appropriation ..... | \$7,000,000   |
| TOTAL APPROPRIATION .....                          | \$387,327,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state appropriation into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(2) \$7,000,000 of the motor vehicle account--state appropriation is provided solely for third-party damages to the highway system where the responsible party is known and reimbursement is anticipated. The department shall request additional appropriation authority for any funds received for reimbursements of third-party damages that are in excess of this appropriation.

(3) \$7,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2011-2013 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(4) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(5) \$4,530,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(6) The department shall continue to report maintenance accountability process (MAP) targets and achievements on an annual basis. The department shall use available funding to target and deliver a minimum MAP grade of C for the activity of roadway striping.

(7) \$6,884,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service. If chapter . . . (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 (electric vehicle fee) is not enacted by June 30, 2011, \$500,000 of the appropriation provided in this subsection lapses.

(8) \$317,000 of the motor vehicle account--state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and state route number 520. The department shall track the costs associated with these systems on a corridor basis and report to the transportation committees of the legislature on the costs and benefits of the systems by December 1, 2011.

**NEW SECTION. Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION-- TRAFFIC OPERATIONS--PROGRAM Q--OPERATING**

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|   |                     |
|---|---------------------|
| Motor Vehicle Account--State Appropriation .....        | \$50,166,000        |
| Motor Vehicle Account--Federal Appropriation .....      | \$2,050,000         |
| Motor Vehicle Account--Private/Local Appropriation..... | \$127,000           |
| <b>TOTAL APPROPRIATION .....</b>                        | <b>\$52,343,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,000,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) \$145,000 of the motor vehicle account--state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks.

(3) During the 2011-2013 fiscal biennium, the department shall implement a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle:

(a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. By June 30, 2013, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure. If chapter ... (Substitute Senate Bill No. 5836), Laws of 2011 is enacted by June 30, 2011, this subsection is null and void.

(4) \$9,000,000 of the motor vehicle account--state appropriation is provided solely for the department's incident response program.

(5) The department, in consultation with the Washington state patrol, must continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. The department must report to the joint transportation committee by January 1, 2012, and January 1, 2013, on the status of this pilot program. For the purpose of this pilot program, during the 2011-2013 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors may be present or where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing construction. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2011-2013 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued under this subsection (5) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(6) The department shall track the costs associated with active traffic management systems on a corridor basis and report to the transportation committees of the legislature on the cost and benefits of the systems by December 1, 2011.

**NEW SECTION. Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION-- TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S**

|   |                     |
|---|---------------------|
| Motor Vehicle Account--State Appropriation .....            | \$28,430,000        |
| Motor Vehicle Account--Federal Appropriation .....          | \$30,000            |
| Multimodal Transportation Account--State Appropriation..... | \$973,000           |
| <b>TOTAL APPROPRIATION .....</b>                            | <b>\$29,433,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The department shall utilize existing resources and customer service staff to develop and implement new policies and procedures to ensure compliance with new federal passenger vessel Americans with disabilities act requirements.

**NEW SECTION. Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION-- TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T**

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|   |              |
|---|--------------|
| Motor Vehicle Account--State Appropriation .....                        | \$23,394,000 |
| Motor Vehicle Account--Federal Appropriation .....                      | \$21,885,000 |
| Multimodal Transportation Account--State<br>Appropriation .....         | \$662,000    |
| Multimodal Transportation Account--Federal<br>Appropriation .....       | \$3,559,000  |
| Multimodal Transportation Account--Private/Local<br>Appropriation ..... | \$100,000    |
| TOTAL APPROPRIATION .....   | \$49,600,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$70,000 of the motor vehicle account--state appropriation is a reappropriation provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route number 167 to determine whether improvements are needed and the costs of any needed improvements.

(2) \$200,000 of the motor vehicle account--state appropriation is provided solely for extending the freight database pilot project that began in 2009. Global positioning system (GPS) data is intended to help guide freight investment decisions and track highway project effectiveness as it relates to freight traffic.

(3) Within available resources, the department must collaborate with the affected metropolitan planning organizations, regional transportation planning organizations, transit agencies, and private transportation providers to develop a plan to reduce vehicle demand, increase public transportation options, and reduce vehicle miles traveled on corridors affected by growth at Joint Base Lewis-McChord.

(4) As part of their ongoing regional transportation planning, the regional transportation planning organizations across the state shall work together to provide a comprehensive framework for sources and uses of next-stage investments in transportation needed to improve structural conditions and ongoing operations and lay the groundwork for the transportation systems to support the long-term economic vitality of the state. This planning must include all forms of transportation to reflect the state's interests, including: Highways, streets, and roads; ferries; public transportation; systems for freight; and walking and biking systems. The department shall support this planning by providing information on potential state transportation uses and an analysis of potential sources of revenue to implement investments. In carrying out this planning, regional transportation planning organizations must be broadly inclusive of business, civic, labor, governmental, and environmental interests in regional communities across the state.

**NEW SECTION. Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION-- CHARGES FROM OTHER AGENCIES--PROGRAM U**

|   |              |
|---|--------------|
| Motor Vehicle Account--State Appropriation .....                | \$85,209,000 |
| Motor Vehicle Account--Federal Appropriation .....              | \$400,000    |
| Multimodal Transportation Account--State<br>Appropriation ..... | \$3,320,000  |
| TOTAL APPROPRIATION .....                                       | \$88,929,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES .....

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR.....

(c) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL ADMINISTRATION .....

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL .....

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION .....

(f) FOR ARCHIVES AND RECORDS MANAGEMENT .....

(g) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES .....

(h) FOR USE OF FINANCIAL AND REPORTING SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT .....

(i) FOR POLICY AND SYSTEM ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES.....

(j) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE.....

(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION .....

NEW SECTION. Sec. 220. FOR THE DEPARTMENT

**OF TRANSPORTATION-- PUBLIC TRANSPORTATION--PROGRAM V**

|  |               |
|--|---------------|
| State Vehicle Parking Account--State Appropriation.....                | \$452,000     |
| Regional Mobility Grant Program Account--State<br>Appropriation.....   | \$48,942,000  |
| Multimodal Transportation Account--State<br>Appropriation.....         | \$41,706,000  |
| Multimodal Transportation Account--Federal<br>Appropriation.....       | \$2,582,000   |
| Multimodal Transportation Account--Private/Local<br>Appropriation..... | \$1,027,000   |
| Rural Mobility Grant Program Account--State<br>Appropriation.....      | \$17,000,000  |
| TOTAL APPROPRIATION .....  | \$111,709,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2009 as reported in the "Summary of Public Transportation - 2009" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

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(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the rural mobility grant program account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2009" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs. If the funding provided in this subsection (2)(a) exceeds the amount required for recipient counties to reach eighty percent of the average per capita sales tax, funds in excess of that amount may be used for the competitive grant process established in (b) of this subsection.

(b) \$8,500,000 of the rural mobility grant program account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3)(a) \$6,000,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds.

(b) At least \$1,600,000 of the amount provided in this subsection must be used for vanpool grants in congested corridors.

(c) \$520,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving soldiers and civilian employees at Joint Base Lewis-McChord.

(4) \$8,942,000 of the regional mobility grant program account--state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2007-B, as developed April 20, 2007, or LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in: LEAP Transportation Document 2007-B, as developed April 20, 2007; LEAP Transportation Document 2009-B, as developed April 24, 2009; or LEAP Transportation Document 2011-B, as developed April 19, 2011. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule and that all funds in the regional mobility grant program be used as soon as practicable to advance eligible projects.

(5)(a) \$40,000,000 of the regional mobility grant program account-- state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2011-B, as developed April 19, 2011. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in

LEAP Transportation Document 2011-B, as developed April 19, 2011. The department shall provide annual status reports on December 15, 2011, and December 15, 2012, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(b) In order to be eligible to receive a grant under (a) of this subsection during the 2011-2013 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

(6) \$2,309,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(7) \$200,000 of the multimodal transportation account--state appropriation is contingent on the timely development of an annual report summarizing the status of public transportation systems as identified under RCW 35.58.2796.

(8) Funds provided for the commute trip reduction program may also be used for the growth and transportation efficiency center program.

(9) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2011-2013 fiscal biennium.

**NEW SECTION. Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION-- MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State  
Appropriation.....\$467,773,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-2013 supplemental and 2013-2015 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

(2) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(3) The legislature finds that measuring the performance of the Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and the office of financial management on the development of these measurements along with recommendations to the 2012 legislature on which measurements must become a part of the next omnibus transportation

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appropriations act. If chapter ... (Substitute House Bill No. 1516), Laws of 2011 (state ferry system management) is enacted, the report under this subsection is not required.

(4) The department shall continue to identify and implement process changes that will improve on-time performance on a route-by-route basis. These changes must include considering the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the legislature by December 1, 2011.

(5) Until a reservation system is operational on the San Juan islands inner-island route, the department shall provide the same priority loading benefits on the San Juan islands inner-island route to home health care workers as are currently provided to patients traveling for purposes of receiving medical treatment.

(6) The department shall request from the United States coast guard variable minimum staffing levels on all of its vessels by December 31, 2011.

(7) The department shall provide fiscal year reports to the transportation committees of the legislature outlining wages and benefits provided to employees.

(8) The department shall provide support to the legislative evaluation and accountability program committee's work of upgrading the transportation executive information system to include more detailed information for ferry projects.

(9) Appropriations used for labor costs may be used only for obligations under applicable collective bargaining agreements, civil service laws, court orders, and judgments.

(10) The department shall continue to provide service to Sidney, British Columbia and shall explore the option of purchasing a foreign built vehicle and passenger ferry vessel either with safety of life at sea (SOLAS) certification or the ability to be retrofitted for SOLAS certification to operate solely on the Anacortes to Sidney, British Columbia route currently served by vessels of the Washington state ferries fleet. The vessel should have the capability of carrying at least one hundred standard vehicles and approximately four hundred to five hundred passengers. Further, the department shall explore the possibilities of contracting a commercial company to operate the vessel exclusively on this route so long as the contractor's employees assigned to the vessel are represented by the same employee organizations as the Washington state ferries. The department shall report back to the transportation committees of the legislature regarding: The availability of a vessel; the cost of the vessel, including transport to the Puget Sound region; and the need for any statutory changes for the operation of the Sydney, British Columbia service by a private company.

(11) For the 2011-2013 fiscal biennium, the department of transportation may enter into a distributor controlled fuel hedging program.

(12) The department shall target service reductions totaling \$4,000,000, such that the shortening of shoulder seasons and eliminations of off-peak runs on all routes are considered. Prior to implementing the reductions, the department shall consult with ferry employees and ferry advisory committees to determine which reductions would impact the fewest number of riders. The reductions must be identified and implementation must begin no later than the fall 2011 schedule.

(13) \$135,248,000 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2011-2013 fiscal biennium.

(14) \$150,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the department to increase recreation and tourist ridership by entering into agreements for marketing and outreach strategies with local economic development agencies. The department shall identify the number

of tourist and recreation riders on the applicable ferry routes both before and after implementation of marketing and outreach strategies developed through the agreements. The department shall report results of the marketing and outreach strategies to the transportation committees of the legislature by October 15, 2012.

(15) The Washington state ferries shall participate in the facilities plan included in section 604 of this act and shall include an investigation and identification of less costly relocation options for the Seattle headquarters office. The department shall include relocation options for the Washington state ferries Seattle headquarters office in the facilities plan. Until September 1, 2012, the department may not enter into a lease renewal for the Seattle headquarters office.

(16) The department, office of financial management, and transportation committees of the legislature shall make recommendations regarding an appropriate budget structure for the Washington state ferries. The recommendation may include a potential restructuring of the Washington state ferries budget. The recommendation must facilitate transparency in reporting and budgeting as well as provide the opportunity to link revenue sources with expenditures. Findings and recommendations must be reported to the office of financial management and the joint transportation committee by September 1, 2011.

(17) Two Kwa-di-tabil class ferry vessels must be placed on the Port Townsend/Coupeville (Keystone) route to provide service at the same levels provided when the steel electric vessels were in service. After the vessels as funded under section 308(7) of this act are in service, the two most appropriate of these vessels for the Port Townsend/Coupeville (Keystone) route must be placed on the route. \$100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the additional staffing required to maintain a reservation system at this route when the second vessel is in service.

(18) The department shall link all vessel asset condition reports with its vessel life-cycle cost model in such a way that it will lend itself to integration with a vessel asset management system. Each quarter the department shall complete the activity of linking the asset condition of one class of vessels to the life-cycle cost model, beginning with the jumbo mark II class, followed by the Issaquah class, the jumbo mark I class, the super class, and finally the Kwa-di-tabil class. The department shall continue to regularly inspect life-cycle cost model assets and link the resulting asset condition reports with its vessel life-cycle cost model as the assessments are completed. The department shall provide the transportation committees of the legislature with progress reports of this activity as the work for each class of vessels has been completed. This activity must be completed with the results reported to the transportation committees of the legislature by June 1, 2012. The department's 2013-2015 budget request must be developed using the updated life-cycle cost model and must also provide a project scope for implementing a vessel asset management system.

(19) \$706,000 of the Puget Sound ferry operations account--state appropriation is provided solely for terminal operations to implement new federal passenger vessel Americans with disabilities act requirements.

(20) \$152,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

**NEW SECTION. Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION-- RAIL--PROGRAM Y--OPERATING**  
Multimodal Transportation Account--State  
Appropriation.....\$29,688,000

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Multimodal Transportation Account--Federal

|                                  |                     |
|----------------------------------|---------------------|
| Appropriation.....               | \$300,000           |
| <b>TOTAL APPROPRIATION .....</b> | <b>\$29,988,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$24,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining state-supported passenger rail service. The department is directed to continue to pursue efforts to reduce costs, increase ridership, and review fares or fare schedules. Within thirty days of each annual cost/revenue reconciliation under the Amtrak service contract, the department shall report annual credits to the office of financial management and the legislative transportation committees. Annual credits from Amtrak to the department including, but not limited to, credits for increased revenue due to higher ridership, and fare or fare schedule adjustments, must be used to offset corresponding amounts of the multimodal transportation account--state appropriation, which must be placed in reserve. Upon completion of the rail platform project in the city of Stanwood, the department shall continue to provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall plan for a third roundtrip Cascades train between Seattle and Vancouver, B.C.

(4) The department shall conduct a pilot program by partnering with the travel industry on the Amtrak Cascades service between Vancouver, British Columbia, and Seattle to test opportunities for increasing ridership, maximizing farebox recovery, and stimulating private investment. The pilot program must run from July 1, 2011, to June 30, 2012. The department shall report on the results of the pilot program to the office of financial management and the legislature by September 30, 2012.

**NEW SECTION. Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION-- LOCAL PROGRAMS--PROGRAM Z--OPERATING**

|   |                     |
|---|---------------------|
| Motor Vehicle Account--State Appropriation .....  | \$8,853,000         |
| Motor Vehicle Account--Federal Appropriation..... | \$2,567,000         |
| <b>TOTAL APPROPRIATION .....</b>                  | <b>\$11,420,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The department shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**TRANSPORTATION AGENCIES--CAPITAL**

**NEW SECTION. Sec. 301. FOR THE WASHINGTON STATE PATROL**

|  |             |
|--|-------------|
| State Patrol Highway Account--State Appropriation .... | \$6,487,000 |
|--|-------------|

The appropriation in this section is subject to the following conditions and limitations:

(1) \$653,000 of the state patrol highway account--state appropriation is provided solely for the following minor works projects: \$200,000 for emergency infrastructure repairs; \$75,000 for water and sewer upgrades; \$210,000 for emergency backup system replacement; \$85,000 for chiller replacement; and \$83,000 for roof replacements.

(2) \$3,226,000 of the state patrol highway account--state appropriation is provided solely for the Shelton academy of the

Washington state patrol for the new waste water treatment lines, waste water plants, water lines, and water systems. However, \$2,129,000 of this amount is contingent on the department of corrections receiving funding for its portion of the regional water project in the 2011-2013 omnibus capital appropriations act. If this funding is not provided by June 30, 2011, \$2,129,000 of the appropriation provided in this subsection lapses.

(3) \$421,000 of the state patrol highway account--state appropriation is provided solely for the reappropriation of the Shelton regional water project.

(4) \$2,187,000 of the total appropriation is provided solely for mobile office platforms.

(5) It is the intent of the legislature that the omnibus operating appropriations act provide funding for the portion of any applicable debt service payments, resulting from financial contracts identified under section 601 of this act, that are attributable to the general fund as identified in the Washington state patrol's cost allocation model.

**NEW SECTION. Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

|  |                     |
|--|---------------------|
| Motor Vehicle Account--State Appropriation .....       | \$874,000           |
| Rural Arterial Trust Account--State Appropriation..... | \$37,417,000        |
| County Arterial Preservation Account--State            |                     |
| Appropriation.....                                     | \$29,360,000        |
| <b>TOTAL APPROPRIATION .....</b>                       | <b>\$67,651,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$874,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) \$37,417,000 of the rural arterial trust account--state appropriation is provided solely for county road preservation grant projects as approved by the county road administration board. These funds may be used to assist counties recovering from federally declared emergencies by providing capitalization advances and local match for federal emergency funding, and may only be made using existing fund balances. It is the intent of the legislature that the rural arterial trust account be managed based on cash flow. The county road administration board shall specifically identify any of the selected projects and shall include information concerning the selected projects in its next annual report to the legislature.

**NEW SECTION. Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

|   |                      |
|---|----------------------|
| Small City Pavement and Sidewalk Account--State |                      |
| Appropriation.....                              | \$3,812,000          |
| Transportation Improvement Account--State       |                      |
| Appropriation.....                              | \$201,050,000        |
| <b>TOTAL APPROPRIATION .....</b>                | <b>\$204,862,000</b> |

The appropriations in this section are subject to the following conditions and limitations: The transportation improvement account--state appropriation includes up to \$22,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

**NEW SECTION. Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION-- PROGRAM D--(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL**

|  |             |
|--|-------------|
| Motor Vehicle Account--State Appropriation ..... | \$5,433,000 |
|--|-------------|

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,364,000 of the motor vehicle account--state appropriation is provided solely for the Olympic region site acquisition debt service payments and administrative costs associated with capital improvement and preservation project and financial management.

(2) \$3,669,000 of the motor vehicle account--state appropriation is provided solely for high priority safety projects that are directly

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linked to employee safety, environmental risk, or minor works that prevent facility deterioration.

(3) \$400,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

**NEW SECTION. Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION-- IMPROVEMENTS--PROGRAM I**

|   |                 |
|---|-----------------|
| Multimodal Transportation Account--State            |                 |
| Appropriation.....                                  | \$1,000         |
| Transportation Partnership Account--State           |                 |
| Appropriation.....                                  | \$1,991,547,000 |
| Motor Vehicle Account--State Appropriation .....    | \$86,139,000    |
| Motor Vehicle Account--Federal Appropriation .....  | \$450,691,000   |
| Motor Vehicle Account--Private/Local                |                 |
| Appropriation.....                                  | \$50,485,000    |
| Transportation 2003 Account (Nickel Account)--State |                 |
| Appropriation.....                                  | \$436,005,000   |
| State Route Number 520 Corridor Account--State      |                 |
| Appropriation.....                                  | \$1,019,460,000 |
| TOTAL APPROPRIATION .....                           | \$4,034,328,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2011-1 as developed April 19, 2011, Program - Highway Improvement Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects must be reported on a programmatic basis. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget. Report formatting and elements must be consistent with the October 2009 quarterly project report. The department shall also provide the information required under this subsection on a quarterly basis.

(3) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(4) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in programs I and P including, but not limited to, the state route number 518, state route number 520, Columbia river crossing, and Alaskan Way viaduct projects.

(5) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by October 1, 2011.

(6) Any redistributed federal funds received by the department must, to the greatest extent possible, be applied first to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(7) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(8) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

(9) \$361,000 of the transportation partnership account--state appropriation and \$1,245,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for project 0B14ENV, Environmental Mitigation Reserve - Nickel/TPA project, as indicated in the LEAP transportation document referenced in subsection (1) of this section. Funds may be used only for environmental mitigation work that is required by permits that were issued for projects funded by the transportation partnership account or transportation 2003 account (nickel account). As part of the 2012 budget submittal, the department shall provide a list of all projects and associated amounts that are being charged to project 0B14ENV during the 2011-2013 fiscal biennium.

(10) The transportation 2003 account (nickel account)--state appropriation includes up to \$361,005,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(11) The transportation partnership account--state appropriation includes up to \$1,427,696,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(12) The motor vehicle account--state appropriation includes up to \$66,373,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(13) The state route number 520 corridor account--state appropriation includes up to \$987,717,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

(14) \$391,000 of the motor vehicle account--state appropriation and \$4,027,000 of the motor vehicle account--federal appropriation are provided solely for the US 2 High Priority Safety project (100224I). Expenditure of these funds is for safety projects on state route number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) \$687,000 of the motor vehicle account--federal appropriation, \$16,308,000 of the motor vehicle account--private/local appropriation, and \$22,000 of the motor vehicle account--state appropriation are provided solely for the US 2/Bickford Avenue - Intersection Safety Improvements project (100210E).

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(16) \$435,000 of the motor vehicle account--state appropriation is provided solely for environmental work on the Belfair Bypass project (300344C).

(17) \$108,000 of the motor vehicle account--federal appropriation and \$3,000 of the motor vehicle account--state appropriation are provided solely for the I-5/Vicinity of Joint Base Lewis-McChord - Install Ramp Meters project (300596M).

(18) \$253,444,000 of the transportation partnership account--state appropriation and \$66,034,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the I- 5/Tacoma HOV Improvements (Nickel/TPA) project (300504A). Funds may not be used to renovate any buildings until a real estate procurement and management plan as outlined in section 604 of this act is complete.

(19)(a) \$8,321,000 of the transportation partnership account--state appropriation and \$31,380,000 of the motor vehicle account--federal appropriation are provided solely for the I-5/Columbia River Crossing project (400506A). Of this amount, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources. No funding from any account may be expended until written confirmation has been received by the department that the state of Oregon is providing an equal amount of additional funding to the project.

(b) Consistent with the draft environmental impact statement and the Columbia river crossing project's independent review panel report, the Columbia river crossing project's financial plan must include recognition of state transportation funding contributions from both Washington and Oregon, federal transportation funding, and a funding contribution from toll bond proceeds. Following the refinement of the finance plan as recommended by the independent review panel, the department may seek authorization from the legislature to collect tolls on the existing Columbia river crossing or on a replacement crossing over Interstate 5.

(20) \$107,000 of the motor vehicle account--federal appropriation and \$27,000 of the motor vehicle account--state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

(21) \$2,134,000 of the motor vehicle account--federal appropriation and \$47,000 of the motor vehicle account--state appropriation are provided solely for the US 12/Nine Mile Hill to Woodward Canyon Vic - Build New Highway project (501210T).

(22) \$294,000 of the motor vehicle account--federal appropriation and \$13,000 of the motor vehicle account--state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

(23) \$1,000,000 of the motor vehicle account--federal appropriation is provided solely for the SR 20/Race Road to Jacob's Road safety project (L2200042).

(24) \$24,002,000 of the transportation partnership account--state appropriation is provided solely for the SR 28/ US 2 and US 97 Eastmont Avenue Extension project (202800D).

(25) \$569,000 of the motor vehicle account--federal appropriation and \$9,000 of the motor vehicle account--state appropriation are provided solely for design and right-of-way work on the I-82/Red Mountain Vicinity project (508208M). The

department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American viticulture area of Benton county.

(26) \$1,500,000 of the motor vehicle account--federal appropriation is provided solely for the I-90 Comprehensive Tolling Study project (100067T).

(27) \$9,422,000 of the motor vehicle account--federal appropriation and \$193,000 of the motor vehicle account--state appropriation are provided solely for the I-90/Sullivan Road to Barker Road - Additional Lanes project (609049N).

(28) Up to \$8,000,000 in savings realized on the I-90/Snoqualmie Pass East - Hyak to Keechelus Dam - Corridor project (509009B) may be used for design work on the next two-mile segment of the corridor. Any additional savings on this project must remain on the corridor. \$590,000 of the funds appropriated for this project may be used to purchase land currently owned by the state parks department. Project funds may not be used to build or improve buildings until the plan described in section 604 of this act is complete.

(29) \$932,000 of the motor vehicle account--federal appropriation is provided solely for the US 97A/North of Wenatchee - Wildlife Fence project (209790B).

(30) The department shall reconvene an expert review panel of no more than three members as described under RCW 47.01.400 for the purpose of updating the work that was previously completed by the panel on the Alaskan Way viaduct replacement project and to ensure that an appropriate and viable financial plan is created and regularly reviewed. The expert review panel must be selected cooperatively by the chairs of the senate and house of representatives transportation committees, the secretary of transportation, and the governor. The expert review panel must report findings and recommendations to the transportation committees of the legislature, the governor's Alaskan Way viaduct project oversight committee, and the transportation commission by October 2011, and annually thereafter until the project is operationally complete.

(31) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(32) Within the amounts provided in this section, \$20,000 of the motor vehicle account--state appropriation and \$980,000 of the motor vehicle account--federal appropriation are provided solely for the department to continue work on a comprehensive tolling study of the state route number 167 corridor (project 316718S). As funding allows, the department shall also continue work on a comprehensive tolling study of the state route number 509 corridor.

(33)(a) \$131,303,000 of the transportation partnership account--state appropriation, \$51,410,000 of the transportation 2003 account (nickel account)--state appropriation, and \$10,000,000 of the motor vehicle account--federal appropriation are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8BI1002). This project must be completed as soon as practicable

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as a design-build project and must be constructed with a footprint that would accommodate potential future express toll lanes.

(b) As part of the project, the department shall conduct a traffic and revenue analysis and complete a financial plan to provide additional information on the revenues, expenditures, and financing options available for active traffic management and congestion relief in the Interstate 405 and state route number 167 corridors. A report must be provided to the transportation committees of the legislature and the office of financial management by January 2012. However, this subsection (33)(b) is null and void if chapter . . . (Engrossed House Bill No. 1382), Laws of 2011 (I-405 express toll lanes) is enacted by June 30, 2011.

(34) Funding for a signal at state route number 507 and Yew Street is included in the appropriation for intersection and spot improvements (OBI2002).

(35) \$226,809,000 of the transportation partnership account--state appropriation and \$1,019,460,000 of the state route number 520 corridor account--state appropriation are provided solely for the state route number 520 bridge replacement and HOV program (8BI1003). When developing the financial plan for the program, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility, and not by the motor vehicle account.

(36) \$650,000 of the motor vehicle account--federal appropriation is provided solely for the SR 522 Improvements/61st Avenue NE and NE 181st Street project (L1000055).

(37) \$300,000 of the motor vehicle account--federal appropriation is provided solely for the SR 523 Corridor study (L1000059).

(38) The department shall consider using the city of Mukilteo's off-site mitigation program in the event any projects on state route number 525 or 526 require environmental mitigation.

(39) Any savings on projects on the state route number 532 corridor must be used within the corridor to begin work on flood prevention and raising portions of the highway above flood and storm influences.

**NEW SECTION. Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION-- PRESERVATION--PROGRAM P**

|   |               |
|---|---------------|
| Transportation Partnership Account--State               |               |
| Appropriation.....                                      | \$34,182,000  |
| Motor Vehicle Account--State Appropriation .....        | \$67,790,000  |
| Motor Vehicle Account--Federal Appropriation .....      | \$632,489,000 |
| Motor Vehicle Account--Private/Local Appropriation..... | \$19,253,000  |
| TOTAL APPROPRIATION .....                               | \$753,714,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2011-1 as developed April 19, 2011, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges must be reported on a programmatic basis. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the

office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis.

(3) The department of transportation shall continue to implement the lowest life-cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(4) Any redistributed federal funds received by the department must, to the greatest extent possible, be applied first to offset planned expenditures of state funds, and second, to offset planned expenditures of federal funds, on projects as identified in the LEAP transportation documents described in this act. If the redistributed federal funds cannot be used in this manner, the department must consult with the joint transportation committee prior to obligating any redistributed federal funds.

(5) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(6) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in programs I and P.

(7) The motor vehicle account--state appropriation includes up to \$17,652,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(8) The department must work with cities and counties to develop a comparison of direct and indirect labor costs, overhead rates, and other costs for high-cost bridge inspections charged by the state, counties, and other entities. The comparison is due to the transportation committees of the legislature on September 1, 2011.

(9) \$277,000 of the motor vehicle account--federal appropriation and \$10,000 of the motor vehicle account--state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

(10) \$9,641,000 of the motor vehicle account--federal appropriation, \$2,000,000 of the motor vehicle account--private/local appropriation, and \$361,000 of the motor vehicle account--state appropriation are provided solely for the SR 21/Keller Ferry - Replace Boat project (602110J).

(11) \$3,093,000 of the motor vehicle account--federal appropriation is provided solely for the I-90/Ritzville to Tokio - Paving of Outside Lanes project (609041G).

(12) \$2,733,000 of the motor vehicle account--federal appropriation and \$114,000 of the motor vehicle account--state appropriation are provided solely for the SR 167/Puyallup River Bridge Replacement project (316725A). This project must be completed as a design-build project. The department must work with local jurisdictions and the community during the environmental review process to develop appropriate esthetic design elements, at no additional cost to the department, and traffic management plans pertaining to this project. The department must report to the transportation committees of the legislature on estimated cost and/or time savings realized as a result of using the design-build process.

(13) \$295,000 of the motor vehicle account--federal appropriation and \$5,000 of the motor vehicle account--state appropriation are provided solely for the SR 906/Travelers Rest - Building Renovation project (090600A).

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**NEW SECTION. Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION-- TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

|  |                     |
|--|---------------------|
| Motor Vehicle Account--State Appropriation .....   | \$6,439,000         |
| Motor Vehicle Account--Federal Appropriation ..... | \$5,600,000         |
| <b>TOTAL APPROPRIATION .....</b>                   | <b>\$12,039,000</b> |

The appropriations in this section are subject to the following conditions and limitations: \$1,000,000 of the motor vehicle account-- state appropriation for project 000005Q is provided solely for state matching funds for federally selected competitive grants or congressional earmark projects. These moneys must be placed into reserve status until such time as federal funds are secured that require a state match.

**NEW SECTION. Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION-- WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

|  |                      |
|--|----------------------|
| Puget Sound Capital Construction Account--State Appropriation.....     | \$68,013,000         |
| Puget Sound Capital Construction Account--Federal Appropriation.....   | \$41,500,000         |
| Transportation 2003 Account (Nickel Account)--State Appropriation..... | \$118,027,000        |
| Transportation Partnership Account--State Appropriation.....           | \$12,536,000         |
| Multimodal Transportation Account--State Appropriation.....            | \$43,265,000         |
| <b>TOTAL APPROPRIATION .....</b>                                       | <b>\$283,341,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$68,013,000 of the Puget Sound capital construction account--state appropriation, \$41,500,000 of the Puget Sound capital construction account--federal appropriation, \$12,536,000 of the transportation partnership account--state appropriation, \$118,027,000 of the transportation 2003 account (nickel account)--state appropriation, and \$43,265,000 of the multimodal transportation account--state appropriation are provided solely for ferry projects, as listed in LEAP Transportation Document 2011-2 ALL PROJECTS as developed April 19, 2011, Program - Washington State Ferries Capital Program (W).

(2) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management.

(3) The multimodal transportation account--state appropriation includes up to \$43,265,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(4) The transportation 2003 account (nickel account)--state appropriation includes up to \$82,143,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(5) The Puget Sound capital construction account--state appropriation includes up to \$52,516,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(6) Appropriations used for labor costs may be used only for obligations under applicable collective bargaining agreements, civil service laws, court orders, and judgments.

(7) \$20,906,000 of the transportation 2003 account (nickel account)--state appropriation, \$9,711,000 of the multimodal transportation account--state appropriation, and \$1,537,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of new Kwa-di-tabil class ferry vessels subject to the conditions of RCW 47.56.780.

(8) \$33,404,000 of the multimodal transportation account--state appropriation, \$2,000,000 of the Puget Sound capital construction account--state appropriation, \$11,500,000 of the transportation

partnership account--state appropriation, and \$81,085,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the acquisition of two 144-car vessels contingent upon new and sufficient resources. Of these amounts, \$123,828,000 is provided solely for the first 144-car vessel. The department shall use as much already procured equipment as practicable on the 144-car vessel. The construction contract must require the vendor to present to the joint transportation committee and the office of financial management, within sixty days of signing the contract, a list of design options that will result in significant cost savings changes in terms of construction or the long-term maintenance and operations of the vessel. The contract must allow for exercising the options without a penalty. If neither chapter ... (Engrossed Substitute Senate Bill No. 5742), Laws of 2011 nor chapter ... (House Bill No. 2083), Laws of 2011 is enacted by June 30, 2011, \$75,000,000 of the transportation 2003 account (nickel account)--state appropriation in this subsection lapses.

(9) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2011-2013 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information system. The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

(10) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The review must include a comparison to the findings of the 2009 capital staffing levels report. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2012.

(11) \$3,932,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal (project 952515P). The department shall seek additional federal funding for this project. Prior to beginning terminal improvements, the department shall report to the legislature on the final environmental impact statement by December 31, 2012. The report must include an overview of the costs and benefits of each of the alternatives considered, as well as an identification of costs and a funding plan for the preferred alternative.

(12) The department shall conduct an analysis of the Eagle Harbor slips to determine the cost benefit of replacing or repairing existing structures with new structures including, but not limited to, dolphins and wingwalls. A report on this analysis is due to the legislature by December 31, 2011.

(13) The department shall review all terminal project cost estimates to identify projects where similar design requirements could result in reduced preliminary engineering or miscellaneous items costs. The department shall report to the legislature by September 1, 2011. The report must use programmatic design and include estimated cost savings by reducing repetitive design costs or miscellaneous costs, or both, applied to projects.

(14) \$2,000,000 of the Puget Sound capital construction account-- state appropriation is provided solely for emergency capital repair costs. Funds may be spent only after approval from the office of financial management.

(15) \$7,167,000 of the Puget Sound capital construction account-- state appropriation is provided solely for the reservation and communications system project.

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**NEW SECTION. Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION-- RAIL--PROGRAM Y--CAPITAL**

|  |                      |
|--|----------------------|
| Essential Rail Assistance Account--State         |                      |
| Appropriation.....                               | \$1,000,000          |
| Transportation Infrastructure Account--State     |                      |
| Appropriation.....                               | \$5,838,000          |
| Multimodal Transportation Account--State         |                      |
| Appropriation.....                               | \$52,000,000         |
| Multimodal Transportation Account--Federal       |                      |
| Appropriation.....                               | \$366,314,000        |
| Multimodal Transportation Account--Private/Local |                      |
| Appropriation.....                               | \$1,292,000          |
| <b>TOTAL APPROPRIATION .....</b>                 | <b>\$426,444,000</b> |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2011-2 ALL PROJECTS as developed April 19, 2011, Program - Rail Capital Program (Y).

(b) Within the amounts provided in this section, \$2,903,000 of the transportation infrastructure account--state appropriation is for low- interest loans through the freight rail investment bank program for specific projects listed as recipients of these loans in the LEAP transportation document identified in (a) of this subsection. The department shall issue freight rail investment bank program loans with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c) Within the amounts provided in this section, \$1,754,000 of the multimodal transportation account--state appropriation and \$1,000,000 of the essential rail assistance account--state appropriation are for statewide emergent freight rail assistance projects identified in the LEAP transportation document identified in (a) of this subsection.

(2)(a) If any funds remain in the program reserves (F01001A & F01000A) for the program and projects listed in subsection (1)(b) and (c) of this section, the department shall issue a call for projects for the freight rail investment bank (FRIB) loan program and the emergent freight rail assistance program (FRAP) grants, and shall evaluate the applications according to the cost-benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. Unsuccessful FRAP grant applicants should be encouraged to apply to the FRIB loan program, if eligible. By November 1, 2011, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost-benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost-benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost-benefit methodology are, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to expend unallocated federal rail crossing funds in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds and the status of such applications.

(5) The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report formatting and elements must be consistent with the October 2009 quarterly project report.

(6) The multimodal transportation account--state appropriation includes up to \$19,684,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(7) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire additional grain train railcars.

(8) \$1,087,000 of the multimodal transportation account--state appropriation is provided solely as state matching funds for successful grant applications to either the federal rail line relocation and improvement program (project 798999D) or new federal high-speed rail grants.

(9) The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

(10) \$339,139,000 of the multimodal transportation account--federal appropriation and \$5,099,000 of the multimodal transportation account-- state appropriation are provided solely for expenditures related to passenger high-speed rail grants. At one and one-half percent of the total project funds, the multimodal transportation account--state funds are provided solely for expenditures that are not federally reimbursable. Funding in this subsection is the initial portion of multiyear high-speed rail program grants awarded to Washington state for high-speed intercity passenger rail investments. Funding will allow for two additional round trips between Seattle and Portland and other rail improvements.

(11) \$750,000 of the multimodal transportation account--state appropriation is provided solely for the Port of Royal Slope rehabilitation project (L1000053). Funding is contingent upon the project completing the rail cost-benefit methodology process developed during the 2008 interim using the legislative priorities outlined in subsection (2)(c) of this section.

**NEW SECTION. Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION-- LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

|   |                     |             |
|---|---------------------|-------------|
| Highway Infrastructure Account--State   | Appropriation ....  | \$207,000   |
| Highway Infrastructure Account--Federal |                     |             |
| Appropriation.....                      |                     | \$1,602,000 |
| Motor Vehicle Account--State            | Appropriation ..... | \$3,754,000 |

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|  |              |
|--|--------------|
| Motor Vehicle Account--Federal Appropriation.....                | \$31,856,000 |
| Freight Mobility Investment Account--State<br>Appropriation..... | \$11,278,000 |
| Transportation Partnership Account--State<br>Appropriation.....  | \$6,035,000  |
| Freight Mobility Multimodal Account--State<br>Appropriation..... | \$12,117,000 |
| Freight Mobility Multimodal Account--Local<br>Appropriation      | \$4,752,000  |
| Multimodal Transportation Account--State<br>Appropriation.....   | \$18,453,000 |
| Passenger Ferry Account--State Appropriation.....                | \$1,115,000  |
| TOTAL APPROPRIATION .....  | \$91,169,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Report formatting and elements must be consistent with the October 2009 quarterly project report. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system.

(2) \$1,115,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements and operating expenses that are consistent with the business plan approved by the governor for passenger ferry service.

(3) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z--capital.

(4) Federal funds may be transferred from program Z to programs I and P and state funds must be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations must initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2011, and December 1, 2012.

(5) The city of Winthrop may utilize a design-build process for the Winthrop bike path project.

(6) \$11,557,000 of the multimodal transportation account--state appropriation, \$12,136,000 of the motor vehicle account--federal appropriation, and \$5,195,000 of the transportation partnership account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in: LEAP Transportation Document 2011-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 19, 2011; LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009; LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007; and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least

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semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(7) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2011-2 ALL PROJECTS as developed April 19, 2011, Program - Local Program (Z).

(8) For the 2011-2013 project appropriations, unless otherwise provided in this act, the director of the office of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(9) With each department budget submittal, the department shall provide an update on the status of the repayment of the twenty million dollars of unobligated federal funds authority advanced by the department in September 2010 to the city of Tacoma for the Murray Morgan/11th Street bridge project.

(10) The department shall prepare a list of main street projects, consistent with chapter ... (Engrossed Substitute House Bill No. 1071), Laws of 2011, for approval in the 2013-2015 fiscal biennium. In order to ensure that any proposed list of projects is consistent with legislative intent, the department shall provide a report to the joint transportation committee by December 1, 2011. The report must identify the eligible segments of main streets highways, the department's proposed project selection and ranking method, criteria to be considered, and a plan for soliciting project proposals.

(11) \$267,000 of the motor vehicle account--state appropriation and \$2,859,000 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point (3LP187A). The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way.

(12) Up to \$3,650,000 of the motor vehicle account--federal appropriation and \$23,000 of the motor vehicle account--state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (1LP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state commitment to the cities for state route number 908 expenditures.

(13) \$225,000 of the multimodal transportation account--state appropriation is provided solely for the Shell Valley emergency road and bicycle/pedestrian path (L1000036).

(14) \$150,000 of the motor vehicle account--state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins (L1000041).

(15) \$896,000 of the multimodal transportation account--state appropriation is provided solely for realignment of Parker Road and construction of secondary access off of state route number 20 (L2200040).

(16) An additional \$2,500,000 of the motor vehicle account--federal appropriation is provided solely for the Strander Blvd/SW 27th St Connection project (1LP902F), which amount is

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reflected in the LEAP transportation document identified in subsection (7) of this section. These funds may only be committed if needed, may not be used to supplant any other committed project partnership funding, and must be the last funds expended.

(17) \$500,000 of the motor vehicle account--federal appropriation is provided solely for safety improvements at the intersection of South Wapato and McDonald Road (L1000052).

(18) \$2,000,000 of the multimodal transportation account--state appropriation is provided solely for the state route number 432 rail realignment and highway improvements project (L1000056).

(19) \$500,000 of the multimodal transportation account--state appropriation is provided solely for a multimodal corridor plan on state route number 520 between Interstate 405 and Avondale Road in Redmond (L1000054).

(20) \$100,000 of the motor vehicle account--federal appropriation is provided solely for state route number 164 and Auburn Way South pedestrian improvements (L1000057).

(21) \$115,000 of the motor vehicle account--federal appropriation is provided solely for median street lighting on state route number 410 (L1000058).

(22) \$60,000 of the multimodal transportation account--state appropriation is provided solely for a cross docking study for the port of Douglas county (L1000060).

(23) \$100,000 of the motor vehicle account--federal appropriation is provided solely for city of Auburn - 8th and R Street NE intersection improvements (L2200043).

(24) \$65,000 of the multimodal transportation account--state appropriation is provided solely for the Puget Sound regional council to further the implementation of multimodal concurrency practice through a transit service overlay zone implemented at the local level (L1000061). This approach will improve the linkage of land use and transportation investment decisions, improve the efficiency of transit service by encouraging transit-supportive development, provide incentives for developers, and support integrated regional growth, economic development, and transportation plans. In carrying out this work, the council shall involve representatives from cities and counties, developers, transit agencies, and other interested stakeholders, and shall consult with other regional transportation planning organizations across the state. The council shall report the results of their work and recommendations to the joint transportation committee by December 2011, with a final report to the transportation committees of the legislature by January 31, 2012.

**NEW SECTION. Sec. 311. FEDERAL FUNDS RECEIVED FOR CAPITAL PROJECT EXPENDITURES**

To the greatest extent practicable, the department of transportation shall expend federal funds received for capital project expenditures before state funds.

**TRANSFERS AND DISTRIBUTIONS**

**NEW SECTION. Sec. 401. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

|   |                    |
|---|--------------------|
| Highway Bond Retirement Account--State Appropriation                          | .....\$920,560,000 |
| Ferry Bond Retirement Account--State Appropriation                            | \$31,801,000       |
| State Route Number 520 Corridor Account--State Appropriation                  | .....\$1,075,000   |
| Transportation Improvement Board Bond Retirement Account--State Appropriation | .....\$16,544,000  |
| Nondebt-Limit Reimbursable Account Appropriation                              | \$25,200,000       |

|   |                      |
|---|----------------------|
| Transportation Partnership Account--State Appropriation           | .....\$3,142,000     |
| Motor Vehicle Account--State Appropriation                        | .....\$333,000       |
| Transportation 2003 Account (Nickel Account)--State Appropriation | .....\$1,140,000     |
| Transportation Improvement Account--State Appropriation           | \$29,000             |
| Multimodal Transportation Account--State Appropriation            | .....\$138,000       |
| Toll Facility Bond Retirement Account--State Appropriation        | .....\$33,792,000    |
| Toll Facility Bond Retirement Account--Federal Appropriation      | .....\$14,649,000    |
| TOTAL APPROPRIATION   | .....\$1,048,403,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,610,000 of the highway bond retirement account--state appropriation is provided solely for debt service on bonds issued to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.

(2) \$165,000 of the transportation 2003 account (nickel account)-- state appropriation is provided solely for discounts on bonds sold to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.

**NEW SECTION. Sec. 402. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

|   |                |
|---|----------------|
| State Route Number 520 Corridor Account--State Appropriation      | .....\$68,000  |
| Transportation Partnership Account--State Appropriation           | .....\$608,000 |
| Motor Vehicle Account--State Appropriation                        | .....\$60,000  |
| Transportation 2003 Account (Nickel Account)--State Appropriation | .....\$219,000 |
| Transportation Improvement Account--State Appropriation           | \$5,000        |
| Multimodal Transportation Account--State Appropriation            | .....\$26,000  |
| TOTAL APPROPRIATION   | .....\$986,000 |

The appropriations in this section are subject to the following conditions and limitations: \$30,000 of the transportation 2003 account (nickel account)--state appropriation is provided solely for expenses associated with bonds sold to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.

**NEW SECTION. Sec. 403. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS**

|  |                   |
|--|-------------------|
| Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account | .....\$52,516,000 |
|--|-------------------|

The department of transportation is authorized to sell up to \$52,516,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries. Of

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the authorized amounts, \$14,500,000 is provided solely for expenditures made during the fiscal biennium ending June 30, 2011.

**NEW SECTION. Sec. 404. FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account--State Appropriation for motor vehicle fuel tax distributions to cities and counties.....\$478,155,000

**NEW SECTION. Sec. 405. FOR THE STATE TREASURER--TRANSFERS**

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and statutory transfers.....\$1,246,357,000

**NEW SECTION. Sec. 406. FOR THE DEPARTMENT OF LICENSING-- TRANSFERS**

Motor Vehicle Account--State Appropriation: For ..... motor vehicle fuel tax refunds and transfers .....\$127,984,000

**NEW SECTION. Sec. 407. FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS**

(1) Tacoma Narrows Toll Bridge Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$543,000

(2) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....\$46,500,000

(3) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$1,450,000

(4) License Plate Technology Account--State Appropriation: For transfer to the Highway Safety Account--State .....\$3,200,000

(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....\$43,000,000

(6) Highway Safety Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$23,000,000

(7) Department of Licensing Services Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$400,000

(8) Advanced Right-of-Way Revolving Fund: For transfer to the Motor Vehicle Account--State .....\$5,000,000

(9) State Route Number 520 Civil Penalties Account--State Appropriation: For transfer to the State Route Number 520 Corridor Account--State.....\$754,000

(10) Rural Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State.....\$3,000,000

(11) Motor Vehicle Account--State Appropriation: For transfer to the State Patrol Highway Account--State.....\$14,000,000

(12) State Route Number 520 Corridor Account--State Appropriation: For transfer to the Motor Vehicle Account--State, in an amount equal to funds dispersed during the 2009-2011 fiscal biennium authorized under section 805(7) of this act.

(13) Motor Vehicle Account--State Appropriation: For transfer to the Special Category C Account--State \$1,500,000

(14) Regional Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State.....\$1,000,000

(15) State Patrol Highway Account--State Appropriation: For transfer to the Vehicle Licensing Fraud Account.....\$100,000

(16) State Route Number 520 Corridor Account--State Appropriation: For transfer to the Motor Vehicle Account.....\$2,435,000

(17) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-2007 fiscal biennium.

(b) The transfer in subsection (9) of this section represents toll revenue collected from toll violations.

**NEW SECTION. Sec. 408. STATUTORY APPROPRIATIONS**

In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and firefighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

**NEW SECTION. Sec. 409.** The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

**COMPENSATION**

**NEW SECTION. Sec. 501. COLLECTIVE BARGAINING AGREEMENTS**

Provisions or terms and conditions of collective bargaining agreements contained in this act are described in general terms. The collective bargaining agreements or terms and conditions contained in this section and sections 502 through 505 of this act may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

**NEW SECTION. Sec. 502. COLLECTIVE BARGAINING AGREEMENTS--WSP TROOPERS ASSOCIATION**

No agreement has been reached between the governor and the Washington state patrol trooper's association under chapter 41.56 RCW for the 2011-2013 fiscal biennium. Appropriations for the Washington state patrol in this act are sufficient to fund the provisions of the 2009-2011 agreement.

**NEW SECTION. Sec. 503. COLLECTIVE BARGAINING AGREEMENTS--WSP LIEUTENANTS ASSOCIATION**

No agreement has been reached between the governor and the Washington state patrol lieutenant's association under chapter 41.56 RCW for the 2011-2013 fiscal biennium. Appropriations for the Washington state patrol in this act are sufficient to fund the provisions of the 2009-2011 agreement.

**NEW SECTION. Sec. 504. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS--IBU, METAL TRADES, OPEIU, MEBA-UL, MEBA-L, MM&P, FASSPA, SEIU LOCAL NO. 6**

(1) Agreements have been reached between the governor and the following unions effective July 1, 2011: Inlandboatmen's union of the pacific; Puget Sound metal trades council; office and professional employees international union local No. 8; marine

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engineers' beneficial association (unlicensed engine room employees); marine engineers' beneficial association (licensed engineer officers); masters, mates, and pilots; ferry agents, supervisors, and project administrators association and service employees international union local No. 6 under chapter 47.64 RCW for the 2011-2013 fiscal biennium.

(2) Funding is reduced to reflect a reduction to overtime calculation, travel pay for relief employees, and reduced vacation leave accruals.

(3) Except for office and professional employees international union local No. 8, funding is reduced to reflect a three percent temporary salary reduction for all employees for fiscal years 2012 and 2013 through June 29, 2013. Entry level rates for employees under the inlandboatmen's union of the pacific and service employees international union local No. 6 are not subject to the three percent temporary salary reduction.

(4) For employees covered under the office and professional employees international union local No. 8 agreement, funding is reduced to reflect a three percent temporary salary reduction for all employees whose monthly full-time equivalent salary is two thousand five hundred dollars or more per month for fiscal years 2012 and 2013 through June 29, 2013. Temporary salary reduction leave is granted for employees covered under the office and professional employees international union local No. 8 agreement for the term of the 2011-2013 agreement.

(5) Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 29, 2011, will be reinstated for all of the agreements.

(6) Appropriations in this act reflect funding to staff vessels according to United States coast guard certificates of inspection per the agreement noted in subsection (1) of this section.

(7) Appropriations in this act do not reflect funding to fund state employee health benefits for employees represented by the super coalition on health benefits or employees outside of the super coalition on health benefits. Acceptance of the super coalition on health benefits agreement will be contingent upon sufficient funding in the 2011-2013 omnibus operating appropriations act. Funding for health benefits for employees outside of the super coalition on health benefits will be in accordance with appropriations in the 2011-2013 omnibus operating appropriations act.

**NEW SECTION. Sec. 505. DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS--TERMS AND CONDITIONS**

No agreement has been reached between the governor and the masters, mates, and pilots marine operations watch supervisors under chapter 47.64 RCW for the 2011-2013 fiscal biennium. Appropriations in this act reflect funding to maintain the provisions or terms and conditions of the 2009-2011 agreements for fiscal year 2012. Fiscal year 2013 appropriations are reduced to reflect management priorities in collective bargaining.

**IMPLEMENTING PROVISIONS**

**NEW SECTION. Sec. 601. ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS**

(1) The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements,

or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

(2) State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for the acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

(a) Department of transportation: Enter into a financing contract for up to \$10,824,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the acquisition and implementation of a time, leave, and labor distribution system that is integrated with the state's accounting and human resource management systems.

(b) Department of licensing: Enter into a financing contract for up to \$7,414,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the purchase of a prorated and fuel tax system.

(c) Washington state patrol: (i) Enter into a financing contract for up to \$8,241,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase and install mobile office platforms in state patrol and pursuit vehicles.

(ii) Enter into a financing contract for up to \$40,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase equipment and engineering services to convert to a narrowband digital system.

**NEW SECTION. Sec. 602. MEGA-PROJECT REPORTING**

Mega-projects are defined as individual or groups of related projects that cost \$1,000,000,000 or more. These projects include, but are not limited to: Alaskan Way viaduct, SR 520, SR 167, I-405, North Spokane corridor, I-5 Tacoma HOV, I-90 Snoqualmie Pass, and the Columbia river crossing. The department of transportation shall track mega-projects and report the financial status and schedule of these projects at least once a year to the transportation committees of the legislature and the office of financial management. The design of mega-projects must be evaluated considering cost, capacity, safety, mobility needs, and how well the design of the facility fits within its urban environment.

**NEW SECTION. Sec. 603. FUND TRANSFERS**

(1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document 2011-1 as developed April 19, 2011, which consists of a list of specific projects by fund source and amount over a sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a sixteen-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. For the 2009-2011 and 2011-2013 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

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(b) Transfers from a project may not be made as a result of the reduction of the scope of a project or be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2012 supplemental transportation budget, any unexpended 2009-2011 appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur for projects not identified on the applicable project list;

(f) Transfers may not be made while the legislature is in session; and

(g) Transfers between projects may be made by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

(2) At the time the department submits a request to transfer funds under this section, a copy of the request must be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner.

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP transportation documents referenced in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

**NEW SECTION. Sec. 604.** (1) The department of transportation shall prepare a plan to improve the oversight of real estate procurement and management practices across all departmental programs and regions, including the Washington state ferries. The plan must be submitted to the governor and the joint transportation committee by September 1, 2012. The plan must include:

(a) An inventory of all currently owned and leased office space, tunnel and bridge operations and maintenance facilities, and traffic management centers;

(b) A list of all facilities that will be needed for tunnel and bridge operations or maintenance in the next ten years and the funding source that is assumed for these facilities;

(c) A prioritized list of all buildings that are planned to be constructed, renovated, or remodeled in the next ten years and the funding source that is assumed for these facility improvements;

(d) A list of options for consolidating staff, equipment, and operations activities to reduce costs. This list must include an evaluation of the costs and benefits of owning properties as compared to leasing them using a life-cycle cost analysis; and

(e) A process and plan for regularly evaluating needs for office space, tunnel and bridge operations and maintenance facilities, and traffic management.

(2) Except as provided otherwise in the act, until September 1, 2012, the department of transportation may not enter into new leases, equal value exchanges, or property acquisitions for office

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needs without first consulting with the office of financial management and the joint transportation committee.

**NEW SECTION. Sec. 605.** Executive Order number 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions that issue grants or loans for capital projects shall comply with the requirements set forth in this executive order.

**NEW SECTION. Sec. 606. FOR THE DEPARTMENT OF TRANSPORTATION**

As part of its annual budget submittal, the department shall provide an annual update to the legislature and the office of financial management that:

(1) Compares the original project cost estimates approved in the transportation 2003 and 2005 transportation partnership project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;

(2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;

(3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;

(4) Identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and

(5) Identifies contingency amounts allocated to projects.

**NEW SECTION. Sec. 607. FOR THE DEPARTMENT OF TRANSPORTATION**

As part of its 2012 supplemental budget submittal, the department shall provide a report to the legislature and the office of financial management that:

(1) Identifies, by capital project, the amount of state funding that has been reappropriated from the 2009-2011 fiscal biennium into the 2011-2013 fiscal biennium; and

(2) Identifies, for each project, the amount of cost savings or increases in funding that have been identified as compared to the 2011 enacted transportation budget.

**NEW SECTION. Sec. 608. STAFFING LEVELS**

(1) As the department of transportation completes delivery of the projects funded by the 2003 and 2005 transportation revenue packages, it is clear that the current staffing levels necessary to deliver these projects are not sustainable into the future. Therefore, the department is directed to quickly move forward to develop and implement new business practices so that a smaller, more nimble state workforce can effectively and efficiently deliver transportation improvement programs as they are approved in the future, in strong partnership with the private sector, while protecting the public's interests and assets.

(2) To this end, the department of transportation is directed to reduce the size of its engineering and technical workforce to a level sustained by current law revenue levels currently estimated at two thousand FTEs by the end of the 2013-2015 fiscal biennium. The department's current two thousand eight hundred FTE engineering and technical workforce levels for highway construction will be reduced in the 2011-2013 fiscal biennium, with a target of two thousand four hundred FTEs by June 30, 2013, and to a level of two thousand FTEs by June 30, 2015.

(3) In order to successfully deliver the highway construction program as funded, the department of transportation may continue to contract out engineering and technical services. In addition, the department may continue the incentive program for retirements and employee separations. The department shall report quarterly to the office of financial management and the transportation committees of the legislature on its progress and plans to reduce highway construction workforce levels to two thousand FTEs by June 2015. This report must also be posted on the department's web site.

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NEW SECTION. **Sec. 609. VOLUNTARY RETIREMENT, SEPARATION, AND DOWNSHIFTING INCENTIVES**

As a management tool to reduce costs and make more effective use of resources, while improving employee productivity and morale, agencies may implement a voluntary retirement, separation, and/or downshifting incentive program that is cost neutral or results in cost savings over a two-year period following the commencement of the program, provided that such a program is approved by the director of financial management.

Agencies participating in this authorization may offer voluntary retirement, separation, and/or downshifting incentives and options according to procedures and guidelines established by the office of financial management, in consultation with the department of personnel and the department of retirement systems. The options may include, but are not limited to, financial incentives for: Voluntary separation or retirement, voluntary leave-without-pay, voluntary workweek or work hour reduction, voluntary downward movement, or temporary separation for development purposes. An employee does not have a contractual right to a financial incentive offered pursuant to this section.

Offers must be reviewed and monitored jointly by the department of personnel and the department of retirement systems. Agencies are required to submit a report by June 30, 2013, to the legislature and the office of financial management on the outcome of their approved incentive program. The report must include information on the details of the program, including resulting service delivery changes, agency efficiencies, the cost of the incentive per participant, the total cost to the state, and the projected or actual net dollar savings over the 2011-2013 fiscal biennium.

NEW SECTION. **Sec. 610.** (1) The department of transportation shall provide a report to the joint transportation committee by August 1, 2011, providing recommendations on the department's future business model, staffing scenarios, and methods of program and project delivery. The report must:

(a) Detail the sustainable staffing level by program to deliver core functions of the department in the context of forecasted resources as of March 2011;

(b) Analyze the effect new funding scenarios would have on the sustainable staffing levels for core functions and recommend appropriate staffing levels;

(c) Describe how the department's sustainable staffing levels would be affected by new funding scenarios and any other actions the department would need to deliver the program associated with the new funding; and

(d) Evaluate alternative program and project delivery methods to improve efficiency and effectiveness and provide recommendations on legislative changes, if necessary, for their implementation.

(2) The department shall provide stakeholder involvement opportunities in the development of the report. There must be a minimum of two such meetings: One for the purpose of providing contextual and background information; and a second for review and comment of conclusions and recommendations. Stakeholders must include labor, private engineering contractors, general business interests, representatives of various transportation modes, and others groups as appropriate.

NEW SECTION. **Sec. 611. FOR THE DEPARTMENT OF TRANSPORTATION**

The department is given the authority to provide up to \$3,000,000 in toll credits to Kitsap transit for its role in new passenger-only ferry service and ferry corridor-related projects. The number of toll credits provided to Kitsap transit must be equal to, but no more than, the number sufficient to meet federal match

requirements for grant funding for passenger-only ferry service, but shall not exceed the amount authorized in this section.

**MISCELLANEOUS 2011-2013 FISCAL BIENNIUM**

**Sec. 701.** RCW 47.29.170 and 2009 c 470 s 702 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before July 1, (~~2014~~) 2013.

NEW SECTION. **Sec. 702.** To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, state route number 520 corridor account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made prior to the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

**Sec. 703.** RCW 46.18.060 and 2010 1st sp.s. c 7 s 94 and 2010 c 161 s 604 are each reenacted and amended to read as follows:

(1) The department must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(2) Duties of the department include, but are not limited to, the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series

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and present those annual financial reports to the ~~((senate and house transportation committees))~~ joint transportation committee;

(b) Report annually to the ~~((senate and house of representatives transportation committees))~~ joint transportation committee on the special license plate applications that were considered by the department;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the ~~((chairs of the senate and house of representatives transportation committees))~~ executive committee of the joint transportation committee, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application; and

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The department may submit a recommendation to discontinue a special plate series to the ~~((chairs of the senate and house of representatives transportation committees))~~ executive committee of the joint transportation committee.

(3) Except as provided in RCW 46.18.245, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, ~~((2011))~~ 2013. During this period of time, the department is prohibited from accepting, reviewing, processing, or approving any applications. Additionally, a special license plate may not be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the former special license plate review board before February 15, 2005.

**Sec. 704.** RCW 46.63.170 and 2010 c 161 s 1127 are each amended to read as follows:

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.

(c) During the ~~((2009-2011))~~ 2011-2013 fiscal biennium, automated traffic safety cameras may be used to detect speed violations for the purposes of ~~((section 201(2), chapter 470, Laws of 2009))~~ section 201(2) of this act if the local legislative authority first enacts an ordinance authorizing the use of cameras to detect speed violations.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a

proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

(f) The registered owner of a vehicle is responsible for an infraction under RCW 46.63.030(1)(e) unless the registered owner overcomes the presumption in RCW 46.63.075, or, in the case of a rental car business, satisfies the conditions under subsection (3) of this section. If appropriate under the circumstances, a renter identified under subsection (3)(a) of this section is responsible for an infraction.

(g) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images prepared under this section are for the exclusive use of law enforcement in the discharge of duties under this section and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. No photograph, microphotograph, or electronic image may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(h) All locations where an automated traffic safety camera is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera.

(i) If a county or city has established an authorized automated traffic safety camera program under this section, the compensation paid to the manufacturer or vendor of the equipment used must be based only upon the value of the equipment and services provided or rendered in support of the system, and may not be based upon a portion of the fine or civil penalty imposed or the revenue generated by the equipment.

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction.

(3) If the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within eighteen days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty.

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Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction.

(4) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit in a school speed zone as detected by a speed measuring device. During the ~~((2009-2011))~~ 2011-2013 fiscal biennium, an automated traffic safety camera includes a camera used to detect speed violations for the purposes of ~~((section 201(2), chapter 470, Laws of 2009))~~ section 201(2) of this act.

(6) During the ~~((2009-2011))~~ 2011-2013 fiscal biennium, this section does not apply to automated traffic safety cameras for the purposes of ~~((section 218(2), chapter 470, Laws of 2009))~~ section 216(5) of this act.

**Sec. 705.** RCW 46.63.160 and 2010 c 249 s 6 are each amended to read as follows:

(1) This section applies only to civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section.

(6) The use of a photo toll system is subject to the following requirements:

(a) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo toll system, stating the facts supporting the notice of civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the civil penalty.

(c) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this chapter. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(d) All locations where a photo toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where tolls are assessed and enforced by a photo toll system.

(e) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

(7) Civil penalties for toll nonpayment detected through the use of photo toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is forty dollars plus the photo toll and associated fees.

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, ~~((beginning on July 1, 2011))~~ through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was

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assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing agency relieves a rental car business of any liability under this section for the payment of the toll.

(11) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

(12) For the purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

**Sec. 706.** RCW 43.19.642 and 2010 c 247 s 701 are each amended to read as follows:

(1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) For the 2009-2011 fiscal biennium, all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5) By December 1, 2009, the department of general administration shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

(6) During the 2011-2013 fiscal biennium, this section does not apply to fuel purchased by the Washington state ferries.

**Sec. 707.** RCW 43.19.534 and 2009 c 470 s 717 are each amended to read as follows:

(1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this section for purchasing goods and services from sources other than correctional

industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department of general administration shall adopt administrative rules that implement this section.

(2) During the 2009-2011 and 2011-2013 fiscal (~~biennium~~) biennia, and in conformance with section 223(11), chapter 470, Laws of 2009 and section 221(2) of this act, this section does not apply to the purchase of uniforms by the Washington state ferries.

**Sec. 708.** RCW 47.01.380 and 2009 c 470 s 705 are each amended to read as follows:

The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route number 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project. The requirements of this section shall not apply during the 2009-2011 and 2011-2013 fiscal (~~biennium~~) biennia.

**Sec. 709.** RCW 47.56.403 and 2005 c 312 s 3 are each amended to read as follows:

(1) The department may provide for the establishment, construction, and operation of a pilot project of high occupancy toll lanes on state route 167 high occupancy vehicle lanes within King county. The department may issue, buy, and redeem bonds, and deposit and expend them; secure and remit financial and other assistance in the construction of high occupancy toll lanes, carry insurance, and handle any other matters pertaining to the high occupancy toll lane pilot project.

(2) Tolls for high occupancy toll lanes will be established as follows:

(a) The schedule of toll charges for high occupancy toll lanes must be established by the transportation commission and collected in a manner determined by the commission.

(b) Toll charges shall not be assessed on transit buses and vanpool vehicles owned or operated by any public agency.

(c) The department shall establish performance standards for the state route 167 high occupancy toll lane pilot project. The department must automatically adjust the toll charge, using dynamic tolling, to ensure that toll-paying single-occupant vehicle users are only permitted to enter the lane to the extent that average vehicle speeds in the lane remain above forty-five miles per hour at least ninety percent of the time during peak hours. The toll charge may vary in amount by time of day, level of traffic congestion within the highway facility, vehicle occupancy, or other criteria, as the commission may deem appropriate. The commission may also vary toll charges for single-occupant inherently low-emission vehicles such as those powered by electric batteries, natural gas, propane, or other clean burning fuels.

(d) The commission shall periodically review the toll charges to determine if the toll charges are effectively maintaining travel time, speed, and reliability on the highway facilities.

(3) The department shall monitor the state route 167 high occupancy toll lane pilot project and shall annually report to the transportation commission and the legislature on operations and findings. At a minimum, the department shall provide facility use data and review the impacts on:

(a) Freeway efficiency and safety;

(b) Effectiveness for transit;

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(c) Person and vehicle movements by mode;

(d) Ability to finance improvements and transportation services through tolls; and

(e) The impacts on all highway users. The department shall analyze aggregate use data and conduct, as needed, separate surveys to assess usage of the facility in relation to geographic, socioeconomic, and demographic information within the corridor in order to ascertain actual and perceived questions of equitable use of the facility.

(4) The department shall modify the pilot project to address identified safety issues and mitigate negative impacts to high occupancy vehicle lane users.

(5) Authorization to impose high occupancy vehicle tolls for the state route 167 high occupancy toll pilot project expires if either of the following two conditions apply:

(a) If no contracts have been let by the department to begin construction of the toll facilities associated with this pilot project within four years of July 24, 2005; or

(b) ~~((Four years after toll collection begins under this section))~~ If high occupancy vehicle tolls are being collected on June 30, 2013.

(6) The department of transportation shall adopt rules that allow automatic vehicle identification transponders used for electronic toll collection to be compatible with other electronic payment devices or transponders from the Washington state ferry system, other public transportation systems, or other toll collection systems to the extent that technology permits.

(7) The conversion of a single existing high occupancy vehicle lane to a high occupancy toll lane as proposed for SR-167 must be taken as the exception for this pilot project.

(8) A violation of the lane restrictions applicable to the high occupancy toll lanes established under this section is a traffic infraction.

(9) Procurement activity associated with this pilot project shall be open and competitive in accordance with chapter 39.29 RCW.

**Sec. 710.** RCW 47.28.030 and 2010 c 283 s 9 and 2010 c 5 s 11 are each reenacted and amended to read as follows:

(1)(a) A state highway shall be constructed, altered, repaired, or improved, and improvements located on property acquired for right-of-way purposes may be repaired or renovated pending the use of such right-of-way for highway purposes, by contract or state forces. The work or portions thereof may be done by state forces when the estimated costs thereof are less than fifty thousand dollars and effective July 1, 2005, sixty thousand dollars.

(b) When delay of performance of such work would jeopardize a state highway or constitute a danger to the traveling public, the work may be done by state forces when the estimated cost thereof is less than eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(c) When the department of transportation determines to do the work by state forces, it shall enter a statement upon its records to that effect, stating the reasons therefor.

(d) To enable a larger number of small businesses and veteran, minority, and women contractors to effectively compete for department of transportation contracts, the department may adopt rules providing for bids and award of contracts for the performance of work, or furnishing equipment, materials, supplies, or operating services whenever any work is to be performed and the engineer's estimate indicates the cost of the work would not exceed eighty thousand dollars and effective July 1, 2005, one hundred thousand dollars.

(2) The rules adopted under this section:

(a) Shall provide for competitive bids to the extent that competitive sources are available except when delay of performance would jeopardize life or property or inconvenience the traveling public; and

(b) Need not require the furnishing of a bid deposit nor a performance bond, but if a performance bond is not required then progress payments to the contractor may be required to be made based on submittal of paid invoices to substantiate proof that disbursements have been made to laborers, material suppliers, mechanics, and subcontractors from the previous partial payment; and

(c) May establish prequalification standards and procedures as an alternative to those set forth in RCW 47.28.070, but the prequalification standards and procedures under RCW 47.28.070 shall always be sufficient.

(3) The department of transportation shall comply with such goals and rules as may be adopted by the office of minority and women's business enterprises to implement chapter 39.19 RCW with respect to contracts entered into under this chapter. The department may adopt such rules as may be necessary to comply with the rules adopted by the office of minority and women's business enterprises under chapter 39.19 RCW.

(4)(a) For the period of March 15, 2010, through June 30, 2011, work for less than one hundred twenty thousand dollars may be performed on ferry vessels and terminals by state forces. During the 2011-2013 fiscal biennium, work for less than one hundred thousand dollars may be performed on ferry vessels and terminals by state forces.

(b) The department shall hire a disinterested, third party to conduct an independent analysis to identify methods of reducing out-of-service times for vessel maintenance, preservation, and improvement projects. The analysis must include options that consider consolidating work while vessels are at shipyards by having state forces perform services traditionally performed at Eagle Harbor at the shipyard and decreasing the allowable time at shipyards. The analysis must also compare the out-of-service vessel times of performing services by state forces versus contracting out those services which in turn must be used to form a recommendation as to what the threshold of work performed on ferry vessels and terminals by state forces should be. This analysis must be presented to the transportation committees of the senate and house of representatives by December 1, 2010.

(c) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the senate and house of representatives by December 1, 2010. The proposed program must:

(i) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(ii) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards; and

(iii) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

(d) In developing the proposed ferry vessel maintenance, preservation, and improvement program, the department shall consider the following, related to reducing vessel out-of-service time:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

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(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects.

**Sec. 711.** RCW 43.105.330 and 2006 c 76 s 2 are each amended to read as follows:

(1) The board shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the department of information services, the department of natural resources, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, and state and local emergency management directors. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed fifteen members.

(2) The chair of the board shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

(a) Develop policies and make recommendations to the board for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

(b) Coordinate and manage on behalf of the board the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission on matters relating to allocation, use, and licensing of radio spectrum;

(c) ((Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) After the transition from a radio over internet protocol network, any new trunked system shall be, at a minimum, project-25;

(ii) Any new system that requires advanced digital features shall be, at a minimum, project-25; and

(iii) Any new system or equipment purchases shall be, at a minimum, upgradeable to project-25;

(d))) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

((~~(e))~~) (d) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

((~~(f))~~) (e) Foster cooperation and coordination among public safety and emergency response organizations;

((~~(g))~~) (f) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

((~~(h))~~) (g) Perform such other duties as may be assigned by the board to promote interoperability of wireless communications systems.

(4) During the 2011-2013 fiscal biennium, the requirement that any state or local entity must purchase radios or communication systems that are the P25 communication standard is suspended.

**Sec. 712.** RCW 47.64.170 and 2010 c 283 s 11 are each amended to read as follows:

(1) Any ferry employee organization certified as the bargaining representative shall be the exclusive representative of all ferry employees in the bargaining unit and shall represent all such employees fairly.

(2) A ferry employee organization or organizations and the governor may each designate any individual as its representative to engage in collective bargaining negotiations.

(3) Negotiating sessions, including strategy meetings of the employer or employee organizations, mediation, and the deliberative process of arbitrators are exempt from the provisions of chapter 42.30 RCW. Hearings conducted by arbitrators may be open to the public by mutual consent of the parties.

(4) Terms of any collective bargaining agreement may be enforced by civil action in Thurston county superior court upon the initiative of either party.

(5) Ferry system employees or any employee organization shall not negotiate or attempt to negotiate directly with anyone other than the person who has been appointed or authorized a bargaining representative for the purpose of bargaining with the ferry employees or their representative.

(6)(a) Within ten working days after the first Monday in September of every odd-numbered year, the parties shall attempt to agree on an interest arbitrator to be used if the parties are not successful in negotiating a comprehensive collective bargaining agreement. If the parties cannot agree on an arbitrator within the ten-day period, either party may request a list of seven arbitrators from the federal mediation and conciliation service. The parties shall select an interest arbitrator using the coin toss/alternate strike method within thirty calendar days of receipt of the list. Immediately upon selecting an interest arbitrator, the parties shall cooperate to reserve dates with the arbitrator for potential arbitration between August 1st and September 15th of the following even-numbered year. The parties shall also prepare a schedule of at least five negotiation dates for the following year, absent an agreement to the contrary. The parties shall execute a written agreement before November 1st of each odd-numbered year setting forth the name of the arbitrator and the dates reserved for bargaining and arbitration. This subsection (6)(a) imposes minimum obligations only and is not intended to define or limit a party's full, good faith bargaining obligation under other sections of this chapter.

(b) The negotiation of a proposed collective bargaining agreement by representatives of the employer and a ferry employee organization shall commence on or about February 1st of every even-numbered year.

(c) For negotiations covering the 2009-2011 biennium and subsequent biennia, the time periods specified in this section, and in RCW 47.64.210 and 47.64.300 through 47.64.320, must ensure conclusion of all agreements on or before October 1st of the even-numbered year next preceding the biennial budget period during which the agreement should take effect. These time periods may only be altered by mutual agreement of the parties in writing. Any such agreement and any impasse procedures agreed to by the parties under RCW 47.64.200 must include an agreement regarding the new time periods that will allow final resolution by negotiations or arbitration by October 1st of each even-numbered year.

(7) It is the intent of this section that the collective bargaining agreement or arbitrator's award shall commence on July 1st of each odd-numbered year and shall terminate on June 30th of the next odd-numbered year to coincide with the ensuing biennial budget year, as defined by RCW 43.88.020(7), to the extent practical. It is

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further the intent of this section that all collective bargaining agreements be concluded by October 1st of the even-numbered year before the commencement of the biennial budget year during which the agreements are to be in effect. After the expiration date of a collective bargaining agreement negotiated under this chapter, except to the extent provided in subsection (11) of this section and RCW 47.64.270(4), all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

(8) The office of financial management shall conduct a salary survey, for use in collective bargaining and arbitration, which must be conducted through a contract with a firm nationally recognized in the field of human resources management consulting.

(9) Except as provided in subsection (11) of this section:

(a) The governor shall submit a request either for funds necessary to implement the collective bargaining agreements including, but not limited to, the compensation and fringe benefit provisions or for legislation necessary to implement the agreement, or both. Requests for funds necessary to implement the collective bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(b) The governor shall submit a request either for funds necessary to implement the arbitration awards or for legislation necessary to implement the arbitration awards, or both. Requests for funds necessary to implement the arbitration awards shall not be submitted to the legislature by the governor unless such requests:

(i) Have been submitted to the director of the office of financial management by October 1st before the legislative session at which the requests are to be considered; and

(ii) Have been certified by the director of the office of financial management as being feasible financially for the state.

(c) The legislature shall approve or reject the submission of the request for funds necessary to implement the collective bargaining agreements or arbitration awards as a whole for each agreement or award. The legislature shall not consider a request for funds to implement a collective bargaining agreement or arbitration award unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party may reopen all or part of the agreement and award or the exclusive bargaining representative may seek to implement the procedures provided for in RCW 47.64.210 and 47.64.300.

(10) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(11)(a) For the collective bargaining agreements negotiated for the 2011-2013 fiscal biennium, the legislature may consider a request for funds to implement a collective bargaining agreement even if the request for funds was not received by the office of financial management by October 1st and was not transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060.

(b) For the 2011-2013 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated

between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must be a separate agreement for which the governor may request funds necessary to implement the agreement. If such an agreement is negotiated and funded by the legislature, this agreement will supersede any terms and conditions of an expired 2009-2011 biennial master collective bargaining agreement under this chapter regarding health care benefits.

**Sec. 713.** RCW 47.64.270 and 2010 c 283 s 13 are each amended to read as follows:

(1) The employer and one coalition of all the exclusive bargaining representatives subject to this chapter and chapter 41.80 RCW shall conduct negotiations regarding the dollar amount expended on behalf of each employee for health care benefits.

(2) Absent a collective bargaining agreement to the contrary, the department of transportation shall provide contributions to insurance and health care plans for ferry system employees and dependents, as determined by the state health care authority, under chapter 41.05 RCW.

(3) The employer and employee organizations may collectively bargain for insurance plans other than health care benefits, and employer contributions may exceed that of other state agencies as provided in RCW 41.05.050.

(4) For the 2011-2013 fiscal biennium, a collective bargaining agreement related to employee health care benefits negotiated between the employer and coalition pursuant to RCW 41.80.020(3) regarding the dollar amount expended on behalf of each employee must be a separate agreement for which the governor may request funds necessary to implement the agreement. If such an agreement is negotiated and funded by the legislature, this agreement will supersede any terms and conditions of an expired 2009-2011 biennial collective bargaining agreement under this chapter regarding health care benefits.

**Sec. 714.** RCW 47.64.280 and 2010 c 283 s 14 are each amended to read as follows:

(1) There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.

(2) The commission shall: (a) Adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150; (b) provide for impasse mediation as required in RCW 47.64.210; and (c) perform those duties required in RCW 47.64.300.

However, through June 30, 2013, the commission's duties identified

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in this subsection are subject to the availability of amounts appropriated for these specific purposes.

(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.

(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.

(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.

(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter.

**Sec. 715.** RCW 46.68.170 and 2009 c 470 s 701 are each amended to read as follows:

There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the ~~((2007-2009 and))~~ 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account to accomplish the purposes identified in this section.

**Sec. 716.** RCW 46.68.370 and 2010 c 161 s 818 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under RCW 46.17.015 must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the ~~((2009-2011))~~ 2011-2013 fiscal biennium, the legislature may transfer from the license plate technology account to the highway safety account such amounts as reflect the excess fund balance of the license plate technology account.

**Sec. 717.** RCW 47.12.244 and 2009 c 470 s 709 are each amended to read as follows:

There is created the "advance right-of-way revolving fund" in the custody of the treasurer, into which the department is authorized to deposit directly and expend without appropriation:

(1) An initial deposit of ten million dollars from the motor vehicle fund included in the department of transportation's 1991-93 budget;

(2) All moneys received by the department as rental income from real properties that are not subject to federal aid reimbursement, except moneys received from rental of capital facilities properties as defined in chapter 47.13 RCW; and

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(3) Any federal moneys available for acquisition of right-of-way for future construction under the provisions of section 108 of Title 23, United States Code.

During the ~~((2007-2009 and))~~ 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the advance right-of-way revolving fund to the motor vehicle account amounts as reflect the excess fund balance of the advance right-of-way revolving fund.

**Sec. 718.** RCW 46.68.060 and 2009 c 470 s 711 are each amended to read as follows:

There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010. During the ~~((2007-2009 and))~~ 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the highway safety fund to the motor vehicle fund and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund.

**Sec. 719.** RCW 46.68.220 and 2010 c 161 s 807 are each amended to read as follows:

The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under RCW 46.17.025 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for:

(1) Information and service delivery systems for the department;

(2) Reimbursement of county licensing activities; and

(3) County auditor or other agent and subagent support including, but not limited to, the replacement of department-owned equipment in the possession of county auditors or other agents and subagents appointed by the director. During the ~~((2007-2009 and 2009-2011))~~ 2011-2013 fiscal ~~((biennia))~~ biennium, the legislature may transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account.

**Sec. 720.** RCW 47.56.876 and 2010 c 248 s 5 are each amended to read as follows:

(1) A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation. During the 2011-2013 fiscal biennium, the legislature may transfer from the state route number 520 civil penalties account to the state route number 520 corridor account such amounts as reflect the excess fund balance of the state route number 520 civil penalties account. Funds transferred must be used solely for capital expenditures for the state route number 520 bridge replacement and HOV project (8BI1003).

(2) This section is contingent on the enactment by June 30, 2010, of either chapter 249, Laws of 2010 or chapter . . . (Substitute House Bill No. 2897), Laws of 2010, but if the enacted bill does not designate the department as the toll penalty adjudicating agency, this section is null and void.

**Sec. 721.** RCW 46.68.--- and 2011 c ... (SHB 1897) s 1 are each amended to read as follows:

(1) The rural mobility grant program account is created in the state treasury. Moneys in the account may be spent only after

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appropriation. Expenditures from the account may be used only for the grants provided under section 2 ((of this act)), chapter ... (SHB 1897), Laws of 2011.

(2) Beginning September 2011, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the rural mobility grant program account two million five hundred thousand dollars.

(3) During the 2011-2013 fiscal biennium, the legislature may transfer from the rural mobility grant program account to the multimodal transportation account such amounts as reflect the excess fund balance of the rural mobility grant program account.

NEW SECTION. **Sec. 722.** 2010 c 161 s 1126 is repealed.

**2009-2011 FISCAL BIENNIUM  
TRANSPORTATION AGENCIES—OPERATING**

**Sec. 801.** 2010 c 247 s 205 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION COMMISSION**

| Motor Vehicle Account--State                           | Appropriation            |
|--|--------------------------|
| <del>(\$2,328,000)</del>                               |                          |
| .....  | \$2,157,000              |
| Multimodal Transportation Account--State Appropriation |                          |
| .....  | <del>(\$112,000)</del>   |
| .....  | \$111,000                |
| <b>TOTAL APPROPRIATION</b> .....                       | <del>(\$2,440,000)</del> |
| .....  | \$2,268,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of fares for the Washington state ferry system. The transportation commission may increase ferry fares, except no fare schedule modifications may be made prior to September 1, 2009. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(2) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify a schedule of toll charges applicable to the state route number 167 high occupancy toll lane pilot project, as required under RCW 47.56.403. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(3) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created under RCW 47.46.091. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(4) The commission may name state ferry vessels consistent with its authority to name state transportation facilities under RCW 47.01.420. When naming or renaming state ferry vessels, the commission shall investigate selling the naming rights and shall make recommendations to the legislature regarding this option.

(5) \$350,000 of the motor vehicle account--state appropriation is provided solely for consultant support services to assist the commission in updating the statewide transportation plan. The updated plan must be submitted to the legislature by December 1, 2010.

(6) If the commission considers implementing a ferry fuel surcharge, it must first submit an analysis and business plan to the office of financial management and either the joint transportation committee or the transportation committees of the legislature. The commission may impose a ferry fuel surcharge effective July 1,

2011. When implementing a ferry fuel surcharge, the commission must regard ferry fuel surcharges as fare policy changes and thus, ferry fuel surcharges should be included in all public procedures and processes currently used for fare pricing per RCW 47.60.290.

(7) The commission shall work with the department of transportation's economic partnerships (Program K) in conducting a best practices review of nontoll, public-private partnerships. The purpose of this review is to identify the policies and procedures that would be appropriate for application in Washington state. The commission must report its findings and recommendations, including draft legislation if warranted, to the house of representatives and senate transportation committees by January 2011.

(8) As part of its development of the statewide transportation plan, the commission shall review prioritized projects, including preservation and maintenance projects, from regional transportation and metropolitan planning organizations to identify statewide transportation needs. The review should include a brief description and status of each project along with the funding required and associated timeline from start to completion. The commission shall submit the review, along with recommendations, to the house of representatives and senate transportation committees by January 2011.

**Sec. 802.** 2010 c 247 s 207 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

| State Patrol Highway Account--State         | Appropriation              |
|---|----------------------------|
| .....                                       | <del>(\$227,958,000)</del> |
| .....                                       | \$224,558,000              |
| State Patrol Highway Account--Federal       | Appropriation              |
| .....                                       | \$10,903,000               |
| State Patrol Highway Account--Private/Local | Appropriation              |
| .....                                       | <del>(\$867,000)</del>     |
| .....                                       | \$939,000                  |
| <b>TOTAL APPROPRIATION</b> .....            | <del>(\$239,728,000)</del> |
| .....                                       | \$236,400,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol, and Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section will no longer be part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(3) During the 2009-11 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with the county to transition the traffic accident investigations on Thurston county roads to the county by July 1, 2011.

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(4) Within existing resources, the Washington state patrol shall make every reasonable effort to increase the enrollment in each academy class that commences during the 2009-11 fiscal biennium to fifty-five cadets.

(5) The Washington state patrol shall collaborate with the Washington traffic safety commission to develop and implement the target zero trooper pilot program referenced in section 201 of this act.

(6) \$370,000 of the state patrol highway account--state appropriation is provided solely for costs associated with the pilot program described under section 218(2) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.

(7) If, as a result of lower than average rate of attrition among troopers, the Washington state patrol postpones the year 2011 training for trooper cadets beyond June 30, 2011, funding provided in section 207, chapter 470, Laws of 2009 for the class must be used to fund the salaries and benefits associated with the existing commissioned Washington state patrol troopers that are funded within the field operations bureau.

(8) \$2,832,000 of the state patrol highway account--state appropriation is provided solely for the aerial traffic enforcement program. The Washington state patrol shall evaluate the costs associated with aerial traffic highway enforcement to determine if the costs are accurately apportioned between the state patrol highway account and the general fund. It is the intent of the legislature that the state patrol highway account incurs costs that result only from highway enforcement activities and that the general fund incurs costs associated with the King Airs. The Washington state patrol shall report the results of the evaluation to the legislature by June 30, 2010.

(9) For the remainder of the 2009-11 fiscal biennium, the Washington state patrol shall continue to work with Island county on traffic accident investigations.

(10) \$3,601,000 of the state patrol highway account--state appropriation is provided solely for the costs associated with a basic trooper class.

(11) After May 1, 2011, unless specifically prohibited, the Washington state patrol may transfer state patrol highway account--state appropriations for the 2009-2011 fiscal biennium between operating programs after approval by the director of the office of financial management. However, the state patrol shall not transfer state moneys that are provided solely for a specified purpose.

**Sec. 803.** 2010 c 247 s 208 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU  
State Patrol Highway Account--State Appropriation(~~(\$1,648,000)~~)  
.....\$1,196,000

The appropriation in this section is subject to the following conditions and limitations: After May 1, 2011, unless specifically prohibited, the Washington state patrol may transfer state patrol highway account--state appropriations for the 2009-2011 fiscal

biennium between operating programs after approval by the director of the office of financial management. However, the state patrol shall not transfer state moneys that are provided solely for a specified purpose.

**Sec. 804.** 2010 c 247 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU  
State Patrol Highway Account--State Appropriation  
.....(~~(\$108,560,000)~~)  
.....\$105,488,000  
State Patrol Highway Account--Private/Local  
Appropriation.....\$2,510,000  
TOTAL APPROPRIATION .....(~~(\$111,070,000)~~)  
.....\$107,998,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) (~~(\$10,425,000)~~) **\$10,676,000** of the total appropriation is provided solely for automobile fuel in the 2009-11 fiscal biennium.

(3) \$7,421,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) \$6,611,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology- related requests for funding only if the patrol has coordinated with the department of information services as required under section 601 of this act.

(7) (~~(\$345,000~~ of the state patrol highway account--state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 1445 (domestic partners/Washington state patrol retirement system). If Engrossed Substitute House Bill No. 1445 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse)) After May 1, 2011, unless specifically prohibited, the Washington state patrol may transfer state patrol highway account-- state appropriations for the 2009-2011 fiscal biennium between operating programs after approval by the director of the office of financial management. However, the state patrol shall not transfer state moneys that are provided solely for a specified purpose.

**Sec. 805.** 2010 c 247 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B  
High Occupancy Toll Lanes Operations Account--State  
Appropriation.....(~~(\$2,852,000)~~)  
.....\$2,732,000  
Motor Vehicle Account--State Appropriation .....(~~(\$575,000)~~)  
.....\$2,945,000  
Tacoma Narrows Toll Bridge Account--State  
Appropriation.....\$26,543,000  
State Route Number 520 Corridor Account--State

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|  |                                 |
|--|---------------------------------|
| Appropriation.....                     | ((( <del>\$28,000,000</del> ))) |
| .....                                  | \$736,000                       |
| State Route Number 520 Civil Penalties |                                 |
| Account--State Appropriation.....      | ((( <del>\$2,130,000</del> )))  |
| .....                                  | \$130,000                       |
| TOTAL APPROPRIATION .....              | ((( <del>\$60,100,000</del> ))) |
| .....                                  | \$33,086,000                    |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of revenue generated by tolls on the Tacoma Narrows bridge and an itemized depiction of the use of that revenue.

(2) The department shall work with the office of financial management to review insurance coverage, deductibles, and limitations on tolled facilities to assure that the assets are well protected at a reasonable cost. Results from this review must be used to negotiate any future new or extended insurance agreements.

(3) ~~(((~~\$28,000,000~~)))~~ \$736,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. ~~((Of this amount, \$8,000,000 must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee.))~~

(4) The department shall consider transitioning to all electronic tolling on the Tacoma Narrows bridge toll facility and discontinuing a cash toll option.

(5) ~~(((~~\$2,130,000~~)))~~ \$130,000 of the state route number 520 civil penalties account--state appropriation and \$140,000 of the Tacoma Narrows toll bridge account--state appropriation are provided solely for expenditures related to the toll adjudication process. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of either Engrossed Substitute Senate Bill No. 6499 or Substitute House Bill No. 2897; however, if the enacted bill does not specify the department as the toll penalty adjudicating agency, the amounts provided in this subsection lapse.

(6) The department shall review, and revise where appropriate, current signage and ingress/egress locations on the state route number 167 high occupancy toll lanes pilot project. The department shall continue to work with the Washington state patrol on educating the public on the rules of the road related to crossing a double white line. The department shall continue to monitor the performance of the high occupancy toll lanes to ensure that driving conditions for high occupancy vehicles that share these lanes are not significantly changed.

(7) Up to \$2,435,000 of the motor vehicle account--state appropriation is provided solely as an expenditure reserve in the event that toll revenue collection on the state route number 520 floating bridge is delayed beyond April 2, 2011. This appropriation must remain in unallotted status and may be released by the office of financial management only to cover shortfalls in the state route number 520 corridor account due to delayed toll revenue collection in order to support the activities funded in subsection (3) of this section. Repayment from the state route number 520 corridor account to the motor vehicle account regarding this appropriation is assumed in the 2011-2013 biennial transportation budget.

**Sec. 806.** 2010 c 247 s 212 (uncodified) is amended to read as follows:

|   |                                |            |    |
|---|--------------------------------|------------|----|
| FOR                                       | THE                            | DEPARTMENT | OF |
| TRANSPORTATION--INFORMATION               |                                |            |    |
| TECHNOLOGY--PROGRAM C                     |                                |            |    |
| Transportation Partnership Account--State |                                |            |    |
| Appropriation.....                        | ((( <del>\$2,675,000</del> ))) |            |    |

|   |                                 |                |               |
|---|---------------------------------|----------------|---------------|
| .....   | \$2,425,000                     |                |               |
| Motor   | Vehicle                         | Account--State | Appropriation |
| .....   | ((( <del>\$68,650,000</del> ))) |                |               |
| .....   | \$67,546,000                    |                |               |
| Motor Vehicle Account--Federal Appropriation.....   |                                 |                | \$240,000     |
| Multimodal Transportation Account--State            |                                 |                |               |
| Appropriation.....                                  |                                 |                | \$363,000     |
| Transportation 2003 Account (Nickel Account)--State |                                 |                |               |
| Appropriation.....                                  | ((( <del>\$2,676,000</del> )))  |                |               |
| .....   | \$2,426,000                     |                |               |
| TOTAL APPROPRIATION .....                           | ((( <del>\$74,604,000</del> ))) |                |               |
| .....   | \$73,000,000                    |                |               |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall consult with the office of financial management and the department of information services to: (a) Ensure that the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) ~~(((~~\$1,216,000~~)))~~ \$966,000 of the transportation partnership account--state appropriation and ~~(((~~\$1,216,000~~)))~~ \$966,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business work flows and reporting. On a quarterly basis, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. At a minimum, the reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(3) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(4) \$573,000 of the motor vehicle account--state appropriation is provided solely for the department to maintain the investment in the electronic fare system at Washington's ferry terminals. Investment in the electronic fare system must include the following: Replacement of critical hardware components that are at risk of failure; implementation of software to allow ORCA cards to be used for vehicles; repair of the turnstiles to ensure that the turnstiles properly record ORCA credit and debit card charges; and dedication of a communication line for transmission of ORCA data to the clearinghouse.

**Sec. 807.** 2010 c 247 s 213 (uncodified) is amended to read as follows:

|  |                                 |              |    |
|--|---------------------------------|--------------|----|
| FOR  | THE                             | DEPARTMENT   | OF |
| TRANSPORTATION--FACILITY                         |                                 | MAINTENANCE, |    |
| OPERATIONS AND CONSTRUCTION--PROGRAM             |                                 |              |    |
| D--OPERATING                                     |                                 |              |    |
| Motor Vehicle Account--State Appropriation ..... | ((( <del>\$25,292,000</del> ))) |              |    |
| .....  | \$24,639,000                    |              |    |

**Sec. 808.** 2010 c 247 s 214 (uncodified) is amended to read as follows:

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FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F

|  |               |
|--|---------------|
| Aeronautics Account--State Appropriation .....   | (\$5,960,000) |
| .....  | \$5,761,000   |
| Aeronautics Account--Federal Appropriation ..... | \$2,150,000   |
| TOTAL APPROPRIATION .....                        | (\$8,110,000) |
| .....  | \$7,911,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$50,000 of the aeronautics account--state appropriation is a reappropriation provided solely to pay any outstanding obligations of the aviation planning council, which expires July 1, 2009.

(2) \$150,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

(3) Within the amounts provided in this section, the department shall develop guidelines setting forth consultation procedures and a process to assist counties and cities to identify land uses that may be incompatible with airports and aircraft operations, and to encourage and facilitate the adoption and implementation of comprehensive plan policies and development regulations consistent with RCW 36.70.547 and 36.70A.510.

**Sec. 809.** 2010 c 247 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H

|  |                |
|--|----------------|
| Motor Vehicle Account--State Appropriation .....             | (\$49,331,000) |
| .....  | \$45,219,000   |
| Motor Vehicle Account--Federal Appropriation .....           | \$500,000      |
| Multimodal Transportation Account--State Appropriation ..... | \$250,000      |
| TOTAL APPROPRIATION .....                                    | (\$50,081,000) |
| .....  | \$45,969,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall develop a plan for all current and future surplus property parcels based on the recommendations from the surplus property legislative work group that were presented to the senate transportation committee on February 26, 2009. The plan must include, at a minimum, strategies for maximizing the number of parcels sold, a schedule that optimizes proceeds, a recommended cash discount, a plan to report to the joint transportation committee, a recommendation for regional incentives, and a recommendation for equivalent value exchanges. This plan must accompany the department's 2010 supplemental budget request. If the department determines that all or a portion of real property or an interest in real property that was acquired through condemnation within the previous ten years is no longer necessary for a transportation purpose, the former owner has a right of repurchase as described in this subsection. For the purposes of this subsection, "former owner" means the person or entity from whom the department acquired title. At least ninety days prior to the date on which the property is intended to be sold by the department, the department must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the department with a forwarding address. If the former owner of the property's last known address, or forwarding address if a forwarding address has been provided, is no longer the former owner of the property's address, the right of repurchase is extinguished. If the former owner notifies the department within thirty days of the date of the notice that the former owner intends to repurchase the property, the department shall proceed with the sale of the property to the former owner for fair market value and shall not list the property for sale to

other owners. If the former owner does not provide timely written notice to the department of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within seven months of the date of notice that the former owner intends to repurchase the property, the right of repurchase is extinguished. By December 1, 2010, the department shall report to the legislative transportation committees on the individuals and entities eligible to receive surplus property provided in RCW 47.12.063 to determine the frequency with which the department transfers property to those individuals and entities and the implications to the department. It is the intent of the legislature that the list of individuals and entities eligible to receive surplus property be periodically evaluated to determine whether the list is appropriate and provides utility to the department.

(2) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2010, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

(3) \$3,175,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(4) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

**Sec. 810.** 2010 c 247 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K

|  |             |
|--|-------------|
| Motor Vehicle Account--State Appropriation .....             | (\$673,000) |
| .....  | \$643,000   |
| Multimodal Transportation Account--State Appropriation ..... | (\$200,000) |
| .....  | \$90,000    |
| TOTAL APPROPRIATION .....                                    | (\$873,000) |
| .....  | \$733,000   |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to develop and implement public private partnerships at high priority terminals as identified in the January 12, 2009, final report on joint development

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opportunities at Washington state ferries terminals. The department shall first consider a mutually beneficial agreement at the Edmonds terminal.

(2) \$50,000 of the motor vehicle account--state appropriation is provided solely for the department to investigate the potential to generate revenue from web site sponsorships and similar ventures and, if feasible, pursue partnership opportunities.

(3) (~~(\$75,000)~~) \$45,000 of the motor vehicle account--state appropriation is provided solely for the implementation of a pilot project allowing advertisements and sponsorships on select web pages. The pilot project must be organized under the partnership model described in the department's web site monetizing feasibility study, which was prepared under subsection (2) of this section. Once operational, the pilot project must operate for at least twelve consecutive months. After twelve months of continuous operation, the department shall provide a report with recommendations on whether to continue project operations to the office of financial management and the chairs of the transportation committees. The department may end the pilot project after less than twelve consecutive months of operation if insufficient bids or proposals are received from potential sponsors or advertisers. For the purpose of this subsection, if a consultant contract is warranted, the consultant contract is deemed a revenue generation activity as that term is construed in section 602(2), chapter 3, Laws of 2010.

**Sec. 811.** 2010 c 247 s 217 (uncodified) is amended to read as follows:

|  |     |                            |    |
|--|-----|----------------------------|----|
| FOR  | THE | DEPARTMENT                 | OF |
| TRANSPORTATION--HIGHWAY                            |     |                            |    |
| MAINTENANCE--PROGRAM M                             |     |                            |    |
| Motor Vehicle Account--State Appropriation .....   |     | <del>(\$347,645,000)</del> |    |
| .....  |     | \$349,778,000              |    |
| Motor Vehicle Account--Federal Appropriation ..... |     | \$7,000,000                |    |
| Motor Vehicle Account--Private/Local Appropriation |     |                            |    |
| .....  |     | <del>(\$5,797,000)</del>   |    |
| .....  |     | \$7,997,000                |    |
| TOTAL APPROPRIATION .....                          |     | <del>(\$360,442,000)</del> |    |
| .....  |     | \$364,775,000              |    |

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, snow, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.

(4) \$7,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) The department may incur costs related to the maintenance of the decorative lights on the Tacoma Narrows bridge only if:

(a) The nonprofit corporation, narrows bridge lights organization, maintains an account balance sufficient to reimburse the department for all costs; and

(b) The department is reimbursed from the narrows bridge lights organization within three months from the date any maintenance work is performed. If the narrows bridge lights organization is unable to reimburse the department for any future costs incurred, the lights must be removed at the expense of the narrows bridge lights organization subject to the terms of the contract.

(6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs.

(8) \$16,800,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service.

(9) \$750,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(10) \$317,000 of the motor vehicle account--state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(11) \$286,000 of the motor vehicle account--state appropriation is provided solely for storm water assessment fees charged by local governments.

(12) \$835,000 of the motor vehicle account--state appropriation is provided solely for disaster-related maintenance expenditures that the department has incurred since the 2010 supplemental transportation budget on state route number 97A and state route number 401.

**Sec. 812.** 2010 c 247 s 218 (uncodified) is amended to read as follows:

|   |                           |
|---|---------------------------|
| FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC           |                           |
| OPERATIONS--PROGRAM Q-- OPERATING                       |                           |
| Motor Vehicle Account--State Appropriation .....        | <del>(\$51,128,000)</del> |
| .....   | \$49,764,000              |
| Motor Vehicle Account--Federal Appropriation .....      | \$2,050,000               |
| Motor Vehicle Account--Private/Local Appropriation..... | \$127,000                 |
| TOTAL APPROPRIATION .....                               | <del>(\$53,305,000)</del> |
| .....   | \$51,941,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,400,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) The department, in consultation with the Washington state patrol, may continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. For the purpose of this pilot program, during the 2009-11 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors are not present but where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing construction. The department shall use the following guidelines to administer the program:

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(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2009-11 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued under this subsection (2) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(3) The department shall implement a pilot project to evaluate the benefits of using electronic traffic flagging devices. Electronic traffic flagging devices must be tested by the department at multiple sites and reviewed for efficiency and safety. The department shall report to the transportation committees of the legislature on the best use and practices involving electronic traffic flagging devices, including recommendations for future use, by June 30, 2010.

(4) \$173,000 of the motor vehicle account--state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks. The department shall report to the office of financial management and the transportation committees of the legislature on the effectiveness of the clearance goals and submit recommendations to improve the pilot program with the department's 2010 supplemental omnibus transportation appropriations act submittal. The tow truck incentive program may continue to provide incentives for quick clearance of traffic incidents involving large vehicles. The department shall make

recommendations as part of its biennial budget proposal for expanding the use of the incentive program.

(5) \$92,000 of the motor vehicle account--state appropriation is provided solely for operating a new active traffic management system on Interstate 5, Interstate 90, and SR 520. The department shall track the costs associated with these systems on a corridor basis and report to the legislative transportation committees on the cost and benefits of the system.

(6) To the extent practicable, the department shall synchronize traffic lights on state route number 161 in the vicinity of Puyallup.

(7) During the 2009-11 biennium, the department shall implement a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. By June 30, 2011, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure.

Sec. 813. 2010 c 247 s 219 (uncodified) is amended to read as follows:

|  |                           |
|--|---------------------------|
| FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S |                           |
| Motor Vehicle Account--State Appropriation .....                                       | <del>(\$28,468,000)</del> |
| .....  | \$27,968,000              |
| Motor Vehicle Account--Federal Appropriation .....                                     | \$30,000                  |
| Multimodal Transportation Account--State Appropriation .....                           | \$971,000                 |
| State Route Number 520 Corridor Account--State Appropriation .....                     | \$264,000                 |
| TOTAL APPROPRIATION .....  | <del>(\$29,733,000)</del> |
| .....  | \$29,233,000              |

The appropriations in this section are subject to the following conditions and limitations: \$264,000 of the state route number 520 corridor account--state appropriation is provided solely for the costs directly related to tolling the state route number 520 floating bridge. This amount must be retained in unallotted status, and may only be released by the office of financial management after consultation with the joint transportation committee.

Sec. 814. 2010 c 247 s 220 (uncodified) is amended to read as follows:

|  |                           |
|--|---------------------------|
| FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T |                           |
| Motor Vehicle Account--State Appropriation .....   | <del>(\$25,955,000)</del> |
| .....  | \$25,384,000              |
| Motor Vehicle Account--Federal Appropriation .....   | \$22,002,000              |
| Multimodal Transportation Account--State   |                           |

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|  |                           |
|--|---------------------------|
| Appropriation.....                               | \$1,090,000               |
| Multimodal Transportation Account--Federal       |                           |
| Appropriation.....                               | \$3,287,000               |
| Multimodal Transportation Account--Private/Local |                           |
| Appropriation.....                               | \$99,000                  |
| TOTAL APPROPRIATION .....                        | <del>(\$52,433,000)</del> |
| .....  | \$51,862,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(2) \$400,000 of the multimodal transportation account--state appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line, and the need for improvements in switching, signaling, and tracking. The study must also consider the interconnectivity benefits of, and potential for, future Amtrak Cascades stops in south King county and north Pierce county. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route. The department shall amend the scope, schedule, and budget of the current study process to accommodate the market analysis. A report on the study must be submitted to the legislature by September 30, 2010.

(3) \$365,000 of the motor vehicle account--state appropriation and \$81,000 of the motor vehicle account--federal appropriation are provided solely for the development of a freight database to help guide freight investment decisions and track project effectiveness. The database must be based on truck movement tracked through geographic information system technology. For the remainder of the biennium, the department may expand data collection to any highways that have high truck volumes. TransNow shall contribute additional federal funds that are not appropriated in this act. The department shall work with the freight mobility strategic investment board to implement this database.

(4) \$2,000,000 of the motor vehicle account--state appropriation is provided solely for scoping unfunded state highway projects to ensure that a well-vetted project list is available for future program funding discussions.

(a) It is the intent of the legislature that the funding provided in this subsection support the development of transportation solutions that benefit all state residents, including addressing the impacts of traffic diversion from tolled facilities. It is further the intent of the legislature that the buying power of future revenue packages is maximized.

(b) Scoping work must be consistent with achieving transportation system policy goals as stated in RCW 47.04.280.

(c) The department shall provide cost-effective design solutions that achieve the desired functional outcomes. This may be achieved by providing one or more design alternatives for legislative consideration, based on a reasonable range of assumptions about traffic volume and speeds.

(d) Prior to the commencement of the 2011 legislative session, the department shall provide a report to the legislative transportation committees and the office of financial management that includes estimated costs and construction time frames.

(5) ~~(\$150,000)~~ \$80,000 of the motor vehicle account--state appropriation is provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route

number 167 to determine whether improvements are needed and the costs of any needed improvements.

(6) \$500,000 of the multimodal transportation account--federal appropriation is provided solely for continued support of the International Mobility and Trade Corridor project and for the department to work with the Whatcom council of governments to examine potential improvements to international border freight and passenger rail movement and the use of diesel multiple units.

(7) \$80,000 of the motor vehicle account--state appropriation is provided solely to continue existing work regarding feasibility of a new interchange between Rochester and Harrison Avenue on Interstate 5.

Sec. 815. 2010 c 247 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V

|  |                            |
|--|----------------------------|
| Regional Mobility Grant Program Account--State   |                            |
| Appropriation.....                               | <del>(\$65,274,000)</del>  |
| .....  | \$56,332,000               |
| Multimodal Transportation Account--State         |                            |
| Appropriation.....                               | <del>(\$65,667,000)</del>  |
| .....  | \$65,547,000               |
| Multimodal Transportation Account--Federal       |                            |
| Appropriation.....                               | \$2,573,000                |
| Multimodal Transportation Account--Private/Local |                            |
| Appropriation.....                               | \$1,025,000                |
| TOTAL APPROPRIATION .....                        | <del>(\$134,539,000)</del> |
| .....  | \$125,477,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2007 as reported in the "Summary of Public Transportation - 2007" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2007" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

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(3) \$7,000,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools or replace vans; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; operating costs for public transit agencies are not eligible for funding under this grant program. Additional employees may not be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. The department shall encourage grant applicants and recipients to leverage funds other than state funds. At least \$1,600,000 of this amount must be used for vanpool grants in congested corridors.

(4) (~~(\$400,000)~~) \$280,000 of the multimodal transportation account--state appropriation is provided solely for a grant for a flexible carpooling pilot project program to be administered and monitored by the department. Funds are appropriated for one time only. The pilot project program must: Test and implement at least one flexible carpooling system in a high-volume commuter area that enables carpooling without prearrangement; utilize technologies that, among other things, allow for transfer of ride credits between participants; and be a membership system that involves prescreening to ensure safety of the participants. The program must include a pilot project that targets commuter traffic on the state route number 520 bridge. The department shall submit to the legislature by December 2010 a report on the program results and any recommendations for additional flexible carpooling programs.

(5) \$3,318,000 of the multimodal transportation account--state appropriation and (~~(\$21,248,000)~~) \$17,778,000 of the regional mobility grant program account--state appropriation are reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B, as developed April 20, 2007, or the LEAP Transportation Document 2006-D, as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects on the LEAP Transportation Document 2006-D, as developed March 8, 2006; the LEAP Transportation Document 2007-B, as developed April 20, 2007; or the LEAP Transportation Document 2009-B, as developed April 24, 2009. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule. However, the Chuckanut park and ride project (101100G) is recognized as a crucial investment in the transportation system. For this reason, the department shall not close out the grant for the Chuckanut park and ride project until Skagit transit has exhausted all other pending opportunities for federal and local funds. If additional funds cannot be secured, the department shall consider this project a priority in the 2011-13 grant process. The department shall make every effort to advance the Chuckanut park and ride project within existing resources.

(6) (~~(\$33,429,000)~~) \$32,882,000 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any

remaining funds available to the office of transit mobility must be used only to fund projects identified in LEAP Transportation Document 2009-B, as developed April 24, 2009. The department shall provide annual status reports on December 15, 2009, and December 15, 2010, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(7) (~~(\$10,596,768)~~) \$5,671,768 of the regional mobility grant program account--state appropriation must be obligated no later than December 31, 2010, and is provided solely for the following recommended contingency regional mobility grant projects identified in the 2009-11 omnibus transportation appropriations act, LEAP Transportation Document 2009-B, as developed April 24, 2009, as follows:

(a) (~~(\$4,000,000)~~) \$975,000 is provided solely for the Rainier/Jackson transit priority corridor improvements;

(b) (~~(\$2,100,000)~~) \$200,000 is provided solely for the state route number 522 west city limits to Northeast 180th stage 2A (91st Ave NE to west of 96th Ave NE) project; and

(c) \$4,496,768 is provided solely for the sound transit express bus expansion - Snohomish to King county project.

(8) \$300,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

(9) \$130,000 of the multimodal transportation account-- state appropriation is provided solely to the department to distribute to support Engrossed Substitute House Bill No. 2072 (special needs transportation).

(a) \$80,000 of the amount provided in this subsection is provided solely for implementation of the work group related to federal requirements in section 1, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009.

(b) \$50,000 of the amount provided in this subsection is provided solely to support the pilot project to be developed or implemented by the local coordinating coalition comprised of a single county, described in sections 9, 10, and 11, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009. The department shall assist the local coordinating coalition to seek funding sufficient to fully fund the pilot project from a variety of sources including, but not limited to, the regional transit authority serving the county, the regional transportation planning organization serving the county, and other appropriate state and federal agencies and grants. Development or implementation of the pilot project is contingent on securing funding sufficient to fully fund the pilot project.

(c) If Engrossed Substitute House Bill No. 2072 is not enacted by June 30, 2009, the amount provided in this subsection (9) lapses. If Engrossed Substitute House Bill No. 2072 is enacted by June 30, 2009, but a commitment from other sources to fully fund the pilot project described in (b) of this subsection has not been obtained by September 30, 2009, the amount provided in (b) of this subsection lapses.

(10) Funds provided for the commute trip reduction program may also be used for the growth and transportation efficiency center program.

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(11) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2009-11 fiscal biennium.

(12) \$2,309,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

Sec. 816. 2010 c 247 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF  
TRANSPORTATION--MARINE--PROGRAM X  
Puget Sound Ferry Operations Account--State  
Appropriation..... ((~~\$425,922,000~~))  
.....\$446,961,000

The appropriation in this section is subject to the following conditions and limitations:

(1) ((~~\$78,754,952~~)) \$97,053,000 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. This appropriation is contingent upon the enactment of sections 716 and 701 of this act. All fuel purchased by the Washington state ferries at Harbor Island truck terminal for the operation of the Washington state ferries diesel powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent.

(2) To protect the waters of Puget Sound, the department shall investigate nontoxic alternatives to fuel additives and other commercial products that are used to operate, maintain, and preserve vessels.

(3) If, after the department's review of fares and pricing policies, the department proposes a fuel surcharge, the department must evaluate other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge. The department shall report to the legislature and transportation commission on its progress of implementing new fuel forecasting and budgeting practices, price hedging contracts for fuel purchases, and fuel conservation strategies by November 30, 2010.

(4) The department shall strive to significantly reduce the number of injuries suffered by Washington state ferries employees. By December 15, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature its implementation plan to reduce such injuries.

(5) The department shall continue to provide service to Sidney, British Columbia. The department may place a Sidney terminal departure surcharge on fares for out of state residents riding the Washington state ferry route that runs between Anacortes, Washington and Sidney, British Columbia, if the cost for landing/license fee, taxes, and additional amounts charged for docking are in excess of \$280,000 CDN. The surcharge must be limited to recovering amounts above \$280,000 CDN.

(6) The department shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report its analysis to the transportation committees of the legislature by December 1, 2009.

(7) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-13 omnibus transportation appropriations act request, as determined jointly by the office of financial management, the Washington state ferries, and the legislative transportation committees.

(8) ((~~\$4,794,000~~)) \$6,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for commercial insurance for ferry assets. The office of financial management, after consultation with the transportation committees of the legislature, must present a business plan for the Washington state ferry system's insurance coverage to the 2010 legislature. The business plan must include a cost-benefit analysis of Washington state ferries' current commercial insurance purchased for ferry assets and a review of self- insurance for noncatastrophic events.

(9) \$1,100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for a marketing program. The department shall present a marketing program proposal to the transportation committees of the legislature during the 2010 legislative session before implementing this program. Of this amount, \$10,000 is for the city of Port Townsend and \$10,000 is for the town of Coupeville for mitigation expenses related to only one vessel operating on the Port Townsend/Keystone ferry route. The moneys provided to the city of Port Townsend and town of Coupeville are not contingent upon the required marketing proposal.

(10) \$350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for two extra trips per day during the summer of 2009 season, beyond the current schedule, on the Port Townsend/Keystone route.

(11) When purchasing uniforms that are required by collective bargaining agreements, the department shall contract with the lowest cost provider.

(12) The legislature finds that measuring the performance of Washington state ferries requires the measurement of quality, timeliness, and unit cost of services delivered to customers. Consequently, the department must develop a set of metrics that measure that performance and report to the transportation committees of the legislature and to the office of financial management on the development of these measurements along with recommendations to the 2010 legislature on which measurements must become a part of the next omnibus transportation appropriations act.

(13) As a priority task, the department is directed to propose a comprehensive incident and accident investigation policy and appropriate procedures, and to provide the proposal to the legislature by November 1, 2009, using existing resources and staff expertise. In addition to consulting with ferry system unions and the United States coast guard, the Washington state ferries is encouraged to solicit independent outside expertise on incident and accident investigation best practices as they may be found in other organizations with a similar concern for marine safety. It is the intent of the legislature to enact the policies into law and to publish that law and procedures as a manual for Washington state ferries' accident/incident investigations. Until that time, the Washington state ferry system must exercise particular diligence to assure that any incident or accident investigations are conducted within the spirit of the guidelines of this act. The proposed policy must contain, at a minimum:

(a) The definition of an incident and an accident and the type of investigation that is required by both types of events;

(b) The process for appointing an investigating officer or officers and a description of the authorities and responsibilities of the investigating officer or officers. The investigating officer or officers must:

(i) Have the appropriate training and experience as determined by the policy;

(ii) Not have been involved in the incident or accident so as to avoid any conflict of interest;

(iii) Have full access to all persons, records, and relevant organizations that may have information about or may have contributed to, directly or indirectly, the incident or accident under

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investigation, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW;

(iv) Be provided with, if requested by the investigating officer or officers, appropriate outside technical expertise; and

(v) Be provided with staff and legal support by the Washington state ferries as may be appropriate to the type of investigation;

(c) The process of working with the affected employee or employees in accordance with the employee's or employees' respective collective bargaining agreement and the appropriate union officials, within protocols afforded to all public employees;

(d) The process by which the United States coast guard is kept informed of, interacts with, and reviews the investigation;

(e) The process for review, approval, and implementation of any approved recommendations within the department; and

(f) The process for keeping the public informed of the investigation and its outcomes, in compliance with any affected employee's or employees' respective collective bargaining agreement and state laws and rules regarding public disclosure under chapter 42.56 RCW.

(14) \$7,300,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the purposes of travel time associated with Washington state ferries employees. However, if Engrossed Substitute House Bill No. 3209 (managing costs of ferry system) is enacted by June 30, 2010, containing an appropriation for purposes of travel time associated with Washington state ferries employees, the amount provided in this subsection lapses.

(15) \$50,000 of the Puget Sound ferry operations account--state appropriation is provided solely to implement a mechanism to report on-time performance statistics.

(a) The department shall conduct a study to identify process changes that would improve on-time performance on a route-by-route basis. The study must include looking into the slowing down of vessels for fuel economy purposes and touch-and-go sailings on peak runs. The department shall report its findings to the transportation committees of the senate and house of representatives by December 1, 2010.

(b) The department shall, by November 1, 2010, report to the transportation committees of the legislature statistics regarding its on-time arrival and departure status on a route-by-route and month-by-month basis, as well as an annual route-by-route and systemwide basis, weighted by the number of customers on each sailing and distinguishing peak period on-time performance. The statistics must include reasons for any delays over ten minutes from the scheduled time. The statistics must be prominently displayed on the Washington state ferries' web site. Each Washington state ferries vessel and terminal must prominently display the statistics as they relate to their specific route.

(16) The department shall investigate outsourcing the call center functions planned for the ferry reservation system and report its findings to the transportation committees of the senate and house of representatives by December 15, 2010.

(17) By July 1, 2010, the department shall provide to the governor and the transportation committees of the senate and house of representatives a listing of all benefits that Washington state ferries union employees receive that other state employees do not traditionally receive. The listing must include any costs associated with these benefits.

**Sec. 817.** 2010 c 247 s 223 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING Multimodal Transportation Account--State

Appropriation..... ((~~\$37,371,000~~))  
.....\$29,871,000  
Multimodal Transportation Account--Federal  
Appropriation.....\$100,000  
TOTAL APPROPRIATION .....\$29,971,000

The appropriations in this section ((is)) are subject to the following conditions and limitations:

(1) ((~~\$31,591,000~~)) \$24,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

**Sec. 818.** 2010 c 247 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- OPERATING

Motor Vehicle Account--State  
Appropriation..... ((~~\$8,621,000~~))  
.....\$8,618,000  
Motor Vehicle Account--Federal Appropriation.....\$2,545,000  
TOTAL APPROPRIATION ..... ((~~\$11,166,000~~))  
.....\$11,163,000

NEW SECTION. **Sec. 819.** A new section is added to 2010 c 247 (uncodified) to read as follows:

The appropriations to the department of transportation in chapter 247, Laws of 2010 and this act must be expended for the programs and in the amounts specified in this act. However, after May 1, 2011, unless specifically prohibited, the department may transfer state appropriations for the 2009-2011 fiscal biennium among operating programs after approval by the director of the office of financial management. However, the department shall not transfer state moneys that are provided solely for a specific purpose. The department shall not transfer funds, and the director of the office of financial management shall not approve the transfer unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of the office of financial management shall notify the appropriate transportation committees of the legislature prior to approving any allotment modifications or transfers under this section. The written notification must include a narrative explanation and justification of the changes, along with expenditures and allotments by program and appropriation, both before and after any allotment modifications or transfers.

**TRANSPORTATION AGENCIES--CAPITAL**

**Sec. 901.** 2009 c 470 s 301 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL  
State Patrol Highway Account--State Appropriation((~~\$3,126,000~~))  
.....\$2,481,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,626,000 of the state patrol highway account--state appropriation is provided solely for the following minor works projects: \$450,000 for Shelton training academy roofs; ((~~\$150,000 for HVAC control replacements~~)) \$168,000 for upgrades to scales; \$50,000 for Bellevue electrical equipment upgrades; ((~~\$90,000~~))

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\$16,000 for South King detachment window replacement; \$200,000 for the replacement of the Naselle radio tower, generator shelter, and fence; \$200,000 for unforeseen emergency repairs; and \$318,000 for the Shelton training academy drive course/skid pan repair.

(2) ~~(\$1,500,000)~~ \$1,079,000 of the state patrol highway account-- state appropriation is provided solely for the Shelton academy of the Washington state patrol and is contingent upon a signed agreement between the city of Shelton, the department of corrections, and the Washington state patrol that provides for an on-going payment to these three entities, based on their percentage of the total investment in the project, from all hookup fees, late comer fees, LIDS, and all other initial fees collected for the new waste water treatment lines, waste water plants, water lines, and water systems.

Sec. 902. 2010 c 247 s 301 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

|   |                            |
|---|----------------------------|
| Rural Arterial Trust Account--State Appropriation         | <del>(\$73,000,000)</del>  |
| .....   | \$71,500,000               |
| Motor Vehicle Account--State Appropriation                | \$1,048,000                |
| County Arterial Preservation Account--State Appropriation | <del>(\$31,400,000)</del>  |
| .....   | \$30,400,000               |
| TOTAL APPROPRIATION                                       | <del>(\$105,448,000)</del> |
| .....   | \$102,948,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,048,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) The appropriations in this section include funding to counties to assist them in efforts to recover from federally declared emergencies, by providing capitalization advances and local match for federal emergency funding as determined by the county road administration board. The county road administration board shall specifically identify any such selected projects and shall include information concerning such selected projects in its next annual report to the legislature.

(3) \$22,000,000 of the rural arterial trust account--state appropriation is provided solely for additional grants for county road projects as approved by the county road administration board.

Sec. 903. 2010 c 247 s 302 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

|   |                            |
|---|----------------------------|
| Small City Pavement and Sidewalk Account--State Appropriation | <del>(\$3,927,000)</del>   |
| .....   | \$3,737,000                |
| Urban Arterial Trust Account--State Appropriation             | <del>(\$123,900,000)</del> |
| .....   | \$121,900,000              |
| Transportation Improvement Account--State Appropriation       | <del>(\$81,643,000)</del>  |
| .....   | \$80,643,000               |
| TOTAL APPROPRIATION   | <del>(\$209,470,000)</del> |
| .....   | \$206,280,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) The transportation improvement account--state appropriation includes up to \$7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account--state appropriation includes up to ~~(\$7,143,000)~~ \$15,000,000 in proceeds from the sale of bonds authorized in RCW 47.26.420.

Sec. 904. 2009 c 470 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL Motor Vehicle Account--State Appropriation

~~..... (\$4,810,000)~~ .....\$4,623,000  
The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,198,000 of the motor vehicle account--state appropriation is provided solely for the Olympic region site acquisition debt service payments and administrative costs associated with capital improvement and preservation project and financial management.

(2) ~~(\$3,612,000)~~ \$3,425,000 of the motor vehicle account--state appropriation is provided solely for high priority safety projects that are directly linked to employee safety, environmental risk, or minor works that prevent facility deterioration. This includes the administrative costs associated with those projects and the reconstruction of the Wandermere facility that was destroyed in the 2008-09 winter storms.

Sec. 905. 2010 c 247 s 303 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I

|  |                              |
|--|------------------------------|
| Multimodal Transportation Account--State Appropriation               | <del>(\$98,000)</del>        |
| .....  | \$2,000                      |
| Transportation Partnership Account--State Appropriation              | <del>(\$1,665,644,000)</del> |
| .....  | \$1,325,624,000              |
| Motor Vehicle Account--State Appropriation                           | <del>(\$85,534,000)</del>    |
| .....  | \$66,880,000                 |
| Motor Vehicle Account--Federal Appropriation                         | <del>(\$570,107,000)</del>   |
| .....  | \$532,458,000                |
| Motor Vehicle Account--Private/Local Appropriation                   | <del>(\$70,714,000)</del>    |
| .....  | \$83,270,000                 |
| Special Category C Account--State Appropriation                      | \$25,221,000                 |
| Transportation 2003 Account (Nickel Account)--State Appropriation    | <del>(\$713,205,000)</del>   |
| .....  | \$590,797,000                |
| Freight Mobility Multimodal Account--State Appropriation             | <del>(\$4,574,000)</del>     |
| .....  | \$4,575,000                  |
| Tacoma Narrows Toll Bridge Account--State Appropriation              | <del>(\$789,000)</del>       |
| .....  | \$797,000                    |
| State Route Number 520 Corridor Account--State Appropriation         | <del>(\$231,763,000)</del>   |
| .....  | \$229,838,000                |
| (State Route Number 520 Civil Penalties Account--State Appropriation | \$1,190,000)                 |
| TOTAL APPROPRIATION  | <del>(\$3,368,839,000)</del> |
| .....  | \$2,859,462,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2010-4))~~ 2011-1 as developed ~~((March 8, 2010))~~ April 19, 2011, Program - Highway Improvement Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 ~~((of this act))~~, chapter ... (Engrossed Substitute House Bill No. 1175), Laws of 2011.

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(2) (~~(\$163,385,000)~~) \$158,094,000 of the transportation partnership account--state appropriation and (~~(\$231,763,000)~~) \$229,838,000 of the state route number 520 corridor account--state appropriation are provided solely for the state route number 520 bridge replacement and HOV project. The department shall submit an application for the eastside transit and HOV project to the supplemental discretionary grant program for regionally significant projects as provided in the American Recovery and Reinvestment Act of 2009.

(3) As required under section 305(6), chapter 518, Laws of 2007, the department shall report by January 2010 to the transportation committees of the legislature on the findings of the King county noise reduction solutions pilot project.

(4) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

(5) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P including, but not limited to, the SR 518, SR 520, Columbia river crossing, and Alaskan Way viaduct projects.

(6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Report formatting and elements must be consistent with the October 2009 quarterly project report. On a representative sample of new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring.

(7) The transportation 2003 account (nickel account)--state appropriation includes up to (~~(\$653,630,000)~~) \$567,964,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(8) The transportation partnership account--state appropriation includes up to (~~(\$1,347,939,000)~~) \$1,261,092,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(9) The special category C account--state appropriation includes up to (~~(\$25,221,000)~~) \$25,056,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

(10) The motor vehicle account--state appropriation includes up to (~~(\$43,000,000)~~) \$42,960,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The state route number 520 corridor account--state appropriation includes up to (~~(\$231,763,000)~~) \$229,838,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

(12) The department must prepare a tolling study for the Columbia river crossing project. While conducting the study, the department must coordinate with the Oregon department of transportation to perform the following activities:

(a) Evaluate the potential diversion of traffic from Interstate 5 to other parts of the transportation system when tolls are implemented on Interstate 5 in the vicinity of the Columbia river;

(b) Evaluate the most advanced tolling technology to maintain travel time speed and reliability for users of the Interstate 5 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could maintain travel time speed and reliability on the Interstate 5 bridge;

(d) Confer with the project sponsor's council, as well as local and regional governing bodies adjacent to the Interstate 5 Columbia river crossing corridor and the Interstate 205 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(e) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility;

(f) Research and evaluate options for a potential toll-setting framework between the Oregon and Washington transportation commissions;

(g) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge and business and freight interests, regarding implementation of tolls on the Interstate 5 and to solicit citizen views on the following items:

(i) Funding a portion of the Columbia river crossing project with tolls;

(ii) Implementing variable tolling as a way to reduce congestion on the facility; and

(iii) Tolling Interstate 205 separately as a management tool for the broader state and regional transportation system; and

(h) Provide a report to the governor and the legislature by January 2010.

(13)(a) By January 2010, the department must prepare a traffic and revenue study for Interstate 405 in King county and Snohomish county that includes funding for improvements and high occupancy toll lanes, as defined in RCW 47.56.401, for traffic management. The department must develop a plan to operate up to two high occupancy toll lanes in each direction on Interstate 405.

(b) For the facility listed in (a) of this subsection, the department must:

(i) Confer with the mayors and city councils of jurisdictions in the vicinity of the project regarding the implementation of high occupancy toll lanes and the impacts that the implementation of these high occupancy toll lanes might have on the operation of the corridor and adjacent local streets;

(ii) Conduct public work sessions and open houses to provide information to citizens regarding implementation of high occupancy toll lanes and to solicit citizen views;

(iii) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's toll setting on the facility; and

(iv) Provide a report to the governor and the legislature by January 2010.

(14) (~~(\$6,488,000)~~) \$1,323,000 of the motor vehicle account--state appropriation and (~~(\$5,000)~~) \$3,628,000 of the motor vehicle account-- federal appropriation are provided solely for project 100224I, US 2 high priority safety project. Expenditure of these funds is for safety projects on state route number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) Expenditures for the state route number 99 Alaskan Way viaduct replacement project must be made in conformance with Engrossed Substitute Senate Bill No. 5768.

(16) The department shall conduct a public outreach process to identify and respond to community concerns regarding the Belfair bypass. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider and develop design alternatives that alter the project's scope so that the community's needs are met within the project budget. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

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(17) The legislature is committed to the timely completion of R8A which supports the construction of sound transit's east link. Following the completion of the independent analysis of the methodologies to value the reversible lanes on Interstate 90 which may be used for high capacity transit as directed in section 204 of this act, the department shall complete the process of negotiations with sound transit. Such agreement shall be completed no later than December 1, 2009.

(18) \$250,000 of the motor vehicle account--state appropriation is provided solely for the design and construction of a right turn lane to improve visibility and traffic flow on state route number 195 and Cheney-Spokane Road (project L100001).

(19) ~~(\$730,000)~~ \$724,000 of the motor vehicle account--federal appropriation and ~~(\$16,000)~~ \$17,000 of the motor vehicle account-- state appropriation are provided solely for the Westview school noise wall (project WESTV).

(20) ~~(\$2,000)~~ \$3,000 of the motor vehicle account--state appropriation and \$131,000 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A Street and Tank Farm Road (project PASCO).

(21) ~~(\$21,566,000)~~ \$13,246,000 of the transportation partnership account--state appropriation, ~~(\$26,000)~~ \$27,000 of the motor vehicle account--state appropriation, ~~(\$30,000,000)~~ \$40,000,000 of the motor vehicle account--private/local appropriation, and ~~(\$4,334,000)~~ \$9,422,000 of the motor vehicle account--federal appropriation are provided solely for project 400506A, the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes a ~~(\$30,000,000)~~ \$40,000,000 contribution from the state of Oregon.

(22) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(23) The department shall evaluate a potential deep bore culvert for the state route number 305/Bjorgen creek fish barrier project identified as project 330514A in LEAP Transportation Document ALL PROJECTS 2009-2, as developed April 24, 2009. The department shall evaluate whether a deep bore culvert will be a less costly alternative than a traditional culvert since a traditional culvert would require extensive road detours during construction.

(24) Project number 330215A in the LEAP transportation document described in subsection (1) of this section is expanded to include safety and congestion improvements from the Key Peninsula Highway to the vicinity of Purdy. The department shall consult with the Washington traffic safety commission to ensure that this project includes improvements at intersections and along the roadway to reduce the frequency and severity of collisions related to roadway conditions and traffic congestion.

(25) ~~(\$8,890,000)~~ \$5,831,000 of the transportation partnership account--state appropriation is provided solely for project 109040Q, the Interstate 90 Two Way Transit and HOV Improvements--Stage 2 and 3 project, as indicated in the LEAP transportation document referenced in subsection (1) of this section.

(26) The department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American Viticulture Area of Benton county.

(27) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

(28) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(29) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 167 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 316718A in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

(a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;

(b) Maximizing the efficient operation of the corridor; and

(c) Economic considerations for future system investments.

(30) Within the amounts provided in this section, \$200,000 of the transportation partnership account--state appropriation is provided solely for the department to prepare a comprehensive tolling study of the state route number 509 corridor to determine the feasibility of administering tolls within the corridor, identified as project number 850901F in the LEAP transportation document described in subsection (1) of this section. The department shall report to the joint transportation committee by September 30, 2010. The department shall regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility. The elements of the study must include, at a minimum:

(a) The potential for value pricing to generate revenues for needed transportation facilities within the corridor;

(b) Maximizing the efficient operation of the corridor; and

(c) Economic considerations for future system investments.

(31) Within the amounts provided in this section, \$28,000,000 of the transportation partnership account--state appropriation is for project 600010A, as identified in the LEAP transportation document in subsection (1) of this section: NSC-North Spokane corridor (~~design and right of way—new alignment~~). Expenditure of these funds is for preliminary engineering and right-of-way purchasing to prepare for four lanes to be built from where existing construction ends at Francis Avenue for three miles to the Spokane river. Additionally, any savings realized on project 600001A, as identified in the LEAP transportation document in subsection (1) of this section: US 395/NSC-Francis Avenue to Farwell Road - New Alignment, must be applied to project 600010A.

(32) \$400,000 of the motor vehicle account--state appropriation is provided solely for the department to conduct a state route number

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2 route development plan (project L2000016) that will identify essential improvements needed between the port of Everett/Naval station and approaching the state route number 9 interchange near the city of Snohomish.

(33) If the SR 26 - Intersection and Illumination Improvements are not completed by June 30, 2009, the department shall ensure that the improvements are completed as soon as practicable after June 30, 2009, and shall submit monthly progress reports on the improvements beginning July 1, 2009.

(34) \$200,000 of the transportation partnership account--state appropriation, identified on project number 400506A in the LEAP transportation document described in subsection (1) of this section, is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(35) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

(36) Within the amounts provided in this section, \$1,500,000 of the motor vehicle account--state appropriation is provided solely for necessary work along the south side of SR 532, identified as project number 053255C in the LEAP transportation document described in subsection (1) of this section.

(37) \$10,000,000 of the transportation partnership account--state appropriation is provided solely for the Spokane street viaduct portion of project 809936Z, SR 99/Alaskan Way Viaduct - Replacement project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

(38) The department shall conduct a public outreach process to identify and respond to community concerns regarding the portion of John's Creek Road that connects state route number 3 and state route number 101. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider, develop, and design a project scope so that the community's needs are met for the lowest cost. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

(39) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by January 1, 2010.

(40) ~~(\$5,500,000)~~ \$3,388,000 of the motor vehicle account--federal appropriation ~~(4s)~~ and \$1,405,000 of the motor vehicle account--state appropriation are provided solely for the Alaskan Way Viaduct - Automatic Shutdown project, identified as project L1000034.

(41) ~~(\$2,244,000)~~ \$2,937,000 of the motor vehicle account--federal appropriation and ~~(\$122,000)~~ \$163,000 of the motor vehicle account--state appropriation are provided solely for the US

12/Nine Mile Hill to Woodward Canyon Vic -Build New Highway project, identified as project 501210T.

(42) ~~(\$790,000)~~ \$1,116,000 of the motor vehicle account--federal appropriation is provided solely for the Express Lanes System Concept Study project, identified as project 800020A. As part of this project, the department shall prepare a comprehensive tolling study of the Interstate 5 express lanes to determine the feasibility of administering tolls within the corridor. The department shall regularly report to the Washington transportation commission regarding the progress of the study. The elements of the study must include, at a minimum:

(i) The potential for value pricing to generate revenues for needed transportation facilities;

(ii) Maximizing the efficient operation of the corridor;

(iii) Economic considerations for future system investments; and

(iv) An analysis of the impacts to the regional transportation system.

(b) The department shall submit a final report on the study to the joint transportation committee by June 30, 2011.

~~(\$44-\$226,000)~~ (43) \$110,000 of the motor vehicle account--federal appropriation and ~~(\$9,000)~~ \$5,000 of the motor vehicle account--state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). These funds must not be expended before an agreement stating that the city of Gig Harbor will take ownership of the road has been signed. The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

~~(\$45)~~ (44) The department shall work with the Washington state transportation commission, the Oregon state department of transportation, and the Oregon state transportation commission to analyze and review potential options for a bistate, toll setting framework. As part of the analysis, the department shall undertake the following actions: Review statutory provisions and the governance structures of toll facilities in the United States that are located within two or more states; review relevant federal law regarding transportation facilities that are located within two or more states; consult with the state treasurers in Washington and Oregon regarding the appropriate structure for the issuance of debt for toll facilities that are located within two states; report findings and recommendations to the Columbia river project sponsor's council by October 1, 2010; and provide a final report to the governor and the legislature by June 30, 2011.

~~(\$46)~~ (45) \$750,000 of the motor vehicle account--state appropriation is provided solely for improvements from Allan Road to state route number 12 (501207Z).

~~(\$47-\$500,000)~~ (46) \$455,000 of the motor vehicle account--state appropriation is provided solely for a traffic signal at the intersection of state route number 7 and state route number 702 (300738A).

~~(\$48-\$750,000)~~ (47) \$316,000 of the motor vehicle account--state appropriation is provided solely for environmental work on the Belfair Bypass (project 300344C).

~~(\$49)~~ (48) The legislature finds that state route number 522 corridor provides an important link between Interstates 5 and 405 and will be impacted by diversion from tolling elsewhere in the region. State route number 522 must be reviewed as part of the scoping work conducted under section 220(4) of this act. As such, the legislature intends to provide additional funding for the corridor as a priority in the next revenue package. The state will work with the affected cities and the federal government to secure the necessary resources to address the needs of this critical corridor.

~~(\$50-\$500,000)~~ (49) \$558,000 of the motor vehicle account--state appropriation is provided solely for the US 12/SR

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122/Mossyrock - Intersection project (401212R) for safety improvements.

~~((54))~~ (50) \$200,000 of the motor vehicle account--federal appropriation is provided solely for project US 97A/North of Wenatchee - Wildlife Fence (209790B), and an offsetting reduction is anticipated in the 2011-13 biennium.

~~((52))~~ (51) If a planned roundabout in the vicinity of state route number 526 and 84th Street SW would divert commercial traffic onto neighborhood streets, the department may not proceed with improvements at state route number 526 and 84th Street SW until the traffic impacts in the vicinity of state route number 526 and 40th Avenue West are addressed.

~~((53))~~ (52) The department shall conduct a collision analysis corridor study on state route number 167 from milepost 0 to milepost 5 and report to the transportation committees of the legislature on the analysis results by December 1, 2010.

~~((54) \$2,600,000)~~ (53) \$357,000 of the motor vehicle account-- federal appropriation is provided solely for the ITS Advanced Traveler Information System project in Whatcom county (100589B).

~~((55) \$900,000)~~ (54) \$94,000 of the motor vehicle account-- federal appropriation is provided solely for the US 97/Cameron Lake Road intersection improvements project in Okanogan county (209700W).

~~((56) \$400,000)~~ (55) \$294,000 of the motor vehicle account--federal appropriation and ~~((100,000))~~ \$74,000 of the motor vehicle account--state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

~~((57))~~ (56) The legislature finds that the state route number 12 widening from state route number 124 to Walla Walla is an important east-west corridor in the southeast region of the state. Widening the highway to four lanes will increase safety and improve freight mobility. Therefore, the legislature intends for the department to use up to two million dollars in future redistributed federal obligation authority that may be received by the department for right-of-way purchase for the US 12/Nine Mile Hill to Woodward Canyon Vicinity - Phase 7-A project (501210T).

**Sec. 906.** 2010 c 247 s 304 (uncodified) is amended to read as follows:

|   |     |            |                            |
|---|-----|------------|----------------------------|
| FOR   | THE | DEPARTMENT | OF                         |
| TRANSPORTATION--PRESERVATION--PROGRAM P             |     |            |                            |
| Transportation Partnership Account--State           |     |            |                            |
| Appropriation.....                                  |     |            | <del>((75,305,000))</del>  |
|   |     |            | \$67,381,000               |
| Motor Vehicle Account--State Appropriation .....    |     |            | <del>((96,884,000))</del>  |
|   |     |            | \$92,733,000               |
| Motor Vehicle Account--Federal Appropriation .      |     |            | <del>((556,705,000))</del> |
|   |     |            | \$528,158,000              |
| Motor Vehicle Account--Private/Local Appropriation  |     |            | <del>((18,768,000))</del>  |
|   |     |            | \$19,675,000               |
| Transportation 2003 Account (Nickel Account)--State |     |            |                            |
| Appropriation.....                                  |     |            | <del>((6,328,000))</del>   |
|   |     |            | \$6,148,000                |
| Puyallup Tribal Settlement Account--State           |     |            |                            |
| Appropriation.....                                  |     |            | <del>((6,636,000))</del>   |
|   |     |            | \$6,647,000                |
| TOTAL APPROPRIATION .....                           |     |            | <del>((760,626,000))</del> |
|   |     |            | \$720,742,000              |

The appropriations in this section are subject to the following conditions and limitations:

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and

amount in LEAP Transportation Document (~~(2010-4)~~) 2011-1 as developed (~~(March 8, 2010)~~) April 19, 2011, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 (~~(of this act)~~), chapter . . . (Engrossed Substitute House Bill No. 1175), Laws of 2011.

(2) ~~((542,000))~~ \$546,000 of the motor vehicle account--federal appropriation and ~~((453,000))~~ \$188,000 of the motor vehicle account-- state appropriation are provided solely for project 602110F, SR 21/Keller ferry boat - Preservation. Funds are provided solely for preservation work on the existing vessel, the Martha S.

(3) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P.

(4) ~~((6,636,000))~~ \$6,647,000 of the Puyallup tribal settlement account--state appropriation is provided solely for costs associated with the Murray Morgan/11th Street bridge project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. The department's participation, including prior expenditures, may not exceed ~~((40,270,000))~~ \$40,281,000. The city of Tacoma has taken ownership of the bridge in its entirety, and the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(5) The department and the city of Tacoma must present to the legislature an agreement on the timing of the transfer of ownership of the Murray Morgan/11th Street bridge and any additional necessary state funding required to achieve the transfer and rehabilitation of the bridge by January 1, 2010.

(6) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(8)(a) The department shall conduct an analysis of state highway pavement replacement needs for the next ten years. The report must include:

- (i) The current backlog of asphalt and concrete pavement preservation projects;
- (ii) The level of investment needed to reduce or eliminate the backlog and resume the lowest life-cycle cost;

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(iii) Strategies for addressing the recent rapid escalation of asphalt prices, including alternatives to using hot mix asphalt;

(iv) Criteria for determining which type of pavement will be used for specific projects, including annualized cost per mile, traffic volume per lane mile, and heavy truck traffic volume per lane mile; and

(v) The use of recycled asphalt and concrete in state highway construction and the effect on highway pavement replacement needs.

(b) Additionally, the department shall work with the department of ecology, the county road administration board, and the transportation improvement board to explore and explain the potential use of permeable asphalt and concrete pavement in state highway construction as an alternative method of storm water mitigation and the potential effects on highway pavement replacement needs.

(c) The department shall submit the report to the office of financial management and the transportation committees of the legislature by September 1, 2010, in order to inform the development of the 2011-13 omnibus transportation appropriations act.

(9) ~~(\$299,000)~~ \$581,000 of the motor vehicle account--state appropriation, ~~(\$23,425,000)~~ \$25,207,000 of the motor vehicle account--federal appropriation, and ~~(\$373,000)~~ \$273,000 of the transportation partnership account--state appropriation are provided solely for the SR 104/Hood Canal bridge - replace east half project, identified as project 310407B in the LEAP transportation document described in subsection (1) of this section.

(10) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

(11) Within the amounts provided in this section, \$1,510,000 of the motor vehicle account--state appropriation is provided solely to complete the rehabilitation of the SR 532/84th Avenue NW bridge deck.

(12) ~~(\$1,440,000)~~ \$1,160,000 of the motor vehicle account--federal appropriation and ~~(\$60,000)~~ \$54,000 of the motor vehicle account--state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

(13) ~~(\$12,503,000)~~ \$13,833,000 of the motor vehicle account-- federal appropriation and ~~(\$497,000)~~ \$479,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Establish Interim Detour project (541002R).

(14) ~~(\$4,239,000)~~ \$3,933,000 of the motor vehicle account--federal appropriation and ~~(\$662,000)~~ \$615,000 of the motor vehicle account--state appropriation are provided solely for the SR 410/Nile Valley Landslide - Reconstruct Route project (541002T).

~~((46))~~ (15) The legislature anticipates a report in September 2010 that will outline the department's recommendation for developing a Keller Ferry replacement at the lowest cost. The legislature supports the request to the federal government for federal aid for a replacement vessel and intends to provide reasonable matching amounts as necessary.

~~((47) \$2,100,000)~~ (16) \$194,000 of the motor vehicle account-- federal appropriation is provided solely for the SR 21/Kettle River to Malo paving project in Ferry county (602117A).

**Sec. 907.** 2010 c 247 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q-- CAPITAL

Motor Vehicle Account--State Appropriation ..... ~~(\$8,158,000)~~

|  |                           |
|--|---------------------------|
| .....  | \$6,847,000               |
| Motor Vehicle Account--Federal Appropriation...    | <del>(\$18,037,000)</del> |
| .....  | \$11,412,000              |
| Motor Vehicle Account--Private/Local Appropriation | <del>(\$173,000)</del>    |
| .....  | \$174,000                 |
| TOTAL APPROPRIATION .....                          | <del>(\$26,368,000)</del> |
| .....  | \$18,433,000              |

**Sec. 908.** 2010 c 283 s 19 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State Appropriation..... ~~(\$126,824,000)~~

..... \$102,289,000

Puget Sound Capital Construction Account--Federal Appropriation..... ~~(\$60,364,000)~~

..... \$51,194,000

Puget Sound Capital Construction Account--Local Appropriation..... \$200,000

Transportation 2003 Account (Nickel Account)--State Appropriation..... ~~(\$51,734,000)~~

..... \$51,735,000

Transportation Partnership Account--State Appropriation..... ~~(\$66,879,000)~~

..... \$102,660,000

Multimodal Transportation Account--State Appropriation..... \$149,000

TOTAL APPROPRIATION ..... ~~(\$306,150,000)~~

..... \$308,227,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$126,824,000)~~ \$102,289,000 of the Puget Sound capital construction account--state appropriation, ~~(\$60,364,000)~~ \$51,194,000 of the Puget Sound capital construction account--federal appropriation, \$200,000 of the Puget Sound capital construction account--local appropriation, ~~(\$66,879,000)~~ \$102,660,000 of the transportation partnership account--state appropriation, ~~(\$51,734,000)~~ \$51,735,000 of the transportation 2003 account (nickel account)--state appropriation, and \$149,000 of the multimodal transportation account-- state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document 2011-2 ALL PROJECTS ((2010-2)) as developed ~~((March 8, 2010))~~ April 19, 2011, Program -Washington State Ferries ((Construction)) Capital Program (W). Of the total appropriation, a maximum of \$10,627,000 may be used for administrative support, a maximum of ~~(\$8,184,000)~~ \$7,635,000 may be used for terminal project support, and a maximum of \$4,497,000 may be used for vessel project support. Of the total appropriation, ~~(\$5,851,000)~~ \$2,016,000 is provided solely for a reservation system and associated communications projects.

(2) ~~(\$51,734,000)~~ \$51,735,000 of the transportation 2003 account (nickel account)--state appropriation, ~~(\$63,100,000)~~ \$99,891,000 of the transportation partnership account--state appropriation, and ~~(\$10,164,000)~~ \$10,165,000 of the Puget Sound capital construction account--state appropriation are provided solely for the acquisition of three new Island Home class ferry vessels subject to the conditions of RCW 47.56.780. The department shall pursue a contract for the second and third Island Home class ferry vessels with an option to purchase a fourth Island Home class ferry vessel. However, if sufficient resources are available to build one 144-auto vessel prior to exercising the option to build the fourth Island Home class ferry vessel, procurement of the fourth Island

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Home class ferry vessel will be postponed and the department shall pursue procurement of a 144-auto vessel.

(a) The first two Island Home class ferry vessels must be placed on the Port Townsend-Keystone route.

(b) The department may add additional passenger capacity to one of the Island Home class ferry vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(c) Cost savings from the following initiatives will be included in the funding of these vessels: The department's review and update of the vessel life-cycle cost model as required under this section; and the implementation of technology efficiencies as required under section 602 of this act.

(3)(a) \$8,450,000 of the Puget Sound capital construction account-- state appropriation (~~and \$2,450,000~~), \$2,000 of the Puget Sound capital construction account--federal appropriation, and \$1,450,000 of the transportation partnership account--state appropriation are provided solely for the following projects related to the design of a 144-vehicle vessel class: (i) (~~\$1,380,000~~) \$700,000 is provided solely for completion of the contract for owner-furnished equipment; (ii) \$8,320,000 is provided solely for completion of the technical design, detail design, and production drawings(~~(, all of which must plan for an aluminum superstructure)~~); (iii) (~~\$480,000~~) \$300,000 is provided solely for the storage of owner-furnished equipment; and (iv) a maximum of (~~\$720,000~~) \$582,000 is for construction engineering. In completing the contract for owner-furnished equipment, the department shall use as much of the already procured equipment as is practicable on the Island Home class ferry vessels if it is likely to be obsolete before it is used in procured 144-vehicle vessels.

(b) The department shall conduct a cost-benefit study on alternative furnishings and fittings for the 144-vehicle vessel class. The study must review the proposed interior furnishings and fittings for the long-term maintenance and out-of-service vessel costs and, if appropriate, propose alternative interior furnishings and fittings that will decrease long-term maintenance and out-of-service vessel costs. The study must include a projection of out-of-service time and a life-cycle cost analysis of planned out-of-service time, including the impact on fleet size. The department must submit the study to the joint transportation committee by August 1, 2010.

((c) The department shall identify costs for any additional detail design and production drawings costs related to incorporating the aluminum superstructure and any changes in the proposed furnishings and fittings.))

(4) (~~\$6,300,000~~) \$2,000,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital costs.

(5) (~~\$3,000,000~~) \$1,235,000 of the (~~Puget Sound capital construction account--federal~~) total appropriation is provided solely for completing the Anacortes terminal design up to the maximum allowable construction cost phase. Beyond preparing environmental work, these funds may be spent only after the following conditions have been met: (a) A value engineering process is conducted on the existing design and the concept of a terminal building smaller than preferred alternative; (b) the office of financial management participates in the value engineering process; (c) the office of financial management concurs with the recommendations of the value engineering process; and (d) the office of financial management gives its approval to proceed with the design work.

(6) (~~\$3,965,000~~) of the Puget Sound capital construction account-- state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project for the Issaquah; jumbo Mark I class steering gear ventilation pilot project; and improvements to the Yakima and Kaleetan propulsion controls to

allow for two engine operation. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

(7)) The department shall pursue purchasing a foreign-flagged vessel for service on the Anacortes, Washington to Sidney, British Columbia ferry route.

((~~8~~)) (7) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2009-11 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS). The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

((~~9~~)) (8) The department shall review and adjust its capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

((~~10~~)) (9) \$1,200,000 of the total appropriation is provided solely for improving the toll booth configuration at the Port Townsend and Keystone ferry terminals.

((~~11~~)) (10) \$2,636,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal. The department shall seek additional federal funding for this project.

((~~12~~)) (11) The department shall develop a proposed ferry vessel maintenance, preservation, and improvement program and present it to the transportation committees of the legislature by July 1, 2010. The proposal must:

(a) Improve the basis for budgeting vessel maintenance, preservation, and improvement costs and for projecting those costs into a sixteen-year financial plan;

(b) Limit the amount of planned out-of-service time to the greatest extent possible, including options associated with department staff as well as commercial shipyards. At a minimum, the department shall consider the following:

(i) The costs compared to benefits of Eagle Harbor repair and maintenance facility operations options to include staffing costs and benefits in terms of reduced out-of-service time;

(ii) The maintenance requirements for on-vessel staff, including the benefits of a systemwide standard;

(iii) The costs compared to benefits of staff performing preservation or maintenance work, or both, while the vessel is underway, tied up between sailings, or not deployed;

(iv) A review of the department's vessel maintenance, preservation, and improvement program contracting process and contractual requirements;

(v) The costs compared to benefits of allowing for increased costs associated with expedited delivery;

(vi) A method for comparing the anticipated out-of-service time of proposed projects and other projects planned during the same construction period;

(vii) Coordination with required United States coast guard dry dockings;

(viii) A method for comparing how proposed projects relate to the service requirements of the route on which the vessel normally operates; and

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(ix) A method for evaluating the ongoing maintenance and preservation costs associated with proposed improvement projects; and

(c) Be based on the service plan in the capital plan, recognizing that vessel preservation and improvement needs may vary by route.

~~((13))~~ (12) \$247,000 of the Puget Sound capital construction account-- state appropriation is provided solely for the Washington state ferries to review and update its vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by December 1, 2010. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

~~((14))~~ (13) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

~~((15))~~ (14) The Puget Sound capital construction account--state appropriation includes up to ~~((114,000,000))~~ \$91,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

~~((16))~~ (15) The Puget Sound capital construction account--state appropriation reflects the reduction of three terminal positions due to decreased terminal activity and funding.

~~((17))~~ (16) The department shall provide data to the transportation committees of the senate and house of representatives for a transparent analysis of travel pay policies.

Sec. 909. 2010 c 247 s 307 (uncodified) is amended to read as follows:

|  |     |                            |               |
|--|-----|----------------------------|---------------|
| FOR  | THE | DEPARTMENT                 | OF            |
| TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL           |     |                            |               |
| Essential Rail Assistance Account--State           |     |                            |               |
| Appropriation.....                                 |     | <del>((333,000))</del>     | \$334,000     |
| Transportation Infrastructure Account--State       |     |                            |               |
| Appropriation.....                                 |     | <del>((13,184,000))</del>  | \$12,348,000  |
| Multimodal Transportation Account--State           |     |                            |               |
| Appropriation.....                                 |     | <del>((102,202,000))</del> | \$82,091,000  |
| Multimodal Transportation Account--Federal         |     |                            |               |
| Appropriation.....                                 |     | <del>((619,527,000))</del> | \$48,445,000  |
| ((Multimodal Transportation Account--Private/Local |     |                            |               |
| Appropriation.....                                 |     |                            | \$81,000)     |
| TOTAL APPROPRIATION .....                          |     | <del>((735,327,000))</del> | \$143,218,000 |

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2011-2 ALL PROJECTS ~~((2010-2))~~ as developed ~~((March 8, 2010))~~ April 19, 2011, Program - Rail Capital Program (Y).

(b)(i) Within the amounts provided in this section, \$116,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Ephrata (BIN 722710A) for rehabilitation of a rail spur.

(ii) Within the amounts provided in this section, ~~((1,200,000))~~ \$400,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Everett (BIN 722810A) for a new rail track to connect a cement loading facility to the mainline.

(iii) The department shall issue the loans referenced in this subsection (1)(b) with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c)(i) Within the amounts provided in this section, \$1,713,000 of the multimodal transportation account--state appropriation and \$333,000 of the essential rail assistance account--state appropriation are for statewide - emergent freight rail assistance projects as follows: Port of Ephrata/Ephrata - additional spur rehabilitation (BIN 722710A) \$363,000; Tacoma Rail/Tacoma - new refinery spur tracks (BIN 711010A) \$420,000; CW Line/Lincoln County - grade crossing rehabilitation (BIN 700610A) \$371,000; Chelatchie Prairie owned railroad/Vancouver - track rehabilitation (BIN 710110A) \$367,000; Tacoma Rail/Tacoma - improved locomotive facility (BIN 711010B) \$525,000.

(ii) Within the amounts provided in this section, ~~((338,000))~~ \$346,000 of the multimodal transportation account--state appropriation is for a statewide - emergent freight rail assistance project grant for the Lincoln County PDA/Creston - new rail spur (BIN ~~((740540A))~~ F01001E) project, provided that the grantee first documents to the satisfaction of the department sufficient commitments from the new shipper or shippers to locate in the publicly owned industrial park west of Creston to ensure that the net present value of the public benefits of the project is greater than the grant amount.

(d) Within the amounts provided in this section, ~~((8,115,000))~~ \$8,079,000 of the transportation infrastructure account--state appropriation is for grants to any intergovernmental entity or local rail district to which the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the Palouse River and Coulee City (PCC) rail lines. \$300,000 of the transportation infrastructure account--state appropriation is provided solely for the fence line replacement project on the CW line. The PCC rail line system is made up of the CW, P&L, and PV Hooper rail lines. Business and economic development elements include such items as levels of service and business operating plans, but must not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts must be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district must be on terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2011.

(2)(a) The department shall issue a call for projects for the freight rail investment bank program and the emergent freight rail assistance program, and shall evaluate the applications according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. By November 1, 2010, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

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(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost benefit methodology are, in order of relative importance:

- (i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;
- (ii) Self-sustaining economic development that creates family-wage jobs;
- (iii) Preservation of transportation corridors that would otherwise be lost;
- (iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;
- (v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and
- (vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) At the earliest possible date, the department shall apply, and assist ports and local jurisdictions in applying, for any federal funding that may be available for any projects that may qualify for such federal funding. State projects must be (a) currently identified on the project list referenced in subsection (1)(a) of this section or (b) projects for which no state match is required to complete the project. Local or port projects must not require additional state funding in order to complete the project, with the exception of (c) state funds currently appropriated for such project if currently identified on the project list referenced in subsection (1)(a) of this section or (d) potential grants awarded in the competitive grant process for the essential rail assistance program. If the department receives any federal funding, the department is authorized to obligate and spend the federal funds in accordance with federal law. To the extent permissible by federal law, federal funds may be used (e) in addition to state funds appropriated for projects currently identified on the project list referenced in subsection (1)(a) of this section in order to advance funding from future biennia for such project(s) or (f) in lieu of state funds; however, the state funds must be redirected within the rail capital program to advance funding for other projects currently identified on the project list referenced in subsection (1)(a) of this section. State funds may be redirected only upon consultation with the transportation committees of the legislature and the office of financial management, and approval by the director of the office of financial management. The department shall spend the federal funds before the state funds, and shall consult the office of financial management and the transportation committees of the legislature regarding project scope changes.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds and the status of such applications.

(6) The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report

formatting and elements must be consistent with the October 2009 quarterly project report.

(7) The multimodal transportation account--state appropriation includes up to \$48,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(8) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire twenty-nine additional grain train railcars.

(9) (~~(\$590,000,000)~~) \$22,354,000 of the multimodal transportation account--federal appropriation is provided solely for high-speed rail projects awarded to Washington state from the high-speed intercity passenger rail program under the American recovery and reinvestment act. Funding will allow for two additional round trips between Seattle and Portland, and other rail improvements.

(10) \$2,200,000 of the multimodal transportation account--state appropriation is provided solely for expenditures related to the capital high-speed passenger rail grant that are not federally reimbursable.

(11) The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

(12) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional expenditures along the Chelatchie Prairie railroad (~~(LN2000025))~~ (710110A).

**Sec. 910.** 2010 c 247 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z-- CAPITAL  
 ((Highway Infrastructure Account--State Appropriation..\$207,000 Highway Infrastructure Account--Federal Appropriation.....\$1,602,000))  
 Freight Mobility Investment Account--State Appropriation..... ((~~\$13,848,000~~))  
 .....\$9,170,000  
 Transportation Partnership Account--State Appropriation..... ((~~\$8,863,000~~))  
 .....\$6,828,000  
 Motor Vehicle Account--State Appropriation ..... ((~~\$14,068,000~~))  
 .....\$9,668,000  
 Motor Vehicle Account--Federal Appropriation... ((~~\$43,835,000~~))  
 .....\$25,727,000  
 Freight Mobility Multimodal Account--State Appropriation..... ((~~\$15,620,000~~))  
 .....\$7,472,000  
 Freight Mobility Multimodal Account--Local Appropriation..... ((~~\$3,258,000~~))  
 .....\$2,980,000  
 Multimodal Transportation Account--Federal Appropriation.....\$2,118,000  
 Multimodal Transportation Account--State Appropriation..... ((~~\$28,855,000~~))  
 .....\$20,923,000  
 Transportation 2003 Account (Nickel Account)--State Appropriation.....\$2,709,000  
 Passenger Ferry Account--State Appropriation  
 ((~~\$2,879,000~~))  
 .....\$1,764,000  
 Puyallup Tribal Settlement Account--State Appropriation..... ((~~\$5,895,000~~))

|                           |                            |
|---------------------------|----------------------------|
| .....                     | \$5,905,000                |
| TOTAL APPROPRIATION ..... | <del>(\$143,757,000)</del> |
| .....                     | \$95,264,000               |

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) ~~(\$2,729,000)~~ \$1,614,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements ~~(in a)~~ and operating expenses that are consistent with the business plan approved by the governor for passenger ferry service.

(3) \$150,000 of the passenger ferry account--state appropriation is provided solely for the Port of Kingston for a one-time operating subsidy needed to retain a federal grant.

(4) \$3,000,000 of the motor vehicle account--federal appropriation is provided solely for the Coal Creek parkway project (L1000025).

(5) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(7) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2009, and December 1, 2010.

(8) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account-- state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(9) ~~(\$18,289,000)~~ \$13,732,000 of the multimodal transportation account--state appropriation, ~~(\$8,810,000)~~ \$7,104,000 of the motor vehicle account--federal appropriation, and ~~(\$4,000,000)~~ \$2,805,000 of the transportation partnership account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009, LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007, and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006.

Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(10) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document 2011-2 ALL PROJECTS ((2010-2)) as developed ~~(March 8, 2010)~~ April 19, 2011, Program - Local Program (Z).

(11) For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(12) ~~(\$913,386~~ of the motor vehicle account--state appropriation and \$2,858,000 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point. The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way. \$865,000 of the motor vehicle account--state appropriation is to be placed into unallotted status until such time as the right-of-way sale is completed.

(13) ~~(\$5,894,000)~~ \$5,905,000 of the Puyallup tribal settlement account--state appropriation is provided solely for costs associated with the Murray Morgan/11th Street bridge project. The city of Tacoma may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and bridge mitigation. The department's participation, including prior expenditures, may not exceed ~~(\$40,270,000)~~ \$40,281,000. The city of Tacoma has taken ownership of the bridge in its entirety, and the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

~~((44))~~ (13) Up to ~~(\$3,702,000)~~ \$52,000 of the motor vehicle account--federal appropriation and ~~(\$75,000)~~ \$52,000 of the motor vehicle account--state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (project 1LP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state commitment to the cities for state route number 908 expenditures. The amount provided in this subsection is contingent on the enactment by June 30, 2010, of Senate Bill No. 6555.

~~((45))~~ (14) The department shall consider the condition of the Broadway bridge in the city of Everett when prioritizing bridge projects.

~~((46))~~ (15) In order to make the Hood Canal bridge safe for cyclists, the department must work with stakeholders to review bicycle safety needs on the bridge, including consideration of accident data and improvements already made to this project.

~~((47) \$250,000)~~ (16) \$25,000 of the multimodal transportation account--state appropriation is provided solely for the Shell Valley emergency access road and bicycle/pedestrian path.

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~~((18))~~ ~~(\$500,000)~~ (17) \$50,000 of the motor vehicle account--state appropriation is provided solely for improvements to the 150th and Murray Road intersection in the city of Lakewood.

~~((19))~~ ~~(\$250,000)~~ (18) \$100,000 of the motor vehicle account--state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins.

~~((20))~~ (19) \$200,000 of the motor vehicle account--state appropriation is provided solely for improvements to the intersection of 39th Ave SE and state route number 96 in Snohomish county.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 1001.** 2010 c 247 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

|   |                            |
|---|----------------------------|
| Highway Bond Retirement Account Appropriation           | <del>(\$733,667,000)</del> |
| .....   | \$720,842,000              |
| Ferry Bond Retirement Account Appropriation             | \$33,771,000               |
| State Route Number 520 Corridor Account--State          |                            |
| Appropriation   | <del>(\$600,000)</del>     |
| .....   | \$1,308,000                |
| Transportation Improvement Board Bond Retirement        |                            |
| Account--State Appropriation                            | <del>(\$22,962,000)</del>  |
| .....   | \$21,084,000               |
| Nondebt-Limit Reimbursable Account--State               |                            |
| Appropriation   | <del>(\$18,451,000)</del>  |
| .....   | \$16,850,000               |
| Transportation Partnership Account--State               |                            |
| Appropriation   | <del>(\$4,722,000)</del>   |
| .....   | \$6,818,000                |
| Motor Vehicle Account--State Appropriation              | <del>(\$901,000)</del>     |
| .....   | \$672,000                  |
| Transportation 2003 Account (Nickel Account)--State     |                            |
| Appropriation   | <del>(\$4,116,000)</del>   |
| .....   | \$3,116,000                |
| Special Category C Account--State Appropriation         | <del>(\$148,000)</del>     |
| .....   | \$136,000                  |
| Urban Arterial Trust Account--State Appropriation       | \$85,000                   |
| Transportation Improvement Account--State Appropriation | \$41,000                   |
| Multimodal Transportation Account--State                |                            |
| Appropriation   | <del>(\$283,000)</del>     |
| .....   | \$164,000                  |
| TOTAL APPROPRIATION                                     | <del>(\$831,004,000)</del> |
| .....   | \$804,887,000              |

**Sec. 1002.** 2010 c 247 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

|  |                        |
|--|------------------------|
| State Route Number 520 Corridor Account--State |                        |
| Appropriation                                  | <del>(\$40,000)</del>  |
| .....  | \$83,000               |
| Transportation Partnership Account--State      |                        |
| Appropriation                                  | <del>(\$787,000)</del> |
| .....  | \$537,000              |
| Motor Vehicle Account--State Appropriation     | <del>(\$122,000)</del> |

|   |                          |
|---|--------------------------|
| .....   | \$62,000                 |
| Transportation 2003 Account (Nickel Account)--State     |                          |
| Appropriation   | <del>(\$364,000)</del>   |
| .....   | \$264,000                |
| Special Category C Account--State Appropriation         | <del>(\$15,000)</del>    |
| .....   | \$12,000                 |
| Urban Arterial Trust Account--State Appropriation       | \$5,000                  |
| Transportation Improvement Account--State Appropriation | \$3,000                  |
| Multimodal Transportation Account--State                |                          |
| Appropriation   | <del>(\$34,000)</del>    |
| .....   | \$40,000                 |
| TOTAL APPROPRIATION                                     | <del>(\$1,370,000)</del> |
| .....   | \$1,006,000              |

**Sec. 1003.** 2010 c 247 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account

|       |                            |
|-------|----------------------------|
| ..... | <del>(\$114,000,000)</del> |
| ..... | \$91,000,000               |

The department of transportation is authorized to sell up to ~~(\$114,000,000)~~ \$91,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

**Sec. 1004.** 2010 1st sp.s. c 37 s 804 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

|  |                           |
|--|---------------------------|
| (1) (Tacoma Narrows Toll Bridge Account--State   |                           |
| Appropriation: For transfer to the Motor Vehicle |                           |
| Account--State                                   | \$5,288,000               |
| (2)) Motor Vehicle Account--State Appropriation: |                           |
| For transfer to the Puget Sound Ferry Operations |                           |
| Account--State                                   | <del>(\$54,100,000)</del> |
| .....  | \$78,000,000              |

|   |                          |
|---|--------------------------|
| <del>((3))</del> <u>(2)</u> Recreational Vehicle Account--State |                          |
| Appropriation: For transfer to the Motor Vehicle                |                          |
| Account--State  | <del>(\$2,000,000)</del> |
| .....   | \$1,800,000              |

|   |             |
|---|-------------|
| <del>((4))</del> <u>(3)</u> License Plate Technology Account--State |             |
| Appropriation: For transfer to the Highway Safety                   |             |
| Account--State  | \$2,750,000 |

|  |                          |
|--|--------------------------|
| <del>((5))</del> <u>(4)</u> Multimodal Transportation Account--State |                          |
| Appropriation: For transfer to the Puget Sound                       |                          |
| Ferry Operations Account--State                                      | <del>(\$9,000,000)</del> |
| .....  | \$13,000,000             |

|  |              |
|--|--------------|
| <del>((6))</del> <u>(6)</u> Highway Safety Account--State Appropriation: |              |
| For transfer to the Multimodal Transportation                            |              |
| Account--State   | \$18,750,000 |

|   |             |
|---|-------------|
| <del>((7))</del> <u>(5)</u> Department of Licensing Services Account--State |             |
| Appropriation: For transfer to the Motor Vehicle                            |             |
| Account--State  | \$1,300,000 |

|   |              |
|---|--------------|
| <del>((8))</del> <u>(6)</u> Advanced Right-of-Way Account: For transfer |              |
| to the Motor Vehicle Account--State                                     | \$14,000,000 |

|  |           |
|--|-----------|
| <del>((9))</del> <u>(9)</u> State Route Number 520 Civil Penalties |           |
| Account--State Appropriation: For transfer to the                  |           |
| State Route Number 520 Corridor Account--State                     | \$190,000 |

|  |             |
|--|-------------|
| <del>((10))</del> <u>(7)</u> Advanced Environmental Mitigation |             |
| Revolving Account--State Appropriation: For transfer           |             |
| to the Motor Vehicle Account--State                            | \$5,000,000 |

|   |  |
|---|--|
| <del>((11))</del> <u>(8)</u> Regional Mobility Grant Program Account--State |  |
|---|--|

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Appropriation: For transfer to the Multimodal  
 Transportation Account--State.....\$4,000,000  
 ((~~42~~)) (9) Motor Vehicle Account--State Appropriation:  
 For transfer to the State Patrol Highway Account--  
 State ((~~\$5,600,000~~))  
 .....\$4,600,000

((13) The transfers identified in this section are subject to the following conditions and limitations:

(a) The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium. However, if Engrossed Substitute Senate Bill No. 6499 is enacted by June 30, 2010, the transfer in subsection (1) of this section shall not occur.

(b) Any cash balance in the waste tire removal account in excess of one million dollars must be transferred to the motor vehicle account for the purpose of road wear-related maintenance on state and local public highways.

(c) The transfer in subsection (9) of this section represents toll revenue collected from toll violations.))

(10) Highway Safety Account--State Appropriation:  
 For transfer to the Motor Vehicle Account--State.....\$19,000,000

MISCELLANEOUS

NEW SECTION. Sec. 1101. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1102. Except for sections 703, 704, 705, 716, 719, and 722 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 1103. Sections 703, 704, 716, and 719 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011.

NEW SECTION. Sec. 1104. Sections 705 and 722 of this act take effect upon certification by the secretary of transportation that the new statewide tolling operations center and photo toll system are fully operational. A notice of certification must be filed with the code reviser for publication in the state register. If a certificate is not issued by the secretary of transportation by December 1, 2012, sections 705 and 722 of this act are null and void.

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On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 47.29.170,

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46.63.170, 46.63.160, 43.19.642, 43.19.534, 47.01.380, 47.56.403, 43.105.330, 47.64.170, 47.64.270, 47.64.280, 46.68.170, 46.68.370, 47.12.244, 46.68.060, 46.68.220, 47.56.876, and 46.68.---; reenacting and amending RCW 46.18.060 and 47.28.030; amending 2010 c 247 ss 205, 207, 208, 209, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 301, 302, 303, 304, 305, 307, 308, 401, 402, and 403 (uncodified); amending 2009 c 470 ss 301 and 305 (uncodified); amending 2010 c 283 s 19 (uncodified); amending 2010 1st sp.s. c 37 s 804 (uncodified); adding a new section to 2010 c 247 (uncodified); creating new sections; repealing 2010 c 161 s 1126; making appropriations and authorizing expenditures for capital improvements; providing an effective date; providing a contingent effective date; and declaring an emergency."

Senator Haugen spoke in favor of adoption of the striking amendment.

MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted:

On page 14, after line 25, insert the following:

"(13) Appropriations provided in this section are sufficient for the department to process applications for drivers' licenses, driver's instruction permits, juvenile agricultural driving permits, and identicards. Consistent with RCW 46.20.035 and 46.20.091 regarding an applicant's proof of identity and Washington state residency, when an applicant for a driver's license, driver's instruction permit, juvenile agricultural driving permit, or identicard does not provide a valid social security number as part of their application process, the department shall verify the lawful presence of the applicant through the alien verification for entitlements program administered by the United States citizenship and immigrations services. If the lawful presence of the applicant cannot be verified, the application must be denied."

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Brown: "Thank you Mr. President. Mr. President, I would submit that the amendment is in violation of Senate Rule 66 and Rule 25 by introducing a second subject beyond the scope and object of the underlying striking amendment. The striking amendment is the 2011-13 biennial transportation budget. It simply appropriates funds for transportation projects and operations. The amendment adds new substance law to the budget bill by requiring the Department of Licensing to verify lawful presence of license permit and identicard applicants. The President has consistently ruled that adding substantive law into a budget bill violates Senate Rule 25 prohibiting more than one subject in a bill. Both the fact that a subject matter of the amendment was dealt with in a separate substance bill, as the Senator alluded to, and that the duration of the amendment would extend beyond the two-year time period of the budget point to the fact that this is a substantive amendment to a budget bill. I therefore request that the President rule that the amendment be ruled out of order."

Senator Benton spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 1175 was deferred and the bill held its place on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION

8659

By Senators Honeyford, Holmquist Newbry, and Fraser

WHEREAS, It has been the tradition of the Washington State Senate to honor significant and important contributions made by employees; and

WHEREAS, Janet Haag began her illustrious and lengthy career with the Washington State Legislature in 1986; and

WHEREAS, Janet began working for the House of Representatives in 1986 for Representative Haley, moving to full-time positions with Representative Jean Silver (1989), and Representative Jim Honeyford (1996); and

WHEREAS, Janet moved to the Senate with newly elected Senator Honeyford in January 1, 1999, where she has served with grace, a wonderful sense of humor, and the skills to perform the multitude of tasks that Legislative Assistants are required to perform (see the small print); and

WHEREAS, Janet has shared her love of travel: Regaling us with stories from Africa, where the women of a Samburu village honored her with the name Kwaheri Mama that was acknowledging her openness and acceptance of the people of the village; trips to the Scandinavian homeland of her parents, where she met extended family members and stayed in their homes; and trips to England, especially the Cornish moors and heath that were reminiscent of the wonderful Victorian novels she enjoys reading. On all of these adventures she was accompanied by either her husband Roger, her family, or her friends; and

WHEREAS, Janet's love of a good book, movie, or TV show has also brought her new adventures, just ask her about "Lost," the entertainment world, and people she met while working in Los Angeles; and

WHEREAS, Janet found herself with a lot of love in her heart that she needed to share by adopting Milt Doumit as her son, so that she could share her wisdom with him, and his rugged good looks could be a comfort to her; and

WHEREAS, Janet assumed the role as peacemaker within the Newhouse Building, selflessly giving of herself and working tirelessly to mediate disputes as to dishes left in the common sink, machines left jammed in the copy room, and crimes against humanity found in the community refrigerator; and

WHEREAS, Janet was always willing to faithfully serve the public and constituents, but she made it very clear to everyone else that she could only please one person a day, and today was not their day, nor was tomorrow looking good, either; and

WHEREAS, Janet was an eternal pragmatist who often remarked that, if everything seems to be going well, something has obviously been overlooked; and

WHEREAS, Janet would often watch Floor action, shake her head, and advise those around her to never argue with a fool, as people might not know the difference; and

WHEREAS, Janet attributed her sunny disposition and longevity in public service to clean living, looking upon the bright side of every situation, and never, ever setting foot in caucus unless it was absolutely necessary (in which case, she sent the intern); and

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WHEREAS, The many, many friends she has gathered around her during these years in public service will miss her mightily and more than words can ever express, but wish her all the best on her well-deserved retirement;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate give Janet heartfelt thanks for her years of service and wish her and Roger days of travel, family, and friends; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Janet Haag.

Senators Honeyford, Shin, Fraser and Stevens spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8659.

The motion by Senator Honeyford carried and the resolution was adopted by voice vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of Janet's family, Roger Haag, husband; Kandi and Ron Wesselius, daughter and son-in-law; Nic, Brad and Emily, Grandchildren; Kathy and Dick Fankhauser, sister and brother-in-law and Carolyn Robinson, sister who were seated in the gallery.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Janet Haag who was seated at the rostrum.

#### MOTION

At 12:34 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Wednesday, April 20, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

ONE HUNDRED FIRST DAY

MORNING SESSION

MESSAGE FROM THE HOUSE

Senate Chamber, Olympia, Wednesday, April 20, 2011

April 19, 2011

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Parlette.

The Sergeant at Arms Color Guard consisting of Pages Cammi Hinge and Jordan Karious, presented the Colors. Bishop Timothy Grace, South Hill Ward Jesus Christ of Latter-day Saints of Puyallup offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 19, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DEBBIE J. AHL, appointed March 30, 2011, for the term ending September 30, 2013, as Member, Board of Trustees, Technical College District #25 (Bellingham).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

April 19, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DONNA J. FEILD, appointed March 30, 2011, for the term ending January 19, 2015, as Member of the Board of Pharmacy.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Health & Long-Term Care.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MR. PRESIDENT:

The House has passed:

SENATE BILL NO. 5119,

SENATE BILL NO. 5806,

ENGROSSED SENATE BILL NO. 5907.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5952 by Senators Kohl-Welles, Hobbs, White, Nelson, Kline and Harper

AN ACT Relating to low-income and homeless housing assistance surcharges; amending RCW 36.22.179; adding a new section to chapter 43.185C RCW; and providing an expiration date.

Referred to Committee on Financial Institutions, Housing & Insurance.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated with the exception of Senate Bill No. 5952 which was referred to the Committee on Financial Institutions, Housing & Insurance.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Baumgartner moved adoption of the following resolution:

SENATE RESOLUTION  
8658

By Senators Baumgartner, Hill, Hewitt, Litzow, Fain, Conway, Nelson, Pridemore, Kastama, and Schoesler

WHEREAS, Spokane and all of Eastern Washington is proud of their sports teams and student athletes that represent the area with dignity and honor; and

WHEREAS, We recognize the dedication and perseverance required to be a successful student athlete; and

WHEREAS, The Lewis and Clark High School Lady Tigers and the Gonzaga Prep Bullpups continue to make Eastern Washington proud with their achievements; and

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WHEREAS, The Tigers won the Class 4A Girls Basketball state championship title by a final score of 62-49 against the Federal Way Eagles; and

WHEREAS, The tournament's most valuable player, Devyn Galland, scored a game-high of 24 points with five rebounds and helped bring the Lady Tigers their fourth Class 4A state championship title; and

WHEREAS, The Lady Tigers were led to victory by Coach Jim Redmon; and

WHEREAS, The team members were Joelle Tampien, Nakia Arquette, Emma Kennan, Devyn Galland, Julia Moravec, Taylor Howlett, Sareya Bishop, Sonja Kuhta, Layley Hendricksen, Abang Taka, and Kylie Richard; and

WHEREAS, The Gonzaga Prep Bullpups won the Class 4A Boys Basketball state championship title with a final score of 61-41 against the Curtis High School Vikings; and

WHEREAS, In the first half, defense was front and center for the Bullpups as they allowed 22 points and never trailed behind the Curtis Vikings; and

WHEREAS, Bullpups senior Chris Sarbaugh was named the tournament's most valuable player, scoring 17 points with 10 rebounds and six assists; and

WHEREAS, The Bullpups gained their victory over the Curtis High School Vikings, making this the Bullpups first state championship title; and

WHEREAS, The Bullpups were led to victory by Coach Mike Haugen; and

WHEREAS, The team members were Parker Kelly, TJ Bracey, Shane Schmidlkofer, Stephen Ferraro, Chris Sarbaugh, Mathieu Delgado, Ryan Gregory, Mac Johnson, Mill Kuharski, Max Graves, and Reed Hopkins; and

WHEREAS, Both teams exemplified the excellence in athletics and academics that Spokane and all of Eastern Washington hold in high regard; and

WHEREAS, The Tigers and Bullpups have proven that the success and distinction of the Spokane area sports team know no gender;

NOW, THEREFORE, BE IT RESOLVED, That it is with great respect that the Washington State Senate honor the accomplishments and excellence exemplified by the 2011 Gonzaga Prep Bullpups for winning the Class 4A Boys Basketball state championship title and the 2011 Lewis and Clark High School Lady Tigers for winning their fourth Class 4A Girls Basketball state championship title; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the coaches and players of the Lewis and Clark High School Lady Tigers Basketball Team and the Gonzaga Prep Bullpups Basketball Team.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8658.

The motion by Senator Baumgartner carried and the resolution was adopted by voice vote.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

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Senator McAuliffe moved that Gubernatorial Appointment No. 9090, Cindy Roaf, as a member of the Professional Educator Standards Board, be confirmed.

Senator McAuliffe spoke in favor of the motion.

## MOTION

On motion of Senator Ericksen, Senators Hewitt, Holmquist Newbry, Parlette and Roach were excused.

## APPOINTMENT OF CINDY ROAF

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9090, Cindy Roaf as a member of the Professional Educator Standards Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9090, Cindy Roaf as a member of the Professional Educator Standards Board and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Parlette

Gubernatorial Appointment No. 9090, Cindy Roaf, having received the constitutional majority was declared confirmed as a member of the Professional Educator Standards Board.

## MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through April 20, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through April 20, 2011 by voice vote.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 6, 2011

## MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5595 with the following amendment(s): 5595-S2 AMH WAYS H2435.1

On page 2, line 4, after "retain" strike "sixty" and insert "seventy" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

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## MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5595.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5595.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5595 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5595, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5595, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Haugen

Excused: Senator Parlette

SECOND SUBSTITUTE SENATE BILL NO. 5595, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SIGNED BY THE PRESIDENT

The President signed:

SENATE BILL NO. 5119,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5485,  
SUBSTITUTE SENATE BILL NO. 5502,  
ENGROSSED SENATE BILL NO. 5505,  
SUBSTITUTE SENATE BILL NO. 5525,  
SENATE BILL NO. 5806,  
ENGROSSED SENATE BILL NO. 5907.

## MESSAGE FROM THE HOUSE

April 8, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5614 with the following amendment(s): 5614-S AMH LWD REIN 166

On page 4, beginning on line 8, after "appropriations" strike "of ten thousand dollars or more"

On page 4, beginning on line 15, strike all of subsections (A) and (B) and insert the following:

"(A) If appropriations of less than ten thousand dollars are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered.

(B) If appropriations of ten thousand dollars or more are necessary to implement the provisions of a bargaining agreement, a request for such funds shall not be submitted to the legislature by the governor unless the request:

(I) Has been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the request is to be considered; and

(II) Has been certified by the director of the office of financial management as being feasible financially for the state.

(C) If the director of the office of financial management does not certify a request under (c)(ii)(B) of this subsection as being feasible financially for the state, the parties shall enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification of the agreement necessary to address the absence of those requested funds. The legislature may act upon the compensation and fringe benefit provisions of the modified collective bargaining agreement if those provisions are agreed upon and submitted to the office of financial management and legislative budget committees before final legislative action on the biennial or supplemental operating budget by the sitting legislature." and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator White moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5614.

Senator White spoke in favor of the motion.

## MOTION

On motion of Senator Ranker, Senator Haugen was excused.

The President declared the question before the Senate to be the motion by Senator White that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5614.

The motion by Senator White carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5614 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5614, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5614, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senators Haugen and Parlette

SUBSTITUTE SENATE BILL NO. 5614, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5658 with the following amendment(s): 5658-S AMH KLIP MALK 080

On page 1, beginning on line 7, after "(1)" strike all material through "(2))" on line 11 and insert "It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, beginning on line 21, after "(1)" strike all material through "(2))" on line 25 and insert "It is the intent of the legislature to continue the department's policy giving priority consideration to abutting property owners in agricultural areas when disposing of property through its surplus property program under this section.

(2)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5658.

Senator King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5658.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5658 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5658, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5658, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Haugen and Parlette

SUBSTITUTE SENATE BILL NO. 5658, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5688 with the following amendment(s): 5688-S AMH AGNR H2209.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds and declares the following:

(1) The practice of shark finning, where a shark is caught, its fins are sliced off while it is still alive, and the animal returned to the sea severely and almost always fatally wounded, constitutes a serious threat to Washington's coastal ecosystem and biodiversity. Sharks are particularly susceptible to overfishing because they only reach sexual maturity between seven to twelve years of age and hatch or birth small litters. The destruction of the population of sharks, which reside at the top of the marine food chain, is an urgent problem that upsets the balance of species in the ocean ecosystem.

(2) Shark finning condemns millions of sharks every year to slow, painful deaths. Returned to the water without their fins, the maimed sharks are attacked by other predators or drown, because most shark species must swim in order to push water through their gills. Shark finning is therefore a cruel practice contrary to the good morals of the citizens of the state of Washington.

(3) The market for shark fins drives the brutal practice of shark finning. Shark finning and trade in shark fins and shark fin derivative products are occurring all along the Pacific Coast, including the state of Washington.

(4) The consumption of shark fins and shark fin derivative products by humans may cause serious health risks, including risks from mercury.

NEW SECTION. **Sec. 2.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the second degree if:

(a) The person sells, offers for sale, purchases, offers to purchase, or otherwise exchanges a shark fin or shark fin derivative product for commercial purposes; or

(b) The person prepares or processes a shark fin or shark fin derivative product for human or animal consumption for commercial purposes.

(2) Except as otherwise provided in this section, a person is guilty of unlawful trade in shark fins in the first degree if:

(a) The person commits the act described by subsection (1) of this section and the violation involves shark fins or a shark fin derivative product with a total market value of two hundred fifty dollars or more;

(b) The person commits the act described by subsection (1) of this section and acted with knowledge that the shark fin or shark fin derivative product originated from a shark that was harvested in an area or at a time where or when the harvest was not legally allowed or by a person not licensed to harvest the shark; or

(c) The person commits the act described by subsection (1) of this section and the violation occurs within five years of entry of a prior conviction under this section or a prior conviction for any other gross misdemeanor or felony under this title involving fish, other than a recreational fishing violation.

(3)(a) Unlawful trade in shark fins in the second degree is a gross misdemeanor. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

(b) Unlawful trade in shark fins in the first degree is a class C felony. Upon conviction, the department shall suspend any commercial fishing privileges for the person that requires a license under this title for a period of one year.

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(4) Any person who obtains a license or permit issued by the department to take or possess sharks or shark parts for bona fide research or educational purposes, and who sells, offers for sale, purchases, offers to purchase, or otherwise trades a shark fin or shark fin derivative product, exclusively for bona fide research or educational purposes, may not be held liable under or subject to the penalties of this section.

(5) Nothing in this section prohibits the sale, offer for sale, purchase, offer to purchase, or other exchange of shark fins or shark fin derivative products for commercial purposes, or preparation or processing of shark fins or shark fin derivative products for purposes of human or animal consumption for commercial purposes, if the shark fins or shark fin derivative products were lawfully harvested or lawfully acquired prior to the effective date of this section.

**Sec. 3.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to read as follows:

The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (3), (28), (40), (44), (58), and (59) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(4) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(5) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(6) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(7) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(8) "Commercial" means related to or connected with buying, selling, or bartering.

(9) "Commission" means the state fish and wildlife commission.

(10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(11) "Contraband" means any property that is unlawful to produce or possess.

(12) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(13) "Department" means the department of fish and wildlife.

(14) "Director" means the director of fish and wildlife.

(15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(16) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal

agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(18) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

(20) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(21) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(24) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(25) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(26) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(27) "Illegal items" means those items unlawful to be possessed.

(28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(29) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(30) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(31) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

(32) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(33) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(34) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special

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restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(35) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

(36) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(37) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

(38) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(39) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(41) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(42) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(45) "Resident" means:

(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

(46) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(47) "Saltwater" means those marine waters seaward of river mouths.

(48) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(49) "Senior" means a person seventy years old or older.

(50) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(51) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(52) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

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(53) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(54) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(55) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(56) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(57) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

(58) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(59) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

(60) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

(61) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(62) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(63) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(64) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(65) "Shark fin" means a raw, dried, or otherwise processed detached fin or tail of a shark.

(66)(a) "Shark fin derivative product" means any product intended for use by humans or animals that is derived in whole or in part from shark fins or shark fin cartilage.

(b) "Shark fin derivative product" does not include a drug approved by the United States food and drug administration and available by prescription only or medical device or vaccine approved by the United States food and drug administration."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5688.

Senators Ranker and Morton spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5688.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5688 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5688, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5688, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Haugen and Parlette

SUBSTITUTE SENATE BILL NO. 5688, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Brown asserting that Amendment # 379 to the committee striking amendment to Engrossed Substitute House Bill No. 1175 includes substantive law in violation of Senate Rules 25 and 66, the President finds and rules as follows:

The proposed amendment offered by Senator Benton seeks to include in the transportation budget a provision that would require the department of licensing to verify the lawful presence of applicants for various licenses.

The President has long held that a budget bill – whether for the purposes of transportation, or the operation of state agencies – is not an appropriate forum for changing state substantive law. This position was developed in part after the Supreme Court's decision in *Legislature v. Locke*. In determining whether substantive law is present, several alternative factors may be considered. Two of these are: first, whether the proposed language seeks to include a policy change that was the subject of a separate bill; and second, whether the inclusion of the language would redefine rights or eligibility for services.

Here, the offered amendment seeks to include the licensing requirements found in a separate bill, Senate Bill 5407, which did not pass. That bill, and this amendment, would reduce the number of persons currently eligible to obtain drivers licenses or similar permits. Both of these factors indicate that the amendment would affect state substantive law and are appropriately part of a policy bill, but are not appropriate for inclusion in a budget bill.

Having so decided, the President would note that Sen. Brown's motion raised objections under Rule 25 and Rule 66. An amendment that, if adopted, would add a second subject to a bill in violation of Senate Rule 25, almost by definition violates Rule 66, which prohibits changing the scope and object of a bill. This is different from the President's analysis of the two-subject rule when applied to a bill, as a bill may contain two subjects as it is drafted, and the scope and object concerns under Rule 66 never apply. In this case, it is not necessary to specifically decide which violation is more significant, as the result is the same: the amendment is out of order.

For these reasons, if adopted, Senator Benton's amendment would violate Rules 25 and 66, and Senator Brown's point is well-taken."

MOTION

At 10:13 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:47 a.m. by President Owen.

MESSAGE FROM THE HOUSE

April 19, 2011

MR. PRESIDENT:

The Speaker ruled the Senate amendment (s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478 beyond scope & object to the bill. Refuses to adopt and ask for a conference thereon. The Speaker has appointed the following members as conferees. Representatives: Fitzgibbon, Springer, Angel and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Pridemore, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 1478.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 1478 and the Senate amendment(s) there to: Senators Nelson, Pridemore and Swecker.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5531 with the following amendment(s): 5531-S AMH ENGR H2473.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that counties that host evaluation and treatment beds incur costs by providing judicial services associated with civil commitments under chapters 71.05 and 71.34 RCW. Because evaluation and treatment beds are not evenly distributed across the state, these commitments frequently occur in a different county from the county in which the person was originally detained. The intent of this act is to create a process for the state to reimburse counties through the regional support networks for the counties' reasonable direct costs incurred in providing these judicial services, and to prevent the burden of these costs from falling disproportionately on the counties or regional support networks in which the commitments are most likely to occur. The legislature recognizes that the costs of judicial services may vary across the state based on different factors and conditions.

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**NEW SECTION. Sec. 2.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A county may apply to its regional support network on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The regional support network shall in turn be entitled to reimbursement from the regional support network which serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the regional support network's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization, or less restrictive alternative detention in lieu of hospitalization, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the regional support network may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.05 RCW to read as follows:

(1) The joint legislative audit and review committee shall conduct an independent assessment of the direct costs of providing judicial services under this chapter and chapter 71.34 RCW as defined in section 2 of this act. This assessment shall be conducted for any county in which more than twenty civil commitment cases were conducted during the year prior to the study. This assessment must be completed by June 1, 2012.

(2) The administrative office of the courts and the department shall provide the joint legislative audit and review committee with assistance and data required to complete the assessment.

(3) The joint legislative audit and review committee shall present recommendations as to methods for updating the costs identified in the assessment to reflect changes over time.

**NEW SECTION. Sec. 4.** A new section is added to chapter 71.34 RCW to read as follows:

A county may apply to its regional support network for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in section 2 of this act.

**Sec. 5.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read as follows:

Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the ~~((costs of such services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held ~~((subject however to the responsibility for costs provided in RCW 71.05.320(2)))~~ for the direct costs of such legal services, as provided in section 2 of this act.

**Sec. 6.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to read as follows:

The regional support networks shall make satisfactory showing to the secretary that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

**Sec. 7.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to read as follows:

(1) The county or combination of counties is responsible for development and coordination of the evaluation and treatment program for minors, for incorporating the program into the county mental health plan, and for coordination of evaluation and treatment services and resources with the community mental health program required under chapter 71.24 RCW.

(2) The county shall be responsible for maintaining its support of involuntary treatment services for minors at its 1984 level, adjusted for inflation, with the department responsible for additional costs to the county resulting from this chapter. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

**Sec. 8.** RCW 71.34.330 and 1985 c 354 s 23 are each amended to read as follows:

Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the ~~((costs of these legal services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in section 2 of this act.

**Sec. 9.** RCW 71.05.230 and 2009 c 217 s 2 and 2009 c 293 s 3 are each reenacted and amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. ~~((There shall be no fee for filing petitions for fourteen days of involuntary intensive treatment.))~~ A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

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(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) Two psychiatric advanced registered nurse practitioners;

(d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) A physician and a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

**NEW SECTION. Sec. 10.** Except for section 3 of this act, this act takes effect July 1, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5531 and ask the House to recede therefrom.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5531 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5531 and asked the House to recede therefrom.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5531 was immediately transmitted to the House of Representatives.

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE SENATE BILL NO. 5836 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Billig, Clibborn, Hargrove and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Haugen, the Senate granted the request of the House for a conference on Substitute Senate Bill No. 5836.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute Senate Bill No. 5836 and the Senate amendment(s) there to: Senators Haugen, King and White.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5622, by Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Swecker, Fraser, Hargrove, White, Regala, Shin, Chase, Kline and Conway)

Concerning recreation access on state lands.

MOTIONS

On motion of Senator Ranker, Second Substitute Senate Bill No. 5622 was substituted for Senate Bill No. 5622 and the second substitute bill was placed on the second reading and read the second time.

On motion of Senator Ranker, the rules were suspended, Second Substitute Senate Bill No. 5622 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker, Schoesler and Carrell spoke in favor of passage of the bill.

Senators Sheldon, Benton and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5622.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5622 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Delvin, Ericksen, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Morton, Pflug, Roach and Sheldon

Absent: Senator Zarelli

Excused: Senator Parlette

SECOND SUBSTITUTE SENATE BILL NO. 5622, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Second Substitute Senate Bill No. 5622 was immediately transmitted to the House of Representatives.

## MOTION

At 12:09 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:35 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTION SENATE BILL NO. 5700 with the following amendment(s): 5700-S AMH TR H1972.2

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that Washington voters strongly supported Initiative Measure No. 1053 during the 2010 general election, which indicates the clear desire on the part of the state's citizens that legislators approve any new fees or increases to existing fees. The legislature further recognizes that during the 2009 legislative session tolling was authorized on the state route number 520 corridor, bonds were authorized to finance construction of corridor projects, and the legislature committed to continue imposing tolls on the corridor in amounts sufficient to pay the principal and interest on those bonds. As tolling is scheduled to begin on the corridor in early April 2011, the legislature intends to honor the voters' clear direction as identified in Initiative Measure No. 1053 by reviewing the transportation commission's recommended schedule for tolling charges and explicitly approving

those rates applicable to the state route number 520 corridor. The legislature also intends to review the transportation commission's recommended schedule for photo toll charges and explicitly approve those rates applicable to the Tacoma Narrows bridge.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.56 RCW to read as follows:

(1) Consistent with RCW 43.135.055 and 47.56.805 through 47.56.876, the legislature approves the action taken by the transportation commission on January 5, 2011, adopting amended rules to set the schedule of toll rates applicable to the state route number 520 corridor. The legislature further authorizes the transportation commission, as the tolling authority for the state, to set and adjust toll rates on the state route number 520 corridor in accordance with the authorization, requirements, and guidelines set forth in RCW 47.56.830, 47.56.850, and 47.56.870. The transportation commission may adjust the toll rates, as identified in the adopted schedule of toll rates, only in amounts not greater than those sufficient to meet (a) the operating costs of the state route number 520 corridor, including necessary maintenance, preservation, renewal, replacement, administration, and toll enforcement by public law enforcement and (b) obligations for the timely payment of debt service on bonds issued under chapter 498, Laws of 2009 and this act, and any other associated financing costs including, but not limited to, required reserves, minimum debt coverage or other appropriate contingency funding, insurance, and compliance with all other financial and other covenants made by the state in the bond proceedings. Prior to the convening of each regular session of the legislature, the transportation commission must provide the transportation committees of the legislature with a detailed report regarding any increase or decrease in any toll rate approved by the commission that has not been described in a previous report provided pursuant to this subsection (1), along with a detailed justification for each such increase or decrease.

(2) Consistent with RCW 43.135.055 and 47.46.100, the legislature approves the action taken by the transportation commission on January 25, 2011, adopting amended rules to set the schedule of photo toll, or "pay by mail," charges applicable to the Tacoma Narrows bridge. Prior to the convening of each regular session of the legislature, the transportation commission must provide the transportation committees of the legislature with a detailed report regarding any increase or decrease in any toll rate approved by the commission that has not been described in a previous report provided pursuant to this subsection (2), along with a detailed justification for each such increase or decrease.

(3) Consistent with RCW 43.135.055 and 47.56.795(6), the legislature approves the action taken by the transportation commission on January 5, 2011, adopting amended rules concerning the assessment of administrative fees for toll collection processes. The administrative fees must not exceed toll collection costs.

**Sec. 3.** RCW 47.10.882 and 2009 c 498 s 11 are each amended to read as follows:

The toll facility bond retirement account is created in the state treasury for the purpose of payment of the principal of and interest and premium on bonds. Both principal of and interest on the bonds issued for the purposes of chapter 498, Laws of 2009 and this act shall be payable from the toll facility bond retirement account. The state finance committee may provide that special subaccounts be created in the account to facilitate payment of the principal of and interest on the bonds. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on the bonds in accordance with the bond proceedings.

**Sec. 4.** RCW 47.10.886 and 2009 c 498 s 16 are each reenacted to read as follows:

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If and to the extent that the state finance committee determines, in consultation with the department of transportation and the tolling authority, that it will be beneficial for the state to issue any bonds authorized in RCW 47.10.879 and 47.10.883 through 47.10.885 as toll revenue bonds rather than as general obligation bonds, the state finance committee is authorized to issue and sell, upon the request of the department of transportation, such bonds as toll revenue bonds and not as general obligation bonds. Notwithstanding RCW 47.10.883, each such bond shall contain a recital that payment or redemption of the bond and payment of the interest and any premium thereon is payable solely from and secured solely by a direct pledge, charge, and lien upon toll revenue and is not a general obligation of the state to which the full faith and credit of the state is pledged.

Toll revenue is hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section, and the legislature agrees to continue to impose these toll charges on the state route number 520 corridor, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section.

**Sec. 5.** RCW 47.10.887 and 2009 c 498 s 17 are each amended to read as follows:

The state finance committee may determine and include in any resolution authorizing the issuance of any bonds under chapter 498, Laws of 2009 and this act, such terms, provisions, covenants, and conditions as it may deem appropriate in order to assist with the marketing and sale of the bonds, confer rights upon the owners of bonds, and safeguard rights of the owners of bonds including, among other things:

(1) Provisions regarding the maintenance and operation of eligible toll facilities;

(2) The pledges, uses, and priorities of application of toll revenue;

(3) Provisions that bonds shall be payable from and secured solely by toll revenue as provided by RCW 47.10.886, or shall be payable from and secured by both toll revenue and by a pledge of excise taxes on motor vehicle and special fuels and the full faith and credit of the state as provided in RCW 47.10.879 and 47.10.883 through 47.10.885;

(4) In consultation with the department of transportation and the tolling authority, financial covenants requiring that the eligible toll facilities must produce specified coverage ratios of toll revenue to debt service on bonds;

(5) The purposes and conditions that must be satisfied prior to the issuance of any additional bonds that are to be payable from and secured by any toll revenue on an equal basis with previously issued and outstanding bonds payable from and secured by toll revenue;

(6) Provisions that bonds for which any toll revenue are pledged, or for which a pledge of any toll revenue may be reserved, may be structured on a senior, parity, subordinate, or special lien basis in relation to any other bonds for which toll revenue is pledged, with respect to toll revenue only; and

(7) Provisions regarding reserves, credit enhancement, liquidity facilities, and payment agreements with respect to bonds.

Notwithstanding the foregoing, covenants and conditions detailing the character of management, maintenance, and operation of eligible toll facilities, insurance for eligible toll facilities, financial management of toll revenue, and disposition of eligible toll facilities must first be approved by the department of transportation.

The owner of any bond may by mandamus or other appropriate proceeding require and compel performance of any duties imposed upon the tolling authority and the department of transportation and their respective officials, including any duties imposed upon or

undertaken by them or by their respective officers, agents, and employees, in connection with the construction, maintenance, and operation of eligible toll facilities and in connection with the collection, deposit, investment, application, and disbursement of the proceeds of the bonds and toll revenue.

**Sec. 6.** RCW 47.10.888 and 2009 c 498 s 18 are each amended to read as follows:

(1) For the purposes of chapter 498, Laws of 2009 and this act, "toll revenue" means all toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of transportation facilities in the state, including eligible toll facilities. However, for the purpose of any pledge of toll revenue to the payment of particular bonds issued under chapter 498, Laws of 2009 and this act, "toll revenue" means and includes only such toll revenue or portion thereof that is pledged to the payment of those bonds in the resolution authorizing the issuance of such bonds. Toll revenue constitutes "fees and revenues derived from the ownership or operation of any undertaking, facility, or project" as that phrase is used in Article VIII, section 1(c)(1) of the state Constitution.

(2) For the purposes of chapter 498, Laws of 2009 and this act, "tolling authority" has the same meaning as in RCW 47.56.810.

**Sec. 7.** RCW 47.56.810 and 2008 c 122 s 3 are each amended to read as follows:

The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise:

(1) "Tolling authority" means the governing body that is legally empowered to review and adjust toll rates. Unless otherwise delegated, the transportation commission is the tolling authority for all state highways.

(2) "Eligible toll facility" or "eligible toll facilities" means portions of the state highway system specifically identified by the legislature including, but not limited to, transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways.

(3) "Toll revenue" or "revenue from an eligible toll facility" means toll receipts, all interest income derived from the investment of toll receipts, and any gifts, grants, or other funds received for the benefit of ~~((the))~~ transportation facilities in the state, including eligible toll ((facility)) facilities.

NEW SECTION. **Sec. 8.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5700.

Senator Haugen spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senators Benton, Ericksen, Roach and Zarelli were excused.

MOTION

On motion of Senator Eide, Senators Fraser and Ranker were excused.

MOTION

On motion of Senator White, Senator Brown was excused.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5700.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5700 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5700, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of SSB 5700, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 10; Absent, 2; Excused, 5.

Voting yea: Senators Becker, Conway, Delvin, Eide, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Regala, Schoesler, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Holmquist Newbry, Honeyford, Morton, Roach, Stevens and Zarelli

Absent: Senators Chase and Rockefeller

Excused: Senators Brown, Ericksen, Fraser, Parlette and Ranker

SUBSTITUTE SENATE BILL NO. 5700, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senators Chase and Rockefeller were excused.

#### MESSAGE FROM THE HOUSE

April 20, 2011

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 5457. The Speaker has appointed the following members as Conferees: Representatives Clibborn, Liias, Armstrong and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

April 20, 2011

MR. PRESIDENT:

The House grants the request for a conference on SUBSTITUTE SENATE BILL NO. 5749. The Speaker has appointed the following members as Conferees: Representatives Seaquist, Reykdal, Haler and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House grants the request for a conference on SUBSTITUTE HOUSE BILL NO. 1793. The Speaker has appointed the following members as Conferees: Representatives Darneille, Dickerson, Walsh and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5731 with the following amendment(s): 5731 AMH ENGR H2250.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 24.50.010 and 2006 c 34 s 2 are each amended to read as follows:

(1) Washington manufacturing services is organized as a private, nonprofit corporation in accordance with chapter 24.03 RCW and this section. The mission of the ~~((center))~~ corporation is to operate a modernization extension system, coordinate a network of public and private modernization resources, and stimulate the competitiveness of small and midsize manufacturers in Washington.

(2) ~~((Washington manufacturing services shall))~~ The corporation must be governed by a board of directors. A majority of the board of directors shall be representatives of small and medium-sized manufacturing firms and industry associations, networks, or consortia. The board ~~((shall))~~ must also include at least one member representing labor unions or labor councils and, as ex officio members, the director of the department of ~~((community, trade, and economic development))~~ commerce, the executive director of the state board for community and technical colleges, and the director of the workforce training and education coordinating board, or their respective designees.

(3) ~~((Washington manufacturing services))~~ The corporation may be known as impact Washington and may:

(a) Charge fees for services, make and execute contracts with any individual, corporation, association, public agency, or any other entity, and employ all other legal instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter; and

(b) Receive funds from federal, state, or local governments, private businesses, foundations, or any other source for purposes consistent with this chapter.

(4) ~~((Washington manufacturing services shall))~~ The corporation must:

(a) Develop policies, plans, and programs to assist in the modernization of businesses in targeted sectors of Washington's economy and coordinate the delivery of modernization services;

(b) Provide information about the advantages of modernization and the modernization services available in the state to federal, state, and local economic development officials, state colleges and universities, and private providers;

(c) Collaborate with the Washington quality initiative in the development of manufacturing quality standards and quality certification programs;

(d) Collaborate with industry sector and cluster associations to inform import-impacted manufacturers about federal trade adjustment assistance funding;

(e) Serve as an information clearinghouse and provide access

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for users to the federal manufacturing extension partnership national research and information system; and

((e)) (f) Provide, either directly or through contracts, assistance to industry or cluster associations, networks, or consortia, that would be of value to their member firms in:

(i) Adopting advanced business management practices such as strategic planning and total quality management;

(ii) Developing mechanisms for interfirm collaboration and cooperation;

(iii) Appraising, purchasing, installing, and effectively using equipment, technologies, and processes that improve the quality of goods and services and the productivity of the firm;

(iv) Improving human resource systems and workforce training in a manner that moves firms toward flexible, high-performance work organizations;

(v) Developing new products;

(vi) Conducting market research, analysis, and development of new sales channels and export markets;

(vii) Improving processes to enhance environmental, health, and safety compliance; and

(viii) Improving credit, capital management, and business finance skills.

(5) Between thirty-five and sixty-five percent of the funds received by the corporation from the state must be used by the corporation for carrying out the duties under subsection (4)(f) of this section, consistent with the intent of RCW 24.50.005(2)."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Senate Bill No. 5731.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Senate Bill No. 5731.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5731 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5731, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5731, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Benton

Excused: Senators Brown, Chase, Ericksen and Parlette

SENATE BILL NO. 5731, as amended by the House, having received the constitutional majority, was declared passed. There

being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5741 with the following amendment(s): 5741-S AMH ENGR H2261.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.162.005 and 2007 c 232 s 1 are each amended to read as follows:

(1) The legislature finds that ((Washington's innovation and trade-driven economy has provided tremendous opportunities for citizens of the state, but that there is no guarantee that globally competitive firms will continue to grow and locate in the state. The current economic development system is fragmented among numerous programs, councils, centers, and organizations with inadequate overall coordination and insufficient guidance built into the system to ensure that the system is responsive to its customers. The current economic development system's data-gathering and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so the system may be held accountable for its outcomes.

The legislature also finds that developing a comprehensive economic development strategic plan to guide the operation of effective economic development programs, including workforce training, infrastructure development, small business assistance, technology transfer, and export assistance, is vital to the state's efforts to increase the competitiveness of state businesses, encourage employment growth, increase state revenues, and generate economic well-being. There is a need for responsive and consistent involvement of the private sector in the state's economic development efforts. The legislature finds that there is a need for the development of coordination criteria for business recruitment, expansion, and retention activities carried out by the state and local entities. It is the intent of the legislature)) in order to achieve long-term global competitiveness, prosperity, and economic opportunity for all the state's citizens, Washington state must become the most attractive, creative, and fertile investment environment for innovation in the world.

(2) The legislature finds that the state must take a strategic approach to fostering an innovation economy, and that success will be driven by public and private sector leaders who are committed to developing and advocating a shared vision and collaborating across organizational and geographic boundaries. The legislature therefore intends to create an economic development commission that will provide planning, coordination, evaluation, monitoring, and policy analysis and development for the state economic development system as a whole, and advice to the governor and legislature concerning the state economic development system.

Sec. 2. RCW 43.162.010 and 2007 c 232 s 2 are each amended to read as follows:

(1) The Washington state economic development commission is established to (~~oversee the economic development strategies and policies of the department of community, trade, and economic development~~) assist the governor and legislature by providing leadership, direction, and guidance on a long-term and systematic approach to economic development that will result in enduring global competitiveness, prosperity, and economic opportunity for all the state's citizens.

(2)(a) The (~~Washington state economic development commission shall consist of eleven voting members~~) commission

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consists of twenty-four members. Fifteen of the members must be voting members appointed by the governor as follows: ~~((Six))~~ Eight representatives of the private sector, one representative of labor from east of the crest of the Cascade mountains and one representative of labor from west of the crest of the Cascade mountains, one representative of port districts, one representative of four-year state public higher education, one representative ~~((four))~~ of state community or technical colleges, one representative with expertise in international trade, and one representative of associate development organizations. The director of the department of ~~((community, trade, and economic development))~~ commerce, the director of the workforce training and education coordinating board, the commissioner of the employment security department, the secretary of the department of transportation, the director of the department of agriculture, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies ~~((shall))~~ must serve as nonvoting ex officio members.

(b) Members may not designate alternates, substitutes, or surrogates. However, members may participate in a meeting by conference telephone or similar communications equipment so that all persons participating in the meeting can hear each other at the same time. Participation by that method constitutes presence in person at a meeting.

(c) The chair of the commission ~~((shall))~~ must be a private sector voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. ~~((In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs.~~

~~((b))~~ A vice chair must be elected by members of the commission but may not be the director of an executive branch agency or a member of the legislature. The vice chair must exercise the duties of the commission chair in his or her absence.

(d) In making the appointments, the governor ~~((shall))~~ must consult with the commission and with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations, economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

~~((e))~~ (e) The members ~~((shall))~~ must be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. Private sector members ~~((shall))~~ must represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses. Members of the commission ~~((shall))~~ must serve statewide interests while preserving their diverse perspectives, and ~~((shall))~~ must be recognized leaders in their fields with demonstrated experience in economic development, innovation, or disciplines related to economic development.

(3) Members appointed by the governor ~~((shall))~~ must serve at the pleasure of the governor for not more than two consecutive three-year terms, except that, as determined by the governor, the terms of four of the appointees on the commission on the effective date of this section expire in 2012, the terms of four of the appointees on the commission on the effective date of this section expire in 2013, and the terms of three of the appointees on the commission on the effective date of this section expire in 2014. Thereafter all terms are for three years. Vacancies must be filled in the same manner as the original appointments.

(4) The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.

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(5) The executive director of the commission ~~((shall))~~ must be appointed by the governor with the consent of the ~~((voting members of the))~~ commission. The salary of the executive director must be set by the governor with the consent of the commission. The governor may dismiss the executive director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor. The commission must evaluate the performance of the executive director in a manner consistent with the process used by the governor to evaluate the performance of agency directors.

(6) The commission may adopt ~~((rules))~~ policies and procedures for its own governance.

NEW SECTION. Sec. 3. A new section is added to chapter 43.162 RCW to read as follows:

For the purposes of this chapter, unless the context clearly requires otherwise, "commission" means the Washington state economic development commission created under RCW 43.162.005.

Sec. 4. RCW 43.162.015 and 2007 c 232 s 3 are each amended to read as follows:

(1) ~~((The commission shall employ an executive director.))~~ The executive director ~~((shall serve as chief executive officer of the commission and shall))~~ of the commission must serve as its chief executive officer. Subject to available resources and in accordance with commission direction, the executive director must:

(a) Administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, utilize staff of existing operating agencies to the fullest extent possible, and employ outside consulting and service agencies when appropriate(-

~~((2) The executive director may not be the chair of the commission.~~

~~((3) The executive director shall);~~

(b) Appoint necessary staff who ((shall be)) are exempt from the provisions of chapter 41.06 RCW. The executive director's appointees ((shall)) serve at the executive director's pleasure on such terms and conditions as the executive director determines but subject to chapter 42.52 RCW.

~~((4))~~ The executive director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the commission.

~~((5))~~ The executive director shall, subject to the availability of funds for this purpose, implement a hiring process for a research manager responsible for managing the data collection, database, and evaluation functions under RCW 43.162.020 and 43.162.025. By October 1, 2011, the executive director must make a recommendation to the commission on a qualified candidate to fill the research manager position. The commission is responsible for making the final decision on hiring the research manager;

(c) Appoint employees who are subject to the provisions of chapter 41.06 RCW; and

(d) Contract with additional persons who have specific technical expertise if needed to carry out a specific, time-limited project.

(2) The executive director ((shall exercise such additional powers)) must exercise additional authority, other than rule making, as may be delegated by the commission.

(3) The executive director must develop for commission review and approval an annual commission budget and work plan in accordance with the omnibus appropriations bill approved by the legislature, and must present a fiscal report to the commission quarterly for its review and comment.

(4) The executive director of the commission must report solely to the governor and the commissioners on matters pertaining to commission operations.

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**Sec. 5.** RCW 43.162.020 and 2009 c 151 s 9 are each amended to read as follows:

(The Washington state economic development commission shall:

(1) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

(2) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. The plan shall) (1) The commission must concentrate its major efforts on strategic planning, policy research and analysis, advocacy, evaluation, and promoting coordination and collaboration.

(2) During each regular legislative session, the commission must consult with appropriate legislative committees about the state's economic development needs and opportunities.

(3)(a) By October 1st of each even-numbered year, the commission must submit to the governor and legislature a biennial comprehensive statewide economic development strategy with a report on progress from the previous comprehensive strategy.

(b) The comprehensive statewide economic development strategy must include the industry clusters in the state and the strategic clusters targeted by the commission for economic development efforts. The commission ((shall)) must consult with the workforce training and education coordinating board and include labor market and economic information by the employment security department in developing the list of clusters and strategic clusters that meet the criteria identified by the working group convened by the economic development commission and the workforce training and education coordinating board under chapter 43.330 RCW.

(4)(a) In developing the ((state comprehensive plan for economic development)) comprehensive statewide economic development strategy, the commission ((shall)) must use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input((;

~~— (3) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs; and~~

~~(4) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination.~~

~~— The commission may delegate to the executive director any of the functions of this section)).~~

(b) The comprehensive statewide economic development strategy may include:

(i) An assessment of the state's economic vitality;  
(ii) Recommended goals, objectives, and priorities for the next biennium, and the future;

(iii) A common set of outcomes and benchmarks for the economic development system as a whole;

(iv) Recommendations for removing barriers and promoting collaboration among participants in the innovation ecosystem;

(v) An inventory of existing relevant programs compiled by the commission from materials submitted by agencies;

(vi) Recommendations for expanding, discontinuing, or redirecting existing programs, or adding new programs; and

(vii) Recommendations of best practices and public and private sector roles in implementing the comprehensive statewide economic development strategy.

(5) In developing the biennial statewide economic development strategy, plans, inventories, assessments, and policy research, the commission must consult, collaborate, and coordinate with relevant state agencies, private sector businesses, nonprofit organizations involved in economic development, trade associations, and relevant local organizations in order to avoid duplication of effort.

(6) State agencies must cooperate with the commission and provide information as the commission may reasonably request.

(7) The commission must develop a biennial budget request for approval by the office of financial management. The commission must adopt an annual budget and work plan in accordance with the omnibus appropriations bill approved by the legislature.

(8)(a) The commission and its fiscal agent must jointly develop and adopt a memorandum of understanding to outline and establish clear lines of authority and responsibility between them related to budget and administrative services.

(b) The memorandum of understanding may not provide any additional grant of authorities to the commission or the fiscal agent that is not already provided for by statute, nor diminish any authorities or powers granted to either party by statute.

(c) Periodically, but not less often than biannually, the commission and fiscal agent must review the memorandum of understanding and, if necessary, recommend changes to the other party.

(d) As provided generally under RCW 43.162.015, the executive director of the commission must report solely to the governor and the commissioners on matters pertaining to commission operations.

(9) To maintain its objectivity and concentration on strategic planning, policy research and analysis, and evaluation, the commission may not take an administrative role in the delivery of services. However, subject to available resources and consistent with its work plan, the commission or the executive director may conduct outreach activities such as regional forums and best practices seminars.

(10) The commission must evaluate its own performance on a regular basis.

(11) The commission may accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program, or any private source, and expend the same for any purpose consistent with this chapter.

**Sec. 6.** RCW 43.162.025 and 2007 c 232 s 5 are each amended to read as follows:

(1) Subject to available funds, the Washington state economic development commission may:

~~((4))~~ (a) Periodically review for consistency with the state comprehensive plan for economic development the policies and plans established for:

~~((a))~~ (i) Business and technical assistance by the small business development center, the Washington manufacturing service, the Washington technology center, associate development

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organizations, the department of ~~((community, trade, and economic development))~~ commerce, and the office of minority and women-owned business enterprises;

~~((b))~~ (ii) Export assistance by the small business export finance assistance center, the international marketing program for agricultural commodities and trade, the department of agriculture, the center for international trade in forest products, associate development organizations, and the department of ~~((community, trade, and economic development))~~ commerce; and

~~((e))~~ (iii) Infrastructure development by the department of ~~((community, trade, and economic development))~~ commerce and the department of transportation; and

~~((2))~~ (b) Review and make recommendations to the office of financial management and the legislature on budget requests and legislative proposals relating to the state economic development system for purposes of consistency with the state comprehensive plan for economic development;

~~—(3) Provide for coordination among the different agencies, organizations, and components of the state economic development system at the state level and at the regional level;~~

~~—(4) Advocate for the state economic development system and for meeting the needs of industry associations, industry clusters, businesses, and employees;~~

~~—(5) Identify partners and).~~

(2) The Washington state economic development commission must:

(a) In collaboration with the department of commerce and other partners, develop a plan ~~((to develop))~~ for a consistent and reliable database on participation rates, costs, program activities, and outcomes from publicly funded economic development programs in this state by ~~((January 1, 2011.))~~ October 1, 2012;

((a) In coordination with the development of the database, the commission shall))

(b) By October 1, 2012, establish standards for data collection and maintenance for providers in the economic development system in a format that is accessible to use by the commission. The commission ~~((shall))~~ must require a minimum of common core data to be collected by each entity providing economic development services with public funds and shall develop requirements for minimum common core data in consultation with the economic climate council, the office of financial management, and the providers of economic development services;

~~((b) The commission shall))~~ (c) Establish minimum common standards and metrics for program evaluation of economic development programs, and monitor such program evaluations; and

~~((e) The commission shall.))~~ (d) Beginning no later than January 1, 2012, periodically administer, based on a schedule established by the commission, scientifically based outcome evaluations of the state economic development system including, but not limited to, surveys of industry associations, industry cluster associations, and businesses served by publicly funded economic development programs; matches with employment security department payroll and wage files; and matches with department of revenue tax files; and

~~((6))~~ (e) Evaluate proposals for expenditure from the economic development strategic reserve account and recommend expenditures from the account.

~~((The commission may delegate to the director any of the functions of this section.))~~ (3) The governor or legislature may direct the commission, from time to time, to undertake additional research and policy analysis, assessments, or other special projects related to its mission.

**Sec. 7.** RCW 43.162.030 and 2007 c 232 s 7 are each amended to read as follows:

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Creation of the ~~((Washington state economic development))~~ commission ~~((shall))~~ may not be construed to modify any authority or budgetary responsibility of the governor or the department of ~~((community, trade, and economic development))~~ commerce.

**NEW SECTION. Sec. 8.** A new section is added to chapter 43.162 RCW to read as follows:

(1) The Washington state economic development commission account is created in the state treasury. All receipts from gifts, grants, donations, sponsorships, or contributions under RCW 43.162.020 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the Washington state economic development commission only for purposes related to carrying out the mission, roles, and responsibilities of the commission.

(2) Whenever any money, from the federal government or from other sources, that was not anticipated in the budget approved by the legislature, has actually been received and is designated to be spent for a specific purpose, the executive director must use the unanticipated receipts process as provided in RCW 43.79.270 to request authority to spend the money.

**Sec. 9.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp s c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the

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county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer

firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section." Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5741.

Senator Kastama spoke in favor of the motion.

Senator Baumgartner spoke against the motion.

MOTION

On motion of Senator Becker, Senator Benton was excused.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5741.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5741 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5741, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5741, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 6; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Baumgartner, Hatfield, Holmquist  
Newbry, Honeyford, Schoesler and Zarelli

Excused: Senators Ericksen and Parlette

SUBSTITUTE SENATE BILL NO. 5741, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

The Senate resumed consideration of Engrossed Substitute House Bill No. 1175 which had been deferred on April 19, 2011 and a ruling issued earlier in the day."

MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted:

On page 14, after line 25 of the amendment, insert the following:

"(13) \$90,000 of the highway safety account--state appropriation is provided solely for identification verification purposes as required under RCW 46.20.035. Consistent with this requirement, if an applicant for a driver's license, driver's instruction permit, juvenile agricultural driving permit, or identocard does not provide a valid social security number as part of their application process as required in RCW 26.23.150, the department shall verify the identity of the applicant through the systematic alien verification for entitlements program administered by the United States citizenship and immigrations services. If the applicant's identity cannot be verified, the application must be denied."

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

POINT OF ORDER

Senator Brown: "Thank you Mr. President. I would request a ruling to whether the amendment violates Senate Rules 66 and 25 in the same way that an earlier amendment was a violation of senate rules. The amendment attempts to make a substantive law change in the transportation budget. I therefore request that the amendment be ruled out of order."

Senator Benton spoke against the point of order.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Brown asserting that Amendment # 388 includes substantive law in violation of Senate Rules 25 and 66, the President finds and rules as follows:

Very generally, the proposed amendment by Senator Benton seeks to include in the transportation budget language in the transportation budget language identity verification requirements for applicants seeking various permits and licenses.

The President does believe that this amendment is more tightly connected to funding—and, therefore, closer to being a proviso as opposed to substantive law—than was the last amendment offered on this same subject. Nonetheless, this amendment still impermissibly adds substantive law into a budget bill.

One general test to determine whether policy language is an appropriate budget proviso as opposed to substantive law is whether or not the language, if separated from its associated funding, would still function. This test is imperfect and incomplete, but it provides a general starting point that is useful in making such determinations. Simply put, any policy language must serve to modify an appropriation, not function as an independent mandate.

In the case of the amendment before us, it is true that there is an appropriation of \$90,000 which the language purports to limit. Looking carefully at the full amendment, however, it becomes clear that the proviso language—by its own terms—seeks to effectively modify the requirements found in another statute, disconnected from the funding and appropriation made within the budget, itself. In this sense, the language would operate irrespective of any funding amount, and it is thus properly viewed as substantive law, not a limited proviso.

For these reasons, and consistent with his earlier ruling on this same subject matter on this same budget, the President believes this amendment would violate Rules 25 and 66, and Senator Brown's point is well-taken."

MOTION

Senator Nelson moved that the following amendment by Senator Nelson and others to the striking amendment be adopted:

On page 30, after line 27 of the amendment, insert the following:

"Puget Sound Capital Construction Account--State  
Appropriation.....\$4,000,000  
TOTAL APPROPRIATION ..... \$471,773,000"

On page 30, at the beginning of line 28 of the amendment, strike "The appropriation in this section is" and insert "The appropriations in this section are"

On page 32, beginning on line 22 of the amendment, strike all of subsection (12)

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 48, line 16 of the amendment, strike "\$68,013,000" and insert "\$64,013,000"

On page 48, line 25 of the amendment, strike "\$283,341,000" and insert "\$279,341,000"

On page 48, line 28 of the amendment, strike "\$68,013,000" and insert "\$64,013,000"

On page 51, line 14 of the amendment, strike "\$7,167,000" and insert "\$3,167,000"

WITHDRAWAL OF AMENDMENT

On motion of Senator Nelson, the amendment by Senator Nelson and others on page 30, line 27 to the striking amendment to Engrossed Substitute House Bill No. 1175 was withdrawn.

MOTION

Senator Hewitt moved that the following amendment by Senator Hewitt to the striking amendment be adopted:

On page 30, line 27 of the amendment, strike "\$467,773,000" and insert "\$470,773,000"

On page 34, after line 18 of the amendment, insert the following:

"(21) \$3,000,000 of the Puget Sound ferry operations account--state appropriation is provided solely for fuel costs related to bio-diesel requirements."

On page 81, after line 35 of the amendment, strike all of section 706

Renumber the remaining sections consecutively and correct any internal references accordingly.

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On page 171, line 3 of the title amendment, after "46.63.160," strike "43.19.642,"

Senator Hewitt spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hewitt on page 30, line 27 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Hewitt failed and the amendment to the striking amendment was not adopted by voice vote.

#### POINT OF ORDER

Senator Ericksen: "Thank you Mr. President. Pursuant to Rule 25 of the Senate Rules and pursuant to your rulings earlier today I request a ruling with regards to section 701, 704, 706 and 710 of the striking amendment for being outside the scope and object of the underlying bill. Section 701 makes a policy change to the public private partnership statute currently in state law. Section 704 makes a policy change with regards of the use of red light cameras for enforcement in Washington State. Section 706 makes a policy change with regards with the use of bio-fuels in our state ferry fleet and section 710 makes a policy change with regards to the threshold with work being conducted by ferries labor unions. Mr. President, I would argue that the amendments in the striker violate Rule 25 by addressing issues that are policy in nature and not budget in nature."

Senator Haugen spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute House Bill No. 1175 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SENATE BILL NO. 5385, by Senators Regala, Ranker, Rockefeller and Fraser

Increasing revenue to the state wildlife account.

#### MOTIONS

On motion of Senator Regala, Substitute Senate Bill No. 5385 was substituted for Senate Bill No. 5385 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Regala, the rules were suspended, Substitute Senate Bill No. 5385 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Schoesler spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senators Baxter and Delvin were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5385.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5385 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Benton, Carrell, Ericksen, Holmquist Newbry, Roach, Sheldon and Stevens

Excused: Senators Baxter, Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5385, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1128, by House Committee on Ways & Means (originally sponsored by Representatives Roberts, Carlyle, Kagi, Walsh, Orwall, Goodman, Reykdal, Kenney, Maxwell, Appleton, Hunt and Pettigrew)

Providing for extended foster care. Revised for 2nd Substitute: Providing support for eligible foster youth up to age twenty-one.

The measure was read the second time.

#### MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The Washington state legislature has consistently provided national leadership on safe housing and support to foster youth transitioning out of foster care. Since 2006, the legislature has addressed the needs of foster youth aging out of care with medicaid to twenty-one (2007), foster care to twenty-one (2006), the independent youth housing program (2007), and Washington's alignment with the federal fostering connections act (2009). As a result of this national leadership to provide safe and basic housing to youth aging out of foster care, the programs have demonstrated the significant cost benefit to providing safe housing to our youth exiting foster care.

The United States congress passed the fostering connections to success and increasing adoptions act of 2008 in order to give states another financial tool to continue to provide foster care services to dependent youth who turn eighteen years old while in foster care. However, substantially declining revenues have resulted in markedly decreased funds for states to use to meet the federal requirements necessary to help these youth. Current fiscal realities require that the scope of programs must be narrowed.

The Washington state legislature intends to serve, within the resources available, the maximum number of foster youth who are legally dependent on the state and who reach the age of eighteen while still in foster care. The legislature intends to provide these youth continued foster care services to support basic and healthy

transition into adulthood. The legislature recognizes the extremely poor outcomes of unsupported foster youth aging out of the foster care system and is committed to ensuring that those foster youth who engage in positive, age-appropriate activities receive support. It is the intent of the legislature to fully engage in the fostering connections act by providing support, including extended court supervision to foster youth pursuing a high school diploma or GED to age twenty-one with the goal of increasing support to all children up to age twenty-one who are eligible under the federal fostering connections to success act as resources become available.

**Sec. 2.** RCW 13.04.011 and 2010 c 150 s 4 are each amended to read as follows:

For purposes of this title:

(1) "Adjudication" has the same meaning as "conviction" in RCW 9.94A.030, but only for the purposes of sentencing under chapter 9.94A RCW;

(2) Except as specifically provided in RCW 13.40.020 and chapters 13.24 and 13.34 RCW, "juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years;

(3) "Juvenile offender" and "juvenile offense" have the meaning ascribed in RCW 13.40.020;

(4) "Court" when used without further qualification means the juvenile court judge(s) or commissioner(s);

(5) "Parent" or "parents," except as used in chapter 13.34 RCW, means that parent or parents who have the right of legal custody of the child. "Parent" or "parents" as used in chapter 13.34 RCW, means the biological or adoptive parents of a child unless the legal rights of that person have been terminated by judicial proceedings;

(6) "Custodian" means that person who has the legal right to custody of the child.

**Sec. 3.** RCW 13.34.030 and 2010 1st sp.s. c 8 s 13, 2010 c 272 s 10, and 2010 c 94 s 6 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," (~~and~~) "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; (~~or~~)

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent,

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guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

**Sec. 4.** RCW 74.13.020 and 2010 c 291 s 3 are each amended to read as follows:

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward

permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means:

(a) A person less than eighteen years of age; or

(b) A person age eighteen to twenty-one years who is eligible to receive the extended foster care services authorized under RCW 74.13.031.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to

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provide case management for the delivery and documentation of child welfare services, as defined in this section.

(13) "Extended foster care services" means residential and other support services the department is authorized to provide to foster children. These services include, but are not limited to, placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

**Sec. 5.** RCW 74.13.031 and 2009 c 520 s 51, 2009 c 491 s 7, and 2009 c 235 s 2 are each reenacted and amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department

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shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) ~~((Have authority to))~~ Provide continued ~~((foster care or group care as needed))~~ extended foster care services to youth ages eighteen to twenty-one years to participate in or complete a ~~((high school or vocational school))~~ secondary education program or a secondary education equivalency program.

(11) ~~((a))~~ Within amounts appropriated for this specific purpose, have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

(i) Enrolled and participating in a postsecondary or vocational educational program;

(ii) Participating in a program or activity designed to promote or remove barriers to employment;

(iii) Engaged in employment for eighty hours or more per month; or

(iv) Incapable of engaging on any of the activities described in (a)(i) through (iii) of this subsection due to a medical condition that is supported by regularly updated information.

(b) A youth who remains eligible for placement services or benefits pursuant to department rules may continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday.

(12) Within amounts appropriated for this specific purpose,) Have authority to provide adoption support benefits, or ((subsidized)) relative guardianship ((benefits)) subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a ((subsidized)) relative guardianship at age sixteen or older and who ((are engaged in one of the activities)) meet the criteria described in subsection ~~((11))~~ (10) of this section.

~~((43))~~ (12) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty

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shall not be referred to the division of child support unless required by federal law.

~~((44))~~ (13) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

~~((45))~~ (14) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

~~((46))~~ (15) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

~~((47))~~ (16) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

**Sec. 6.** RCW 13.34.145 and 2009 c 520 s 30, 2009 c 491 s 4, and 2009 c 477 s 4 are each reenacted and amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed. Every effort shall be made to provide stability in long-term placement, and to avoid disruption of placement, unless the child is being returned home or it is in the best interest of the child.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights

have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have

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deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care. The court will inquire whether the child has been provided information about extended foster care services.

(ii) The permanency plan shall also specifically identify the services, including extended foster care services, where appropriate, that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall:

(i) Enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(~~(5)~~)(6), and 13.34.096; and

(ii) If the department or supervising agency is recommending a placement other than the child's current placement with a foster parent, relative, or other suitable person, enter a finding as to the reasons for the recommendation for a change in placement.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should

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be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**NEW SECTION. Sec. 7.** A new section is added to chapter 13.34 RCW to read as follows:

(1) In order to facilitate the delivery of extended foster care services, the court shall postpone for six months the dismissal of a dependency proceeding for any child who is a dependent child in foster care at the age of eighteen years and who, at the time of his or her eighteenth birthday, is enrolled in a secondary education program or a secondary education equivalency program. The six-month postponement under this subsection is intended to allow a reasonable window of opportunity for an eligible youth who reaches the age of eighteen to request extended foster care services from the department or supervising agency. At the end of the six-month period, the court shall dismiss the dependency if the youth has not requested extended foster care services from the department. Until the youth requests to participate in the extended foster care program, the department is relieved of supervisory responsibility for the youth.

(2) A youth receiving extended foster care services is a party to the dependency proceeding. The youth's parent or guardian shall be dismissed from the dependency proceeding when the youth reaches the age of eighteen years.

(3) The court shall order a youth participating in extended foster care services to be under the placement and care authority of the department, subject to the youth's continuing agreement to participate in extended foster care services.

(4) The court shall appoint counsel to represent a youth, as defined in RCW 13.34.030(2)(b), in dependency proceedings under this section.

(5) The case plan for and delivery of services to a youth receiving extended foster care services is subject to the review requirements set forth in RCW 13.34.138 and 13.34.145, and should be applied in a developmentally appropriate manner, as they relate to youth age eighteen to twenty-one years. Additionally, the court shall consider:

(a) Whether the youth is safe in his or her placement;

(b) Whether the youth continues to be eligible for extended foster care services;

(c) Whether the current placement is developmentally appropriate for the youth;

(d) The youth's development of independent living skills; and

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(e) The youth's overall progress toward transitioning to full independence and the projected date for achieving such transition.

(6) Prior to the hearing, the youth's attorney shall indicate whether there are any contested issues and may provide additional information necessary for the court's review.

(7) Upon the request of the youth, or when the youth is no longer eligible to receive extended foster care services according to rules adopted by the department, the court shall dismiss the dependency.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.13 RCW to read as follows:

(1) Within amounts appropriated for this specific purpose, the department shall have authority to provide continued foster care or group care to youth ages eighteen to twenty-one years who are:

(a) Enrolled in a secondary education program or a secondary education equivalency program;

(b) Enrolled and participating in a postsecondary or vocational educational program;

(c) Participating in a program or activity designed to promote or remove barriers to employment;

(d) Engaged in employment for eighty hours or more per month;

or  
(e) Incapable of engaging in any of the activities described in (a) through (d) of this subsection due to a medical condition that is supported by regularly updated information.

(2) A youth who remains eligible for placement services or benefits under this section pursuant to department rules may, within amounts appropriated for this specific purpose, continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Second Substitute House Bill No. 1128.

The motion by Senator Hargrove carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 13.04.011 and 74.13.020; reenacting and amending RCW 13.34.030, 74.13.031, and 13.34.145; adding a new section to chapter 13.34 RCW; adding a new section to chapter 74.13 RCW; and creating a new section."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1128 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1128 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1128 as amended by the Senate and

the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baxter, Delvin and Parlette

SECOND SUBSTITUTE HOUSE BILL NO. 1128 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2017, by House Committee on Ways & Means (originally sponsored by Representative Hunter)

Transferring the master license service program to the department of revenue. Revised for 1st Substitute: Concerning the master license service program.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, Substitute House Bill No. 2017 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2017.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2017 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Carrell, Ericksen, Holmquist Newbry, Roach, Schoesler, Sheldon and Stevens

Excused: Senator Parlette

SUBSTITUTE HOUSE BILL NO. 2017, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2019, by Representative Dunshee

Concerning the deposit of the additional cigarette tax.

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The measure was read the second time.

## MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 2019 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2019.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2019 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 0; Excused, 1.

Voting yea: Senators Baxter, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Benton, Carrell, Delvin, Hill, Holmquist Newbry, Roach and Stevens

Excused: Senator Parlette

HOUSE BILL NO. 2019, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1312, by House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Green and Kenney)

Regarding statutory changes needed to implement a waiver to receive federal assistance for certain state purchased public health care programs.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1312 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1312.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1312 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray,

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Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senator Parlette

SUBSTITUTE HOUSE BILL NO. 1312, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ranker, Senator Pridemore was excused.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1037 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate recede from its position on Substitute House Bill No. 1037 and pass the bill without the Senate amendment(s).

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position on Substitute House Bill No. 1037 and pass the bill without Senate amendment(s).

The motion by Senator Hargrove carried and the Senate receded from its position on Substitute House Bill No. 1037 and pass the bill without the Senate amendment(s) ) by voice vote.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1037, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senator Parlette

SUBSTITUTE HOUSE BILL NO. 1037, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

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MESSAGE FROM THE HOUSE

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April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1046 and asks the Senate to recede therefrom.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator King moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1046.

The President declared the question before the Senate to be motion by Senator King that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1046.

The motion by Senator King carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1046 by voice vote.

MOTION

On motion of Senator King, the rules were suspended and Substitute House Bill No. 1046 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1046, by House Committee on Transportation (originally sponsored by Representatives Moeller, Condotta and Morris)

Concerning vehicle and vessel quick title.

The measure was read the second time.

MOTION

Senator King moved that the following striking amendment by Senators King and Haugen be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 46.12 RCW under the subchapter heading "general provisions" to read as follows:

(1) The application for a quick title of a vehicle must be submitted by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vehicle, including make, model, vehicle identification number, type of body, and the odometer reading at the time of delivery of the vehicle, when required;

(b) The name and address of the person who is to be the registered owner of the vehicle and, if the vehicle is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under section 2 of this act; and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) The quick title process authorized under this section may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle as defined in RCW 46.04.514.

(7) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.17 RCW under the subchapter heading "certificate of title fees" to read as follows:

Before accepting an application for a quick title of a vehicle under section 1 of this act, the department, participating county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a fifty dollar quick title service fee in addition to any other fees and taxes required by law. The quick title service fee must be distributed under section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The quick title service fee imposed under section 2 of this act must be distributed as follows:

(a) If the fee is paid to the director, the fee must be deposited to the motor vehicle fund established under RCW 46.68.070.

(b) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five dollars must be deposited to the motor vehicle fund established under RCW 46.68.070. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(2) For the purposes of this section, "quick title" has the same meaning as in section 1 of this act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.02 RCW under the subchapter heading "certificates of title" to read as follows:

(1) The application for a quick title of a vessel must be made by the owner or the owner's representative to the department, participating county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department and must contain:

(a) A description of the vessel, including make, model, hull identification number, series, and body;

(b) The name and address of the person who is to be the registered owner of the vessel and, if the vessel is subject to a security interest, the name and address of the secured party; and

(c) Other information as may be required by the department.

(2) The application for a quick title must be signed by the person applying to be the registered owner and be sworn to by that person in the manner described under RCW 9A.72.085. The department must keep a copy of the application.

(3) The application for a quick title must be accompanied by:

(a) All fees and taxes due for an application for a certificate of title, including a quick title service fee under RCW 88.02.640(1); and

(b) The most recent certificate of title or other satisfactory evidence of ownership.

(4) All applications for quick title must meet the requirements established by the department.

(5) For the purposes of this section, "quick title" means a certificate of title printed at the time of application.

(6) A subagent may process a quick title under this section only after (a) the department has instituted a process in which blank certificates of title can be inventoried; (b) the county auditor of the county in which the subagent is located has processed quick titles for a minimum of six months; and (c) the county auditor approves a request from a subagent in its county to process quick titles.

**Sec. 5.** RCW 88.02.640 and 2010 c 161 s 1028 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees:

| FEE  | AMOUNT                         | AUTHORITY                               | DISTRIBUTION                          |
|--|--------------------------------|---|---------------------------------------|
| (a) Dealer temporary permit                      | \$5.00                         | RCW 88.02.800(2)                        | General fund                          |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsections (3) and (4) of this section | Subsection (3) of this section        |
| (c) Duplicate registration                       | \$1.25                         | RCW 88.02.590(1)(c)                     | General fund                          |
| (d) Filing                                       | RCW 46.17.005                  | RCW 46.17.005                           | RCW 46.68.440                         |
| (e) License plate technology                     | RCW 46.17.015                  | RCW 46.17.015                           | RCW 46.68.400                         |
| (f) License service                              | RCW 46.17.025                  | RCW 46.17.025                           | RCW 46.68.220                         |
| (g) Nonresident vessel permit                    | \$25.00                        | RCW 88.02.620(3)                        | Subsection (6) of this section        |
| (h) <u>Quick title service</u>                   | <u>\$50.00</u>                 | <u>Section 4(3) of this act</u>         | <u>Subsection (7) of this section</u> |
| (i) Registration                                 | \$10.50                        | RCW 88.02.560(2)                        | General fund                          |
| <del>((j))</del> (j) Replacement decal           | \$1.25                         | RCW 88.02.595(1)(c)                     | General fund                          |
| <del>((k))</del> (k) Title application           | \$5.00                         | RCW 88.02.515                           | General fund                          |
| <del>((l))</del> (l) Transfer                    | \$1.00                         | RCW 88.02.560(7)                        | General fund                          |
| <del>((m))</del> (m) Vessel visitor permit       | \$30.00                        | RCW 88.02.610(3)                        | General fund                          |

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) Until June 30, 2012, the derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the freshwater aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) On and after June 30, 2012, the derelict vessel and invasive species removal fee is two dollars and must be deposited into the derelict vessel removal account created in RCW 79.100.100. If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollar derelict vessel and invasive species removal fee must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.655; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(b) For the purposes of this subsection, "quick title" has the same meaning as in section 4 of this act.

NEW SECTION. Sec. 6. This act applies to quick title transactions processed on and after January 1, 2012.

NEW SECTION. Sec. 7. This act takes effect January 1, 2012."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators King and Haugen to Substitute House Bill No. 1046.

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The motion by Senator King carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "title;" strike the remainder of the title and insert "amending RCW 88.02.640; adding a new section to chapter 46.12 RCW; adding a new section to chapter 46.17 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 88.02 RCW; creating a new section; and providing an effective date."

MOTION

On motion of Senator King, the rules were suspended, Substitute House Bill No. 1046 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1046 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1046 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Holmquist Newbry, Roach and Stevens

Excused: Senator Parlette

SUBSTITUTE HOUSE BILL NO. 1046 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1081 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate insist on its

position in the Senate amendment(s) to Substitute House Bill No. 1081 and request of the House a conference thereon.

The motion by Senator Rockefeller carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and requested of the House a conference thereon by voice vote.

MOTION TO RECONSIDER THE MOTION

Senator Rockefeller moved to immediately reconsider the motion to insist on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Rockefeller to immediately reconsider the motion to insist on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and request of the House a conference thereon.

The motion by Senator Rockefeller to reconsider the motion carried by a voice vote.

MOTION

Senator Rockefeller moved that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and ask the House to concur thereon.

The motion by Senator Rockefeller carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 1081 and asked the House to concur thereon by voice vote.

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1546.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1546.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1546 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Engrossed Second Substitute House Bill No. 1546 was returned to second reading for the purposes of amendment.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546, by House Committee on Ways & Means (originally sponsored by Representatives Hargrove, Hunt, Dammeier, Pettigrew, Liias, Smith, Anderson, Fagan, Kretz, Dahlquist, Angel, Zeiger, Jinkins and Finn)

Authorizing creation of innovation schools and innovation zones in school districts.

The measure was read the second time.

#### MOTION

Senator McAuliffe moved that the following striking amendment by Senators McAuliffe and Litzow be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) School district boards of directors are encouraged to support the expansion of innovative K-12 school or K-12 program models, with a priority on models focused on the arts, science, technology, engineering, and mathematics (A-STEM) that partner with business, industry, and higher education to increase A-STEM pathways that use project-based or hands-on learning for elementary, middle, and high school students; and

(b) Particularly in schools and communities that are struggling to improve student academic outcomes and close the educational opportunity gap, there is a critical need for innovative models of public education, with a priority on models that are tailored to A-STEM-related programs that implement interdisciplinary instructional delivery methods that are engaging, rigorous, and culturally relevant at each grade level.

(2) Therefore, the legislature intends to create a framework for change that includes:

(a) Leveraging community assets;

(b) Improving staff capacity and effectiveness;

(c) Developing family, school, business, industry, A-STEM professionals, and higher education partnerships in A-STEM education at all grade levels that can lead to industry certification or dual high school and college credit;

(d) Implementing evidence-based practices proven to be effective in reducing demographic disparities in student achievement; and

(e) Enabling educators and parents of selected schools and school districts to restructure school operations and develop model A-STEM programs that will improve student performance and close the educational opportunity gap.

**NEW SECTION. Sec. 2.** (1) The office of the superintendent of public instruction shall develop a process for school districts to apply to have one or more schools within the district designated as an innovation school, with a priority on schools focused on the arts, science, technology, engineering, and mathematics (A-STEM) that actively partners with the community, business, industry, and higher education, and uses project-based or hands-on learning. A group of schools that share common interests, such as geographical location, or that sequentially serve classes of students as they progress through elementary and secondary grades may be designated as an innovation zone. An innovation zone may include all schools within a school district. Consortia of multiple districts may also apply for designation as an innovation zone, to include all schools within the participating districts.

(2) Applications requesting designation of innovation schools or innovation zones must be developed by the school district in collaboration with educators, parents, businesses, industries, and the communities of participating schools. School districts must ensure that each school has substantial opportunity to participate in the development of the innovation plan under section 4 of this act.

(3) The office of the superintendent of public instruction shall develop common criteria for reviewing applications and for evaluating the need for waivers of state statutes and administrative rules as provided under section 5 of this act.

**NEW SECTION. Sec. 3.** (1) Applications to designate innovation schools and innovation zones must be submitted by school district boards of directors to their respective educational service districts by January 6, 2012, to be implemented beginning in the 2012-13 school year. Innovation plans must be able to be implemented without supplemental state funds.

(2) Each educational service district boards of directors shall review applications from within the district using the common criteria developed by the office of the superintendent of public instruction. Each educational service district shall recommend approval by the office of the superintendent of public instruction of no more than three applications from within each educational service district, no fewer than two of which must be focused on A-STEM-related innovations and no more than one of which may focus on other innovations. However, any educational service district with over three hundred fifty thousand full-time equivalent students may recommend approval of no more than ten applications from within the educational service district, no fewer than half of which must be focused on A-STEM-related innovations and no more than half of which may focus on other innovations. At least one of the recommended applications in each educational service district must propose an innovation zone, as long as the application meets the review criteria.

(3) The office of the superintendent of public instruction shall approve the innovation plans of the applicants recommended by the educational service districts. School districts that have applied shall be notified by March 1, 2012, whether they were selected.

(4) Designation of innovation schools and innovation zones under this section shall be for a six-year period, beginning in the 2012-13 school year, unless the designation is revoked in accordance with section 7 of this act.

**NEW SECTION. Sec. 4.** (1) Each application for designation of an innovation school or innovation zone must include a proposed plan that:

(a) Defines the scope of the innovation school or innovation zone and describes why designation would enhance the ability of the school or schools to improve student achievement and close the educational opportunity gap including by implementing a program focused on the arts, science, technology, engineering, and mathematics themes that partner with the community, business, industry, and higher education and use project-based or hands-on learning;

(b) Enumerates specific, research-based activities and innovations to be carried out under the designation;

(c) Justifies each request for waiver of state statutes or administrative rules as provided under section 5 of this act;

(d) Justifies any requests for waiver of state statutes or administrative rules that are in addition to the waivers authorized under section 5 of this act that are necessary to carry out the proposed innovations;

(e) Identifies the improvements in student achievement and the educational opportunity gap that are expected to be accomplished through the innovations;

(f) Includes budget plans and anticipated sources of funding, including private grants and contributions, if any;

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(g) Identifies the technical resources desired, the potential costs of those resources, and the institutions of higher education, educational service districts, businesses, industries, or consultants available to provide such services;

(h) Identifies the multiple measures for evaluation and accountability to be used to measure improvement in student achievement, closure in the educational opportunity gap, and the overall performance of the innovation school or innovation zone, including but not limited to assessment scores, graduation rates, and dropout rates;

(i) Includes a written statement that school directors and administrators are willing to exempt the designated school or schools from specifically identified local rules, as needed;

(j) Includes a written statement that school directors and local bargaining agents will modify those portions of their local agreements as applicable for the designated school or schools;

(k) Includes written statements of support from the district's board of directors, the superintendent, the principal and staff of schools seeking designation, each local employee association affected by the proposal, the local parent organization, and statements of support, willingness to participate, or concerns from any interested parent, business, institution of higher education, or community organization; and

(l) Commits all parties to work cooperatively during the term of the pilot project.

(2) A plan to designate an innovation school or innovation zone must be approved by a majority of the staff assigned to the school or schools participating in the plan.

**NEW SECTION. Sec. 5.** (1)(a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for designated innovation schools and innovation zones as follows:

(i) Waivers may be granted under RCW 28A.655.180 and 28A.305.140;

(ii) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and

(iii) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived to implement an innovation school or innovation zone.

(b) State administrative rules dealing with public health, safety, and civil rights, including accessibility for individuals with disabilities, may not be waived.

(2) At the request of a school district, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement an innovation school or innovation zone.

(3) The state board of education may grant waivers for innovation schools or innovation zones of administrative rules pertaining to calculation of course credits for high school courses.

(4) Waivers may be granted under this section for a period not to exceed the duration of the designation of the innovation school or innovation zone.

(5) The superintendent of public instruction and the state board of education shall provide an expedited review of requests for waivers for designated innovation schools and innovation zones. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:

(a) Is likely to result in a decrease in academic achievement in the innovation school or innovation zone;

(b) Would jeopardize the receipt of state or federal funds that a school district would otherwise be eligible to receive, unless the

school district submits a written authorization for the waiver acknowledging that receipt of these funds could be jeopardized; or

(c) Would violate state or federal laws or rules that are not authorized to be waived.

**NEW SECTION. Sec. 6.** (1) The office of the superintendent of public instruction shall report to the education committees of the legislature on the progress of the designated innovation schools and innovation zones by January 15, 2013, and January 15th of each odd-numbered year thereafter. The report must include recommendations for waiver of state laws and administrative rules in addition to the waivers authorized under section 5 of this act, as identified in innovation plans submitted by school districts.

(2) Each innovation school and innovation zone must submit an annual report to the office of the superintendent of public instruction on their progress.

(3) The office of the superintendent of public instruction, through the center for the improvement of student learning, must collect and disseminate to all school districts and other interested parties information about the innovation schools and innovation zones.

**NEW SECTION. Sec. 7.** After reviewing the annual reports of each innovation school and zone, if the office of the superintendent of public instruction determines that the school or zone is not increasing progress over time as determined by the multiple measures for evaluation and accountability provided in the school or zone plan in accordance with section 4 of this act then the superintendent shall revoke the designation.

**Sec. 8.** RCW 28A.305.140 and 1990 c 33 s 267 are each amended to read as follows:

(1) The state board of education may grant waivers to school districts from the provisions of RCW 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to:

(a) Implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program; or

(b) Implement an innovation school or innovation zone designated under section 3 of this act.

(2) The state board shall adopt criteria to evaluate the need for the waiver or waivers.

**Sec. 9.** RCW 28A.655.180 and 2009 c 543 s 3 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district or to implement an innovation school or innovation zone designated under section 3 of this act.

(2) School districts may use the application process in RCW 28A.305.140 to apply for the waivers under this section.

**NEW SECTION. Sec. 10.** Sections 2 through 7 of this act are each added to chapter 28A.630 RCW.

**NEW SECTION. Sec. 11.** This act expires June 30, 2019."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

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The President declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe and Litzow to Engrossed Second Substitute House Bill No. 1546.

The motion by Senator McAuliffe carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "to" strike the remainder of the title and insert "authorizing creation of innovation schools and innovation zones focused on science, technology, engineering, and mathematics in school districts; amending RCW 28A.305.140 and 28A.655.180; adding new sections to chapter 28A.630 RCW; creating a new section; and providing an expiration date."

## MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1546 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1546 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1546 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 1; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Ericksen

Absent: Senator Regala

Excused: Senator Parlette

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1546 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 3:10 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:23 p.m. by President Owen.

## SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5540,

SUBSTITUTE SENATE BILL NO. 5579,

SUBSTITUTE SENATE BILL NO. 5590,  
SUBSTITUTE SENATE BILL NO. 5784.

The Senate resumed consideration of Engrossed Substitute House Bill No. 1175 which had been deferred earlier in the day.

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the striking amendment be adopted:

On page 34, after line 18 of the amendment, insert the following:

"(21) If chapter ... (Substitute House Bill No. 2053), Laws of 2011 (additive transportation funding) is not enacted by June 30, 2011, the \$4,000,000 in service reductions identified in subsection (12) of this section must be restored and an identical amount must be reduced from the amount provided for the second 144-car vessel identified in section 308(8) of this act."

Senators Haugen, King and Ranker spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 34, after line 18 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the striking amendment be adopted:

On page 41, on line 22 of the amendment, after "project (300504A)." strike all material through "complete." and insert the following:

"The use of funds in this subsection to renovate any buildings is subject to the requirements of section 604 of this act. The department shall report to the legislature and the office of financial management on any costs associated with building renovations funded in this subsection."

Senator Haugen spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 41, line 22 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

## MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted:

On page 42, line 3, after "project." insert "The amounts provided in this subsection are contingent upon an affirmative vote of the citizens of Clark county supporting advancement of the project."

Senators Benton and Roach spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 42,

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line 3 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted.

On page 42, line 12, after "tolls", insert ", subject to a vote of the people in Clark County"

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

Senator Benton demanded a roll call.

#### MOTION

On motion of Senator Delvin, Senator Ericksen was excused.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 42, line 12 to the striking amendment to Engrossed Substitute House Bill No. 1175.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Benton to the striking amendment and the amendment was not adopted by the following vote: Yeas, 17; Nays, 30; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Hewitt, Hill, Holmquist Newbry, Honeyford, Morton, Pridemore, Roach, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and White

Excused: Senators Ericksen and Parlette

#### MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted:

On page 42, at the beginning of line 12 of the amendment, strike "on the existing Columbia river crossing or"

Senator Benton spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Benton on page 42, line 12 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Nelson to the striking amendment be adopted:

On page 44, line 16 of the amendment, after "corridor." Insert the following:

"The comprehensive tolling study of the SR 509 corridor may not consider tolling existing roadways."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senators Keiser and Nelson on page 44, line 16 to the striking amendment to Engrossed Substitute House Bill No. 1175 was withdrawn.

#### MOTION

Senator Benton moved that the following amendment by Senators Keiser and Nelson to the striking amendment be adopted:

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Nelson on page 44, line 16 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Benton failed and the amendment to the striking amendment was not adopted by voice vote.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the striking amendment be adopted:

On page 49, line 33 of the amendment, after "The" strike all material through "the"

On page 49, line 33 of the amendment, after "vendor" strike "to" and insert "must"

On page 49, line 35 of the amendment, after "management," strike all material through "contract" and insert "by August 15, 2011"

On page 49, line 35 of the amendment, after "list of" strike "design"

On page 49, line 38, after "vessel. The" strike "contract" and insert "vendor"

Senators Haugen and King spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 49, line 33 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King to the striking amendment be adopted:

On page 55, line 2 of the amendment, strike "\$12,117,000", and insert "\$15,117,000"

On page 55, line 8 of the amendment, strike "\$91,169,000", and insert "\$94,169,000"

Senator Haugen spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on

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page 55, line 2 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

#### MOTION

Senator Benton moved that the following amendment by Senator Benton be adopted:

On page 14, after line 25 of the amendment, insert the following:

"(13) \$245,769,000 of the appropriation is provided solely for Department of Licensing activities. If chapter ... (Substitute Senate Bill No. 5407), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses."

Senator Benton spoke in favor of adoption of the amendment.

#### POINT OF ORDER

Senator Eide: "Pursuant to rule, Reed's Rule 130, I believe this amendment is out of order. Under Rule 130 second reading is by paragraphs or sections and each paragraph or section is amended in its turn. We have already addressed and failed amendment number 386 which was amended to section bill occurring on page 30. We amended number 396 which amendment to page 14 and, under Rule 130, it's not permissible to reoccur to a paragraph or section that's already passed. Therefore, I ask Mr. President that you rule that this amendment is out of order."

Senator Benton spoke against the point of order.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Eide as to amendment number 396, the President finds and rules a follows:

Senator Eide argues that Reed's Rule 130 requires that amendments be considered in paragraph order, such that—once the body has moved beyond a particular section—it may not go back to a previous paragraph absent the consent of the body. Senator Eide is correct: the Senate may not consider an amendment to a section which has previously been available or considered for amendment without leave of the body. The rationale of this rule is to avoid confusion by ensuring that amendments are taken in a logical and consistent manner, and the body's time is not wasted by continuously revisiting matters already considered or sections already gone by.

For these reasons, Senator Eide's point is well-taken, and the amendment may not be considered without leave of the body."

#### PARLIAMENTARY INQUIRY

Senator Benton: "Thank you Mr. President. I'd like to ask for further clarification since the order in which the amendment is considered by the Senate is completely out of my control and up to staff and people that run the senate. Why wasn't the amendment presented to the body at the proper time. It was on the bar and ready to be presented under the proper section..."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Benton, the President will respond and will respond once. The amendment was provided to us after we had considered other amendments beyond that

section. It was not presented to us at the time we were considering that section."

Senator Benton moved that the Senate consider the following amendment:

On page 14, after line 25 of the amendment, insert the following:

"(13) \$245,769,000 of the appropriation is provided solely for Department of Licensing activities. If chapter ... (Substitute Senate Bill No. 5407), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses."

#### POINT OF ORDER

Senator Eide: "Under Reed's Rule 212, a member may not abuse the rules of the body in order to obstruct public business. Under Rule 49 of Reed's Rules a member is not to make use of even proper parliamentary motions to impede unreasonably the actions of the assembly. This is the third amendment, I think it might even be the fourth at this point in time dealing with the same issue. This is the first of two amendments that have been ruled out of order by the President and I believe the further amendments are a violation of the Rule 212. Under Reeds Rule 225 the President has the authority to prevent a member from impeding the business of the body through the use of a debate and parliamentary maneuverings. I ask that the President to find that this out of order and allow the body to move on to debating the bill. Thank you."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Eide, your point would be well taken had Senator Benton had not asked for the consent of the body. If the body consents, then we can go back to it. That not being the case, the President would have warned Senator Benton that he was treading on the exact rules that you have pointed out because it is the third time that we are considering the same amendment. So Senator Benton has moved that the body consider amendment number 396."

Senator Schoesler demanded a roll call on the motion by Senator Benton that the Senate consider amendment by Senator Benton on page 14, line 25 to Engrossed Substitute House Bill No. 1175.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

#### PARLIAMENTARY INQUIRY

Senator Sheldon: "If I might read from the Senate Rules Mr. President? Rule 32 states that every decision of points of order by the President shall be subject to appeal by any senator and discussion of a question of order shall be allowed. In all cases of appeal the question shall be 'shall the decision of the President stand as the judgment of the Senate.' Mr. President, aren't we in this situation now that would be governed by Rule 32? Since you have ruled that that amendment is not in order and..."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Benton has not challenged the President's rule. He is asking for the body's permission to consider an amendment which otherwise could be ruled out of order."

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Senator Benton spoke in favor of the motion to adopt the amendment.

PARLIAMENTARY INQUIRY

Senator Eide: "I believe, and I am not certain so I want to ask you this question. The motion before us is whether or not it's all in the parliamentary procedure. This is a procedure. It's not on the amendment itself. Is that correct?"

REPLY BY THE PRESIDENT

President Owen: "That is correct. Senator Benton nor anybody else may actually debate the issue only whether or not to go and give him consent to consider the issue. Senator Hargrove."

PARLIAMENTARY INQUIRY

Senator Hargrove: "Thank you Mr. President. Since my vote on this motion depends on the fact that we would be voting on the amendment, I'm unclear and have a point of parliamentary inquiry as to which version of Substitute Senate Bill No. 5407 we are supposedly considering under this amendment because that bill never passed the senate. So, I don't know which, was it the version introduced. Was it the version that was amended in Committee? Was the version we started to work on? I have no idea what we're?"

REPLY BY THE PRESIDENT

President Owen: "Senator, it's not the President's place to tell you what is within the bill but the bill that he is referencing is Substitute Senate Bill No. 5407."

The President declared the question before the Senate to be the motion by Senator Benton that the Senate consider the amendment by Senator Benton on page 14, line 25 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The Secretary called the roll on the motion by Senator Benton and the motion failed by the following vote: Yeas, 22; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Excused: Senator Parlette

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Ericksen as to whether Sections 701, 704, 706, and 710 of the striking amendment include changes to substantive law in violation of Senate Rules 25 and 66, the President finds and rules as follows:

The President begins by noting that some of the issues presented are novel and involve complex and interrelated budget provisions, so the President asks for the body's patience as he goes through each section in turn.

Section 701 would amend RCW 47.29.170 to continue the prohibition which prevents the Transportation Commission from accepting or considering unsolicited bids. While the wholesale introduction of such a change to the RCW might go beyond what

can properly be done within a budget bill, it should be noted that the change in this case is simply the year involved. Effectively, this change merely continues current law into the next biennium to achieve additional savings for the budget. This section is therefore a proper change.

Section 704 would make changes to RCW 46.63.170 to permit the continued use of traffic cameras in certain areas and for certain purposes as a pilot project. The President does believe that this change could have represented an impermissible substantive change to law had it been raised and challenged prior to the adoption of the last budget back in 2009. It was not, however, challenged, and this law did become part of the statute when the budget was enacted. Substantive or not, it is current law, and the modifications contemplated by the amendment before us for this budget again merely change the dates to continue these pilot projects into the next biennium. This section is also, therefore, a proper change.

Section 706 would amend RCW 43.19.642 to exempt the state ferry system from the biodiesel use requirements found in that statute. This change is properly limited to the fiscal biennium to achieve cost savings, and it is therefore a permissible amendment.

Section 710 would amend RCW 47.28.030 to provide an exception to certain bid requirements for ferry system work. While the current law does include a similar exception, that particular law is set to expire at the end of this fiscal year. Rather than simply change this date, the proposed changes in this section actually change the date and the dollar threshold. This adds an entirely new section to the statute in question. The President believes this constitutes an impermissible change to substantive law, effectively acting as an additional subject. The President believes that there are many possible ways the same or similar policy could properly be included as a budget proviso, so the President wishes to be clear that he is ruling on the technical language of the section, not the underlying policy or savings to be achieved.

The President believes that some explanatory and cautionary remarks may be helpful to the body on similar issues in the future. Neither this body nor the courts have exhaustively discussed the limits of budget provisos, and it is unlikely that the President could issue any ruling which would cover every conceivable situation. Nonetheless, the President recognizes that the body has and should have wide latitude in making limited legal changes in order to effect budget savings or realize revenue. Factors to consider include:

1. Whether the change is limited to the fiscal years affected;
2. Whether the proviso or additions were the subject of another bill;
3. Whether rights or eligibility for services are affected; and
4. Whether an express policy found in statute is being contravened, repealed, or modified in a manner which renders the underlying statutory scheme inoperative.

In every case, there should be a connection between the proviso and savings, spending, or raising of revenue achieved within the budget.

The President believes he has simply restated existing law and precedent for the convenience of the body, and he does not believe this ruling should act to invite wholesale challenge of budget provisos or the traditional means of budgeting that have historically been relied upon by the Legislature.

For these reasons, Senator Ericksen's point on Section 710 is well-taken, and therefore this amendment in its present form is not properly before the body for its consideration."

MOTION

Senator Haugen moved that the following amendment by Senator Haugen to the striking amendment be adopted:

On page 87, line 8 of the amendment, after "June 30," strike "2011" and insert "~~(2011)~~ 2013"

On page 87, line 10 of the amendment, after "forces." strike all material through "forces." on line 12

POINT OF ORDER

Senator Benton: "Thank you Mr. President. I few moments ago, about thirty-five minutes ago, this body took action on amendment that would of affected on page 171. In accordance with the Majority Floor Leader's point of order made a few moments ago, according to Reed's Rules the amendment now before us deals with section of the law on page 87. We have long since passed page 87 and therefore going back to page 87 would be in violation in your previous ruling and in violation of Reed's Rules."

POINT OF ORDER

Senator Eide: "In Reed's Rules, section 130 it is the general consent of the body to consider this amendment."

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Benton as to amendment number 397, the President finds and rules a follows:

Senator Benton argues that the body is beyond the page and line number for consideration of this amendment as called for under Reed's Rule 130. The President believes, however, that the proper reference for this determination is the substantive amendment language, not the title amendment portion of the amendment that Senator Benton referenced. The title amendment will necessarily always come at the end. The body has not considered an amendment beyond the line and page presented by this amendment.

For these reasons Senator Benton's point is not well-taken, and the amendment is properly before the body."

Senator Haugen spoke in favor of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen on page 87, line 8 to the striking amendment to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the amendment to the striking amendment was adopted by voice vote.

MOTION

Senator Benton moved that the following amendment by Senator Benton to the striking amendment be adopted:

On page 90, after line 3, insert the following:

**"NEW SECTION. Sec. 712. FOR THE DEPARTMENT OF LICENSING**

Motor Vehicle Account--State Appropriation.....\$90,000

The appropriations in this section are subject to the following conditions and limitations: The total appropriation is provided solely for implementation of chapter. . . (Substitute Senate Bill no, 5407), Laws of 2011. If the bill is not enacted by June 30, 2011, the amount provided in this subsection lapses."

WITHDRAWAL OF AMENDMENT

On motion of Senator Benton, the amendment by Senator Benton on page 90, after line 3 to the striking amendment to Engrossed Substitute House Bill No. 1175 was withdrawn.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Haugen as amended to Engrossed Substitute House Bill No. 1175.

The motion by Senator Haugen carried and the striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 47.29.170, 46.63.170, 46.63.160, 43.19.642, 43.19.534, 47.01.380, 47.56.403, 43.105.330, 47.64.170, 47.64.270, 47.64.280, 46.68.170, 46.68.370, 47.12.244, 46.68.060, 46.68.220, 47.56.876, and 46.68.---; reenacting and amending RCW 46.18.060 and 47.28.030; amending 2010 c 247 ss 205, 207, 208, 209, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 301, 302, 303, 304, 305, 307, 308, 401, 402, and 403 (uncodified); amending 2009 c 470 ss 301 and 305 (uncodified); amending 2010 c 283 s 19 (uncodified); amending 2010 1st sp.s. c 37 s 804 (uncodified); adding a new section to 2010 c 247 (uncodified); creating new sections; repealing 2010 c 161 s 1126; making appropriations and authorizing expenditures for capital improvements; providing an effective date; providing a contingent effective date; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 1175 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, King, Hobbs, Fain, White, Becker, Pflug, Shin and Kilmer spoke in favor of passage of the bill.

Senators Carrell and Ericksen spoke against passage of the bill.

PERSONAL PRIVILEGE

Senator Stevens: "Thank you Mr. President. I just wanted to set the record straight. My mother and I were both born in the Twenty-sixth district and I just wanted to correct the Senator to say that you do not have to pay to go to his district, you must pay to leave."

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1175 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1175 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom, White and Zarelli

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Voting nay: Senators Baxter, Benton, Carrell, Ericksen,  
Holmquist Newbry, Honeyford, Roach, Schoesler and Stevens  
Excused: Senator Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175 as  
amended by the Senate, having received the constitutional  
majority, was declared passed. There being no objection, the title  
of the bill was ordered to stand as the title of the act.

MOTION

At 6:08 p.m., on motion of Senator Eide, the Senate adjourned  
until 10:00 a.m. Thursday, April 21, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## ONE HUNDRED SECOND DAY

## MORNING SESSION

Senate Chamber, Olympia, Thursday, April 21, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Keiser, Kline and Parlette.

The Sergeant at Arms Color Guard consisting of Pages Logan Dozier and Derek Johnson, presented the Colors. The Honorable Glen Nenema, Chairman of Kalispel Tribe offered the prayer.

## SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE SENATE BILL 5595,  
SUBSTITUTE SENATE BILL 5614,  
SUBSTITUTE SENATE BILL 5658,  
SUBSTITUTE SENATE BILL 5688,  
SUBSTITUTE SENATE BILL 5700,  
SENATE BILL 5731,  
SUBSTITUTE SENATE BILL 5741.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9008, Bruce Becker, as a member of the Professional Educator Standards Board, be confirmed.

Senator Prentice spoke in favor of the motion.

## APPOINTMENT OF BRUCE BECKER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9008, Bruce Becker as a member of the Professional Educator Standards Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9008, Bruce Becker as a member of the Professional Educator Standards Board and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Benton, Keiser, Kline and Parlette  
Gubernatorial Appointment No. 9008, Bruce Becker, having received the constitutional majority was declared confirmed as a member of the Professional Educator Standards Board.

## MOTION

On motion of Senator White, Senators Keiser and Kline were excused.

## MOTION

On motion of Senator Ericksen, Senators Benton, Carrell, Parlette and Zarelli were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9136, Philip Jones, as a member of the Utilities and Transportation Commission, be confirmed.

Senator Rockefeller spoke in favor of the motion.

## APPOINTMENT OF PHILIP JONES

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9136, Philip Jones as a member of the Utilities and Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9136, Philip Jones as a member of the Utilities and Transportation Commission and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Absent: Senator Murray

Excused: Senators Carrell, Keiser, Parlette and Zarelli

Gubernatorial Appointment No. 9136, Philip Jones, having received the constitutional majority was declared confirmed as a member of the Utilities and Transportation Commission.

## MOTION

On motion of Senator White, Senators Murray and Prentice were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator McAuliffe moved that Gubernatorial Appointment No. 9033, Colleen Fairchild, as a member of the Professional Educator Standards Board, be confirmed.

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Senator McAuliffe spoke in favor of the motion.

The House passed SUBSTITUTE SENATE BILL NO. 5187 with the following amendment(s): 5187-S AMH KAGI H2561.1; 5187-S AMH APPH H2450.2

APPOINTMENT OF COLLEEN FAIRCHILD

Strike everything after the enacting clause and insert the following:

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9033, Colleen Fairchild as a member of the Professional Educator Standards Board.

"Sec. 1. RCW 71.34.375 and 2003 c 107 s 1 are each amended to read as follows:

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9033, Colleen Fairchild as a member of the Professional Educator Standards Board and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

(1) ~~((The))~~ An evaluation and treatment facility or an inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW is required to promptly provide written and verbal notice of all statutorily available treatment options contained in this chapter to every parent or guardian of a minor child when the parent or guardian ~~((seeks to have))~~ is seeking mental health treatment for his or her minor child ~~((treated at an evaluation and treatment facility)).~~ The notice need not be given more than once if written and verbal notice has already been provided and documented by the facility.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

(2) The notice must contain the following information and the provision of notice must be documented by the evaluation and treatment facility or the inpatient facility licensed under chapter 70.41, 71.12, or 72.23 RCW and accompanied by a signed acknowledgment of receipt by the parent or guardian:

Excused: Senators Carrell, Keiser, Parlette and Prentice  
Gubernatorial Appointment No. 9033, Colleen Fairchild, having received the constitutional majority was declared confirmed as a member of the Professional Educator Standards Board.

(a) All current statutorily available treatment options including but not limited to those provided in this chapter; and

(b) The procedures to be followed to utilize the treatment options described in this chapter.

MOTION

(3) The department shall produce, and make available, the written notification that must include, at a minimum, the information contained in subsection (2) of this section.

On motion of Senator Eide, the Senate reverted to the fourth order of business.

(4) Pursuant to the provisions of RCW 71.34.700, if a minor is brought to an evaluation and treatment facility or an emergency room for immediate mental health services and is unwilling to consent to voluntary admission, the parent or guardian, if present, must be notified, as described in this section, of the statutorily available treatment options contained in this chapter.

MESSAGE FROM THE HOUSE

NEW SECTION. Sec. 2. A new section is added to chapter 71.34 RCW to read as follows:

April 14, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 1775 and asks the Senate to recede therefrom. and the same is herewith transmitted.

An evaluation and treatment facility that fails to comply with the requirement to provide verbal and written notice to a parent or guardian of a child under RCW 71.34.375 is subject to a civil penalty of one thousand dollars for each failure to provide adequate notice, unless the evaluation and treatment facility is a hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW in which case the department of health may enforce the notice requirements using its existing enforcement authority provided in chapters 70.41 and 71.12 RCW.

BARBARA BAKER, Chief Clerk

MOTION

NEW SECTION. Sec. 3. A new section is added to chapter 71.34 RCW to read as follows:

Senator Hargrove moved that the Senate insist on its position in the Senate amendment(s) to Engrossed House Bill No. 1775 and ask the House to concur thereon.

(1) By December 1, 2011, inpatient facilities licensed under chapter 70.41, 71.12, or 72.23 RCW are required to adopt policies and protocols regarding the notice requirements described in RCW 71.34.375; and

Senator Hargrove spoke in favor of the motion.

(2) By December 1, 2012, the department shall provide a detailed report to the legislature regarding the facilities' compliance with RCW 71.34.375 and subsection (1) of this section."

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position in the Senate amendment(s) to Engrossed House Bill No. 1775 and ask the House to concur hereon.

Correct the title.  
Strike everything after the enacting clause and insert the following:

The motion by Senator Hargrove carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed House Bill No. 1775 and asked the House to concur thereon by voice vote.

"Sec. 1. RCW 71.34.375 and 2003 c 107 s 1 are each amended to read as follows:

MESSAGE FROM THE HOUSE

(1) ~~((The))~~ If a parent or guardian, for the purpose of mental health treatment or evaluation, brings his or her minor child to an evaluation and treatment facility, a hospital emergency room, an inpatient facility licensed under chapter 72.23 RCW, or an inpatient facility licensed under chapter 70.41 or 71.12 RCW operating inpatient psychiatric beds for minors, the facility is required to promptly provide written and verbal notice of all statutorily available treatment options contained in this chapter ~~((to every~~

April 9, 2011

MR. PRESIDENT:

~~parent or guardian of a minor child when the parent or guardian seeks to have his or her minor child treated at an evaluation and treatment facility~~). The notice need not be given more than once if written and verbal notice has already been provided and documented by the facility.

(2) The provision of notice must be documented by the facilities required to give notice under subsection (1) of this section and must be accompanied by a signed acknowledgment of receipt by the parent or guardian. The notice must contain the following information:

(a) All current statutorily available treatment options including but not limited to those provided in this chapter; and

(b) The procedures to be followed to utilize the treatment options described in this chapter.

(3) The department shall produce, and make available, the written notification that must include, at a minimum, the information contained in subsection (2) of this section. The department must revise the written notification as necessary to reflect changes in the law.

**NEW SECTION. Sec. 2.** A new section is added to chapter 71.34 RCW to read as follows:

An evaluation and treatment facility that fails to comply with the requirement to provide verbal and written notice to a parent or guardian of a child under RCW 71.34.375 is subject to a civil penalty of one thousand dollars for each failure to provide adequate notice, unless the evaluation and treatment facility is a hospital licensed under chapter 70.41 RCW or a psychiatric hospital licensed under chapter 71.12 RCW in which case the department of health may enforce the notice requirements using its existing enforcement authority provided in chapters 70.41 and 71.12 RCW.

**Sec. 3.** RCW 70.41.130 and 1991 c 3 s 335 are each amended to read as follows:

The department is authorized to deny, suspend, revoke, or modify a license or provisional license in any case in which it finds that there has been a failure or refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter or the requirements of RCW 71.34.375. RCW 43.70.115 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

**Sec. 4.** RCW 71.12.590 and 1983 c 3 s 180 are each amended to read as follows:

Failure to comply with any of the provisions of RCW 71.12.550 through 71.12.570 or the requirements of RCW 71.34.375 shall constitute grounds for revocation of license: PROVIDED, HOWEVER, That nothing in this chapter or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any establishment, as defined in this chapter conducted in accordance with the practice and principles of the body known as Church of Christ, Scientist.

**NEW SECTION. Sec. 5.** A new section is added to chapter 71.34 RCW to read as follows:

(1) By December 1, 2011, facilities licensed under chapter 70.41, 71.12, or 72.23 RCW are required to adopt policies and protocols regarding the notice requirements described in RCW 71.34.375; and

(2) By December 1, 2012, the department, in collaboration with the department of health, shall provide a detailed report to the legislature regarding the facilities' compliance with RCW 71.34.375 and subsection (1) of this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Becker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5187.

Senator Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Becker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5187.

The motion by Senator Becker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5187 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5187, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of SSB 5187, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Keiser and Parlette

SUBSTITUTE SENATE BILL NO. 5187, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5769 with the following amendment(s): 5769-S2.E AMH UPTH H2554.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 101.** (1) The legislature finds that generating electricity from the combustion of coal produces pollutants that are harmful to human health and safety and the environment. While the emission of many of these pollutants continues to be addressed through application of federal and state air quality laws, the emission of greenhouse gases resulting from the combustion of coal has not been addressed.

(2) The legislature finds that coal-fired electricity generation is one of the largest sources of greenhouse gas emissions in the state, and is the largest source of such emissions from the generation of electricity in the state.

(3) The legislature finds coal-fired electric generation may provide baseload power that is necessary in the near-term for the stability and reliability of the electrical transmission grid and that contributes to the availability of affordable power in the state. The legislature further finds that efforts to transition power to other fuels requires a reasonable period of time to ensure grid stability and to maintain affordable electricity resources.

(4) The legislature finds that coal-fired baseload electric generation facilities are a significant contributor to family-wage jobs and economic health in parts of the state and that transition of these

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facilities must address the economic future and the preservation of jobs in affected communities.

(5) Therefore, it is the purpose of this act to provide for the reduction of greenhouse gas emissions from large coal-fired baseload electric power generation facilities, to effect an orderly transition to cleaner fuels in a manner that ensures reliability of the state's electrical grid, to ensure appropriate cleanup and site restoration upon decommissioning of any of these facilities in the state, and to provide assistance to host communities planning for new economic development and mitigating the economic impacts of the closure of these facilities.

**Sec. 102.** RCW 80.80.010 and 2009 c 565 s 54 and 2009 c 448 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Average available greenhouse gas emissions output" means the level of greenhouse gas emissions as surveyed and determined by the energy policy division of the department of commerce under RCW 80.80.050.

(4) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(5) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(6) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(7) "Commission" means the Washington utilities and transportation commission.

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(9) "Department" means the department of ecology.

(10) "Distributed generation" means electric generation connected to the distribution level of the transmission and distribution grid, which is usually located at or near the intended place of use.

(11) "Electric utility" means an electrical company or a consumer-owned utility.

(12) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(14) "Greenhouse ~~((gases))~~ gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(15) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(16) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(17) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by a jurisdiction inside or outside the state.

(18) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

(19) "Coal transition power" means the output of a coal-fired electric generation facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(20) "Memorandum of agreement" or "memorandum" means a binding and enforceable contract entered into pursuant to section 106 of this act between the governor on behalf of the state and an owner of a baseload electric generation facility in the state that produces coal transition power.

**Sec. 103.** RCW 80.80.040 and 2009 c 448 s 2 are each amended to read as follows:

(1) Beginning July 1, 2008, the greenhouse gas emissions performance standard for all baseload electric generation for which electric utilities enter into long-term financial commitments on or after such date is the lower of:

(a) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(b) The average available greenhouse gas emissions output as determined under RCW 80.80.050.

(2) This chapter does not apply to long-term financial commitments with the Bonneville power administration.

(3)(a) Except as provided in (c) of this subsection, all baseload electric generation facilities in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of long-term financial commitments.

(b) All baseload electric generation that commences operation after June 30, 2008, and is located in Washington, must comply with the greenhouse gas emissions performance standard established in subsection (1) of this section.

(c)(i) A coal-fired baseload electric generation facility in Washington that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008 must comply with the lower of the following greenhouse gas emissions performance standard such that one generating boiler is in compliance by December 31, 2020, and any other generating boiler is in compliance by December 31, 2025:

(A) One thousand one hundred pounds of greenhouse gases per megawatt-hour; or

(B) The average available greenhouse gas emissions output as determined under RCW 80.80.050.

(ii) This subsection (3)(c) does not apply to a coal-fired baseload electric generating facility in the event the department

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determines as a requirement of state or federal law or regulation that selective catalytic reduction technology must be installed on any of its boilers.

(4) All electric generation facilities or power plants powered exclusively by renewable resources, as defined in RCW 19.280.020, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section.

(5) All cogeneration facilities in the state that are fueled by natural gas or waste gas or a combination of the two fuels, and that are in operation as of June 30, 2008, are deemed to be in compliance with the greenhouse gas emissions performance standard established under this section until the facilities are the subject of a new ownership interest or are upgraded.

(6) In determining the rate of emissions of greenhouse gases for baseload electric generation, the total emissions associated with producing electricity shall be included.

(7) In no case shall a long-term financial commitment be determined to be in compliance with the greenhouse gas emissions performance standard if the commitment includes more than twelve percent of electricity from unspecified sources.

(8) For a long-term financial commitment with multiple power plants, each specified power plant must be treated individually for the purpose of determining the annualized plant capacity factor and net emissions, and each power plant must comply with subsection (1) of this section, except as provided in subsections (3) through (5) of this section.

(9) The department shall establish an output-based methodology to ensure that the calculation of emissions of greenhouse gases for a cogeneration facility recognizes the total usable energy output of the process, and includes all greenhouse gases emitted by the facility in the production of both electrical and thermal energy. In developing and implementing the greenhouse gas emissions performance standard, the department shall consider and act in a manner consistent with any rules adopted pursuant to the public utilities regulatory policy act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(10) The following greenhouse gas emissions produced by baseload electric generation owned or contracted through a long-term financial commitment shall not be counted as emissions of the power plant in determining compliance with the greenhouse gas emissions performance standard:

(a) Those emissions that are injected permanently in geological formations;

(b) Those emissions that are permanently sequestered by other means approved by the department; and

(c) Those emissions sequestered or mitigated as approved under subsection (16) of this section.

(11) In adopting and implementing the greenhouse gas emissions performance standard, the department of (~~community, trade, and economic development~~) commerce energy policy division, in consultation with the commission, the department, the Bonneville power administration, the western electricity (~~coordination~~ ~~coordinating~~) coordinating council, the energy facility site evaluation council, electric utilities, public interest representatives, and consumer representatives, shall consider the effects of the greenhouse gas emissions performance standard on system reliability and overall costs to electricity customers.

(12) In developing and implementing the greenhouse gas emissions performance standard, the department shall, with assistance of the commission, the department of (~~community, trade, and economic development~~) commerce energy policy division, and electric utilities, and to the extent practicable, address long-term purchases of electricity from unspecified sources in a manner consistent with this chapter.

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(13) The directors of the energy facility site evaluation council and the department shall each adopt rules under chapter 34.05 RCW in coordination with each other to implement and enforce the greenhouse gas emissions performance standard. The rules necessary to implement this section shall be adopted by June 30, 2008.

(14) In adopting the rules for implementing this section, the energy facility site evaluation council and the department shall include criteria to be applied in evaluating the carbon sequestration plan, for baseload electric generation that will rely on subsection (10) of this section to demonstrate compliance, but that will commence sequestration after the date that electricity is first produced. The rules shall include but not be limited to:

(a) Provisions for financial assurances, as a condition of plant operation, sufficient to ensure successful implementation of the carbon sequestration plan, including construction and operation of necessary equipment, and any other significant costs;

(b) Provisions for geological or other approved sequestration commencing within five years of plant operation, including full and sufficient technical documentation to support the planned sequestration;

(c) Provisions for monitoring the effectiveness of the implementation of the sequestration plan;

(d) Penalties for failure to achieve implementation of the plan on schedule;

(e) Provisions for an owner to purchase emissions reductions in the event of the failure of a sequestration plan under subsection (16) of this section; and

(f) Provisions for public notice and comment on the carbon sequestration plan.

(15)(a) Except as provided in (b) of this subsection, as part of its role enforcing the greenhouse gas emissions performance standard, the department shall determine whether sequestration or a plan for sequestration will provide safe, reliable, and permanent protection against the greenhouse gases entering the atmosphere from the power plant and all ancillary facilities.

(b) For facilities under its jurisdiction, the energy facility site evaluation council shall contract for review of sequestration or the carbon sequestration plan with the department consistent with the conditions under (a) of this subsection, consider the adequacy of sequestration or the plan in its adjudicative proceedings conducted under RCW 80.50.090(3), and incorporate specific findings regarding adequacy in its recommendation to the governor under RCW 80.50.100.

(16) A project under consideration by the energy facility site evaluation council by July 22, 2007, is required to include all of the requirements of subsection (14) of this section in its carbon sequestration plan submitted as part of the energy facility site evaluation council process. A project under consideration by the energy facility site evaluation council by July 22, 2007, that receives final site certification agreement approval under chapter 80.50 RCW shall make a good faith effort to implement the sequestration plan. If the project owner determines that implementation is not feasible, the project owner shall submit documentation of that determination to the energy facility site evaluation council. The documentation shall demonstrate the steps taken to implement the sequestration plan and evidence of the technological and economic barriers to successful implementation. The project owner shall then provide to the energy facility site evaluation council notification that they shall implement the plan that requires the project owner to meet the greenhouse gas emissions performance standard by purchasing verifiable greenhouse gas emissions reductions from an electric (~~generating~~) generation facility located within the western interconnection, where the reduction would not have occurred otherwise or absent this contractual agreement, such

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that the sum of the emissions reductions purchased and the facility's emissions meets the standard for the life of the facility.

**Sec. 104.** RCW 80.80.060 and 2009 c 448 s 3 and 2009 c 147 s 1 are each reenacted and amended to read as follows:

(1) No electrical company may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse ~~((gases [gas]))~~ gas emissions performance standard established under RCW 80.80.040.

(2) In order to enforce the requirements of this chapter, the commission shall review in a general rate case or as provided in subsection (5) of this section any long-term financial commitment entered into by an electrical company after June 30, 2008, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases [gas]))~~ gas emissions performance standard established under RCW 80.80.040.

(3) In determining whether a long-term financial commitment is for baseload electric generation, the commission shall consider the design of the power plant and its intended use, based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the commission determines is relevant under the circumstances.

(4) Upon application by an electric utility, the commission may provide a case-by-case exemption from the greenhouse ~~((gases [gas]))~~ gas emissions performance standard to address: (a) Unanticipated electric system reliability needs; (b) extraordinary cost impacts on utility ratepayers; or (c) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) Upon application by an electrical company, the commission shall determine whether the company's proposed decision to acquire electric generation or enter into a power purchase agreement for electricity complies with the greenhouse ~~((gases [gas]))~~ gas emissions performance standard established under RCW 80.80.040. The commission shall not decide in a proceeding under this subsection (5) issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding for recovery of the resource or contract costs.

(6) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with a long-term financial commitment, including operating and maintenance costs, depreciation, taxes, and cost of invested capital. The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding for recovery of these costs. For the purpose of this subsection (6) only, the term "long-term financial commitment" also includes an electric company's ownership or power purchase agreement with a term of five or more years associated with an eligible renewable resource as defined in RCW 19.285.030.

(7) The commission shall consult with the department to apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040. The department shall report to the commission whether baseload electric generation will comply with the greenhouse

~~((gases [gas]))~~ gas emissions performance standard for the duration of the period the baseload electric generation is supplied to the electrical company.

(8) The commission shall adopt rules for the enforcement of this section with respect to electrical companies and adopt procedural rules for approving costs incurred by an electrical company under subsection (4) of this section.

(9) This section does not apply to a long-term financial commitment for the purchase of coal transition power with termination dates consistent with the applicable dates in RCW 80.80.040(3)(c).

(10) The commission shall adopt rules (necessary to implement this section by December 31, 2008.

**Sec. 105.** RCW 80.80.070 and 2007 c 307 s 9 are each amended to read as follows:

(1) No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation supplied under such a long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(2) The governing board shall review and make a determination on any long-term financial commitment by the utility, pursuant to this chapter and after consultation with the department, to determine whether the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040. No consumer-owned utility may enter into a long-term financial commitment unless the baseload electric generation to be supplied under that long-term financial commitment complies with the greenhouse ~~((gases))~~ gas emissions performance standard established under RCW 80.80.040.

(3) In confirming that a long-term financial commitment is for baseload electric generation, the governing board shall consider the design of the power plant and the intended use of the power plant based upon the electricity purchase contract, if any, permits necessary for the operation of the power plant, and any other matter the governing board determines is relevant under the circumstances.

(4) The governing board may provide a case-by-case exemption from the greenhouse ~~((gases))~~ gas emissions performance standard to address: (a) Unanticipated electric system reliability needs; or (b) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(5) The governing board shall apply the procedures adopted by the department to verify the emissions of greenhouse gases from baseload electric generation under RCW 80.80.040, and may request assistance from the department in doing so.

(6) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(7) This section does not apply to long-term financial commitments for the purchase of coal transition power with termination dates consistent with the applicable dates in RCW 80.80.040(3)(c).

**NEW SECTION. Sec. 106.** A new section is added to chapter 80.80 RCW to read as follows:

(1) By January 1, 2012, the governor on behalf of the state shall enter into a memorandum of agreement that takes effect on April 1, 2012, with the owners of a coal-fired baseload facility in Washington that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The memorandum of agreement entered into by the governor may only contain provisions authorized in this section, except as provided under section 108 of this act.

(2) The memorandum of agreement must:

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(a) Incorporate by reference RCW 80.80.040, 80.80.060, and 80.80.070 as of the effective date of this section;

(b) Incorporate binding commitments to install selective noncatalytic reduction pollution control technology in any coal-fired generating boilers by January 1, 2013, after discussing the proper use of ammonia in this technology.

(3)(a) The memorandum of agreement must include provisions by which the facility owner will provide financial assistance:

(i) To the affected community for economic development and energy efficiency and weatherization; and

(ii) For energy technologies with the potential to create considerable energy, economic development, and air quality, haze, or other environmental benefits.

(b) Except as described in (c) of this subsection, the financial assistance in (a)(i) of this subsection must be in the amount of thirty million dollars and the financial assistance in (a)(ii) of this subsection must be in the amount of twenty-five million dollars, with investments beginning January 1, 2012, and consisting of equal annual investments through December 31, 2023, or until the full amount has been provided. Only funds for energy efficiency and weatherization may be spent prior to December 31, 2015.

(c) If the tax exemptions provided under RCW 82.08.811 or 82.12.811 are repealed, any remaining financial assistance required by this section is no longer required.

(4) The memorandum of agreement must:

(a) Specify that the investments in subsection (3) of this section be held in independent accounts at an appropriate financial institution; and

(b) Identify individuals to approve expenditures from the accounts. Individuals must have relevant expertise and must include members representing the Lewis county economic development council, local elected officials, employees at the facility, and the facility owner.

(5) The memorandum of agreement must include a provision that allows for the termination of the memorandum of agreement in the event the department determines as a requirement of state or federal law or regulation that selective catalytic reduction technology must be installed on any of its boilers.

(6) The memorandum of agreement must include enforcement provisions to ensure implementation of the agreement by the parties.

(7) If the memorandum of agreement is not signed by January 1, 2012, the governor must impose requirements consistent with the provisions in subsection (2)(b) of this section.

**NEW SECTION. Sec. 107.** A new section is added to chapter 80.80 RCW to read as follows:

No state agency or political subdivision of the state may adopt or impose a greenhouse gas emission performance standard, or other operating or financial requirement or limitation relating to greenhouse gas emissions, on a coal-fired electric generation facility located in Washington in operation on or before the effective date of this section or upon an electric utility's long-term purchase of coal transition power, that is inconsistent with or in addition to the provisions of RCW 80.80.040 or the memorandum of agreement entered into under section 106 of this act.

**NEW SECTION. Sec. 108.** A new section is added to chapter 80.80 RCW to read as follows:

(1) A memorandum of agreement entered into pursuant to section 106 of this act may include provisions to assist in the financing of emissions reductions that exceed those required by RCW 80.80.040(3)(c) by providing for the recognition of such reductions in applicable state policies and programs relating to greenhouse gas emissions, and by encouraging and advocating for the recognition of the reductions in all established and emerging emission reduction frameworks at the regional, national, or international level.

(2) The governor may recommend actions to the legislature to strengthen implementation of an agreement or a proposed agreement relating to recognition of investments in emissions reductions described in subsection (1) of this section.

**Sec. 109.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to read as follows:

(1)(a) The council shall report to the governor its recommendations as to the approval or rejection of an application for certification within twelve months of receipt by the council of such an application, or such later time as is mutually agreed by the council and the applicant.

(b) In the case of an application filed prior to December 31, 2025, for certification of an energy facility proposed for construction, modification, or expansion for the purpose of providing generating facilities that meet the requirements of RCW 80.80.040 and are located in a county with a coal-fired electric generating facility subject to RCW 80.80.040(3)(c), the council shall expedite the processing of the application pursuant to RCW 80.50.075 and shall report its recommendations to the governor within one hundred eighty days of receipt by the council of such an application, or a later time as is mutually agreed by the council and the applicant.

(2) If the council recommends approval of an application for certification, it shall also submit a draft certification agreement with the report. The council shall include conditions in the draft certification agreement to implement the provisions of this chapter, including, but not limited to, conditions to protect state or local governmental or community interests affected by the construction or operation of the energy facility, and conditions designed to recognize the purpose of laws or ordinances, or rules or regulations promulgated thereunder, that are preempted or superseded pursuant to RCW 80.50.110 as now or hereafter amended.

~~((2))~~ (3)(a) Within sixty days of receipt of the council's report the governor shall take one of the following actions:

~~((a))~~ (i) Approve the application and execute the draft certification agreement; or

~~((b))~~ (ii) Reject the application; or

~~((c))~~ (iii) Direct the council to reconsider certain aspects of the draft certification agreement.

(b) The council shall reconsider such aspects of the draft certification agreement by reviewing the existing record of the application or, as necessary, by reopening the adjudicative proceeding for the purposes of receiving additional evidence. Such reconsideration shall be conducted expeditiously. The council shall resubmit the draft certification to the governor incorporating any amendments deemed necessary upon reconsideration. Within sixty days of receipt of such draft certification agreement, the governor shall either approve the application and execute the certification agreement or reject the application. The certification agreement shall be binding upon execution by the governor and the applicant.

~~((3))~~ (4) The rejection of an application for certification by the governor shall be final as to that application but shall not preclude submission of a subsequent application for the same site on the basis of changed conditions or new information.

**NEW SECTION. Sec. 201.** (1) A facility subject to closure under either RCW 80.80.040(3)(c) or a memorandum of agreement under section 106 of this act, or both, must provide the department of ecology with a plan for the closure and postclosure of the facility at least twenty-four months prior to facility closure or twenty-four months prior to start of decommissioning work, whichever is earlier. This plan must be consistent with the rules established by the energy facility site evaluation council for site restoration and preservation applicable to facilities subject to a site certification agreement under chapter 80.50 RCW and include but not be limited to:

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(a) A detailed estimate of the cost to implement the plan based on the cost of hiring a third party to conduct all activities;

(b) Demonstrating financial assurance to fund the closure and postclosure of the facility and providing methods by which this assurance may be demonstrated;

(c) Methods for estimating closure costs, including full site reclamation under all applicable federal and state clean-up standards; and

(d) A decommissioning and site restoration plan that addresses restoring physical topography, cleanup of all hazardous substances on the site, potential future uses of the site following restoration, and coordination with local and community plans for economic development in the vicinity of the site.

(2) All cost estimates in the plan must be in current dollars and may not include a net present value adjustment or offsets for salvage value of wastes or other property.

(3) Adoption of the plan and significant revisions to the plan must be approved by the department of ecology.

**NEW SECTION. Sec. 202.** (1) A facility subject to closure under either RCW 80.80.040(3)(c) or a memorandum of agreement under section 106 of this act, or both, must guarantee funds are available to perform all activities specified in the decommissioning plan developed under section 201 of this act. The amount must equal the cost estimates specified in the decommissioning plan and must be updated annually for inflation. All guarantees under this section must be assumed by any successor owner, parent company, or holding company.

(2) The guarantee required under subsection (1) of this section may be accomplished by letter of credit, surety bond, or other means acceptable to the department of ecology.

(3) The issuing institution of the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated by a federal or state agency. The surety company issuing a surety bond must, at a minimum, be an entity listed as an acceptable surety on federal bonds in circular 570, published by the United States department of the treasury.

(4) A qualifying facility that uses a letter of credit or a surety bond to satisfy the requirements of this act must also establish a standby trust fund as a means to hold any funds issued from the letter of credit or a surety bond. Under the terms of the letter of credit or a surety bond, all amounts paid pursuant to a draft from the department of ecology must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the department of ecology. This standby trust fund must be approved by the department of ecology.

(5) The letter of credit or a surety bond must be irrevocable and issued for a period of at least one year. The letter of credit or a surety bond must provide that the expiration date will be automatically extended for a period of at least one year unless, at least one hundred twenty days before the current expiration date, the issuing institution notifies both the qualifying facility and the department of ecology of a decision not to extend the expiration date. Under the terms of the letter of credit, the one hundred twenty days will begin on the date when both the qualifying plant and the department of ecology have received the notice, as evidenced by certified mail return receipts or by overnight courier delivery receipts.

(6) If the qualifying facility does not establish an alternative method of guaranteeing decommissioning funds are available within ninety days after receipt by both the qualifying facility plant and the department of ecology of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the department of ecology must draw on the letter of credit or a surety bond. The department of ecology

must approve any replacement or substitute guarantee method before the expiration of the ninety-day period.

(7) If a qualifying facility elects to use a letter of credit as the sole method for guaranteeing decommissioning funds are available, the face value of the letter of credit must meet or exceed the current inflation-adjusted cost estimate. If a qualifying facility elects to use a surety bond as the sole method for guaranteeing decommissioning funds are available, the penal sum of the surety bond must meet or exceed the current inflation-adjusted cost estimate.

(8) A qualifying facility must adjust the decommissioning costs and financial guarantees annually for inflation and may use an amendment to increase the face value of a letter of credit or a surety bond each year to account for this inflation. A qualifying facility is not required to obtain a new letter of credit or a surety bond to cover annual inflation adjustments.

**NEW SECTION. Sec. 203.** Sections 201 and 202 of this act constitute a new chapter in Title 80 RCW.

**Sec. 301.** RCW 43.160.076 and 2008 c 327 s 8 are each amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter, the board shall approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties are clearly insufficient to use up the allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties.

(3) The board shall solicit qualifying projects to plan, design, and construct public facilities needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall give priority consideration to such projects.

**NEW SECTION. Sec. 302.** A new section is added to chapter 43.155 RCW to read as follows:

The board shall solicit qualifying projects to plan, design, and construct public works projects needed to attract new industrial and commercial activities in areas impacted by the closure or potential closure of large coal-fired electric generation facilities, which for the purposes of this section means a facility that emitted more than one million tons of greenhouse gases in any calendar year prior to 2008. The projects should be consistent with any applicable plans for major industrial activity on lands formerly used or designated for surface coal mining and supporting uses under RCW 36.70A.368. When the board receives timely and eligible project applications from a political subdivision of the state for financial assistance for such projects, the board from available funds shall give priority consideration to such projects.

**NEW SECTION. Sec. 303.** A new section is added to chapter 80.04 RCW to read as follows:

The legislature finds that an electrical company's acquisition of coal transition power helps to achieve the state's greenhouse gas

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emission reduction goals by effecting an orderly transition to cleaner fuels and supports the state's public policy.

**NEW SECTION. Sec. 304.** A new section is added to chapter 80.04 RCW to read as follows:

(1) On the petition of an electrical company, the commission shall approve or disapprove a power purchase agreement for acquisition of coal transition power, as defined in RCW 80.80.010, and the recovery of related acquisition costs. No agreement for an electrical company's acquisition of coal transition power takes effect until it is approved by the commission.

(2) Any power purchase agreement for the acquisition of coal transition power pursuant to this section must provide for modification of the power purchase agreement to the satisfaction of the parties thereto in the event that a new or revised emission or performance standard or other new or revised operational or financial requirement or limitation directly or indirectly addressing greenhouse gas emissions is imposed by state or federal law, rules, or regulatory requirements. Such a modification to a power purchase agreement agreed to by the parties must be reviewed and considered for approval by the commission, considering the circumstances existing at the time of such a review, under procedures and standards set forth in this section. In the event the parties cannot agree to modification of the power purchase agreement, either party to the agreement has the right to terminate the agreement if it is adversely affected by this new standard, requirement, or limitation.

(3) When a petition is filed, the commission shall provide notice to the public and potentially affected parties and set the petition for hearing as an adjudicative proceeding under chapter 34.05 RCW. Any party may request that the commission expedite the hearing of that petition. The hearing of such a petition is not considered a general rate case. The electrical company must file supporting testimony and exhibits together with the power purchase agreement for coal transition power. Information provided by the facility owner to the purchasing electrical company for evaluating the costs and benefits associated with acquisition of coal transition power must be made available to other parties to the petition under a protective order entered by the commission. An administrative law judge of the commission may enter an initial order including findings of fact and conclusions of law, as provided in RCW 80.01.060(3). The commission shall issue a final order that approves or disapproves the power purchase agreement for acquisition of coal transition power within one hundred eighty days after an electrical company files the petition.

(4) The commission must approve a power purchase agreement for acquisition of coal transition power pursuant to this section only if the commission determines that, considering the circumstances existing at the time of such a review: The terms of such an agreement provide adequate protection to ratepayers and the electrical company during the term of such an agreement or in the event of early termination; the resource is needed by the electrical company to serve its ratepayers and the resource meets the need in a cost-effective manner as determined under the lowest reasonable cost resource standards under chapter 19.280 RCW, including the cost of the power purchase agreement plus the equity component as determined in this section. As part of these determinations, the commission shall consider, among other factors, the long-term economic risks and benefits to the electrical company and its ratepayers of such a long-term purchase.

(5) If the commission has not issued a final order within one hundred eighty days from the date the petition is filed, or if the commission disapproves the petition, the power purchase agreement for acquisition of coal transition power is null and void. In the event the commission approves the agreement upon conditions

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other than those set forth in the petition, the electrical company has the right to reject the agreement.

(6)(a) Upon commission approval of an electrical company's power purchase agreement for acquisition of coal transition power in accordance with this section, the electrical company is allowed to earn the equity component of its authorized rate of return in the same manner as if it had purchased or built an equivalent plant and to recover the cost of the coal transition power under the power purchase agreement. Any power purchase agreement for acquisition of coal transition power that earns a return on equity may not be included in an imputed debt calculation for setting customer rates.

(b) For purposes of determining the equity value, the cost of an equivalent plant is the least cost purchased or self-built electric generation plant with equivalent capacity. In determining the least cost plant, the commission may rely on the electrical company's most recent filed integrated resource plan. The cost of an equivalent plant, in dollars per kilowatt, must be determined in the original process of commission approval for each power purchase agreement for coal transition power.

(c) The equivalent plant cost determined in the approval process must be amortized over the life of the power purchase agreement for acquisition of coal transition power to determine the recovery of the equity value.

(d) The recovery of the equity component must be determined and approved in the review process set forth in this section. The approved equity value must be in addition to the approved cost of the power purchase agreement.

(7) Authorizing recovery of costs under a power purchase agreement for acquisition of coal transition power does not prohibit the commission from authorizing recovery of an electrical company's acquisition of capacity resources for the purpose of integrating intermittent power or following load.

(8) Neither this act nor the commission's approval of a power purchase agreement for acquisition of coal transition power that includes the ability to earn the equity component of an electrical company's authorized rate of return establishes any precedent for an electrical company to receive an equity return on any other power purchase agreement or other power contract.

(9) For purposes of this section, "power purchase agreement" means a long-term financial commitment as defined in RCW 80.80.010(15)(b).

(10) This section expires December 31, 2025.

**Sec. 305.** RCW 19.280.030 and 2006 c 195 s 3 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

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(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost and risk to the utility and its ratepayers; and

(f) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

**NEW SECTION. Sec. 306.** A new section is added to chapter 80.70 RCW to read as follows:

(1) An applicant for a natural gas-fired generation plant to be constructed in a county with a coal-fired electric generation facility subject to RCW 80.80.040(3)(c) is exempt from this chapter if the application is filed before December 31, 2025.

(2) For the purposes of this section, an applicant means the owner of a coal-fired electric generation facility subject to RCW 80.80.040(3)(c).

(3) This section expires December 31, 2025, or when the station-generating capability of all natural gas-fired generation plants approved under this section equals the station-generating capability from a coal-fired electric generation facility subject to RCW 80.80.040(3)(c).

**NEW SECTION. Sec. 307.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5769.

Senators Rockefeller and Swecker spoke in favor of the motion.

Senator Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5769.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5769 by voice vote.

Senator Sheldon spoke in favor of final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5769, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5769, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 14; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Morton, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senators Keiser and Parlette

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5769, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5044 with the following amendment(s): 5044 AMH REYK PETE 014

On page 1, after line 3, insert the following:

"Sec 1. RCW 43.136.011 and 2006 c 197 s 1 are each amended to read as follows:

"The legislature recognizes that tax preferences are enacted to meet objectives which are determined to be in the public interest. However, some tax preferences may not be efficient or equitable tools for the achievement of current public policy objectives. Given the changing nature of the economy and tax structures of other states, the legislature finds that periodic performance audits of tax preferences are needed to determine if their continued existence will serve the public interest. The legislature further finds that tax preferences that are enacted for economic development purposes must demonstrate growth in full-time family wage jobs with health and retirement benefits. Given that an opportunity cost exists with each economic choice, it is the intent of the legislature that the overall impact of economic development focused tax preferences benefit the state's economy."

Renumber the remaining sections consecutively and correct any internal references accordingly and correct the title.

On page 3, line 19, after "(j)" insert: "The economic impact of the tax preference compared to the economic impact of government activities funded by the tax for which the tax preference is taken at the same level of expenditure as the tax preference. For purposes of

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this subsection the economic impact shall be determined using the Washington Input-Output Model as published by the office of financial management;

(k)”

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Senate Bill No. 5044.

Senator Rockefeller spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Senate Bill No. 5044.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5044 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5044, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of SB 5044, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Baxter, Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Roach, Schoesler, Stevens and Zarelli  
Excused: Senator Parlette

SENATE BILL NO. 5044, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 5, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5791 with the following amendment(s): 5791-S AMH HARG MUNN 354; 5791-S AMH LIA MUNN 356

On page 1, line 17, after "harm." insert "Any lease entered into under this section must ensure that the lease payments are at fair market value and comparable to market rates in the area of the park and ride lot."

On page 2, beginning on line 1, after "47.66.070" strike all material through "department" on line 3 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5791.

Senator Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5791.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5791 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5791, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5791, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Honeyford

Excused: Senator Parlette

SUBSTITUTE SENATE BILL NO. 5791, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 14, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Eddy, Pedersen, Shea and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1267.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1267 by voice vote.

#### MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Second Substitute House Bill No. 1267 was returned to second reading for the purpose of amendment.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267, by House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Liias, Kenney, Clibborn, Seaquist, Blake, Hudgins, Fitzgibbon, Darneille, Dunshee, Morris, Takko, Pettigrew, Finn, Billig, Hunter, Cody, Dickerson, Stanford, Springer, Reykdal, Haigh, Rolfes, Sells, Jacks, Appleton, Hunt, Maxwell, Ryu, Ormsby, Ladenburg, McCoy, Santos, Lytton, Moscoso, Uptegrove, Green, Hasegawa and Tharinger)

Clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Harper, Pridemore and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.26.011 and 2002 c 302 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acknowledged father" means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

(2) "Adjudicated ~~(father)~~ parent" means a ~~(man)~~ person who has been adjudicated by a court of competent jurisdiction to be the ~~(father)~~ parent of a child.

(3) "Alleged ~~(father)~~ parent" means a ~~(man)~~ person who alleges himself or herself to be, or is alleged to be, the genetic ~~(father)~~ parent or a possible genetic ~~(father)~~ parent of a child, but whose ~~(paternity)~~ parentage has not been determined. The term does not include:

- (a) A presumed ~~(father)~~ parent;
- (b) A ~~(man)~~ person whose parental rights have been terminated or declared not to exist; or
- (c) A ~~(male)~~ donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

- (a) ~~(Intrauterine)~~ Artificial insemination;
- (b) Donation of eggs;
- (c) Donation of embryos;
- (d) In vitro fertilization and transfer of embryos; and
- (e) Intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Commence" means to file the petition seeking an adjudication of parentage in a superior court of this state or to serve a summons and the petition.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

(8) "Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

(9) "Donor" means an individual who ~~(produces eggs or sperm)~~ contributes a gamete or gametes for assisted

reproduction, whether or not for consideration. The term does not include:

(a) A ~~(husband)~~ person who provides ~~(sperm, or a wife who provides eggs,)~~ a gamete or gametes to be used for assisted reproduction ~~(by the wife)~~ with his or her spouse or domestic partner; or

(b) A woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in RCW 26.26.210 through 26.26.260 or 26.26.735.

~~((9))~~ (10) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of ~~(his or her)~~ the individual's ancestry or that is so identified by other information.

~~((10))~~ (11) "Gamete" means either a sperm or an egg.  
~~((11))~~ (12) "Genetic testing" means an analysis of genetic markers ~~(only)~~ to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

- (a) Deoxyribonucleic acid; and
- (b) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

~~((11))~~ (13) "Man" means a male individual of any age.

~~((12))~~ (14) "Parent" means an individual who has established a parent-child relationship under RCW 26.26.101.

~~((13))~~ (15) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

~~((14))~~ ~~(paternity)~~ (16) "Parentage index" means the likelihood of ~~(paternity)~~ parentage calculated by computing the ratio between:

(a) The likelihood that the tested ~~(man)~~ person is the ~~(father)~~ parent, based on the genetic markers of the tested ~~(man)~~ person, ~~(mother)~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~(man)~~ person is the ~~(father)~~ parent of the child; and

(b) The likelihood that the tested ~~(man)~~ person is not the ~~(father)~~ parent, based on the genetic markers of the tested ~~(man)~~ person, ~~(mother)~~ genetic parent, and child, conditioned on the hypothesis that the tested ~~(man)~~ person is not the ~~(father)~~ parent of the child and that the ~~(father)~~ parent is ~~(from)~~ of the same ethnic or racial group as the tested ~~(man)~~ person.

~~((15))~~ (17) "Physician" means a person licensed to practice medicine in a state.

~~((16))~~ (18) "Presumed ~~(father)~~ parent" means a ~~(man)~~ person who, by operation of law under RCW 26.26.116, is recognized ~~(to be)~~ as the ~~(father)~~ parent of a child until that status is rebutted or confirmed in a judicial proceeding.

~~((17))~~ (19) "Probability of ~~(paternity)~~ parentage" means the measure, for the ethnic or racial group to which the alleged ~~(father)~~ parent belongs, of the probability that the individual in question is the ~~(father)~~ parent of the child, compared with a random, unrelated ~~(man)~~ person of the same ethnic or racial group, expressed as a percentage incorporating the ~~(paternity)~~ parentage index and a prior probability.

~~((18))~~ (20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((19))~~ (21) "Signatory" means an individual who authenticates a record and is bound by its terms.

~~((20))~~ (22) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by state law.

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~~((24))~~ (23) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) Location of child support obligors and their income and assets.

(24) "Fertility clinic" means a facility that provides assisted reproduction services or gametes to be used in assisted reproduction.

(25) "Genetic parent" means a person who is the source of the egg or sperm that produced the child. The term does not include a donor.

(26) "Identifying information" includes, but is not limited to, the following information of the gamete donor:

(a) The first and last name of the person; and

(b) The age of the person at the time of the donation.

**Sec. 2.** RCW 26.26.021 and 2002 c 302 s 103 are each amended to read as follows:

(1) This chapter ~~((governs every))~~ applies to determinations of parentage in this state.

(2) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does not depend on:

(a) The place of birth of the child; or

(b) The past or present residence of the child.

(3) This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state.

(4) If a birth results under a surrogate parentage contract that is unenforceable under the law of this state, the parent-child relationship is determined as provided in RCW 26.26.101 through 26.26.116 and applicable case law.

**Sec. 3.** RCW 26.26.041 and 2002 c 302 s 105 are each amended to read as follows:

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individuals ~~((that))~~ who could be jeopardized by disclosure of identifying information, including the address, telephone number, place of employment, social security number, and the child's day-care facility and school.

**Sec. 4.** RCW 26.26.051 and 2002 c 302 s 106 are each amended to read as follows:

~~(1)~~ The provisions relating to determination of ~~((paternity may be applied))~~ parentage apply to ~~((a))~~ determinations of maternity and paternity.

(2) The provisions in this chapter apply to persons in a domestic partnership to the same extent they apply to persons in a marriage, and apply to persons of the same sex who have children together to the same extent they apply to persons of the opposite sex who have children together.

**Sec. 5.** RCW 26.26.101 and 2002 c 302 s 201 are each amended to read as follows:

~~((4))~~ The ~~((mother-child))~~ parent-child relationship is established between a child and a man or woman by:

~~((a))~~ (1) The woman's having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260;

~~((b))~~ (2) An adjudication of the ~~((woman's maternity))~~ person's parentage;

~~((c))~~ (3) Adoption of the child by the ~~((woman))~~ person;

~~((d))~~ (4) A valid surrogate parentage contract, under which the mother is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260; or

~~((e))~~ (4) An affidavit and physician's certificate in a form prescribed by the department of health wherein the donor of ~~((ovum))~~ eggs or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through

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~~((alternative reproductive medical technology))~~ assisted reproduction by filing the affidavit and physician's certificate with the registrar of vital statistics within ten days after the date of the child's birth pursuant to RCW 26.26.735(.

(2) The father-child relationship is established between a child and a man by:

~~((a))~~;

~~((5))~~ An un rebutted presumption of the ~~((man's paternity))~~ person's parentage of the child under RCW 26.26.116;

~~((b))~~ (6) The man's having signed an acknowledgment of paternity under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged;

~~((c))~~ ~~An adjudication of the man's paternity;~~

~~((d))~~ ~~Adoption of the child by the man;~~

~~((e))~~ (7) The ~~((man's))~~ person's having consented to assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner under RCW 26.26.700 through 26.26.730 that resulted in the birth of the child; or

~~((f))~~ (8) A valid surrogate parentage contract, under which the ~~((father))~~ person asserting parentage is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260.

**Sec. 6.** RCW 26.26.106 and 2002 c 302 s 202 are each amended to read as follows:

A child born to parents who are not married to each other or in a domestic partnership with each other has the same rights under the law as a child born to parents who are married to each other or who are in a domestic partnership with each other.

**Sec. 7.** RCW 26.26.111 and 2002 c 302 s 203 are each amended to read as follows:

Unless parental rights are terminated, the parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

**Sec. 8.** RCW 26.26.116 and 2002 c 302 s 204 are each amended to read as follows:

(1) In the context of a marriage or a domestic partnership, a ~~((man))~~ person is presumed to be the ~~((father))~~ parent of a child if:

(a) ~~((He))~~ The person and the mother or father of the child are married to each other or in a domestic partnership with each other and the child is born during the marriage or domestic partnership;

(b) ~~((He))~~ The person and the mother or father of the child were married to each other or in a domestic partnership with each other and the child is born within three hundred days after the marriage or domestic partnership is terminated by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity;

(c) Before the birth of the child, ~~((he))~~ the person and the mother or father of the child married each other or entered into a domestic partnership with each other in apparent compliance with law, even if the attempted marriage or domestic partnership is, or could be, declared invalid and the child is born during the invalid marriage or invalid domestic partnership or within three hundred days after its termination by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity; or

(d) After the birth of the child, ~~((he))~~ the person and the mother or father of the child have married each other or entered into a domestic partnership with each other in apparent compliance with law, whether or not the marriage or domestic partnership is, or could be, declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his paternity))~~ parentage of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) The person agreed to be and is named as the child's ~~((father))~~ parent on the child's birth certificate; or

(iii) The person promised in a record to support the child as his or her own.

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(2) A person is presumed to be the parent of a child if, for the first two years of the child's life, the person resided in the same household with the child and openly held out the child as his or her own.

(3) A presumption of ~~((paternity))~~ parentage established under this section may be rebutted only by an adjudication under RCW 26.26.500 through 26.26.630.

**Sec. 9.** RCW 26.26.130 and 2001 c 42 s 5 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct ~~((the father))~~ one parent to pay the reasonable expenses of the mother's pregnancy and ~~((confinement))~~ childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the ~~((father's))~~ parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the ~~((natural parents))~~ persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the ~~((natural parent or~~

~~parents))~~ persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(12) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

**Sec. 10.** RCW 26.26.150 and 1994 c 230 s 16 are each amended to read as follows:

(1) If existence of the ~~((father))~~ parent and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the ~~((father))~~ parent may be enforced in the same or other proceedings by the ~~((mother))~~ other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, ~~((confinement))~~ childbirth, education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply.

**Sec. 11.** RCW 26.26.300 and 2002 c 302 s 301 are each amended to read as follows:

The mother of a child and a man claiming to be the genetic father of the child ~~((conceived as the result of his sexual intercourse with the mother))~~ may sign an acknowledgment of paternity with intent to establish the man's paternity.

**Sec. 12.** RCW 26.26.305 and 2002 c 302 s 302 are each amended to read as follows:

(1) An acknowledgment of paternity must:

(a) Be in a record;

(b) Be signed under penalty of perjury by the mother and by the man seeking to establish his paternity;

(c) State that the child whose paternity is being acknowledged:

(i) Does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) Does not have another acknowledged or adjudicated father;

(d) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the genetic testing; and

(e) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after two years, except as provided in RCW 26.26.330.

(2) An acknowledgment of paternity is void if it:

(a) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with the state registrar of vital statistics;

(b) States that another man is an acknowledged or adjudicated father; or

(c) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(3) A presumed father may sign an acknowledgment of paternity.

**Sec. 13.** RCW 26.26.310 and 2002 c 302 s 303 are each amended to read as follows:

A presumed father of a child may sign a denial of his paternity. The denial is valid only if:

(1) An acknowledgment of paternity signed by another man is filed under RCW 26.26.320;

(2) The denial is in a record, and is signed under penalty of perjury; and

(3) The presumed father has not previously:

(a) Acknowledged his paternity, unless the previous acknowledgment has been rescinded under RCW 26.26.330 or successfully challenged under RCW 26.26.335; or

(b) Been adjudicated to be the father of the child.

**Sec. 14.** RCW 26.26.315 and 2002 c 302 s 304 are each amended to read as follows:

(1) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

(2) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(3) Subject to subsection (1) of this section, an acknowledgment and denial of paternity, if any, take effect on the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter. An acknowledgment or denial of paternity signed by a minor may be rescinded under RCW 26.26.330.

**Sec. 15.** RCW 26.26.320 and 2002 c 302 s 305 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid acknowledgment of paternity filed with the state registrar of vital statistics is equivalent to an adjudication of ~~(paternity)~~ parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid denial of paternity filed with the state registrar of vital statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all of the rights and duties of a parent.

**Sec. 16.** RCW 26.26.330 and 2004 c 111 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a signatory may rescind an acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of:

~~((4))~~ (a) Sixty days after the effective date of the acknowledgment or denial, as provided in RCW 26.26.315; or

~~((2))~~ (b) The date of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) If the signatory to an acknowledgment or denial of paternity was a minor when he signed the acknowledgment or denial, the signatory may rescind the acknowledgment or denial of paternity by commencing a court proceeding to rescind on or before the signatory's nineteenth birthday.

**Sec. 17.** RCW 26.26.335 and 2002 c 302 s 308 are each amended to read as follows:

(1) After the period for rescission under RCW 26.26.330 has ~~(elapsed)~~ expired, a signatory of an acknowledgment or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

(a) On the basis of fraud, duress, or material mistake of fact; and

(b) Within ~~((two))~~ four years after the acknowledgment or denial is filed with the state registrar of vital statistics. In actions commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A party challenging an acknowledgment or denial of paternity has the burden of proof.

**Sec. 18.** RCW 26.26.340 and 2002 c 302 s 309 are each amended to read as follows:

(1) Every signatory to an acknowledgment ~~((of))~~ of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(2) For the purpose of rescission of, or challenge to, an acknowledgment or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state registrar of vital statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from ~~((an))~~ the acknowledgment, including the duty to pay child support.

(4) A proceeding to rescind or to challenge an acknowledgment or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under RCW 26.26.500 through 26.26.630.

(5) At the conclusion of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court shall order the state registrar of vital statistics to amend the birth record of the child, if appropriate.

**Sec. 19.** RCW 26.26.360 and 2002 c 302 s 313 are each amended to read as follows:

The state registrar of vital statistics may release information relating to the acknowledgment or denial of paternity ~~((not expressly sealed under a court order,))~~ to: (1) A signatory of the acknowledgment or denial ~~((or their attorneys of record,))~~; (2) the courts of this or any other state; (3) the agencies of this or any other state operating a child support program under Title IV-D of the social security act; ~~((and))~~ and (4) the agencies of this or any other state involved in a dependency determination for a child named in the acknowledgment or denial of paternity.

**Sec. 20.** RCW 26.26.375 and 2002 c 302 s 316 are each amended to read as follows:

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(1) After the period for rescission of an acknowledgment of paternity provided in RCW 26.26.330 has passed, a parent executing an acknowledgment of paternity of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health insurance coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be ~~((entitled))~~ titled "In re the parenting and support of...."

(3) Before the period for a challenge to the acknowledgment or denial of paternity has elapsed under RCW 26.26.335, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No man other than the man who executed the acknowledgment of paternity is the father of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another man is adjudicated the child's father; and (c) the petitioner has provided notice of the proceeding to any other men who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of paternity under RCW 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

**Sec. 21.** RCW 26.26.400 and 2002 c 302 s 401 are each amended to read as follows:

RCW 26.26.405 through 26.26.450 govern genetic testing of an individual ~~((only))~~ to determine parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested pursuant to an order of the court or a support enforcement agency.

**Sec. 22.** RCW 26.26.405 and 2002 c 302 s 402 are each amended to read as follows:

(1) Except as otherwise provided in this section and RCW 26.26.410 through 26.26.630, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) A support enforcement agency may order genetic testing only if there is no presumed~~((acknowledged))~~ or adjudicated ~~((father))~~ parent and no acknowledged father.

(3) If a request for genetic testing of a child is made before birth, the court or support enforcement agency may not order in utero testing.

(4) If two or more ~~((men))~~ persons are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

(5) This section does not apply when the child was conceived through assisted reproduction.

**Sec. 23.** RCW 26.26.410 and 2002 c 302 s 403 are each amended to read as follows:

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The American association of blood banks, or a successor to its functions;

(b) The American society for histocompatibility and immunogenetics, or a successor to its functions; or

(c) An accrediting body designated by the United States secretary of health and human services.

(2) A specimen used in genetic testing may consist of one or more samples or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in ~~((the))~~ calculation~~((s))~~ of the probability of parentage. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(a) The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of ~~((paternity))~~ parentage using an ethnic or racial group different from that used by the laboratory.

(b) The individual objecting to the testing laboratory's initial choice shall:

(i) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another testing laboratory to perform the calculations.

(c) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(4) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a ~~((man))~~ person as the ~~((father))~~ parent of a child under RCW 26.26.420, an individual who has been tested may be required to submit to additional genetic testing.

**Sec. 24.** RCW 26.26.420 and 2002 c 302 s 405 are each amended to read as follows:

(1) Under this chapter, a ~~((man))~~ person is rebuttably identified as the ~~((father))~~ parent of a child if the genetic testing complies with this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 and the results disclose that:

(a) The ~~((man))~~ person has at least a ninety-nine percent probability of ~~((paternity))~~ parentage, using a prior probability of 0.50, as calculated by using the combined ~~((paternity))~~ parentage index obtained in the testing; and

(b) A combined ~~((paternity))~~ parentage index of at least one hundred to one.

(2) A ~~((man))~~ person identified under subsection (1) of this section as the ~~((father))~~ parent of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 which:

(a) Excludes the ~~((man))~~ person as a genetic ~~((father))~~ parent of the child; or

(b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of the child.

(3) Except as otherwise provided in RCW 26.26.445, if more than one man is identified by genetic testing as the possible father of

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the child, the court shall order them to submit to further genetic testing to identify the genetic ~~((father))~~ parent.

(4) This section does not apply when the child was conceived through assisted reproduction.

**Sec. 25.** RCW 26.26.425 and 2002 c 302 s 406 are each amended to read as follows:

(1) Subject to assessment of costs under RCW 26.26.500 through 26.26.630, the cost of initial genetic testing must be advanced:

- (a) By a support enforcement agency in a proceeding in which the support enforcement agency is providing services;
- (b) By the individual who made the request;
- (c) As agreed by the parties; or
- (d) As ordered by the court.

(2) In cases in which the cost is advanced by the support enforcement agency, the agency may seek reimbursement from a ~~((man))~~ person who is rebuttably identified as the ~~((father))~~ parent.

**Sec. 26.** RCW 26.26.430 and 2002 c 302 s 407 are each amended to read as follows:

(1) The court or the support enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a ~~((man))~~ person as the ~~((father))~~ parent of the child under RCW 26.26.420, the court or agency may not order additional testing unless the party provides advance payment for the testing.

(2) This section does not apply when the child was conceived through assisted reproduction.

**Sec. 27.** RCW 26.26.435 and 2002 c 302 s 408 are each amended to read as follows:

(1) If a genetic testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, a court may order the following individuals to submit specimens for genetic testing:

- (a) The parents of the man;
- (b) Brothers and sisters of the man;
- (c) Other children of the man and their mothers; and
- (d) Other relatives of the man necessary to complete genetic testing.

(2) If a specimen from the mother of a child is not available for genetic testing, the court may order genetic testing to proceed without a specimen from the mother.

(3) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

(4) This section does not apply when the child was conceived through assisted reproduction.

**Sec. 28.** RCW 26.26.445 and 2002 c 302 s 410 are each amended to read as follows:

(1) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If ~~((genetic testing excludes none of the brothers as the genetic father, and))~~ each brother satisfies the requirements as the identified father of the child under RCW 26.26.420 without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

**Sec. 29.** RCW 26.26.505 and 2002 c 302 s 502 are each amended to read as follows:

Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and 26.26.540, a proceeding to adjudicate parentage may be maintained by:

- (1) The child;

(2) The ~~((mother of))~~ person who has established a parent-child relationship with the child;

(3) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated;

(4) The division of child support;

(5) An authorized adoption agency or licensed child-placing agency;

(6) A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

(7) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

**Sec. 30.** RCW 26.26.510 and 2002 c 302 s 503 are each amended to read as follows:

The following individuals must be joined as parties in a proceeding to adjudicate parentage:

(1) The ~~((mother))~~ parent of the child who has established a parent-child relationship with the child;

(2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated; ~~((and))~~

(3) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260; and

(4) The child if required under RCW 26.26.530, 26.26.540, or 26.26.720.

**Sec. 31.** RCW 26.26.525 and 2002 c 302 s 506 are each amended to read as follows:

A proceeding to adjudicate the parentage of a child having no presumed~~((, acknowledged,))~~ or adjudicated ~~((father))~~ second parent and no acknowledged father may be commenced at any time during the life of the child, even after:

(1) The child becomes an adult; or

(2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has been dismissed based on the application of a statute of limitation then in effect.

**Sec. 32.** RCW 26.26.530 and 2002 c 302 s 507 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~ person with a parent-child relationship with the child, or another individual to adjudicate the parentage of a child having a presumed ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years after the birth of the child. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A proceeding seeking to disprove the ~~((father-child))~~ parent-child relationship between a child and the child's presumed ~~((father))~~ parent may be maintained at any time if the court determines that~~((:~~

~~((a)))~~ the presumed ~~((father))~~ parent and the ~~((mother of))~~ person who has a parent-child relationship with the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception~~((; and~~

~~((b))~~ The presumed father never openly treated the child as his own and the presumed parent never held out the child as his or her own.

**Sec. 33.** RCW 26.26.535 and 2002 c 302 s 508 are each amended to read as follows:

(1) In a proceeding to adjudicate parentage under circumstances described in RCW 26.26.530 or in RCW 26.26.540, a court may deny a motion seeking an order for genetic testing of the mother or father, the child, and the presumed or acknowledged father if the court determines that:

(a) (i) The conduct of the mother or father or the presumed ~~((father))~~ or acknowledged parent estops that party from denying parentage; and

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~~((b))~~ (ii) It would be inequitable to disprove the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent; or

(b) The child was conceived through assisted reproduction.

(2) In determining whether to deny a motion to seek an order for genetic testing under subsection (1)(a) of this section, the court shall consider the best interest of the child, including the following factors:

(a) The length of time between the proceeding to adjudicate parentage and the time that the presumed ~~((father))~~ or acknowledged parent was placed on notice that he or she might not be the genetic ~~((father))~~ parent;

(b) The length of time during which the presumed ~~((father))~~ or acknowledged parent has assumed the role of ~~((father))~~ parent of the child;

(c) The facts surrounding the presumed ~~((father))~~ or acknowledged parent's discovery of his or her possible ~~((nonpaternity))~~ nonparentage;

(d) The nature of the ~~((father-child))~~ relationship between the child and the presumed or acknowledged parent;

(e) The age of the child;

(f) The harm ~~((to the child which))~~ that may result to the child if ~~((presumed paternity))~~ parentage is successfully disproved;

(g) The nature of the relationship ~~((of))~~ between the child ~~((to))~~ and any alleged ~~((father))~~ parent;

(h) The extent to which the passage of time reduces the chances of establishing the ~~((paternity))~~ parentage of another ~~((man))~~ person and a child support obligation in favor of the child; and

(i) Other factors that may affect the equities arising from the disruption of the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent or the chance of other harm to the child.

(3) In a proceeding involving the application of this section, ~~((the))~~ a minor or incapacitated child must be represented by a guardian ad litem.

(4) A denial of a motion seeking an order for genetic testing under subsection (1)(a) of this section must be based on clear and convincing evidence.

(5) If the court denies a motion seeking an order for genetic testing under subsection (1)(a) of this section, it shall issue an order adjudicating the presumed ~~((father))~~ or acknowledged parent to be the ~~((father))~~ parent of the child.

**Sec. 34.** RCW 26.26.540 and 2002 c 302 s 509 are each amended to read as follows:

(1) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity must commence any proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of ~~((that))~~ the child only within the time allowed under RCW 26.26.330 or 26.26.335.

(2) If a child has an acknowledged father or an adjudicated ~~((father))~~ parent, an individual, other than the child, who is neither a signatory to the acknowledgment nor a party to the adjudication and who seeks an adjudication of ~~((paternity))~~ parentage of the child must commence a proceeding not later than ~~((two))~~ four years after the effective date of the acknowledgment or adjudication. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(3) A proceeding under this section is subject to RCW 26.26.535.

**Sec. 35.** RCW 26.26.545 and 2002 c 302 s 510 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for: Adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child

support, annulment, dissolution of marriage, dissolution of a domestic partnership, or legal separation under chapter 26.09 or 26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW, or other appropriate proceeding.

(2) A respondent may not join ~~((the))~~ a proceeding~~((s))~~ described in subsection (1) of this section with a proceeding to adjudicate parentage brought under chapter 26.21 A RCW.

**Sec. 36.** RCW 26.26.550 and 2002 c 302 s 511 are each amended to read as follows:

~~((Although))~~ A proceeding to ~~((determine))~~ adjudicate parentage may be commenced before the birth of the child, ~~((the proceeding))~~ but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

(1) Service of process;

(2) Discovery;

(3) Except as prohibited by RCW 26.26.405, collection of specimens for genetic testing; and

(4) Temporary orders authorized under RCW 26.26.590.

**Sec. 37.** RCW 26.26.555 and 2002 c 302 s 512 are each amended to read as follows:

(1) Unless specifically required under other provisions of this chapter, a minor child is a permissible party, but is not a necessary party to a proceeding under RCW 26.26.500 through 26.26.630.

(2) If ~~((the))~~ a minor or incapacitated child is a party, or if the court finds that the interests of ~~((a minor child or incapacitated))~~ the child are not adequately represented, the court shall appoint a guardian ad litem to represent the child, subject to RCW 74.20.310 ~~((neither the child's mother or father))~~. A parent of the child may not represent the child as guardian or ~~((otherwise))~~ in any other capacity.

**Sec. 38.** RCW 26.26.570 and 2002 c 302 s 521 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(a) Voluntarily or under an order of the court or a support enforcement agency; or

(b) Before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed~~((, acknowledged,))~~ or adjudicated ~~((father))~~ parent or an acknowledged father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) With the consent of both the ~~((mother))~~ person with a parent-child relationship with the child and the presumed~~((, acknowledged,))~~ or adjudicated ~~((father))~~ parent or an acknowledged father; or

(b) Under an order of the court under RCW 26.26.405.

(4) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:

(a) The amount of the charges billed; and

(b) That the charges were reasonable, necessary, and customary.

**Sec. 39.** RCW 26.26.575 and 2002 c 302 s 522 are each amended to read as follows:

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined declines to submit to genetic testing ~~((as))~~ ordered by the court, the court for that reason may ~~((on that basis))~~ adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

(4) This section does not apply when the child was conceived through assisted reproduction.

**Sec. 40.** RCW 26.26.585 and 2002 c 302 s 523 are each amended to read as follows:

(1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the court finds that the admission of paternity ~~((was made under))~~ satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

**Sec. 41.** RCW 26.26.590 and 2002 c 302 s 524 are each amended to read as follows:

This section applies to any proceeding under RCW 26.26.500 through 26.26.630.

(1) The court shall issue a temporary order for support of a child if the individual ordered to pay support:

(a) Is a presumed ~~((father))~~ parent of the child;

(b) Is petitioning to have his ~~((paternity))~~ or her parentage adjudicated or has admitted ~~((paternity))~~ parentage in pleadings filed with the court;

(c) Is identified as the father through genetic testing under RCW 26.26.420;

(d) Has declined to submit to genetic testing but is shown by clear and convincing evidence to be the father of the child; or

(e) Is ~~((the mother of))~~ a person who has established a parent-child relationship with the child.

(2) A temporary order may, on the same basis as provided in chapter 26.09 RCW, make residential provisions with regard to minor children of the parties, except that a parenting plan is not required unless requested by a parent.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or

prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

**Sec. 42.** RCW 26.26.600 and 2002 c 302 s 531 are each amended to read as follows:

The court shall apply the following rules to adjudicate the ~~((paternity))~~ parentage of a child:

(1) Except as provided in subsection (5) of this section, the ~~((paternity))~~ parentage of a child having a presumed~~((;~~ acknowledged,) or adjudicated ~~((father))~~ parent or an

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acknowledged father may be disproved only by admissible results of genetic testing excluding that ~~((man))~~ person as the ~~((father))~~ parent of the child or identifying another man ~~((to be))~~ as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of the child under RCW 26.26.420 must be adjudicated the father of the child.

(3) If the court finds that genetic testing under RCW 26.26.420 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, ~~((along with))~~ and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

(5) Subsections (1) through (4) of this section do not apply when the child was conceived through assisted reproduction. The parentage of a child conceived through assisted reproduction may be disproved only by admissible evidence showing the intent of the presumed, acknowledged, or adjudicated parent and the other parent.

**Sec. 43.** RCW 26.26.620 and 2002 c 302 s 535 are each amended to read as follows:

The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and ~~((may be challenged in another judicial or an administrative proceeding))~~ has only the effect of a dismissal without prejudice.

**Sec. 44.** RCW 26.26.625 and 2002 c 302 s 536 are each amended to read as follows:

(1) The court shall issue an order adjudicating whether a ~~((man))~~ person alleged or claiming to be the ~~((father))~~ parent is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and age.

(3) Except as otherwise provided in subsection (4) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this section and RCW 26.26.500 through 26.26.620 and 26.26.630. The court may award attorneys' fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(5) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(6) If the order of the court is at variance with the child's birth certificate, the court shall order the state registrar of vital statistics to issue an amended birth certificate.

**Sec. 45.** RCW 26.26.630 and 2002 c 302 s 537 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a determination of parentage is binding on:

(a) All signatories to an acknowledgment or denial of paternity as provided in RCW 26.26.300 through 26.26.375; and

(b) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The determination was based on an unrescinded acknowledgment of paternity and the acknowledgment of paternity is consistent with the results of the genetic testing;

(b) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown, or in the case of a child conceived through assisted reproduction, the adjudication of parentage was based on evidence showing the intent of the parents; or

(c) The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage or domestic partnership, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100, and the final order:

(a) Expressly identifies a child as a "child of the marriage," "issue of the marriage," "child of the domestic partnership," "issue of the domestic partnership," or similar words indicating that the ~~((husband is the father))~~ spouses in the marriage or domestic partners in the domestic partnership are the parents of the child; or

(b) Provides for support of the child by one or both of the ~~((husband))~~ spouses or domestic partners unless ~~((paternity))~~ parentage is specifically disclaimed in the order.

(4) Except as otherwise provided in subsection (2) of this section, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of ~~((paternity))~~ parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, ~~((and))~~ or other judicial review.

**Sec. 46.** RCW 26.26.705 and 2002 c 302 s 602 are each amended to read as follows:

A donor is not a parent of a child conceived by means of assisted reproduction, unless otherwise agreed in a signed record by the donor and the person or persons intending to be parents of a child conceived through assisted reproduction.

**Sec. 47.** RCW 26.26.710 and 2002 c 302 s 603 are each amended to read as follows:

((If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in RCW 26.26.715, he is the father of a resulting child born to his wife.)) A person who provides gametes for, or consents in a signed record to assisted reproduction with another person, with the intent to be the parent of the child born, is the parent of the resulting child.

**Sec. 48.** RCW 26.26.715 and 2002 c 302 s 604 are each amended to read as follows:

~~((A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband.))~~ Consent by a couple who intend to be parents of a child conceived by assisted reproduction must be in a record signed by both persons. This requirement does not apply to ~~((the donation of eggs for assisted reproduction by another woman))~~ a donor.

(2) Failure of the ~~((husband))~~ person to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding ~~((that the husband is the father of a child born to his wife if the wife and husband openly treated))~~ of parentage if the persons resided together in the same household with the child and openly held out the child as their own.

**Sec. 49.** RCW 26.26.720 and 2002 c 302 s 605 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, ~~((the husband of a wife))~~ a spouse or domestic partner of a woman who gives birth to a child by means of assisted reproduction, or a spouse or domestic partner of a man who has a child by means

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of assisted reproduction, may not challenge his ~~((paternity))~~ or her parentage of the child unless:

(a) Within ~~((two))~~ four years after learning of the birth of the child ~~((he))~~ the person commences a proceeding to adjudicate his ~~((paternity))~~ or her parentage. In actions commenced more than two years after the birth of the child, the child must be made a party to the action; and

(b) The court finds that ~~((he))~~ the person did not consent to the assisted reproduction, before or after birth of the child.

(2) A proceeding to adjudicate ~~((paternity))~~ parentage may be maintained at any time if the court determines that:

(a) The ~~((husband))~~ spouse or domestic partner did not provide ~~((sperm))~~ gametes for, or before or after the birth of the child consent to, assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner;

(b) The ~~((husband and the mother))~~ spouse or domestic partner and the parent of the child have not cohabited since the probable time of assisted reproduction; and

(c) The ~~((husband))~~ spouse or domestic partner never openly ~~((treated))~~ held out the child as his or her own.

(3) The limitation provided in this section applies to a marriage or domestic partnership declared invalid after assisted reproduction.

**Sec. 50.** RCW 26.26.725 and 2002 c 302 s 606 are each amended to read as follows:

(1) If a marriage or domestic partnership is dissolved before placement of eggs, sperm, or an embryo, the former spouse or former domestic partner is not a parent of the resulting child unless the former spouse or former domestic partner consented in a signed record that if assisted reproduction were to occur after a ~~((divorce))~~ dissolution, the former spouse or former domestic partner would be a parent of the child.

(2) The consent of the former spouse or former domestic partner to assisted reproduction may be ~~((revoked))~~ withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

**Sec. 51.** RCW 26.26.730 and 2002 c 302 s 607 are each amended to read as follows:

If ~~((a spouse))~~ an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or an embryo, the deceased ~~((spouse))~~ individual is not a parent of the resulting child unless the deceased ~~((spouse))~~ individual consented in a signed record that if assisted reproduction were to occur after death, the deceased ~~((spouse))~~ individual would be a parent of the child.

**Sec. 52.** RCW 26.26.735 and 2002 c 302 s 608 are each amended to read as follows:

The donor of ~~((ovum))~~ eggs provided to a licensed physician for use in ~~((the alternative reproductive medical technology process))~~ assisted reproduction for the purpose of attempting to achieve a pregnancy in a woman other than the donor is treated in law as if she were not the ~~((natural mother))~~ parent of a child thereafter conceived and born unless the donor and the woman who gives birth to a child as a result of the ~~((alternative reproductive medical technology procedures))~~ assisted reproduction agree in writing that the donor is to be a parent. RCW 26.26.705 does not apply in such case. A woman who gives birth to a child conceived through ~~((alternative reproductive medical technology procedures))~~ assisted reproduction under the supervision and with the assistance of a licensed physician is treated in law as if she were the ~~((natural mother))~~ parent of the child unless an agreement in writing signed by an ~~((ovum))~~ egg donor and the woman giving birth to the child states otherwise. An agreement pursuant to this section must be in writing and signed by the ~~((ovum))~~ egg donor and the woman who gives birth to the child and any other intended parent of the child. The physician shall

certify the parties' signatures and the date of the ~~((ovum))~~ egg harvest, identify the subsequent medical procedures undertaken, and identify the intended parents. The agreement, including the affidavit and certification ~~((referenced in RCW 26.26.030))~~, must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file.

**NEW SECTION. Sec. 53.** A new section is added to chapter 26.26 RCW to read as follows:

(1) A person who donates gametes to a fertility clinic in Washington to be used in assisted reproduction shall provide, at a minimum, his or her identifying information and medical history to the fertility clinic. The fertility clinic shall keep the identifying information and medical history of its donors and shall disclose the information as provided under subsection (2) of this section.

(2)(a) A child conceived through assisted reproduction who is at least eighteen years old shall be provided, upon his or her request, access to identifying information of the donor who provided gametes for the assisted reproduction that resulted in the birth of the child, unless the donor has signed an affidavit of nondisclosure with the fertility clinic that provided the gamete for assisted reproduction.

(b) Regardless of whether the donor signed an affidavit of nondisclosure, a child conceived through assisted reproduction who is at least eighteen years old shall be provided, upon his or her request, access to the nonidentifying medical history of the donor who provided gametes for the assisted reproduction that resulted in the birth of the child.

**Sec. 54.** RCW 26.26.903 and 2002 c 302 s 709 are each amended to read as follows:

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it and to the intent that the act apply to persons of the same sex who have children together to the same extent the act applies to persons of the opposite sex who have children together.

**Sec. 55.** RCW 26.26.911 and 2002 c 302 s 101 are each amended to read as follows:

This act may be known and cited as the uniform parentage act of 2002.

**NEW SECTION. Sec. 56.** Any action taken by an agency to implement the provisions of this act must be accomplished within existing resources. Any costs incurred by the administrative office of the courts for modifications to the judicial information system as a result of the provisions of this act shall be paid from the judicial information system account.

**NEW SECTION. Sec. 57.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 58.** This act applies to causes of action filed on or after the effective date of this section."

Senators Hargrove and Swecker spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Harper, Pridemore and Hargrove to Engrossed Second Substitute House Bill No. 1267.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "parentage;" strike the remainder of the title and insert "amending RCW 26.26.011,

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26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111, 26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.903, and 26.26.911; adding a new section to chapter 26.26 RCW; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 1267 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke on final passage.

Senators Pridemore and Pflug spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1267 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1267 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Delvin, Ericksen, Hargrove, Hewitt, Holmquist Newbry, Honeyford, Kastama, King, Morton, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Excused: Senator Parlette

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Second Substitute House Bill No. 1267 was immediately transmitted to the House of Representatives.

MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5636 with the following amendment(s): 5636-S2 AMH WAYS H2503.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 28B.30 RCW to read as follows:

(1) The legislature finds that access to baccalaureate and graduate degree programs continues to be limited for residents of north Snohomish, Island, and Skagit counties. Studies conducted by the state board for community and technical colleges, the higher education coordinating board, and the council of presidents confirm that enrollment in higher education compared to demand in this geographic region lags behind enrollment in other parts of the state, particularly for upper-division courses leading to advanced degrees.

(2) The legislature also finds that access to high employer demand programs of study is imperative for the state's global competitiveness and economic prosperity, particularly those degrees in the science, technology, engineering, and mathematics (STEM) fields that align with the workforce skill demands of the regional economy, that support the aerospace industry, and provide skilled undergraduate and graduate-degree engineers required by the largest employers in the aerospace industry cluster.

(3) The legislature finds that meeting the long-range goal of greatly expanded access for the population of the region to the widest array of baccalaureate and graduate programs can best be accomplished by assigning responsibility to a research university with multiple experiences in similar settings.

(4) Management and leadership of the University Center of North Puget Sound is assigned to Washington State University to meet the needs of the Everett metropolitan area and the north Snohomish, Island, and Skagit county region and the state of Washington for baccalaureate and graduate degrees offered by a state university. The chief executive officer of the University Center of North Puget Sound is the director who reports to the president of Washington State University. The director shall manage the activities and logistics of operating the center, make policy and planning recommendations to the council in subsection (5) of this section, and implement decisions of the council.

(5)(a) Washington State University and Everett Community College must collaborate with community leaders, and other four-year institutions of higher education that offer programs at the University Center of North Puget Sound to serve the varied interests of students in the region. To this end, a coordinating and planning council must be established to be responsible for long-range and strategic planning, interinstitutional collaboration, collaboration with the community served, and dispute resolution for the center. The following individuals shall comprise the coordinating and planning council:

(i) The president of Washington State University, or his or her designee;

(ii) The provost of Washington State University, or his or her designee;

(iii) The president of Everett Community College;

(iv) Two representatives of two other institutions of higher education that offer baccalaureate or graduate degree programs at the center;

(v) A student enrolled at the University Center of North Puget Sound appointed by the coordinating and planning council;

(vi) The director of the council, as the nonvoting chair;

(vii) A community leader appointed by the president of Everett Community College; and

(viii) A community leader appointed by the mayor of Everett.

(b) The coordinating and planning council may appoint other groups, as appropriate, to advise on administration and operations, and may alter its own composition by agreement of all the members.

(6)(a) Washington State University shall assume leadership of the center upon completion and approval by the legislature as provided under (d) of this subsection of a strategic plan for meeting the academic needs of the region and successful establishment of an engineering degree program. The strategic plan must build on the strengths of the institutions, reflecting each institution's mission, in

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order to provide the region with the highest standard of educational programs, research, and service to the community. The strategic plan must include a multiyear budget that addresses both operating and capital expenses required to effectively implement the plan. The strategic plan shall be developed with the collaboration of the University Center at Everett Community College and all the institutions of higher education that provide baccalaureate degrees at the University Center, and community leaders.

(b) Center partners must implement the strategic plan with careful attention to the academic and professional standards established and maintained by each institution and by the appropriate accrediting bodies, and to the historic role of each institution's governing board in setting policy.

(c) The strategic plan must address expansion of the range and depth of educational opportunities in the region and include strategies that:

(i) Build upon baccalaureate and graduate degree offerings at the center;

(ii) Meet projected student enrollment demands for baccalaureate, graduate, and certificate programs in the region;

(iii) Meet employers' needs for skilled workers by expanding high employer demand programs of study as defined in RCW 28B.50.030, with an initial and ongoing emphasis by Washington State University on undergraduate and graduate science, technology, mathematics, and engineering degree programs, including a variety of engineering disciplines such as civil, mechanical, aeronautical, and aerospace manufacturing;

(iv) Coordinate delivery of lower and upper division courses to maximize student opportunities and resources; and

(v) Transfer budget support and resources for the center from Everett Community College to Washington State University.

(d) The strategic plan must be completed by December 1, 2012, and submitted to the legislature for review. The strategic plan shall be considered approved if the legislature does not take further action on the strategic plan during the 2013 legislative session. The transfer of the responsibility for the management and operation of the University Center of North Puget Sound to Washington State University must occur by July 1, 2014.

(7)(a) Academic programming and delivery at the center must be developed in accordance with the missions of Washington State University, Everett Community College, and other institutions of higher education that have a presence at the center.

(b) Each institution shall abide by the guidelines for university centers adopted by the higher education coordinating board.

(c) Each institution shall award all degrees and certificates granted in the programs it delivers at the center.

(d) The coordinating council described in subsection (5) of this section shall establish a process for prioritizing new programs and revising existing programs that facilitates timeliness of new offerings, recognizes the internal processes of the proposing institutions, and addresses each proposal's fit with the needs of the region.

(8)(a) Washington State University shall review center expansion needs and consider capital facilities funding at least annually. Washington State University and Everett Community College must cooperate in preparing funding requests and bond financing for submission to the legislature on behalf of development at the center, in accordance with each institution's process and priorities for advancing legislative requests.

(b) Washington State University shall design, construct, and manage any facility developed at the center. Any facility developed at the center with Everett Community College capital funding must be designed by Everett Community College in consultation with Washington State University. Building construction may be managed by Washington State University via

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an interagency agreement which details responsibility and associated costs. Building operations and management for all facilities at the center must be governed by the infrastructure and operating cost allocation method described in subsection (9) of this section.

(9) Washington State University has responsibility for infrastructure development and maintenance for the center. All infrastructure operating and maintenance costs are to be shared in what is deemed to be an equitable and fair manner based on space allocation, special cost, and other relevant considerations. Washington State University may make infrastructure development and maintenance decisions in consultation with the council described in subsection (5) of this section.

(10) In the event that conflict cannot be resolved through the coordinating council described in subsection (5) of this section the higher education coordinating board dispute resolution must be employed.

**Sec. 2.** RCW 28B.50.795 and 2010 1st sp.s. c 25 s 1 are each amended to read as follows:

(1) ((RCW 28B.50.901 assigns responsibility for the north Snohomish, Island, and Skagit counties' higher education consortium to Everett Community College. In April of 2009, Everett Community College opened Gray Wolf Hall, the new home of the University Center of North Puget Sound. The University Center currently offers over twenty bachelor's and master's degrees from six partner universities.

(2)) Although Everett Community College offers an associate degree nursing program that graduates approximately seventy to ninety students per year, the University Center does not offer a bachelor of science in nursing. Some graduates of the Everett Community College program are able to articulate to the bachelor of science in nursing program offered by the University of Washington-Bothell at its Bothell campus or in Mt. Vernon but current capacity is not sufficient for all of the graduates who are both interested and qualified.

((3)) (2) Despite recent growth in nursing education capacity, shortages still persist for registered nurses. According to a June 2007 study by the Washington, Wyoming, Alaska, Montana, and Idaho center for health workforce studies, the average age of Washington's registered nurses was forty-eight years. More than a third were fifty- five years of age or older. Consequently, the high rate of registered nurses retiring from nursing practice over the next two decades will significantly reduce the supply. This reduction comes at the same time as the state's population grows and ages. The registered nurse education capacity in Washington has a large impact on the supply of registered nurses in the state. If the rate of graduation in registered nursing does not increase, projections show that supply in Washington will begin to decline by 2015. In contrast, if graduation rates increased by four hundred per year, the supply of registered nurses would meet estimated demand by the year 2021.

((4)) (3) Subject to specific funding to support up to fifty full-time equivalent students in a bachelor of nursing program, the University Center ((at Everett Community College)) of North Puget Sound, in partnership with the University of Washington-Bothell, shall offer a bachelor of science in nursing program with capacity for up to fifty full-time students.

**NEW SECTION. Sec. 3.** (1) This act takes effect only after the higher education coordinating board determines whether a needs assessment and analysis is required and, if so, conducts a needs assessment and viability determination under RCW 28B.76.230 and recommends that the provisions in section 1 of this act occur.

(2) The higher education coordinating board must make a recommendation under subsection (1) of this section by July 1, 2012.

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(3) The higher education coordinating board shall notify the office of financial management, the legislature, and the code reviser's office of the board's recommendations regarding the provisions in section 1 of this act.

**NEW SECTION. Sec. 4.** RCW 28B.50.901 (Regional higher education consortium management and leadership--Everett Community College-- Educational plan) and 2005 c 258 s 13 are each repealed."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5636.

Senators Haugen and Shin spoke in favor of the motion.

Senator Tom spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5636.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5636 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5636, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5636, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Morton, Murray, Nelson, Pflug, Prentice, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, White and Zarelli

Voting nay: Senators Ericksen, Hill, Honeyford, Kohl-Welles, Litzow, McAuliffe, Pridemore, Ranker, Rockefeller and Tom

Excused: Senator Parlette

SECOND SUBSTITUTE SENATE BILL NO. 5636, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Haugen: "Thank you Mr. President. I simply want to say thank you."

MESSAGE FROM THE HOUSE

April 11, 2011

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5073 with the following amendment(s): 5073-S2.E AMH ENGR H2509.E

Strike everything after the enacting clause and insert the following:

**"PART I  
LEGISLATIVE DECLARATION AND INTENT**

**NEW SECTION. Sec. 101.** (1) The legislature intends to amend and clarify the law on the medical use of cannabis so that:

(a) Qualifying patients and designated providers complying with the terms of this act and registering with the department of health will no longer be subject to arrest or prosecution, other criminal sanctions, or civil consequences based solely on their medical use of cannabis;

(b) Qualifying patients will have access to an adequate, safe, consistent, and secure source of medical quality cannabis; and

(c) Health care professionals may authorize the medical use of cannabis in the manner provided by this act without fear of state criminal or civil sanctions.

(2) This act is not intended to amend or supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of cannabis for nonmedical purposes.

(3) This act is not intended to compromise community safety. State, county, or city correctional agencies or departments shall retain the authority to establish and enforce terms for those on active supervision.

**Sec. 102.** RCW 69.51A.005 and 2010 c 284 s 1 are each amended to read as follows:

(1) The ~~((people of Washington state))~~ legislature finds that:

(a) There is medical evidence that some patients with terminal or debilitating ~~((illnesses))~~ medical conditions may, under their health care professional's care, ~~((may))~~ benefit from the medical use of ~~((marijuana))~~ cannabis. Some of the ~~((illnesses))~~ conditions for which ~~((marijuana))~~ cannabis appears to be beneficial include ~~((chemotherapy related)), but are not limited to:~~

(i) Nausea ~~((and))~~, vomiting ~~((in cancer patients; AIDS wasting syndrome)), and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and their treatments;~~

(ii) Severe muscle spasms associated with multiple sclerosis, epilepsy, and other ~~seizure and~~ spasticity disorders; ~~((epilepsy));~~

(iii) Acute or chronic glaucoma;

(iv) Crohn's disease; and

(v) Some forms of intractable pain.

~~((The people find that))~~ (b) Humanitarian compassion necessitates that the decision to ~~((authorize the medical))~~ use ~~((of marijuana))~~ cannabis by patients with terminal or debilitating ~~((illnesses))~~ medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

(2) Therefore, the ~~((people of the state of Washington))~~ legislature intends that:

(a) Qualifying patients with terminal or debilitating ~~((illnesses))~~ medical conditions who, in the judgment of their health care professionals, may benefit from the medical use of ~~((marijuana))~~ cannabis, shall not be ~~((found guilty of a crime under state law for their possession and limited use of marijuana))~~ arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of cannabis, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be ~~((found guilty of a crime under state law for))~~ arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of ~~((marijuana))~~ cannabis; and

(c) Health care professionals shall also ~~((be exempted from liability and prosecution))~~ not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law for the

proper authorization of ~~((marijuana))~~ medical use ~~((of))~~ of cannabis by qualifying patients for whom, in the health care professional's professional judgment, the medical ~~((marijuana))~~ use of cannabis may prove beneficial.

(3) Nothing in this chapter establishes the medical necessity or medical appropriateness of cannabis for treating terminal or debilitating medical conditions as defined in RCW 69.51A.010.

(4) Nothing in this chapter diminishes the authority of correctional agencies and departments, including local governments or jails, to establish a procedure for determining when the use of cannabis would impact community safety or the effective supervision of those on active supervision for a criminal conviction, nor does it create the right to any accommodation of any medical use of cannabis in any correctional facility or jail.

**Sec. 103.** RCW 69.51A.020 and 1999 c 2 s 3 are each amended to read as follows:

Nothing in this chapter shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale, or use of ~~((marijuana))~~ cannabis for nonmedical purposes. Criminal penalties created under this act do not preclude the prosecution or punishment for other crimes, including other crimes involving the manufacture or delivery of cannabis for nonmedical purposes.

## PART II DEFINITIONS

**Sec. 201.** RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this chapter, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

(2) "Cannabis analysis laboratory" means a laboratory that performs chemical analysis and inspection of cannabis samples.

(3) "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this chapter and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

(4) "Correctional facility" has the same meaning as provided in RCW 72.09.015.

(5) "Corrections agency or department" means any agency or department in the state of Washington, including local governments or jails, that is vested with the responsibility to manage those individuals who are being supervised in the community for a criminal conviction and has established a written policy for determining when the medical use of cannabis, including possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, is inconsistent with and contrary to the person's supervision.

(6) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in ~~((writing))~~ a written document signed and dated by a qualifying patient to serve as a designated provider under this chapter; and

(c) Is ~~((prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and~~

(d) Is the designated provider to only one patient at any one time.

~~((2)))~~ in compliance with the terms and conditions set forth in RCW 69.51A.040.

A qualifying patient may be the designated provider for another qualifying patient and be in possession of both patients' cannabis at the same time.

~~((7))~~ "Director" means the director of the department of agriculture.

~~((8))~~ "Dispense" means the selection, measuring, packaging, labeling, delivery, or retail sale of cannabis by a licensed dispenser to a qualifying patient or designated provider.

~~((9))~~ "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

~~((3))~~ (10) "Jail" has the same meaning as provided in RCW 70.48.020.

(11) "Labeling" means all labels and other written, printed, or graphic matter (a) upon any cannabis intended for medical use, or (b) accompanying such cannabis.

(12) "Licensed dispenser" means a person licensed to dispense cannabis for medical use to qualifying patients and designated providers by the department of health in accordance with rules adopted by the department of health pursuant to the terms of this chapter.

(13) "Licensed processor of cannabis products" means a person licensed by the department of agriculture to manufacture, process, handle, and label cannabis products for wholesale to licensed dispensers.

(14) "Licensed producer" means a person licensed by the department of agriculture to produce cannabis for medical use for wholesale to licensed dispensers and licensed processors of cannabis products in accordance with rules adopted by the department of agriculture pursuant to the terms of this chapter.

(15) "Medical use of ~~((marijuana))~~ cannabis" means the manufacture, production, processing, possession, transportation, delivery, dispensing, ingestion, application, or administration of ~~((marijuana, as defined in RCW 69.50.101(q)))~~ cannabis for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating ~~((illness))~~ medical condition.

~~((4))~~ (16) "Nonresident" means a person who is temporarily in the state but is not a Washington state resident.

(17) "Peace officer" means any law enforcement personnel as defined in RCW 43.101.010.

(18) "Person" means an individual or an entity.

(19) "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, date of birth, or address, either alone or when combined with other sources, that establish the person is a qualifying patient, designated provider, licensed producer, or licensed processor of cannabis products for purposes of registration with the department of health or department of agriculture. The term "personally identifiable information" also means any information used by the

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department of health or department of agriculture to identify a person as a qualifying patient, designated provider, licensed producer, or licensed processor of cannabis products.

(20) "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

(21) "Process" means to handle or process cannabis in preparation for medical use.

(22) "Processing facility" means the premises and equipment where cannabis products are manufactured, processed, handled, and labeled for wholesale to licensed dispensers.

(23) "Produce" means to plant, grow, or harvest cannabis for medical use.

(24) "Production facility" means the premises and equipment where cannabis is planted, grown, harvested, processed, stored, handled, packaged, or labeled by a licensed producer for wholesale, delivery, or transportation to a licensed dispenser or licensed processor of cannabis products, and all vehicles and equipment used to transport cannabis from a licensed producer to a licensed dispenser or licensed processor of cannabis products.

(25) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(26) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

~~((b))~~ (ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

~~((c))~~ (iii) Is a resident of the state of Washington at the time of such diagnosis;

~~((d))~~ (iv) Has been advised by that health care professional about the risks and benefits of the medical use of ~~((marijuana))~~ cannabis; ~~and~~

~~((e))~~ (v) Has been advised by that health care professional that ~~((they))~~ he or she may benefit from the medical use of ~~((marijuana))~~ cannabis; and

(vi) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

~~((f))~~ (27) "Secretary" means the secretary of health.

(28) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

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(c) One or more features designed to prevent the use of counterfeit valid documentation.

~~((g))~~ (29) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, ~~((wasting))~~ cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

~~((h))~~ (30) "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

(31) "Useable cannabis" means dried flowers of the *Cannabis* plant having a THC concentration greater than three-tenths of one percent. Useable cannabis excludes stems, stalks, leaves, seeds, and roots. For purposes of this subsection, "dried" means containing less than fifteen percent moisture content by weight. The term "useable cannabis" does not include cannabis products.

(32)(a) Until January 1, 2013, "valid documentation" means:

~~((a))~~ (i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of ~~((marijuana))~~ cannabis; ~~and~~

~~((b))~~ (ii) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and

(iii) In the case of a designated provider, the signed and dated document valid for one year from the date of signature executed by the qualifying patient who has designated the provider; and

(b) Beginning July 1, 2012, "valid documentation" means:

(i) An original statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper and valid for up to one year from the date of the health care professional's signature, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis;

(ii) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and

(iii) In the case of a designated provider, the signed and dated document valid for up to one year from the date of signature executed by the qualifying patient who has designated the provider.

### PART III

### PROTECTIONS FOR HEALTH CARE PROFESSIONALS

**Sec. 301.** RCW 69.51A.030 and 2010 c 284 s 3 are each amended to read as follows:

((A health care professional shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for)) (1) The following acts do not constitute

crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

~~((1)) (a) Advising a ((qualifying)) patient about the risks and benefits of medical use of ((marijuana)) cannabis or that the ((qualifying)) patient may benefit from the medical use of ((marijuana where such use is within a professional standard of care or in the individual health care professional's medical judgment)) cannabis; or~~

~~((2)) (b) Providing a ((qualifying)) patient meeting the criteria established under RCW 69.51A.010(26) with valid documentation, based upon the health care professional's assessment of the ((qualifying)) patient's medical history and current medical condition, ~~((that the medical use of marijuana may benefit a particular qualifying patient))~~ where such use is within a professional standard of care or in the individual health care professional's medical judgment.~~

(2)(a) A health care professional may only provide a patient with valid documentation authorizing the medical use of cannabis or register the patient with the registry established in section 901 of this act if he or she has a newly initiated or existing documented relationship with the patient, as a primary care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition, and only after:

(i) Completing a physical examination of the patient as appropriate, based on the patient's condition and age;

(ii) Documenting the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of cannabis;

(iii) Informing the patient of other options for treating the terminal or debilitating medical condition; and

(iv) Documenting other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of cannabis.

(b) A health care professional shall not:

(i) Accept, solicit, or offer any form of pecuniary remuneration from or to a licensed dispenser, licensed producer, or licensed processor of cannabis products;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular licensed dispenser, licensed producer, or licensed processor of cannabis products;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where cannabis is produced, processed, or dispensed;

(iv) Have a business or practice which consists solely of authorizing the medical use of cannabis;

(v) Include any statement or reference, visual or otherwise, on the medical use of cannabis in any advertisement for his or her business or practice; or

(vi) Hold an economic interest in an enterprise that produces, processes, or dispenses cannabis if the health care professional authorizes the medical use of cannabis.

(3) A violation of any provision of subsection (2) of this section constitutes unprofessional conduct under chapter 18.130 RCW.

**Sec. 401.** RCW 69.51A.040 and 2007 c 371 s 5 are each amended to read as follows:

((1) If a law enforcement officer determines that marijuana is being possessed lawfully under the medical marijuana law, the officer may document the amount of marijuana, take a representative sample that is large enough to test, but not seize the marijuana. A law enforcement officer or agency shall not be held civilly liable for failure to seize marijuana in this circumstance.

(2) If charged with a violation of state law relating to marijuana, any qualifying patient who is engaged in the medical use of marijuana, or any designated provider who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with the requirements provided in this chapter. Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.

(3) A qualifying patient, if eighteen years of age or older, or a designated provider shall:

(a) Meet all criteria for status as a qualifying patient or designated provider;

(b) Possess no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and

(c) Present his or her valid documentation to any law enforcement official who questions the patient or provider regarding his or her medical use of marijuana.

(4) A qualifying patient, if under eighteen years of age at the time he or she is alleged to have committed the offense, shall demonstrate compliance with subsection (3)(a) and (c) of this section. However, any possession under subsection (3)(b) of this section, as well as any production, acquisition, and decision as to dosage and frequency of use, shall be the responsibility of the parent or legal guardian of the qualifying patient.) The medical use of cannabis in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences, for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law, and investigating peace officers and law enforcement agencies may not be held civilly liable for failure to seize cannabis in this circumstance, if:

(1)(a) The qualifying patient or designated provider possesses no more than fifteen cannabis plants and:

(i) No more than twenty-four ounces of useable cannabis;

(ii) No more cannabis product than what could reasonably be produced with no more than twenty-four ounces of useable cannabis; or

(iii) A combination of useable cannabis and cannabis product that does not exceed a combined total representing possession and processing of no more than twenty-four ounces of useable cannabis.

(b) If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in (a) of this subsection, whether the plants, useable cannabis, and cannabis product are possessed individually or in combination between the qualifying patient and his or her designated provider;

(2) The qualifying patient or designated provider presents his or her proof of registration with the department of health, to any peace

#### **PART IV PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS**

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officer who questions the patient or provider regarding his or her medical use of cannabis;

(3) The qualifying patient or designated provider keeps a copy of his or her proof of registration with the registry established in section 901 of this act and the qualifying patient or designated provider's contact information posted prominently next to any cannabis plants, cannabis products, or useable cannabis located at his or her residence;

(4) The investigating peace officer does not possess evidence that:

(a) The designated provider has converted cannabis produced or obtained for the qualifying patient for his or her own personal use or benefit; or

(b) The qualifying patient has converted cannabis produced or obtained for his or her own medical use to the qualifying patient's personal, nonmedical use or benefit;

(5) The investigating peace officer does not possess evidence that the designated provider has served as a designated provider to more than one qualifying patient within a fifteen-day period; and

(6) The investigating peace officer has not observed evidence of any of the circumstances identified in section 901(4) of this act.

**NEW SECTION. Sec. 402.** (1) A qualifying patient or designated provider who is not registered with the registry established in section 901 of this act may raise the affirmative defense set forth in subsection (2) of this section, if:

(a) The qualifying patient or designated provider presents his or her valid documentation to any peace officer who questions the patient or provider regarding his or her medical use of cannabis;

(b) The qualifying patient or designated provider possesses no more cannabis than the limits set forth in RCW 69.51A.040(1);

(c) The qualifying patient or designated provider is in compliance with all other terms and conditions of this chapter;

(d) The investigating peace officer does not have probable cause to believe that the qualifying patient or designated provider has committed a felony, or is committing a misdemeanor in the officer's presence, that does not relate to the medical use of cannabis;

(e) No outstanding warrant for arrest exists for the qualifying patient or designated provider; and

(f) The investigating peace officer has not observed evidence of any of the circumstances identified in section 901(4) of this act.

(2) A qualifying patient or designated provider who is not registered with the registry established in section 901 of this act, but who presents his or her valid documentation to any peace officer who questions the patient or provider regarding his or her medical use of cannabis, may assert an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that he or she otherwise meets the requirements of RCW 69.51A.040. A qualifying patient or designated provider meeting the conditions of this subsection but possessing more cannabis than the limits set forth in RCW 69.51A.040(1) may, in the investigating peace officer's discretion, be taken into custody and booked into jail in connection with the investigation of the incident.

**NEW SECTION. Sec. 403.** (1) Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

(a) No more than ten qualifying patients may participate in a single collective garden at any time;

(b) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

(c) A collective garden may contain no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;

(d) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in section 901 of this act, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and

(e) No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.

(2) For purposes of this section, the creation of a "collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.

(3) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections of this chapter.

**NEW SECTION. Sec. 404.** (1) A qualifying patient may revoke his or her designation of a specific provider and designate a different provider at any time. A revocation of designation must be in writing, signed and dated. The protections of this chapter cease to apply to a person who has served as a designated provider to a qualifying patient seventy-two hours after receipt of that patient's revocation of his or her designation.

(2) A person may stop serving as a designated provider to a given qualifying patient at any time. However, that person may not begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated him or her to serve as a provider.

**NEW SECTION. Sec. 405.** A qualifying patient or designated provider in possession of cannabis plants, useable cannabis, or cannabis product exceeding the limits set forth in RCW 69.51A.040(1) but otherwise in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that the qualifying patient's necessary medical use exceeds the amounts set forth in RCW 69.51A.040(1). An investigating peace officer may seize cannabis plants, useable cannabis, or cannabis product exceeding the amounts set forth in RCW 69.51A.040(1): PROVIDED, That in the case of cannabis plants, the qualifying patient or designated provider shall be allowed to select the plants that will remain at the location. The officer and his or her law enforcement agency may not be held civilly liable for failure to seize cannabis in this circumstance.

**NEW SECTION. Sec. 406.** A qualifying patient or designated provider who is not registered with the registry established in section 901 of this act or does not present his or her valid documentation to a peace officer who questions the patient or provider regarding his or her medical use of cannabis but is in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to cannabis through proof at trial, by a preponderance of the evidence, that he or she was a validly authorized qualifying patient or designated provider at the time of the officer's questioning. A qualifying patient or designated provider who establishes an affirmative defense under the terms of this section may also establish an affirmative defense under section 405 of this act.

**NEW SECTION. Sec. 407.** A nonresident who is duly authorized to engage in the medical use of cannabis under the laws of another state or territory of the United States may raise an affirmative defense to charges of violations of Washington state law relating to cannabis, provided that the nonresident:

(1) Possesses no more than fifteen cannabis plants and no more than twenty-four ounces of useable cannabis, no more cannabis product than reasonably could be produced with no more than twenty-four ounces of useable cannabis, or a combination of useable cannabis and cannabis product that does not exceed a combined total representing possession and processing of no more than twenty-four ounces of useable cannabis;

(2) Is in compliance with all provisions of this chapter other than requirements relating to being a Washington resident or possessing valid documentation issued by a licensed health care professional in Washington;

(3) Presents the documentation of authorization required under the nonresident's authorizing state or territory's law and proof of identity issued by the authorizing state or territory to any peace officer who questions the nonresident regarding his or her medical use of cannabis; and

(4) Does not possess evidence that the nonresident has converted cannabis produced or obtained for his or her own medical use to the nonresident's personal, nonmedical use or benefit.

**NEW SECTION. Sec. 408.** A qualifying patient's medical use of cannabis as authorized by a health care professional may not be a sole disqualifying factor in determining the patient's suitability for an organ transplant, unless it is shown that this use poses a significant risk of rejection or organ failure. This section does not preclude a health care professional from requiring that a patient abstain from the medical use of cannabis, for a period of time determined by the health care professional, while waiting for a transplant organ or before the patient undergoes an organ transplant.

**NEW SECTION. Sec. 409.** A qualifying patient or designated provider may not have his or her parental rights or residential time with a child restricted solely due to his or her medical use of cannabis in compliance with the terms of this chapter absent written findings supported by evidence that such use has resulted in a long-term impairment that interferes with the performance of parenting functions as defined under RCW 26.09.004.

**NEW SECTION. Sec. 410.** (1) Except as provided in subsection (2) of this section, a qualifying patient may not be refused housing or evicted from housing solely as a result of his or her possession or use of useable cannabis or cannabis products except that housing providers otherwise permitted to enact and enforce prohibitions against smoking in their housing may apply those prohibitions to smoking cannabis provided that such smoking prohibitions are applied and enforced equally as to the smoking of cannabis and the smoking of all other substances, including without limitation tobacco.

(2) Housing programs containing a program component prohibiting the use of drugs or alcohol among its residents are not required to permit the medical use of cannabis among those residents.

**NEW SECTION. Sec. 411.** In imposing any criminal sentence, deferred prosecution, stipulated order of continuance, deferred disposition, or dispositional order, any court organized under the laws of Washington state may permit the medical use of cannabis in compliance with the terms of this chapter and exclude it as a possible ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition, or dispositional order. This section does not require the accommodation of any medical use of cannabis in any correctional facility or jail.

**Sec. 412.** RCW 69.51A.050 and 1999 c 2 s 7 are each amended to read as follows:

(1) The lawful possession, delivery, dispensing, production, or manufacture of ~~((medical marijuana))~~ cannabis for medical use as

authorized by this chapter shall not result in the forfeiture or seizure of any real or personal property including, but not limited to, cannabis intended for medical use, items used to facilitate the medical use of cannabis or its production or dispensing for medical use, or proceeds of sales of cannabis for medical use made by licensed producers, licensed processors of cannabis products, or licensed dispensers.

(2) No person shall be prosecuted for constructive possession, conspiracy, or any other criminal offense solely for being in the presence or vicinity of ~~((medical marijuana))~~ cannabis intended for medical use or its use as authorized by this chapter.

(3) The state shall not be held liable for any deleterious outcomes from the medical use of ~~((marijuana))~~ cannabis by any qualifying patient.

**NEW SECTION. Sec. 413.** Nothing in this chapter or in the rules adopted to implement it precludes a qualifying patient or designated provider from engaging in the private, unlicensed, noncommercial production, possession, transportation, delivery, or administration of cannabis for medical use as authorized under RCW 69.51A.040.

## PART V LIMITATIONS ON PROTECTIONS FOR QUALIFYING PATIENTS AND DESIGNATED PROVIDERS

**Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to read as follows:

(1) It shall be a ~~((misdemeanor))~~ class 3 civil infraction to use or display medical ~~((marijuana))~~ cannabis in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter ~~((requires any health insurance provider))~~ establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of ~~((marijuana))~~ cannabis. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical cannabis in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of ~~((medical marijuana))~~ cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of ~~((marijuana))~~ cannabis in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking ~~((medical marijuana))~~ cannabis in any public place ~~((as that term is defined in RCW 70.160.020))~~ or hotel or motel.

(5) Nothing in this chapter authorizes the use of medical cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(6) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of cannabis if an employer has a drug-free work place.

(7) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010~~((7))~~ (32)(a), or to backdate such documentation to a time earlier than its actual date of execution.

~~((6))~~ (8) No person shall be entitled to claim the ~~((affirmative defense provided in RCW 69.51A.040))~~ protection from arrest and prosecution under RCW 69.51A.040 or the affirmative defense under section 402 of this act for engaging in the medical use of ((marijuana)) cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a

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street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

**PART VI  
LICENSED PRODUCERS AND LICENSED  
PROCESSORS OF CANNABIS PRODUCTS**

NEW SECTION. Sec. 601. A person may not act as a licensed producer without a license for each production facility issued by the department of agriculture and prominently displayed on the premises. Provided they are acting in compliance with the terms of this chapter and rules adopted to enforce and carry out its purposes, licensed producers and their employees, members, officers, and directors may manufacture, plant, cultivate, grow, harvest, produce, prepare, propagate, process, package, repackage, transport, transfer, deliver, label, relabel, wholesale, or possess cannabis intended for medical use by qualifying patients, including seeds, seedlings, cuttings, plants, and useable cannabis, and may not be arrested, searched, prosecuted, or subject to other criminal sanctions or civil consequences under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, for such activities, notwithstanding any other provision of law.

NEW SECTION. Sec. 602. A person may not act as a licensed processor without a license for each processing facility issued by the department of agriculture and prominently displayed on the premises. Provided they are acting in compliance with the terms of this chapter and rules adopted to enforce and carry out its purposes, licensed processors of cannabis products and their employees, members, officers, and directors may possess useable cannabis and manufacture, produce, prepare, process, package, repackage, transport, transfer, deliver, label, relabel, wholesale, or possess cannabis products intended for medical use by qualifying patients, and may not be arrested, searched, prosecuted, or subject to other criminal sanctions or civil consequences under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, for such activities, notwithstanding any other provision of law.

NEW SECTION. Sec. 603. The director shall administer and carry out the provisions of this chapter relating to licensed producers and licensed processors of cannabis products, and rules adopted under this chapter.

NEW SECTION. Sec. 604. (1) On a schedule determined by the department of agriculture, licensed producers and licensed processors must submit representative samples of cannabis grown or processed to a cannabis analysis laboratory for grade, condition, cannabinoid profile, THC concentration, other qualitative measurements of cannabis intended for medical use, and other inspection standards determined by the department of agriculture. Any samples remaining after testing must be destroyed by the laboratory or returned to the licensed producer or licensed processor.

(2) Licensed producers and licensed processors must submit copies of the results of this inspection and testing to the department of agriculture on a form developed by the department.

(3) If a representative sample of cannabis tested under this section has a THC concentration of three-tenths of one percent or less, the lot of cannabis the sample was taken from may not be sold for medical use and must be destroyed or sold to a manufacturer of hemp products.

NEW SECTION. Sec. 605. The department of agriculture may contract with a cannabis analysis laboratory to conduct independent inspection and testing of cannabis samples to verify testing results provided under section 604 of this act.

NEW SECTION. Sec. 606. The department of agriculture may adopt rules on:

(1) Facility standards, including scales, for all licensed producers and licensed processors of cannabis products;

(2) Measurements for cannabis intended for medical use, including grade, condition, cannabinoid profile, THC concentration, other qualitative measurements, and other inspection standards for cannabis intended for medical use; and

(3) Methods to identify cannabis intended for medical use so that such cannabis may be readily identified if stolen or removed in violation of the provisions of this chapter from a production or processing facility, or if otherwise unlawfully transported.

NEW SECTION. Sec. 607. The director is authorized to deny, suspend, or revoke a producer's or processor's license after a hearing in any case in which it is determined that there has been a violation or refusal to comply with the requirements of this chapter or rules adopted hereunder. All hearings for the denial, suspension, or revocation of a producer's or processor's license are subject to chapter 34.05 RCW, the administrative procedure act, as enacted or hereafter amended.

NEW SECTION. Sec. 608. (1) By January 1, 2013, taking into consideration, but not being limited by, the security requirements described in 21 C.F.R. Sec. 1301.71-1301.76, the director shall adopt rules:

(a) On the inspection or grading and certification of grade, grading factors, condition, cannabinoid profile, THC concentration, or other qualitative measurement of cannabis intended for medical use that must be used by cannabis analysis laboratories in section 604 of this act;

(b) Fixing the sizes, dimensions, and safety and security features required of containers to be used for packing, handling, or storing cannabis intended for medical use;

(c) Establishing labeling requirements for cannabis intended for medical use including, but not limited to:

(i) The business or trade name and Washington state unified business identifier (UBI) number of the licensed producer of the cannabis;

(ii) THC concentration; and

(iii) Information on whether the cannabis was grown using organic, inorganic, or synthetic fertilizers;

(d) Establishing requirements for transportation of cannabis intended for medical use from production facilities to processing facilities and licensed dispensers;

(e) Establishing security requirements for the facilities of licensed producers and licensed processors of cannabis products. These security requirements must consider the safety of the licensed producers and licensed processors as well as the safety of the community surrounding the licensed producers and licensed processors;

(f) Establishing requirements for the licensure of producers, and processors of cannabis products, setting forth procedures to obtain licenses, and determining expiration dates and renewal requirements; and

(g) Establishing license application and renewal fees for the licensure of producers and processors of cannabis products.

(2) Fees collected under this section must be deposited into the agricultural local fund created in RCW 43.23.230.

(3) During the rule-making process, the department of agriculture shall consult with stakeholders and persons with relevant expertise, to include but not be limited to qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the department of health.

NEW SECTION. Sec. 609. (1) Each licensed producer and licensed processor of cannabis products shall maintain complete records at all times with respect to all cannabis produced, processed, weighed, tested, stored, shipped, or sold. The director shall adopt

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rules specifying the minimum recordkeeping requirements necessary to comply with this section.

(2) The property, books, records, accounts, papers, and proceedings of every licensed producer and licensed processor of cannabis products shall be subject to inspection by the department of agriculture at any time during ordinary business hours. Licensed producers and licensed processors of cannabis products shall maintain adequate records and systems for the filing and accounting of crop production, product manufacturing and processing, records of weights and measurements, product testing, receipts, canceled receipts, other documents, and transactions necessary or common to the medical cannabis industry.

(3) The director may administer oaths and issue subpoenas to compel the attendance of witnesses, or the production of books, documents, and records anywhere in the state pursuant to a hearing relative to the purposes and provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel, as provided in chapter 2.40 RCW.

(4) Each licensed producer and licensed processor of cannabis products shall report information to the department of agriculture at such times and as may be reasonably required by the director for the necessary enforcement and supervision of a sound, reasonable, and efficient cannabis inspection program for the protection of the health and welfare of qualifying patients.

**NEW SECTION. Sec. 610.** (1) The department of agriculture may give written notice to a licensed producer or processor of cannabis products to furnish required reports, documents, or other requested information, under such conditions and at such time as the department of agriculture deems necessary if a licensed producer or processor of cannabis products fails to:

(a) Submit his or her books, papers, or property to lawful inspection or audit;

(b) Submit required laboratory results, reports, or documents to the department of agriculture by their due date; or

(c) Furnish the department of agriculture with requested information.

(2) If the licensed producer or processor of cannabis products fails to comply with the terms of the notice within seventy-two hours from the date of its issuance, or within such further time as the department of agriculture may allow, the department of agriculture shall levy a fine of five hundred dollars per day from the final date for compliance allowed by this section or the department of agriculture. In those cases where the failure to comply continues for more than seven days or where the director determines the failure to comply creates a threat to public health, public safety, or a substantial risk of diversion of cannabis to unauthorized persons or purposes, the department of agriculture may, in lieu of levying further fines, petition the superior court of the county where the licensee's principal place of business in Washington is located, as shown by the license application, for an order:

(a) Authorizing the department of agriculture to seize and take possession of all books, papers, and property of all kinds used in connection with the conduct or the operation of the licensed producer or processor's business, and the books, papers, records, and property that pertain specifically, exclusively, and directly to that business; and

(b) Enjoining the licensed producer or processor from interfering with the department of agriculture in the discharge of its duties as required by this chapter.

(3) All necessary costs and expenses, including attorneys' fees, incurred by the department of agriculture in carrying out the provisions of this section may be recovered at the same time and as part of the action filed under this section.

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(4) The department of agriculture may request the Washington state patrol to assist it in enforcing this section if needed to ensure the safety of its employees.

**NEW SECTION. Sec. 611.** (1) A licensed producer may not sell or deliver cannabis to any person other than a cannabis analysis laboratory, licensed processor of cannabis products, licensed dispenser, or law enforcement officer except as provided by court order. A licensed producer may also sell or deliver cannabis to the University of Washington or Washington State University for research purposes, as identified in section 1002 of this act. Violation of this section is a class C felony punishable according to chapter 9A.20 RCW.

(2) A licensed processor of cannabis products may not sell or deliver cannabis to any person other than a cannabis analysis laboratory, licensed dispenser, or law enforcement officer except as provided by court order. A licensed processor of cannabis products may also sell or deliver cannabis to the University of Washington or Washington State University for research purposes, as identified in section 1002 of this act. Violation of this section is a class C felony punishable according to chapter 9A.20 RCW.

## PART VII LICENSED DISPENSERS

**NEW SECTION. Sec. 701.** A person may not act as a licensed dispenser without a license for each place of business issued by the department of health and prominently displayed on the premises. Provided they are acting in compliance with the terms of this chapter and rules adopted to enforce and carry out its purposes, licensed dispensers and their employees, members, officers, and directors may deliver, distribute, dispense, transfer, prepare, package, repackage, label, relabel, sell at retail, or possess cannabis intended for medical use by qualifying patients, including seeds, seedlings, cuttings, plants, useable cannabis, and cannabis products, and may not be arrested, searched, prosecuted, or subject to other criminal sanctions or civil consequences under state law, or have real or personal property searched, seized, or forfeited pursuant to state law, for such activities, notwithstanding any other provision of law.

**NEW SECTION. Sec. 702.** (1) By January 1, 2013, taking into consideration the security requirements described in 21 C.F.R. 1301.71-1301.76, the secretary of health shall adopt rules:

(a) Establishing requirements for the licensure of dispensers of cannabis for medical use, setting forth procedures to obtain licenses, and determining expiration dates and renewal requirements;

(b) Providing for mandatory inspection of licensed dispensers' locations;

(c) Establishing procedures governing the suspension and revocation of licenses of dispensers;

(d) Establishing recordkeeping requirements for licensed dispensers;

(e) Fixing the sizes and dimensions of containers to be used for dispensing cannabis for medical use;

(f) Establishing safety standards for containers to be used for dispensing cannabis for medical use;

(g) Establishing cannabis storage requirements, including security requirements;

(h) Establishing cannabis labeling requirements, to include information on whether the cannabis was grown using organic, inorganic, or synthetic fertilizers;

(i) Establishing physical standards for cannabis dispensing facilities. The physical standards must require a licensed dispenser to ensure that no cannabis or cannabis paraphernalia may be viewed from outside the facility;

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(j) Establishing maximum amounts of cannabis and cannabis products that may be kept at one time at a dispensary. In determining maximum amounts, the secretary must consider the security of the dispensary and the surrounding community;

(k) Establishing physical standards for sanitary conditions for cannabis dispensing facilities;

(l) Establishing physical and sanitation standards for cannabis dispensing equipment;

(m) Establishing a maximum number of licensed dispensers that may be licensed in each county as provided in this section;

(n) Enforcing and carrying out the provisions of this section and the rules adopted to carry out its purposes; and

(o) Establishing license application and renewal fees for the licensure of dispensers in accordance with RCW 43.70.250.

(2)(a) The secretary shall establish a maximum number of licensed dispensers that may operate in each county. Prior to January 1, 2016, the maximum number of licensed dispensers shall be based upon a ratio of one licensed dispenser for every twenty thousand persons in a county. On or after January 1, 2016, the secretary may adopt rules to adjust the method of calculating the maximum number of dispensers to consider additional factors, such as the number of enrollees in the registry established in section 901 of this act and the secretary's experience in administering the program. The secretary may not issue more licenses than the maximum number of licenses established under this section.

(b) In the event that the number of applicants qualifying for the selection process exceeds the maximum number for a county, the secretary shall initiate a random selection process established by the secretary in rule.

(c) To qualify for the selection process, an applicant must demonstrate to the secretary that he or she meets initial screening criteria that represent the applicant's capacity to operate in compliance with this chapter. Initial screening criteria shall include, but not be limited to:

(i) Successful completion of a background check;

(ii) A plan to systematically verify qualifying patient and designated provider status of clients;

(iii) Evidence of compliance with functional standards, such as ventilation and security requirements; and

(iv) Evidence of compliance with facility standards, such as zoning compliance and not using the facility as a residence.

(d) The secretary shall establish a schedule to:

(i) Update the maximum allowable number of licensed dispensers in each county; and

(ii) Issue approvals to operate within a county according to the random selection process.

(3) Fees collected under this section must be deposited into the health professions account created in RCW 43.70.320.

(4) During the rule-making process, the department of health shall consult with stakeholders and persons with relevant expertise, to include but not be limited to qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the department of agriculture.

**NEW SECTION. Sec. 703.** A licensed dispenser may not sell cannabis received from any person other than a licensed producer or licensed processor of cannabis products, or sell or deliver cannabis to any person other than a qualifying patient, designated provider, or law enforcement officer except as provided by court order. A licensed dispenser may also sell or deliver cannabis to the University of Washington or Washington State University for research purposes, as identified in section 1002 of this act. Before selling or providing cannabis to a qualifying patient or designated provider, the licensed dispenser must confirm that the patient qualifies for the medical use of cannabis by contacting, at least once in a one-year period, that patient's health care

professional. Violation of this section is a class C felony punishable according to chapter 9A.20 RCW.

**NEW SECTION. Sec. 704.** A license to operate as a licensed dispenser is not transferrable.

**NEW SECTION. Sec. 705.** The secretary of health shall not issue or renew a license to an applicant or licensed dispenser located within five hundred feet of a community center, child care center, elementary or secondary school, or another licensed dispenser.

## PART VIII

### MISCELLANEOUS PROVISIONS APPLYING TO ALL LICENSED PRODUCERS, PROCESSORS, AND DISPENSERS

**NEW SECTION. Sec. 801.** All weighing and measuring instruments and devices used by licensed producers, processors of cannabis products, and dispensers shall comply with the requirements set forth in chapter 19.94 RCW.

**NEW SECTION. Sec. 802.** (1) No person, partnership, corporation, association, or agency may advertise cannabis for sale to the general public in any manner that promotes or tends to promote the use or abuse of cannabis. For the purposes of this subsection, displaying cannabis, including artistic depictions of cannabis, is considered to promote or to tend to promote the use or abuse of cannabis.

(2) The department of agriculture may fine a licensed producer or processor of cannabis products up to one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the agriculture local fund created in RCW 43.23.230.

(3) The department of health may fine a licensed dispenser up to one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the health professions account created in RCW 43.70.320.

(4) No broadcast television licensee, radio broadcast licensee, newspaper, magazine, advertising agency, or agency or medium for the dissemination of an advertisement, except the licensed producer, processor of cannabis products, or dispenser to which the advertisement relates, is subject to the penalties of this section by reason of dissemination of advertising in good faith without knowledge that the advertising promotes or tends to promote the use or abuse of cannabis.

**NEW SECTION. Sec. 803.** (1) A prior conviction for a cannabis or marijuana offense shall not disqualify an applicant from receiving a license to produce, process, or dispense cannabis for medical use, provided the conviction did not include any sentencing enhancements under RCW 9.94A.533 or analogous laws in other jurisdictions. Any criminal conviction of a current licensee may be considered in proceedings to suspend or revoke a license.

(2) Nothing in this section prohibits either the department of health or the department of agriculture, as appropriate, from denying, suspending, or revoking the credential of a license holder for other drug-related offenses or any other criminal offenses.

(3) Nothing in this section prohibits a corrections agency or department from considering all prior and current convictions in determining whether the possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, is inconsistent with and contrary to the person's supervision.

**NEW SECTION. Sec. 804.** A violation of any provision or section of this chapter that relates to the licensing and regulation of producers, processors, or dispensers, where no other penalty is provided for, and the violation of any rule adopted under this chapter constitutes a misdemeanor.

**NEW SECTION. Sec. 805.** (1) Every licensed producer or processor of cannabis products who fails to comply with this

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chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the director, in an amount of not more than one thousand dollars for every such violation. Each violation shall be a separate and distinct offense.

(2) Every licensed dispenser who fails to comply with this chapter, or any rule adopted under it, may be subjected to a civil penalty, as determined by the secretary, in an amount of not more than one thousand dollars for every such violation. Each violation shall be a separate and distinct offense.

(3) Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated this chapter and may be subject to the penalty provided for in this section.

**NEW SECTION. Sec. 806.** The department of agriculture or the department of health, as the case may be, must immediately suspend any certification of licensure issued under this chapter if the holder of the certificate has been certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate of licensure shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

**NEW SECTION. Sec. 807.** The department of agriculture or the department of health, as the case may be, must suspend the certification of licensure of any person who has been certified by a lending agency and reported to the appropriate department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the department of agriculture or the department of health, as the case may be, must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license may not be reissued until the person provides the appropriate department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for certification or registration during the suspension, reinstatement is automatic upon receipt of the notice and payment of any reinstatement fee.

**PART IX  
SECURE REGISTRATION OF QUALIFYING PATIENTS,  
DESIGNATED PROVIDERS,  
AND LICENSED PRODUCERS, PROCESSORS, AND  
DISPENSERS**

**NEW SECTION. Sec. 901.** (1) By January 1, 2013, the department of health shall, in consultation with the department of agriculture, adopt rules for the creation, implementation, maintenance, and timely upgrading of a secure and confidential registration system that allows:

(a) A peace officer to verify at any time whether a health care professional has registered a person as either a qualifying patient or a designated provider; and

(b) A peace officer to verify at any time whether a person, location, or business is licensed by the department of agriculture or the department of health as a licensed producer, licensed processor of cannabis products, or licensed dispenser.

(2) The department of agriculture must, in consultation with the department of health, create and maintain a secure and confidential list of persons to whom it has issued a license to produce cannabis

for medical use or a license to process cannabis products, and the physical addresses of the licensees' production and processing facilities. The list must meet the requirements of subsection (9) of this section and be transmitted to the department of health to be included in the registry established by this section.

(3) The department of health must, in consultation with the department of agriculture, create and maintain a secure and confidential list of the persons to whom it has issued a license to dispense cannabis for medical use that meets the requirements of subsection (9) of this section and must be included in the registry established by this section.

(4) Before seeking a nonvehicle search warrant or arrest warrant, a peace officer investigating a cannabis-related incident must make reasonable efforts to ascertain whether the location or person under investigation is registered in the registration system, and include the results of this inquiry in the affidavit submitted in support of the application for the warrant. This requirement does not apply to investigations in which:

(a) The peace officer has observed evidence of an apparent cannabis operation that is not a licensed producer, processor of cannabis products, or dispenser;

(b) The peace officer has observed evidence of theft of electrical power;

(c) The peace officer has observed evidence of illegal drugs other than cannabis at the premises;

(d) The peace officer has observed frequent and numerous short-term visits over an extended period that are consistent with commercial activity, if the subject of the investigation is not a licensed dispenser;

(e) The peace officer has observed violent crime or other demonstrated dangers to the community;

(f) The peace officer has probable cause to believe the subject of the investigation has committed a felony, or a misdemeanor in the officer's presence, that does not relate to cannabis; or

(g) The subject of the investigation has an outstanding arrest warrant.

(5) Law enforcement may access the registration system only in connection with a specific, legitimate criminal investigation regarding cannabis.

(6) Registration in the system shall be optional for qualifying patients and designated providers, not mandatory, and registrations are valid for one year, except that qualifying patients must be able to remove themselves from the registry at any time. For licensees, registrations are valid for the term of the license and the registration must be removed if the licensee's license is expired or revoked. The department of health must adopt rules providing for registration renewals and for removing expired registrations and expired or revoked licenses from the registry.

(7) Fees, including renewal fees, for qualifying patients and designated providers participating in the registration system shall be limited to the cost to the state of implementing, maintaining, and enforcing the provisions of this section and the rules adopted to carry out its purposes. The fee shall also include any costs for the department of health to disseminate information to employees of state and local law enforcement agencies relating to whether a person is a licensed producer, processor of cannabis products, or dispenser, or that a location is the recorded address of a license producer, processor of cannabis products, or dispenser, and for the dissemination of log records relating to such requests for information to the subjects of those requests. No fee may be charged to local law enforcement agencies for accessing the registry.

(8) During the rule-making process, the department of health shall consult with stakeholders and persons with relevant expertise, to include, but not be limited to, qualifying patients, designated

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providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab.

(9) The registration system shall meet the following requirements:

(a) Any personally identifiable information included in the registration system must be "nonreversible," pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the registration system must not be susceptible to linkage by use of data external to the registration system;

(c) The registration system must incorporate current best differential privacy practices, allowing for maximum accuracy of registration system queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The registration system must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(10) The registration system shall maintain a log of each verification query submitted by a peace officer, including the peace officer's name, agency, and identification number, for a period of no less than three years from the date of the query. Personally identifiable information of qualifying patients and designated providers included in the log shall be confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW: PROVIDED, That:

(a) Names and other personally identifiable information from the list may be released only to:

(i) Authorized employees of the department of agriculture and the department of health as necessary to perform official duties of either department; or

(ii) Authorized employees of state or local law enforcement agencies, only as necessary to verify that the person or location is a qualified patient, designated provider, licensed producer, licensed processor of cannabis products, or licensed dispenser, and only after the inquiring employee has provided adequate identification. Authorized employees who obtain personally identifiable information under this subsection may not release or use the information for any purpose other than verification that a person or location is a qualified patient, designated provider, licensed producer, licensed processor of cannabis products, or licensed dispenser;

(b) Information contained in the registration system may be released in aggregate form, with all personally identifying information redacted, for the purpose of statistical analysis and oversight of agency performance and actions;

(c) The subject of a registration query may appear during ordinary department of health business hours and inspect or copy log records relating to him or her upon adequate proof of identity; and

(d) The subject of a registration query may submit a written request to the department of health, along with adequate proof of identity, for copies of log records relating to him or her.

(11) This section does not prohibit a department of agriculture employee or a department of health employee from contacting state or local law enforcement for assistance during an emergency or while performing his or her duties under this chapter.

(12) Fees collected under this section must be deposited into the health professions account under RCW 43.70.320.

**NEW SECTION. Sec. 902.** A new section is added to chapter 42.56 RCW to read as follows:

Records containing names and other personally identifiable information relating to qualifying patients, designated providers,

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and persons licensed as producers or dispensers of cannabis for medical use, or as processors of cannabis products, under section 901 of this act are exempt from disclosure under this chapter.

## PART X EVALUATION

**NEW SECTION. Sec. 1001.** (1) By July 1, 2014, the Washington state institute for public policy shall, within available funds, conduct a cost-benefit evaluation of the implementation of this act and the rules adopted to carry out its purposes.

(2) The evaluation of the implementation of this act and the rules adopted to carry out its purposes shall include, but not necessarily be limited to, consideration of the following factors:

(a) Qualifying patients' access to an adequate source of cannabis for medical use;

(b) Qualifying patients' access to a safe source of cannabis for medical use;

(c) Qualifying patients' access to a consistent source of cannabis for medical use;

(d) Qualifying patients' access to a secure source of cannabis for medical use;

(e) Qualifying patients' and designated providers' contact with law enforcement and involvement in the criminal justice system;

(f) Diversion of cannabis intended for medical use to nonmedical uses;

(g) Incidents of home invasion burglaries, robberies, and other violent and property crimes associated with qualifying patients accessing cannabis for medical use;

(h) Whether there are health care professionals who make a disproportionately high amount of authorizations in comparison to the health care professional community at large;

(i) Whether there are indications of health care professionals in violation of RCW 69.51A.030; and

(j) Whether the health care professionals making authorizations reside in this state or out of this state.

(3) For purposes of facilitating this evaluation, the departments of health and agriculture will make available to the Washington state institute for public policy requested data, and any other data either department may consider relevant, from which all personally identifiable information has been redacted.

**NEW SECTION. Sec. 1002.** A new section is added to chapter 28B.20 RCW to read as follows:

The University of Washington and Washington State University may conduct scientific research on the efficacy and safety of administering cannabis as part of medical treatment. As part of this research, the University of Washington and Washington State University may develop and conduct studies to ascertain the general medical safety and efficacy of cannabis and may develop medical guidelines for the appropriate administration and use of cannabis.

## PART XI CONSTRUCTION

**NEW SECTION. Sec. 1101.** (1) No civil or criminal liability may be imposed by any court on the state or its officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

(2) No civil or criminal liability may be imposed by any court on cities, towns, and counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

**NEW SECTION. Sec. 1102.** (1) Cities and towns may adopt and enforce any of the following pertaining to the production,

processing, or dispensing of cannabis or cannabis products within their jurisdiction: Zoning requirements, business licensing requirements, health and safety requirements, and business taxes. Nothing in this act is intended to limit the authority of cities and towns to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.

(2) Counties may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction in locations outside of the corporate limits of any city or town: Zoning requirements, business licensing requirements, and health and safety requirements. Nothing in this act is intended to limit the authority of counties to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.

**NEW SECTION. Sec. 1103.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

**NEW SECTION. Sec. 1104.** In the event that the federal government authorizes the use of cannabis for medical purposes, within a year of such action, the joint legislative audit and review committee shall conduct a program and fiscal review of the cannabis production and dispensing programs established in this chapter. The review shall consider whether a distinct cannabis production and dispensing system continues to be necessary when considered in light of the federal action and make recommendations to the legislature.

**NEW SECTION. Sec. 1105.** (1)(a) The arrest and prosecution protections established in section 401 of this act may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative defenses established in sections 402, 405, 406, and 407 of this act may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) The provisions of RCW 69.51A.040 and sections 403 and 413 of this act do not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

(3) A person may not be licensed as a licensed producer, licensed processor of cannabis products, or a licensed dispenser under section 601, 602, or 701 of this act if he or she is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that licensure is inconsistent with and contrary to his or her supervision.

**Sec. 1106.** RCW 69.51A.900 and 1999 c 2 s 1 are each amended to read as follows:

This chapter may be known and cited as the Washington state medical use of ((marijuana)) cannabis act.

## PART XII MISCELLANEOUS

**NEW SECTION. Sec. 1201.** (1) The legislature recognizes that there are cannabis producers and cannabis dispensaries in operation as of the effective date of this section that are unregulated by the state and who produce and dispense cannabis for medical use by qualifying patients. The legislature intends that these producers and dispensaries become licensed in accordance with the requirements of this chapter and that this licensing provides them with arrest protection so long as they remain in compliance with the requirements of this chapter and the rules adopted under this chapter. The legislature further recognizes that cannabis producers and cannabis dispensaries in current operation are not able to become licensed until the department of agriculture and the department of health adopt rules and, consequently, it is likely they will remain unlicensed until at least January 1, 2013. These producers and dispensary owners and operators run the risk of arrest between the effective date of this section and the time they become licensed. Therefore, the legislature intends to provide them with an affirmative defense if they meet the requirements of this section.

(2) If charged with a violation of state law relating to cannabis, a producer of cannabis or a dispensary and its owners and operators that are engaged in the production or dispensing of cannabis to a qualifying patient or who assists a qualifying patient in the medical use of cannabis is deemed to have established an affirmative defense to such charges by proof of compliance with this section.

(3) In order to assert an affirmative defense under this section, a cannabis producer or cannabis dispensary must:

(a) In the case of producers, solely provide cannabis to cannabis dispensaries for the medical use of cannabis by qualified patients;

(b) In the case of dispensaries, solely provide cannabis to qualified patients for their medical use;

(c) Be registered with the secretary of state as of May 1, 2011;

(d) File a letter of intent with the department of agriculture or the department of health, as the case may be, asserting that the producer or dispenser intends to become licensed in accordance with this chapter and rules adopted by the appropriate department; and

(e) File a letter of intent with the city clerk if in an incorporated area or to the county clerk if in an unincorporated area stating they operate as a producer or dispensary and that they comply with the provisions of this chapter and will comply with subsequent department rule making.

(4) Upon receiving a letter of intent under subsection (3) of this section, the department of agriculture, the department of health, and the city clerk or county clerk must send a letter of acknowledgment to the producer or dispenser. The producer and dispenser must display this letter of acknowledgment in a prominent place in their facility.

(5) Letters of intent filed with a public agency, letters of acknowledgement sent from those agencies, and other materials related to such letters are exempt from public disclosure under chapter 42.56 RCW.

(6) This section expires upon the establishment of the licensing programs of the department of agriculture and the department of health and the commencement of the issuance of licenses for dispensers and producers as provided in this chapter. The department of health and the department of agriculture shall notify the code reviser when the establishment of the licensing programs has occurred.

**NEW SECTION. Sec. 1202.** A new section is added to chapter 42.56 RCW to read as follows:

The following information related to cannabis producers and cannabis dispensers are exempt from disclosure under this section:

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- (1) Letters of intent filed with a public agency under section 1201 of this act;
- (2) Letters of acknowledgement sent from a public agency under section 1201 of this act;
- (3) Materials related to letters of intent and acknowledgement under section 1201 of this act.

**NEW SECTION. Sec. 1203.** (1)(a) On July 1, 2015, the department of health shall report the following information to the state treasurer:

- (i) The expenditures from the health professions account related to the administration of chapter 69.51A RCW between the effective date of this section and June 30, 2015; and
  - (ii) The amounts deposited into the health professions account under sections 702, 802, and 901 of this act between the effective date of this section and June 30, 2015.
- (b) If the amount in (a)(i) of this subsection exceeds the amount in (a)(ii) of this subsection, the state treasurer shall transfer an amount equal to the difference from the general fund to the health professions account.

(2)(a) Annually, beginning July 1, 2016, the department of health shall report the following information to the state treasurer:

- (i) The expenditures from the health professions account related to the administration of chapter 69.51A RCW for the preceding fiscal year; and
  - (ii) The amounts deposited into the health professions account under sections 702, 802, and 901 of this act during the preceding fiscal year.
- (b) If the amount in (a)(i) of this subsection exceeds the amount in (a)(ii) of this subsection, the state treasurer shall transfer an amount equal to the difference from the general fund to the health professions account.

**NEW SECTION. Sec. 1204.** RCW 69.51A.080 (Adoption of rules by the department of health--Sixty-day supply for qualifying patients) and 2007 c 371 s 8 are each repealed.

**NEW SECTION. Sec. 1205.** Sections 402 through 411, 413, 601 through 611, 701 through 705, 801 through 807, 901, 1001, 1101 through 1105, and 1201 of this act are each added to chapter 69.51A RCW.

**NEW SECTION. Sec. 1206.** Section 1002 of this act takes effect January 1, 2013."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5073.

Senators Kohl-Welles, Prentice, Keiser, Delvin, Regala and Pflug spoke in favor of the motion.

Senators Sheldon, Hargrove, Schoesler, Shin, Carrell, Roach and Baxter spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5073.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5073 by a rising vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5073, as amended by the House.

Senators Kohl-Welles, Brown and Baumgartner spoke in favor of passage of the bill.

Senators Sheldon, Hargrove, Becker and Honeyford spoke against passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of to Second Substitute Senate Bill No. 5073, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 21; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Brown, Chase, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Hill, Hobbs, Keiser, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Benton, Carrell, Conway, Ericksen, Hargrove, Haugen, Hewitt, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Morton, Roach, Schoesler, Sheldon, Shin, Stevens and Swecker

Excused: Senator Parlette

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5073, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:07 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:37 p.m. by President Owen.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL 1046,

SECOND SUBSTITUTE HOUSE BILL 1128,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1546.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9081, Kathleen Mix, as a member of the Pollution Control/Shorelines Hearings Board, be confirmed.

Senator Fraser spoke in favor of the motion.

## MOTION

On motion of Senator Ericksen, Senators Benton and Roach were excused.

## MOTION

On motion of Senator White, Senator Shin was excused.

## APPOINTMENT OF KATHLEEN MIX

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9081, Kathleen Mix as a member of the Pollution Control/Shorelines Hearings Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9081, Kathleen Mix as a member of the Pollution Control/Shorelines Hearings Board and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 3; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Hargrove, Murray and Prentice

Excused: Senators Benton and Parlette

Gubernatorial Appointment No. 9081, Kathleen Mix, having received the constitutional majority was declared confirmed as a member of the Pollution Control/Shorelines Hearings Board.

## MOTION

On motion of Senator White, Senator Prentice was excused.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 11, 2011

## MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5487 with the following amendment(s): 5487-S AMH ENGR H2541.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 69.25.020 and 1995 c 374 s 25 are each amended to read as follows:

When used in this chapter the following terms shall have the indicated meanings, unless the context otherwise requires:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof, or assignee for the benefit of creditors.

(4) "Adulterated" applies to any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is: (i) A pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the director, make such article unfit for human food;

(c) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, as enacted or hereafter amended;

(d) If it bears or contains any food additive which is unsafe within the meaning of RCW 69.04.394, as enacted or hereafter amended;

(e) If it bears or contains any color additive which is unsafe within the meaning of RCW 69.04.396(~~as enacted or hereafter amended: PROVIDED, That~~); however, an article which is not otherwise deemed adulterated under subsection (4)(c), (d), or (e) of this section shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the director in official plants;

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(g) If it consists in whole or in part of any damaged egg or eggs to the extent that the egg meat or white is leaking, or it has been contacted by egg meat or white leaking from other eggs;

(h) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(i) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(j) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(k) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394; or

(l) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(5) "Capable of use as human food" shall apply to any egg or egg product unless it is denatured, or otherwise identified, as required by regulations prescribed by the director, to deter its use as human food.

(6) "Intrastate commerce" means any eggs or egg products in intrastate commerce, whether such eggs or egg products are intended for sale, held for sale, offered for sale, sold, stored, transported, or handled in this state in any manner and prepared for eventual distribution in this state, whether at wholesale or retail.

(7) "Container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(8) "Immediate container" means any consumer package, or any other container in which egg products, not consumer-packaged, are packed.

(9) "Shipping container" means any container used in packaging a product packed in an immediate container.

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(10) "Egg handler" or "dealer" means any person who produces, contracts for or obtains possession or control of any eggs or egg products for the purpose of sale to another dealer or retailer, or for processing and sale to a dealer, retailer or consumer(~~PROVIDED, That~~). For the purpose of this chapter, "sell" or "sale" includes the following: Offer for sale, expose for sale, have in possession for sale, exchange, barter, trade, or as an inducement for the sale of another product.

(11)(a) "Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion, or historically have not been, in the judgment of the director, considered by consumers as products of the egg food industry, and which may be exempted by the director under such conditions as ~~(he)~~ the director may prescribe to assure that the egg ingredients are not adulterated and ~~(such products)~~ are not represented as egg products.

(b) The following products are not included in the definition of "egg product" if they are prepared from eggs or egg products that have been either inspected by the United States department of agriculture or by the department under a cooperative agreement with the United States department of agriculture: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, egg nog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, balut and other similar ethnic delicacies, and sandwiches containing eggs or egg products.

(12) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea, or any other specie of fowl.

(13) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(14) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(15) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(16) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(17) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(18) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(19) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(20) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(21) "Inspection" means the application of such inspection methods and techniques as are deemed necessary by the director to carry out the provisions of this chapter.

(22) "Inspector" means any employee or official of the department authorized to inspect eggs or egg products under the authority of this chapter.

(23) "Misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the director under RCW 69.25.100.

(24) "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this chapter.

(25) "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

(26) "Official inspection legend" means any symbol prescribed by regulations of the director showing that egg products were inspected in accordance with this chapter.

(27) "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article under this chapter.

(28) "Official plant" means any plant which is licensed under the provisions of this chapter, at which inspection of the processing of egg products is maintained by the United States department of agriculture or by the state under cooperative agreements with the United States department of agriculture or by the state.

(29) "Official standards" means the standards of quality, grades, and weight classes for eggs, adopted under the provisions of this chapter.

(30) "Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful, viable micro-organisms by such processes as may be prescribed by regulations of the director.

(31) "Pesticide chemical", "food additive", "color additive", and "raw agricultural commodity" shall have the same meaning for purposes of this chapter as prescribed in chapter 69.04 RCW.

(32) "Plant" means any place of business where egg products are processed.

(33) "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(34) "Retailer" means any person in intrastate commerce who sells eggs to a consumer.

(35) "At retail" means any transaction in intrastate commerce between a retailer and a consumer.

(36) "Consumer" means any person who purchases eggs for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or other institution or concern which purchases eggs for serving to guests or patrons thereof, or for its own use in cooking or baking.

(37) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

(38) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(39) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.

**Sec. 2.** RCW 69.25.050 and 1995 c 374 s 26 are each amended to read as follows:

(1)(a) No person shall act as an egg handler or dealer without first obtaining an annual license and permanent dealer's number from the department(~~; such license shall expire on the master license expiration date~~).

(b) Application for an egg dealer license or egg dealer branch license(~~, shall~~) must be made through the master license system as provided under chapter 19.02 RCW and expires on the master license expiration date. The annual egg dealer license fee (~~shall be~~) is thirty dollars and the annual egg dealer branch license fee (~~shall be~~) is fifteen dollars. A copy of the master license (~~shall~~) must be posted at each location where (~~such~~) the licensee operates. (~~Such~~) The application (~~shall~~) must include the full name of the applicant for the license (~~and~~), the location of each facility (~~he~~) the applicant intends to operate, and, if applicable, documentation of compliance with section 3 or 4 of this act.

(2) If (~~such~~) an applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership or the names of the officers of the association or corporation shall be given on the application.

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~~((Such))~~ The application ~~((shall))~~ must further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant and any other necessary information prescribed by the director.

(3) The applicant must be issued a license or renewal under this section upon the approval of the application and compliance with the provisions of this chapter, including the applicable ~~((regulations))~~ rules adopted ~~((hereunder))~~ by the department ~~((the applicant shall be issued a license or renewal thereof)).~~

~~((Such))~~ (4) The license and permanent egg handler or dealer's number ~~((shall be))~~ is nontransferable.

NEW SECTION. Sec. 3. A new section is added to chapter 69.25 RCW to read as follows:

(1) All new and renewal applications submitted under RCW 69.25.050 before January 1, 2026, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations:

(a) With a current certification under the 2010 version of the united egg producers animal husbandry guidelines for United States egg laying flocks for conventional cage systems or cage-free systems or a subsequent version of the guidelines recognized by the department in rule; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(2) All new and renewal applications submitted under RCW 69.25.050 before January 1, 2017, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations whose housing facilities, if built between January 1, 2012, and December 31, 2016, are either:

(a) Approved under, or convertible to, the American humane association facility system plan for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are convertible to the standards identified in section 5 of this act; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(3) All new and renewal applications submitted under RCW 69.25.050 between January 1, 2017, and December 31, 2025, must, in addition to complying with subsection (1) of this section, include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations whose housing facilities, if built on or after January 1, 2012, are either:

(a) Approved under the American humane association facility system plan and audit protocol for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized by the department in rule and, in addition, are operated to the standards identified in section 5 of this act; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(4) All new and renewal applications submitted under RCW 69.25.050 on or after January 1, 2026, must include proof that all eggs and egg products provided in intrastate commerce by the applicant are produced by commercial egg layer operations that are either:

(a) Approved under the American humane association facility system plan and audit protocol for enriched colony housing in effect on January 1, 2011, or a subsequent version of the plan recognized

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by the department in rule and, in addition, are operated to the standards identified in section 5 of this act; or

(b) Operated in strict compliance with any standards, adopted by the department in rule, that are equivalent to or more stringent than the standards identified in (a) of this subsection.

(5) The following are exempt from the requirements of subsections (2) and (3) of this section:

(a) Applicants with fewer than three thousand laying chickens; and

(b) Commercial egg layer operations when producing eggs or egg products from turkeys, ducks, geese, guineas, or other species of fowl other than domestic chickens.

NEW SECTION. Sec. 4. A new section is added to chapter 69.25 RCW to read as follows:

Any egg handler or dealer involved with the in-state production of eggs or egg products only intended for sale outside of the state of Washington must ensure that the associated commercial egg layer operation is in compliance with the applicable standards as provided in section 3 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 69.25 RCW to read as follows:

(1) All commercial egg layer operations required under section 3 of this act to meet the American humane association facility system plan, or an equivalent to the plan, must also ensure that all hens in the operation are provided with:

(a) No less than one hundred sixteen and three-tenths square inches of space per hen; and

(b) Access to areas for nesting, scratching, and perching.

(2) The requirements of this section apply for any commercial egg layer operation on the same dates that section 3 of this act requires compliance with the American humane association facility system plan or an equivalent to the plan.

Sec. 6. RCW 69.25.250 and 1995 c 374 s 29 are each amended to read as follows:

~~(1)(a)~~ There is hereby levied an assessment not to exceed three mills per dozen eggs entering intrastate commerce, as prescribed by rules ~~((and regulations))~~ issued by the director. ~~((Such))~~ The assessment ~~((shall be))~~ is applicable to all eggs entering intrastate commerce, except as provided in RCW 69.25.170 and 69.25.290 ~~((Such assessment shall)), and must be paid to the director on a monthly basis on or before the tenth day following the month~~ ~~((such))~~ the eggs enter intrastate commerce.

~~(b)~~ The director may require reports by egg handlers or dealers along with the payment of the assessment fee. ~~((Such))~~ The reports may include any and all pertinent information necessary to carry out the purposes of this chapter.

~~(c)~~ The director may, by ~~((regulations))~~ rule, require egg container manufacturers to report on a monthly basis all egg containers sold to any egg handler or dealer and bearing such egg handler or dealer's permanent number.

(2) Egg products in intrastate commerce are exempt from the assessment in subsection (1) of this section.

NEW SECTION. Sec. 7. This act takes effect August 1, 2012.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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Senator Hatfield moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5487.

Senator Hatfield spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hatfield that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5487.

The motion by Senator Hatfield carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5487 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5487, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5487, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Pflug, Pridemore, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Fraser, Hill, Holmquist Newbry, Keiser, Kline, Kohl-Welles, McAuliffe, Nelson, Ranker, Regala, Tom and White

Absent: Senator Murray

Excused: Senators Parlette and Prentice

SUBSTITUTE SENATE BILL NO. 5487, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, Senator Murray was excused.

MESSAGE FROM THE HOUSE

April 12, 2011

MR. PRESIDENT:

The House passed SENATE JOINT MEMORIAL NO. 8008 with the following amendment(s): 8008 AMH SHEA REIN 169

On page 2, beginning on line 14, after "Labor" strike all material through "account" on line 18 and insert "provide federal unemployment tax relief to Washington state unemployment tax paying employers, and a financial benefit to the state's unemployment insurance trust fund equal to any benefit provided to states that borrowed from the federal unemployment account" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Senate Joint Memorial No. 8008.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senator Delvin was excused.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Senate Joint Memorial No. 8008.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Senate Joint Memorial No. 8008 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8008, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8008, as amended by the House, and the memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Parlette and Prentice

SENATE JOINT MEMORIAL NO. 8008, as amended by the House, having received the constitutional majority, was declared passed.

MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 5656. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5656-S.E AMH KAGI H2697.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter shall be known and cited as the "Washington state Indian child welfare act."

NEW SECTION. **Sec. 2.** APPLICATION. This chapter shall apply in all child custody proceedings as that term is defined in this chapter. Whenever there is a conflict between chapter 13.32A, 13.34, 13.36, 26.10, or 26.33 RCW, the provisions of this chapter shall apply.

NEW SECTION. **Sec. 3.** INTENT. The legislature finds that the state is committed to protecting the essential tribal relations and best interests of Indian children by promoting practices designed to prevent out-of-home placement of Indian children that is inconsistent with the rights of the parents, the health, safety, or welfare of the children, or the interests of their tribe. Whenever out-of-home placement of an Indian child is necessary in a proceeding subject to the terms of the federal Indian child welfare act and in this chapter, the best interests of the Indian child may be served by placing the Indian child in accordance with the placement priorities expressed in this chapter. The legislature further finds that where placement away from the parent or Indian custodian is necessary for the child's safety, the state is committed to a placement that reflects and honors the unique values of the child's tribal culture and is best able to assist the Indian child in establishing, developing,

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and maintaining a political, cultural, social, and spiritual relationship with the child's tribe and tribal community.

It is the intent of the legislature that this chapter is a step in clarifying existing laws and codifying existing policies and practices. This chapter shall not be construed to reject or eliminate current policies and practices that are not included in its provisions.

The legislature further intends that nothing in this chapter is intended to interfere with policies and procedures that are derived from agreements entered into between the department and a tribe or tribes, as authorized by section 109 of the federal Indian child welfare act. The legislature finds that this chapter specifies the minimum requirements that must be applied in a child custody proceeding and does not prevent the department from providing a higher standard of protection to the right of any Indian child, parent, Indian custodian, or Indian child's tribe.

It is also the legislature's intent that the department's policy manual on Indian child welfare, the tribal-state agreement, and relevant local agreements between individual federally recognized tribes and the department should serve as persuasive guides in the interpretation and implementation of the federal Indian child welfare act, this chapter, and other relevant state laws.

**NEW SECTION. Sec. 4. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Active efforts" means the following:

(a) In any foster care placement or termination of parental rights proceeding of an Indian child under chapter 13.34 RCW and this chapter where the department or a supervising agency as defined in RCW 74.13.020 has a statutory or contractual duty to provide services to, or procure services for, the parent or parents or Indian custodian, or is providing services to a parent or parents or Indian custodian pursuant to a disposition order entered pursuant to RCW 13.34.130, the department or supervising agency shall make timely and diligent efforts to provide or procure such services, including engaging the parent or parents or Indian custodian in reasonably available and culturally appropriate preventive, remedial, or rehabilitative services. This shall include those services offered by tribes and Indian organizations whenever possible. At a minimum "active efforts" shall include:

(i) In any dependency proceeding under chapter 13.34 RCW seeking out-of-home placement of an Indian child in which the department or supervising agency provided voluntary services to the parent, parents, or Indian custodian prior to filing the dependency petition, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs to prevent the breakup of the family beyond simply providing referrals to such services.

(ii) In any dependency proceeding under chapter 13.34 RCW, in which the petitioner is seeking the continued out-of-home placement of an Indian child, the department or supervising agency must show to the court that it has actively worked with the parent, parents, or Indian custodian in accordance with existing court orders and the individual service plan to engage them in remedial services and rehabilitative programs to prevent the breakup of the family beyond simply providing referrals to such services.

(iii) In any termination of parental rights proceeding regarding an Indian child under chapter 13.34 RCW in which the department or supervising agency provided services to the parent, parents, or Indian custodian, a showing to the court that the department or supervising agency social workers actively worked with the parent, parents, or Indian custodian to engage them in remedial services and rehabilitation programs ordered by the court or identified in the department or supervising agency's individual service and safety plan beyond simply providing referrals to such services.

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(b) In any foster care placement or termination of parental rights proceeding in which the petitioner does not otherwise have a statutory or contractual duty to directly provide services to, or procure services for, the parent or Indian custodian, "active efforts" means a documented, concerted, and good faith effort to facilitate the parent's or Indian custodian's receipt of and engagement in services capable of meeting the criteria set out in (a) of this subsection.

(2) "Best interests of the Indian child" means the use of practices in accordance with the federal Indian child welfare act, this chapter, and other applicable law, that are designed to accomplish the following: (a) Protect the safety, well-being, development, and stability of the Indian child; (b) prevent the unnecessary out-of-home placement of the Indian child; (c) acknowledge the right of Indian tribes to maintain their existence and integrity which will promote the stability and security of their children and families; (d) recognize the value to the Indian child of establishing, developing, or maintaining a political, cultural, social, and spiritual relationship with the Indian child's tribe and tribal community; and (e) in a proceeding under this chapter where out-of-home placement is necessary, to prioritize placement of the Indian child in accordance with the placement preferences of this chapter.

(3) "Child custody proceeding" includes:

(a) "Foster care placement" which means any action removing an Indian child from his or her parent or Indian custodian for temporary placement in a foster home, institution, or with a relative, guardian, conservator, or suitable other person where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) "Termination of parental rights" which means any action resulting in the termination of the parent-child relationship;

(c) "Preadoptive placement" which means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights but before or in lieu of adoptive placement; and

(d) "Adoptive placement" which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

These terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a dissolution proceeding of custody to one of the parents.

(4) "Court of competent jurisdiction" means a federal court, or a state court that entered an order in a child custody proceeding involving an Indian child, as long as the state court had proper subject matter jurisdiction in accordance with this chapter and the laws of that state, or a tribal court that had or has exclusive or concurrent jurisdiction pursuant to 25 U.S.C. Sec. 1911.

(5) "Department" means the department of social and health services and any of its divisions. "Department" also includes supervising agencies as defined in RCW 74.13.020(12) with which the department entered into a contract to provide services, care, placement, case management, contract monitoring, or supervision to children subject to a petition filed under chapter 13.34 or 26.33 RCW.

(6) "Indian" means a person who is a member of an Indian tribe, or who is an Alaska native and a member of a regional corporation as defined in 43 U.S.C. Sec. 1606.

(7) "Indian child" means an unmarried and unemancipated Indian person who is under eighteen years of age and is either: (a) A member of an Indian tribe; or (b) eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(8) "Indian child's family" or "extended family member" means an individual, defined by the law or custom of the child's tribe, as a

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relative of the child. If the child's tribe does not identify such individuals by law or custom, the term means an adult who is the Indian child's grandparent, aunt, uncle, brother, sister, brother-in-law, sister-in-law, niece, nephew, first or second cousin, or step-parent, even following termination of the marriage.

(9) "Indian child's tribe" means a tribe in which an Indian child is a member or eligible for membership.

(10) "Indian custodian" means an Indian person who under tribal law, tribal custom, or state law, has legal or temporary physical custody of an Indian child, or to whom the parent has transferred temporary care, physical custody, and control of an Indian child.

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including any Alaska native village as defined in 43 U.S.C. Sec. 1602(c).

(12) "Member" and "membership" means a determination by an Indian tribe that a person is a member or eligible for membership in that Indian tribe.

(13) "Parent" means a biological parent or parents of an Indian child or a person who has lawfully adopted an Indian child, including adoptions made under tribal law or custom. "Parent" does not include an unwed father whose paternity has not been acknowledged or established under chapter 26.26 RCW or the applicable laws of other states.

(14) "Secretary of the interior" means the secretary of the United States department of the interior.

(15) "Tribal court" means a court or body vested by an Indian tribe with jurisdiction over child custody proceedings, including but not limited to a federal court of Indian offenses, a court established and operated under the code or custom of an Indian tribe, or an administrative body of an Indian tribe vested with authority over child custody proceedings.

(16) "Tribal customary adoption" means adoption or other process through the tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent and through which the nonparent is vested with the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

**NEW SECTION. Sec. 5. DETERMINATION OF INDIAN STATUS.** Any party seeking the foster care placement of, termination of parental rights over, or the adoption of a child must make a good faith effort to determine whether the child is an Indian child. This shall be done by consultation with the child's parent or parents, any person who has custody of the child or with whom the child resides, and any other person that reasonably can be expected to have information regarding the child's possible membership or eligibility for membership in an Indian tribe to determine if the child is an Indian child, and by contacting any Indian tribe in which the child may be a member or may be eligible for membership. Preliminary contacts for the purpose of making a good faith effort to determine a child's possible Indian status, do not constitute legal notice as required by section 7 of this act.

**NEW SECTION. Sec. 6. JURISDICTION.** (1) An Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of that tribe, unless the tribe has consented to the state's concurrent jurisdiction, the tribe has expressly declined to exercise its exclusive jurisdiction, or the state is exercising emergency jurisdiction in strict compliance with section 14 of this act.

(2) If an Indian child is already a ward of a tribal court at the start of the child custody proceeding, the Indian tribe may retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

**NEW SECTION. Sec. 7. NOTICE.** (1) In any involuntary child custody proceeding seeking the foster care placement of, or the termination of parental rights to, a child in which the petitioning party or the court knows, or has reason to know, that the child is or may be an Indian child as defined in this chapter, the petitioning party shall notify the parent or Indian custodian and the Indian child's tribe or tribes, by certified mail, return receipt requested, and by use of a mandatory Indian child welfare act notice. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the secretary of the interior by registered mail, return receipt requested, in accordance with the regulations of the bureau of Indian affairs. The secretary of the interior has fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe. The parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for the proceeding.

(2) The determination of the Indian status of a child shall be made as soon as practicable in order to serve the best interests of the Indian child and protect the interests of the child's tribe.

(3)(a) A written determination by an Indian tribe that a child is a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is an Indian child;

(b) A written determination by an Indian tribe that a child is not a member of or eligible for membership in that tribe, or testimony by the tribe attesting to such status shall be conclusive that the child is not a member or eligible for membership in that tribe. Such determinations are presumptively those of the tribe where submitted in the form of a tribal resolution, or signed by or testified to by the person(s) authorized by the tribe's governing body to speak for the tribe, or by the tribe's agent designated to receive notice under the federal Indian child welfare act where such designation is published in the federal register;

(c) Where a tribe provides no response to notice under section 7 of this act, such nonresponse shall not constitute evidence that the child is not a member or eligible for membership. Provided, however, that under such circumstances the party asserting application of the federal Indian child welfare act, or this chapter, will have the burden of proving by a preponderance of the evidence that the child is an Indian child.

(4)(a) Where a child has been determined not to be an Indian child, any party to the proceeding, or an Indian tribe that subsequently determines the child is a member, may, during the pendency of any child custody proceeding to which this chapter or the federal Indian child welfare act applies, move the court for redetermination of the child's Indian status based upon new evidence, redetermination by the child's tribe, or newly conferred federal recognition of the tribe.

(b) This subsection (4) does not affect the rights afforded under 25 U.S.C. Sec. 1914.

**NEW SECTION. Sec. 8. TRANSFER OF JURISDICTION.** (1) In any proceeding for the foster care placement of, or termination of parental rights to, an Indian child who is not domiciled or residing within the reservation of the Indian child's tribe, the court shall, in the absence of good cause to the contrary, transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the motion of any of the following persons:

(a) Either of the child's parents;

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- (b) The child's Indian custodian;
- (c) The child's tribe; or
- (d) The child, if age twelve or older.

The transfer shall be subject to declination by the tribe. The tribe shall have seventy-five days to affirmatively respond to a motion or order transferring jurisdiction to the tribal court. A failure of the tribe to respond within the seventy-five day period shall be construed as a declination to accept transfer of the case.

(2) If the child's tribe has not formally intervened, the moving party shall serve a copy of the motion and all supporting documents on the tribal court to which the moving party seeks transfer.

(3) If either of the Indian child's parents objects to transfer of the proceeding to the Indian child's tribe, the court shall not transfer the proceeding.

(4) Following entry of an order transferring jurisdiction to the Indian child's tribe:

(a) Upon receipt of an order from a tribal court accepting jurisdiction, the state court shall dismiss the child custody proceeding without prejudice.

(b) Pending receipt of such tribal court order, the state court may conduct additional hearings and enter orders which strictly comply with the requirements of the federal Indian child welfare act and this chapter. The state court shall not enter a final order in any child custody proceeding, except an order dismissing the proceeding and returning the Indian child to the care of the parent or Indian custodian from whose care the child was removed, while awaiting receipt of a tribal court order accepting jurisdiction, or in the absence of a tribal court order or other formal written declination of jurisdiction.

(c) If the Indian child's tribe declines jurisdiction, the state court shall enter an order vacating the order transferring jurisdiction and proceed with adjudication of the child custody matter in strict compliance with the federal Indian child welfare act, this chapter, and any applicable tribal-state agreement.

**NEW SECTION. Sec. 9. INTERVENTION.** The Indian child, the Indian child's tribe or tribes, and the Indian custodian have the right to intervene at any point in any child custody proceeding involving the Indian child.

**NEW SECTION. Sec. 10. FULL FAITH AND CREDIT.** The state shall give full faith and credit to the public acts, records, judicial proceedings, and judgments of any Indian tribe applicable to Indian child custody proceedings.

**NEW SECTION. Sec. 11. RIGHT TO COUNSEL.** In any child custody proceeding under this chapter in which the court determines the Indian child's parent or Indian custodian is indigent, the parent or Indian custodian shall have the right to court-appointed counsel. The court may, in its discretion, appoint counsel for the Indian child upon a finding that the appointment is in the best interests of the Indian child.

**NEW SECTION. Sec. 12. RIGHT TO ACCESS TO EVIDENCE.** Each party to a child custody proceeding involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to the proceeding may be based.

**NEW SECTION. Sec. 13. EVIDENTIARY REQUIREMENTS.** (1) A party seeking to effect an involuntary foster care placement of or the involuntary termination of parental rights to an Indian child shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(2) No involuntary foster care placement may be ordered in a child custody proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by

the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For purposes of this subsection, any harm that may result from interfering with the bond or attachment between the foster parent and the child shall not be the sole basis or primary reason for continuing the child in foster care.

(3) No involuntary termination of parental rights may be ordered in a child custody proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. For the purposes of this subsection, any harm that may result from interfering with the bond or attachment that may have formed between the child and a foster care provider shall not be the sole basis or primary reason for termination of parental rights over an Indian child.

(4)(a) For purposes of this section, "qualified expert witness" means a person who provides testimony in a proceeding under this chapter to assist a court in the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child. In any proceeding in which the child's Indian tribe has intervened pursuant to section 9 of this act or, if the department is the petitioner and the Indian child's tribe has entered into a local agreement with the department for the provision of child welfare services, the petitioner shall contact the tribe and ask the tribe to identify a tribal member or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices. The petitioner shall notify the child's Indian tribe of the need to provide a "qualified expert witness" at least twenty days prior to any evidentiary hearing in which the testimony of the witness will be required. If the child's Indian tribe does not identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner may proceed to identify such a witness pursuant to (b) of this subsection.

(b) In any proceeding in which the child's Indian tribe has not intervened or entered into a local agreement with the department for the provision of child welfare services, or a child's Indian tribe has not responded to a request to identify a "qualified expert witness" for the proceeding on a timely basis, the petitioner shall provide a "qualified expert witness" who meets one or more of the following requirements in descending order of preference:

(i) A member of the child's Indian tribe or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs as they pertain to family organization or child rearing practices for this purpose;

(ii) Any person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe;

(iii) Any person having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe; or

(iv) A professional person having substantial education and experience in the area of his or her specialty.

(c) When the petitioner is the department or a supervising agency, the currently assigned department or agency caseworker or the caseworker's supervisor may not testify as a "qualified expert witness" for purposes of this section. Nothing in this section shall bar the assigned department or agency caseworker or the caseworker's supervisor from testifying as an expert witness for other purposes in a proceeding under this chapter. Nothing in this section shall bar other department or supervising agency employees

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with appropriate expert qualifications or experience from testifying as a "qualified expert witness" in a proceeding under this chapter. Nothing in this section shall bar the petitioner or any other party in a proceeding under this chapter from providing additional witnesses or expert testimony, subject to the approval of the court, on any issue before the court including the determination of whether the continued custody of the child by, or return of the child to, the parent, parents, or Indian custodian, is likely to result in serious emotional or physical damage to the child.

**NEW SECTION. Sec. 14. EMERGENCY REMOVAL OF AN INDIAN CHILD.** (1) Notwithstanding any other provision of federal or state law, nothing shall be construed to prevent the department or law enforcement from the emergency removal of an Indian child who is a resident of or is domiciled on an Indian reservation, but is temporarily located off the reservation, from his or her parent or Indian custodian or the emergency placement of such child in a foster home, under applicable state law, to prevent imminent physical damage or harm to the child.

(2) The department or law enforcement agency shall ensure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of the federal Indian child welfare act and this chapter to transfer the child to the jurisdiction of the appropriate Indian tribe or restore the child to the child's parent or Indian custodian, if appropriate.

(3) When the nature of the emergency allows, the department must notify the child's tribe before the removal has occurred. If prior notification is not possible, the department shall notify the child's tribe by the quickest means possible. The notice must contain the basis for the Indian child's removal, the time, date, and place of the initial hearing, and the tribe's right to intervene and participate in the proceeding. This notice shall not constitute the notice required under section 7 of this act for purposes of subsequent dependency, termination of parental rights, or adoption proceedings.

**NEW SECTION. Sec. 15. CONSENT.** (1) If an Indian child's parent or Indian custodian voluntarily consents to a foster care placement of the child or to termination of parental rights, the consent is not valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court must also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent for release of custody given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) An Indian child's parent or Indian custodian may withdraw consent to a voluntary foster care placement at any time and, upon the withdrawal of consent, the child shall be returned to the parent or Indian custodian.

(3) In a voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of an order terminating parental rights or a final decree of adoption, and the child shall be returned to the parent.

(4) After the entry of a final decree of adoption of an Indian child, the parent may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress. Upon a finding that such consent was obtained through fraud or duress the court shall vacate the decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under this section unless otherwise allowed by state law.

**NEW SECTION. Sec. 16. IMPROPER REMOVAL OF AN INDIAN CHILD.** If a petitioner in a child custody proceeding under this chapter has improperly removed the child from the custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over the petition and shall immediately return the child to the child's parent or Indian custodian unless returning the child to the parent or Indian custodian would subject the child to substantial and immediate danger or threat of such danger.

**NEW SECTION. Sec. 17. REMOVAL OF INDIAN CHILD FROM ADOPTIVE OR FOSTER CARE PLACEMENT.** (1) If a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, the biological parent or prior Indian custodian may petition to have the child returned to their custody and the court shall grant the request unless there is a showing by clear and convincing evidence that return of custody to the biological parent or prior Indian custodian is not in the best interests of the Indian child.

(2) If an Indian child is removed from a foster care placement or a preadoptive or adoptive home for the purpose of further foster care, preadoptive, or adoptive placement, the placement shall be in accordance with this chapter, except when an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

**NEW SECTION. Sec. 18. PLACEMENT PREFERENCES.** (1) When an emergency removal, foster care placement, or preadoptive placement of an Indian child is necessary, a good faith effort will be made to place the Indian child:

(a) In the least restrictive setting;  
 (b) Which most approximates a family situation;  
 (c) Which is in reasonable proximity to the Indian child's home; and

(d) In which the Indian child's special needs, if any, will be met.  
 (2) In any foster care or preadoptive placement, a preference shall be given, in absence of good cause to the contrary, to the child's placement with one of the following:

(a) A member of the child's extended family.  
 (b) A foster home licensed, approved, or specified by the child's tribe.  
 (c) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

(d) A child foster care agency approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(e) A non-Indian child foster care agency approved by the child's tribe.

(f) A non-Indian family that is committed to:  
 (i) Promoting and allowing appropriate extended family visitation;

(ii) Establishing, maintaining, and strengthening the child's relationship with his or her tribe or tribes; and

(iii) Participating in the cultural and ceremonial events of the child's tribe.

(3) In the absence of good cause to the contrary, any adoptive or other permanent placement of an Indian child, preference shall be given to a placement with one of the following, in descending priority order:

(a) Extended family members;  
 (b) An Indian family of the same tribe as the child;  
 (c) An Indian family that is of a similar culture to the child's tribe;

(d) Another Indian family; or

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(e) Any other family which can provide a suitable home for an Indian child, such suitability to be determined in consultation with the Indian child's tribe or, in proceedings under chapter 13.34 RCW where the Indian child is in the custody of the department or a supervising agency and the Indian child's tribe has not intervened or participated, the local Indian child welfare advisory committee.

(4) Notwithstanding the placement preferences listed in subsections (2) and (3) of this section, if a different order of placement preference is established by the child's tribe, the court or agency effecting the placement shall follow the order of preference established by the tribe so long as the placement is in the least restrictive setting appropriate to the particular needs of the child.

(5) Where appropriate, the preference of the Indian child or his or her parent shall be considered by the court. Where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(6) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family members of an Indian child reside, or with which the parent or extended family members maintain social and cultural ties.

(7) Nothing in this section shall prevent the department or the court from placing the child with a parent to effectuate a permanent plan regardless of the parent's relationship to the child's tribe.

**NEW SECTION. Sec. 19. COMPLIANCE.** (1) The department, in consultation with Indian tribes, shall establish standards and procedures for the department's review of cases subject to this chapter and methods for monitoring the department's compliance with provisions of the federal Indian child welfare act and this chapter. These standards and procedures and the monitoring methods shall also be integrated into the department's child welfare contracting and contract monitoring process.

(2) Nothing in this chapter shall affect, impair, or limit rights or remedies provided to any party under the federal Indian child welfare act, 25 U.S.C. Sec. 1914.

**NEW SECTION. Sec. 20. SEVERABILITY.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Sec. 21.** RCW 13.32A.152 and 2004 c 64 s 5 are each amended to read as follows:

(1) Whenever a child in need of services petition is filed by: (a) A youth pursuant to RCW 13.32A.150; (b) the child or the child's parent pursuant to RCW 13.32A.120; or (c) the department pursuant to RCW 13.32A.140, the filing party shall have a copy of the petition served on the parents of the youth. Service shall first be attempted in person and if unsuccessful, then by certified mail with return receipt.

(2) Whenever a child in need of services petition is filed by a youth or parent pursuant to RCW 13.32A.150, the court shall immediately notify the department that a petition has been filed.

~~(3)((a) Whenever) When a child in need of services petition is filed by the department, and the court or the petitioning party knows or has reason to know that an Indian child is involved, the (petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.~~

~~—(b) The notice shall: (i) Contain a statement notifying the~~

~~parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court)) provisions of chapter 13.--- RCW (the new chapter created in section 35 of this act) apply.~~

**Sec. 22.** RCW 13.34.030 and 2010 1st sp.s. c 8 s 13, 2010 c 272 s 10, and 2010 c 94 s 6 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior

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court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, disability lifeline benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ((25 U.S.C. Sec. 1903(4))) section 4 of this act.

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

**Sec. 23.** RCW 13.34.040 and 2004 c 64 s 3 are each amended to read as follows:

(1) Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent child and requesting that the superior court deal with such child as provided in this chapter. There shall be no fee for filing such petitions.

(2) In counties having paid probation officers, these officers shall, to the extent possible, first determine if a petition is reasonably justifiable. Each petition shall be verified and contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of the alleged dependent child.

(3) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)) chapter 13--- RCW (the new chapter created in section 35 of this act) shall apply.

(4) Every order or decree entered under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice requirements and evidentiary requirements under the federal Indian child welfare act and chapter 13--- RCW (the new chapter created in section 35 of this act) have been satisfied.

**Sec. 24.** RCW 13.34.065 and 2009 c 520 s 22, 2009 c 491 s 1, 2009 c 477 s 3, and 2009 c 397 s 2 are each reenacted and amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department or supervising agency shall submit a recommendation to the court as to the further need for shelter care in

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all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the

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child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in (~~25 U.S.C. Sec. 1903~~) section 4 of this act, whether the provisions of the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.--- RCW (the new chapter created in section 35 of this act), including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for

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the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

**Sec. 25.** RCW 13.34.070 and 2004 c 64 s 4 are each amended to read as follows:

(1) Upon the filing of the petition, the clerk of the court shall issue a summons, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. If the child is developmentally disabled and not living at home, the

notice shall be given to the child's custodian as well as to the child's parent. The developmentally disabled child shall not be required to appear unless requested by the court. When the custodian is summoned, the parent or guardian or both shall also be served with a summons. The fact-finding hearing on the petition shall be held no later than seventy-five days after the filing of the petition, unless exceptional reasons for a continuance are found. The party requesting the continuance shall have the burden of proving by a preponderance of the evidence that exceptional circumstances exist. To ensure that the hearing on the petition occurs within the seventy-five day time limit, the court shall schedule and hear the matter on an expedited basis.

(2) A copy of the petition shall be attached to each summons.

(3) The summons shall advise the parties of the right to counsel. The summons shall also inform the child's parent, guardian, or legal custodian of his or her right to appointed counsel, if indigent, and of the procedure to use to secure appointed counsel.

(4) The summons shall advise the parents that they may be held responsible for the support of the child if the child is placed in out-of-home care.

(5) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him or her to the place of shelter designated by the court.

(7) If the person summoned as provided in this section is subject to an order of the court pursuant to subsection (5) or (6) of this section, and if the person fails to abide by the order, he or she may be proceeded against as for contempt of court. The order endorsed upon the summons shall conspicuously display the following legend:

NOTICE:  
VIOLATION OF THIS ORDER  
IS SUBJECT TO PROCEEDING  
FOR CONTEMPT OF COURT  
PURSUANT TO RCW 13.34.070.

(8) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally as soon as possible following the filing of the petition, but in no case later than fifteen court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy by certified mail as soon as possible following the filing of the petition, but in no case later than fifteen court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(9) Service of summons may be made under the direction of the court by any person eighteen years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department employee.

(10)((a)) Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child as defined in section 4 of this act is involved, the

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petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall ~~((be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.~~

~~—(b) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court))~~ comply with section 7 of this act.

**Sec. 26.** RCW 13.34.105 and 2010 c 180 s 3 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties;

(f) To represent and be an advocate for the best interests of the child; ~~((and))~~

(g) To inform the child, if the child is twelve years old or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel, pursuant to RCW 13.34.100(6). The guardian ad litem shall report to the court that the child was notified of this right and indicate the child's position regarding appointment of counsel. The guardian ad litem shall report to the court his or her independent recommendation as to whether appointment of counsel is in the best interest of the child; and

(h) In the case of an Indian child as defined in section 4 of this act, know, understand, and advocate the best interests of the Indian child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

**Sec. 27.** RCW 13.34.130 and 2010 c 288 s 1 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose services to assist the parents in maintaining the child in the home, including housing assistance, if appropriate, that least interfere with family autonomy and are adequate to protect the child.

(b)(i) Order the child to be removed from his or her home and into the custody, control, and care of a relative or other suitable person, the department, or a supervising agency for supervision of the child's placement. The court may not order an Indian child, as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act, to be removed from his or her home unless the court finds, by clear and convincing evidence including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(ii) The department or supervising agency has the authority to place the child, subject to review and approval by the court (A) with a relative as defined in RCW 74.15.020(2)(a), (B) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child, or (C) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, the child shall be placed with a person who is willing, appropriate, and available to care for the child, and who is: (I) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; or (II) a suitable person as described in this subsection (1)(b). The court shall consider the child's existing relationships and attachments when determining placement.

(2) When placing an Indian child in out-of-home care, the department or supervising agency shall follow the placement preference characteristics in ~~((RCW 13.34.250 and in 25 U.S.C. Sec. 1915))~~ section 18 of this act.

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(3) Placement of the child with a relative or other suitable person as described in subsection (1)(b) of this section shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services, including housing assistance, that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(6) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(7) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative or other suitable person, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative or other person appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives or other suitable persons, pursuant to this section, shall be contingent upon cooperation by the relative or other suitable person with the agency case plan and compliance with court orders related to the care and supervision of the child including, but

not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's or other suitable person's home, subject to review by the court.

**Sec. 28.** RCW 13.34.132 and 2000 c 122 s 16 are each amended to read as follows:

A court may order that a petition seeking termination of the parent and child relationship be filed if the following requirements are met:

(1) The court has removed the child from his or her home pursuant to RCW 13.34.130;

(2) Termination is recommended by the department or the supervising agency;

(3) Termination is in the best interests of the child; and

(4) Because of the existence of aggravated circumstances, reasonable efforts to unify the family are not required. Notwithstanding the existence of aggravated circumstances, reasonable efforts may be required if the court or department determines it is in the best interests of the child. In determining whether aggravated circumstances exist by clear, cogent, and convincing evidence, the court shall consider one or more of the following:

(a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;

(b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;

(c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

(d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;

(e) Conviction of the parent of attempting, soliciting, or conspiring to commit a crime listed in (a), (b), (c), or (d) of this subsection;

(f) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;

(g) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim. In the case of a parent of an Indian child, as defined in ~~((the Indian Child Welfare Act, P.L. 95-608 (25 U.S.C. Sec. 1903)))~~ section 4 of this act, the court shall also consider tribal efforts to assist the parent in completing treatment and make it possible for the child to return home;

(h) An infant under three years of age has been abandoned;

(i) Conviction of the parent, when a child has been born of the offense, of: (A) A sex offense under chapter 9A.44 RCW; or (B) incest under RCW 9A.64.020.

**Sec. 29.** RCW 13.34.136 and 2009 c 520 s 28 and 2009 c 234 s 5 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The

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planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption, including a tribal customary adoption as defined in section 4 of this act; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(5)~~) (6), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

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(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(5)~~) (6), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(~~(5)~~) (4). Whenever the permanency plan for a child is adoption, the court shall encourage the prospective adoptive parents, birth parents, foster parents, kinship caregivers, and the department or other supervising agency to seriously consider the long-term benefits to the child adoptee and his or her siblings of providing for and facilitating continuing postadoption contact between the siblings. To the extent that it is feasible, and when it is in the best interests of the child adoptee and his or her siblings, contact between the siblings should be frequent and of a similar nature as that which existed prior to the adoption. If the child adoptee or his or her siblings are represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child custody proceeding, the court shall inquire of each attorney and guardian ad litem regarding the potential benefits of continuing contact between the siblings and the potential detriments of severing contact. This section does not require the department of social and health services or other supervising agency to agree to any specific provisions in an open adoption agreement and does not create a new obligation for the department to provide supervision or transportation for visits between siblings separated by adoption from foster care.

(7) For purposes related to permanency planning:

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(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

**Sec. 30.** RCW 13.34.190 and 2010 c 288 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, after hearings pursuant to RCW 13.34.110 or 13.34.130, the court may enter an order terminating all parental rights to a child only if the court finds that:

(a)(i) The allegations contained in the petition as provided in RCW 13.34.180(1) are established by clear, cogent, and convincing evidence; or

(ii) The provisions of RCW 13.34.180(1) (a), (b), (e), and (f) are established beyond a reasonable doubt and if so, then RCW 13.34.180(1) (c) and (d) may be waived. When an infant has been abandoned, as defined in RCW 13.34.030, and the abandonment has been proved beyond a reasonable doubt, then RCW 13.34.180(1) (c) and (d) may be waived; or

(iii) The allegation under RCW 13.34.180(2) is established beyond a reasonable doubt. In determining whether RCW 13.34.180(1) (e) and (f) are established beyond a reasonable doubt, the court shall consider whether one or more of the aggravated circumstances listed in RCW 13.34.132 exist; or

(iv) The allegation under RCW 13.34.180(3) is established beyond a reasonable doubt; and

(b) Such an order is in the best interests of the child.

(2) ~~The provisions of chapter 13.--- RCW (the new chapter created in section 35 of this act) must be followed in any proceeding under this chapter for termination of the parent-child relationship of an Indian child as defined in ((25 U.S.C. Sec. 1903, no termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child)) section 4 of this act.~~

**Sec. 31.** RCW 26.10.034 and 2004 c 64 s 1 are each amended to read as follows:

(1)~~((a))~~ Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ((25 U.S.C. Sec. 1903)) section 4 of this act. If the child is an Indian child ((as defined under the Indian child welfare act, the provisions of the act)), chapter 13.--- RCW (the new chapter created in section 35 of this act) shall apply.

~~((b))~~ Whenever the court or the petitioning party in a proceeding under this chapter knows or has reason to know that an Indian child is involved, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(c) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.)

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice ~~((requirements))~~ and evidentiary requirements under the federal Indian child welfare act and chapter 13.--- RCW (the new chapter created in section 35 of this act) have been satisfied.

**Sec. 32.** RCW 26.33.040 and 2004 c 64 s 2 are each amended to read as follows:

(1)(a) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in ~~((25 U.S.C. Sec. 1903))~~ section 4 of this act. If the child is an Indian child ~~((as defined under the Indian child welfare act, the provisions of the act)),~~ chapter 13.--- RCW (the new chapter created in section 35 of this act) shall apply.

(b) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.--- RCW (the new chapter created in section 35 of this act) does apply, the decree or order must also contain a finding that all notice, consent, and evidentiary requirements ~~((and evidentiary requirements))~~ under the federal Indian child welfare act, chapter 13.--- RCW (the new chapter created in section 35 of this act), and this section have been satisfied.

(c) In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether an Indian child ~~((as defined under the Indian child welfare act, 25 U.S.C. Sec. 1903.))~~ is involved.

(d) Whenever the court or the petitioning party knows or has reason to know that an Indian child is involved in any termination, relinquishment, or placement proceeding under this chapter, the petitioning party shall promptly provide notice to the child's parent or Indian custodian and to the agent designated by the child's Indian tribe to receive such notices. Notice shall be by certified mail with return receipt requested. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the secretary of the interior in the manner described in 25 C.F.R. 23.11. If the child may be a member of more than one tribe, the petitioning party shall send notice to all tribes the petitioner has reason to know may be affiliated with the child.

(e) The notice shall: (i) Contain a statement notifying the parent or custodian and the tribe of the pending proceeding; and (ii) notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

(f) No termination, relinquishment, or placement proceeding shall be held until at least ten days after receipt of notice by the tribe. If the tribe requests, the court shall grant the tribe up to twenty additional days to prepare for such proceeding.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the ~~((Soldiers and Sailors))~~ federal servicemembers civil relief act of ((1940)) 2004, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the ~~((Soldiers and Sailors))~~ federal servicemembers civil relief act of ((1940)) 2004 does or does not apply.

**Sec. 33.** RCW 26.33.240 and 1987 c 170 s 8 are each amended to read as follows:

(1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the

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date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of ~~((25 U.S.C. Sec. 1915))~~ section 18 of this act or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child.

**Sec. 34.** RCW 74.13.350 and 2004 c 183 s 4 are each amended to read as follows:

It is the intent of the legislature that parents are responsible for the care and support of children with developmental disabilities. The legislature recognizes that, because of the intense support required to care for a child with developmental disabilities, the help of an out-of-home placement may be needed. It is the intent of the legislature that, when the sole reason for the out-of-home placement is the child's developmental disability, such services be offered by the department to these children and their families through a voluntary placement agreement. In these cases, the parents shall retain legal custody of the child.

As used in this section, "voluntary placement agreement" means a written agreement between the department and a child's parent or legal guardian authorizing the department to place the child in a licensed facility. Under the terms of this agreement, the parent or legal guardian shall retain legal custody and the department shall be responsible for the child's placement and care. The agreement shall at a minimum specify the legal status of the child and the rights and obligations of the parent or legal guardian, the child, and the department while the child is in placement. The agreement must be signed by the child's parent or legal guardian and the department to be in effect, except that an agreement regarding an Indian child shall not be valid unless executed ~~((in writing before the court and filed with the court as provided in RCW 13.34.245))~~ in accordance with section 15 of this act. Any party to a voluntary placement agreement may terminate the agreement at any time. Upon termination of the agreement, the child shall be returned to the care of the child's parent or legal guardian unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

As used in this section, "out-of-home placement" and "out-of-home care" mean the placement of a child in a foster family home or group care facility licensed under chapter 74.15 RCW.

Whenever the department places a child in out-of-home care under a voluntary placement pursuant to this section, the department shall have the responsibility for the child's placement and care. The department shall develop a permanency plan of care for the child no later than sixty days from the date that the department assumes responsibility for the child's placement and care. Within the first

one hundred eighty days of the placement, the department shall obtain a judicial determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the placement is in the best interests of the child. If the child's out-of-home placement ends before one hundred eighty days have elapsed, no judicial determination under RCW 13.04.030(1)(b) is required. The permanency planning hearings shall review whether the child's best interests are served by continued out-of-home placement and determine the future legal status of the child.

The department shall provide for periodic administrative reviews as required by federal law. A review may be called at any time by either the department, the parent, or the legal guardian.

Nothing in this section shall prevent the department from filing a dependency petition if there is reason to believe that the child is a dependent child as defined in RCW 13.34.030.

The department shall adopt rules providing for the implementation of chapter 386, Laws of 1997 and the transfer of responsibility for out-of-home placements from the dependency process under chapter 13.34 RCW to the process under this chapter.

It is the intent of the legislature that the department undertake voluntary out-of-home placement in cases where the child's developmental disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child, and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home. If the department does not accept a voluntary placement agreement signed by the parent, a petition may be filed and an action pursued under chapter 13.34 RCW. The department shall inform the parent, guardian, or legal custodian in writing of their right to civil action under chapter 13.34 RCW.

Nothing in this section prohibits the department from seeking support from parents of a child, including a child with a developmental disability if the child has been placed into care as a result of an action under chapter 13.34 RCW, when state or federal funds are expended for the care and maintenance of that child or when the department receives an application for services from the physical custodian of the child, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents.

NEW SECTION. **Sec. 35.** Sections 1 through 20 of this act constitute a new chapter in Title 13 RCW.

NEW SECTION. **Sec. 36.** RCW 13.34.250 (Preference characteristics when placing Indian child in foster care home) and 1979 c 155 s 53 are each repealed."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5656 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5656, as amended by the House.

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## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5656, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Holmquist Newbry, Honeyford and King

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE SENATE BILL NO. 5656, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 25, 2011

MR. PRESIDENT:

The House passed ENGROSSED SENATE BILL NO. 5005 with the following amendment(s): 5005.E AMH HCW H2234.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.210.090 and 1991 c 3 s 290 are each amended to read as follows:

(1) Any child shall be exempt in whole or in part from the immunization measures required by RCW 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the ~~(following)~~ certifications required by this section, on a form prescribed by the department of health:

~~((1))~~ (a) A written certification signed by ~~(any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW)~~ a health care practitioner that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child: PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

~~((2))~~ (b) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; ~~(and)~~ or

~~((3))~~ (c) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

(2)(a) The form presented on or after the effective date of this section must include a statement to be signed by a health care practitioner stating that he or she provided the signator with information about the benefits and risks of immunization to the child. The form may be signed by a health care practitioner at any time prior to the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner referencing the child's name shall be accepted in lieu of the original form.

(b) A health care practitioner who, in good faith, signs the statement provided for in (a) of this subsection is immune from civil liability for providing the signature.

(c) Any parent or legal guardian of the child or any adult in loco parentis to the child who exempts the child due to religious beliefs

pursuant to subsection (1)(b) of this section is not required to have the form provided for in (a) of this subsection signed by a health care practitioner if the parent or legal guardian demonstrates membership in a religious body or a church in which the religious beliefs or teachings of the church preclude a health care practitioner from providing medical treatment to the child.

(3) For purposes of this section, "health care practitioner" means a physician licensed under chapter 18.71 or 18.57 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A or 18.57A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5005.

Senators Keiser, Becker and Pflug spoke in favor of the motion.

Senators Ranker and Baumgartner spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5005.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5005 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5005, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5005, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 1; Excused, 2.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Benton, Ericksen, Hewitt, Holmquist Newbry, King, Ranker, Sheldon, Stevens, Swecker and Zarelli

Absent: Senator Roach

Excused: Senators Delvin and Parlette

ENGROSSED SENATE BILL NO. 5005, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 18, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Conway moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1737.

The President declared the question before the Senate to be motion by Senator Conway that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1737.

The motion by Senator Conway carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1737 by voice vote.

MOTION

On motion of Senator Conway, the rules were suspended and Engrossed Substitute House Bill No. 1737 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737, by House Committee on Health Care & Wellness (originally sponsored by Representatives Short, Seaquist and Schmick)

Concerning the department of social and health services' audit program for pharmacy payments.

The measure was read the second time.

MOTION

Senator Conway moved that the following striking amendment by Senators Conway and Becker be adopted:

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended to read as follows:

(1) The legislature finds and declares it to be in the public interest and for the protection of the health and welfare of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the providing of medical, dental, and other health services to recipients of public assistance and medically indigent persons. In order to effectively accomplish such purpose and to assure that the recipient of such services receives such services as are paid for by the state of Washington, the acceptance by the recipient of such services, and by practitioners of reimbursement for performing such services, shall authorize the secretary of the department of social and health services or his designee, to inspect and audit all records in connection with the providing of such services.

(2) It is the intent of the legislature that the regulatory and inspection program authorized in this section shall include a systematic method to gather data for program improvement.

(3) It is the intent of the legislature that the state's inspection and auditing practices provide fairness and flexibility to the providers of health services, while protecting the integrity of the payment process and avoiding any liability on the part of the state to federal programs. The legislature intends that inspection and auditing standards in this chapter shall be construed in a manner that is consistent with applicable federal standards to avoid the loss of federal funding or repayment obligations to federal programs in which the state participates.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Audits under this chapter of the records of pharmacies licensed under chapter 18.64 RCW are subject to the following:

(a) An initial audit may not commence earlier than thirty days prior to the date on which written notice of the audit is given to the pharmacy. The notice must be provided to the physical location at which the audit will be conducted and to the principal office or place of business of the pharmacy, if different, and must include the name, office address, and telephone number of any contractor conducting the audit pursuant to a contract with the department. Audit findings resulting from audit work that is commenced before the thirty-day period may not be used in any audit findings;

(b) Technical deficiencies may not be the basis for finding an overpayment if the pharmacy can substantiate through documentation that the claim for services complies with all of the elements of an allowable cost, as provided in subsection (3) of this section;

(c) Technical deficiencies shall not be used as a basis to appeal third-party-liability audit findings;

(d) An audited pharmacy may use the records of a hospital, physician, or other authorized pharmacy to validate the audited pharmacy's record; and

(e) The pharmacy must have at least ninety days from the date on which the draft audit findings were delivered to the pharmacy to respond with additional documentation or other relevant information. Extensions of these time periods shall be granted for good cause.

(2) This section does not apply to an audit that is based on an investigation for fraudulent or abusive practices under RCW 74.09.210.

(3) The provisions of this section shall be construed in a manner that is consistent with applicable federal standards to avoid the loss of federal funding and financial obligations to federal programs in which the state participates.

(4) For the purposes of this section:

(a) "Technical deficiency" means a billing error or omission that does not affect any elements of an allowable cost. "Technical deficiency" does not include:

(i) Failure to routinely obtain prior authorization of the service if required under this chapter or rules adopted under this chapter;

(ii) Failure to properly document expedited prior authorization criteria; or

(iii) Fraud, a pattern of abusive billing, or noncompliance, continuous violations, or a gross or flagrant violation.

(b) "Allowable cost" means a medical cost that is:

(i) Covered by the state plan and waivers;

(ii) Supported by the medical records indicating that the services were provided and consistent with the medical diagnosis;

(iii) Properly coded; and

(iv) Paid at the rate allowed by the state plan.

**NEW SECTION. Sec. 3.** The secretary of the department of social and health services may adopt rules as necessary to implement this act.

**NEW SECTION. Sec. 4.** Section 2 of this act applies retroactively to audits commenced by the department of social and health services under chapter 74.09 RCW on or after April 1, 2011.

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or that establishes repayment obligations on the part of the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet

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federal requirements that are a necessary condition to the receipt of federal funds by the state."

Senator Conway spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Conway and Becker to Engrossed Substitute House Bill No. 1737.

The motion by Senator Conway carried and the striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1737 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1737 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1737 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 9, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5204 with the following amendment(s): 5204-S AMH ENGR H2588.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.143 and 2010 c 267 s 7 are each amended to read as follows:

(1) An offender having a duty to register under RCW 9A.44.130 for a sex offense or kidnapping offense committed when the offender was a juvenile may petition the superior court to be relieved of that duty as provided in this section.

(2) For class A sex offenses or kidnapping offenses committed when the petitioner was fifteen years of age or older, the court may relieve the petitioner of the duty to register if:

(a) At least sixty months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not been adjudicated or convicted of any additional sex offenses or

kidnapping offenses;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the sixty months prior to filing the petition; and

(c) The petitioner shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(3) For all other sex offenses or kidnapping offenses committed by a juvenile not included in subsection (2) of this section, the court may relieve the petitioner of the duty to register if:

(a) At least twenty-four months have passed since the petitioner's adjudication and completion of any term of confinement for the offense giving rise to the duty to register and the petitioner has not been adjudicated or convicted of any additional sex offenses or kidnapping offenses;

(b) The petitioner has not been adjudicated or convicted of a violation of RCW 9A.44.132 (failure to register) during the twenty-four months prior to filing the petition; and

(c)((i) The petitioner was fifteen years of age or older at the time the sex offense or kidnapping offense was committed and the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders; or

(ii)) The petitioner ((was under the age of fifteen at the time the sex offense or kidnapping offense was committed and the petitioner)) shows by a preponderance of the evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

((~~3~~)) (4) A petition for relief from registration under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal or military court, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition.

((~~4~~)) (5) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders, the following factors are provided as guidance to assist the court in making its determination, to the extent the factors are applicable considering the age and circumstances of the petitioner:

(a) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(b) Any subsequent criminal history;

(c) The petitioner's compliance with supervision requirements;

(d) The length of time since the charged incident(s) occurred;

(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;

(f) Participation in sex offender treatment;

(g) Participation in other treatment and rehabilitative programs;

(h) The offender's stability in employment and housing;

(i) The offender's community and personal support system;

(j) Any risk assessments or evaluations prepared by a qualified professional;

(k) Any updated polygraph examination;

(l) Any input of the victim;

(m) Any other factors the court may consider relevant.

((~~5~~)) (6) A juvenile prosecuted and convicted of a sex offense or kidnapping offense as an adult may not petition to the superior court under this section.

**Sec. 2.** RCW 13.40.160 and 2007 c 199 s 14 are each amended to read as follows:

(1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

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(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230 by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230.

(3) ~~(When)~~ If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court ~~(on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.~~

~~The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.~~

~~The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:~~

- ~~(a)(i) Frequency and type of contact between the offender and therapist;~~
- ~~(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;~~
- ~~(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;~~
- ~~(iv) Anticipated length of treatment; and~~
- ~~(v) Recommended crime related prohibitions.~~

~~The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.~~

~~After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons~~

~~for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:~~

~~(b)(i) Devote time to a specific education, employment, or occupation;~~

~~(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;~~

~~(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;~~

~~(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;~~

~~(v) Report as directed to the court and a probation counselor;~~

~~(vi) Pay all court-ordered legal financial obligations, perform community restitution, or any combination thereof;~~

~~(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense;~~

~~(viii) Comply with the conditions of any court-ordered probation bond; or~~

~~(ix) The court shall order that the offender shall not attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings. The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district. The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.~~

~~The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.~~

~~At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.~~

~~Except as provided in this subsection (3), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified sex~~

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~~offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (3) and the rules adopted by the department of health.~~

~~—If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.~~

~~—For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.~~

~~—A disposition entered under this subsection (3) is not appealable under RCW 13.40.230) may impose the special sex offender disposition alternative under section 3 of this act.~~

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under RCW 13.40.169 may impose the disposition alternative under RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9A.10.040(2)(a)(iii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

(9) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.40 RCW to read as follows:

(1) A juvenile offender is eligible for the special sex offender disposition alternative when:

(a) The offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and

(b) The offender has no history of a prior sex offense.

(2) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

The report shall set forth the sources of the evaluator's information.

(b) The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) The frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years.

(4) As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(a) Devote time to a specific education, employment, or occupation;

(b) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers

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without court approval after a hearing if the prosecutor or probation counselor object to the change;

(c) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(d) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(e) Report as directed to the court and a probation counselor;

(f) Pay all court-ordered legal financial obligations, perform community restitution, or any combination thereof;

(g) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(h) Comply with the conditions of any court-ordered probation bond.

(5) If the court orders twenty-four hour, continuous monitoring of the offender while on probation, the court shall include the basis for this condition in its findings.

(6)(a) The court must order the offender not to attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings.

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

(c) The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

(7)(a) The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(b) At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

(c) Except as provided in this subsection, examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW.

(d) A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (i) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (ii) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (iii) the evaluation and treatment plan comply with this subsection and the rules adopted by the department of health.

(8)(a) If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days confinement for violating conditions of the disposition.

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(b) The court may order both execution of the disposition and up to thirty days confinement for the violation of the conditions of the disposition.

(c) The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(9) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(10) A disposition entered under this section is not appealable under RCW 13.40.230.

**Sec. 4.** RCW 13.50.050 and 2010 c 150 s 2 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central recordkeeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central recordkeeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central recordkeeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

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(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has ~~(not)~~ been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;

(v) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

~~((+))~~ (vi) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person is no longer required to register as a sex offender under RCW 9A.44.130 or has ~~(not)~~ been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(c) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(b) or (c) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(b) or (c) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

**Sec. 5.** RCW 72.09.345 and 2008 c 231 s 49 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. ~~((The committee shall assess, on a case-by-case basis, the public risk posed by sex offenders who are: (a) Preparing for their release from confinement for sex offenses committed on or after July 1, 1984; and (b) accepted from another state under a reciprocal agreement under the interstate compact authorized in chapter 72.74 RCW.))~~

(3) The committee shall assess, on a case-by-case basis, the public risk posed by:

(a) Offenders preparing for release from confinement for a sex offense or sexually violent offense committed on or after July 1, 1984;

(b) Sex offenders accepted from another state under a reciprocal agreement under the interstate corrections compact authorized in chapter 72.74 RCW;

(c) Juveniles preparing for release from confinement for a sex offense and releasing from the department of social and health services juvenile rehabilitation administration;

(d) Juveniles, following disposition, under the jurisdiction of a county juvenile court for a registerable sex offense; and

(e) Juveniles found to have committed a sex offense and accepted from another state under a reciprocal agreement under the interstate compact for juveniles authorized in chapter 13.24 RCW.

(4) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

~~((4))~~ (5) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

~~((5))~~ (6) The committee shall classify as risk level I those sex offenders whose risk assessments indicate a low risk of reoffense within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

~~((6))~~ (7) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, a revised and updated sample policy for schools to follow regarding students required to register as sex or kidnapping offenders."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5204.

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Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5204.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5204 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5204, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5204, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 20; Absent, 2; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Absent: Senators Kline and Tom

Excused: Senators Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5204, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 1, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5271 with the following amendment(s): 5271-S AMH JUDI H2270.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79.100.110 and 2006 c 153 s 1 are each amended to read as follows:

(1) A person who causes a vessel to become abandoned or derelict upon aquatic lands is guilty of a misdemeanor.

(2) A person who intentionally, through action or inaction and without the appropriate state, local, or federal authorization, causes a vessel to sink, break up, or block a navigational channel upon aquatic lands is guilty of a misdemeanor.

**Sec. 2.** RCW 79.100.130 and 2007 c 342 s 3 are each amended to read as follows:

A marina owner may contract with a local government for the purpose of participating in the derelict vessel removal program. The local government shall serve as the authorized public entity for the removal of the derelict or abandoned vessel from the marina owner's property. The contract must provide for the marina owner to be financially responsible for the removal costs that are not reimbursed by the department as provided under RCW 79.100.100, and any additional reasonable administrative costs incurred by the local government during the removal of the derelict or abandoned vessel. Prior to the commencement of any removal which will seek reimbursement from the derelict vessel removal program, the contract and the proposed vessel removal shall be submitted to the

department for review and approval. The local government shall use the procedure specified under RCW 79.100.100(6).

**Sec. 3.** RCW 53.08.320 and 2002 c 286 s 23 are each amended to read as follows:

A moorage facility operator may adopt all rules necessary for rental and use of moorage facilities and for the expeditious collection of port charges. The rules may also establish procedures for the enforcement of these rules by port district, city, county, metropolitan park district or town personnel. The rules shall include the following:

(1) Procedures authorizing moorage facility personnel to take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the moorage facility so that the vessels are in the possession and control of the moorage facility operator and cannot be removed from the moorage facility. These procedures may be used if an owner mooring or storing a vessel at the moorage facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay the port charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his or her last known address. In the case of a transient vessel, or where no address was furnished by the owner, the moorage facility operator need not give such notice prior to securing the vessel. At the time of securing the vessel, an authorized moorage facility employee shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached;

(b) A statement that if the account is not paid in full within ninety days from the time the notice is attached, the vessel may be sold at public auction to satisfy the port charges; and

(c) The address and telephone number where additional information may be obtained concerning release of the vessel.

After a vessel is secured, the operator shall make a reasonable effort to notify the owner by registered mail in order to give the owner the information contained in the notice.

(2) Procedures authorizing moorage facility personnel at their discretion to move moored vessels ashore for storage within properties under the operator's control or for storage with private persons under their control as bailees of the moorage facility, if the vessel is, in the opinion of port personnel a nuisance, if the vessel is in danger of sinking or creating other damage, or is owing port charges. Costs of any such procedure shall be paid by the vessel's owner. If the owner is not known, or unable to reimburse the moorage facility operator for the costs of these procedures, the mooring facility operators may seek reimbursement of ~~((seventy-five))~~ ninety percent of all reasonable and auditable costs from the derelict vessel removal account established in RCW 79.100.100.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the moorage facility operator for port charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the moorage facility operator for the immediate removal of the vessel from the moorage facility or for authorized moorage; and

(b) Making payment to the moorage facility operator of all port charges, or by posting with the moorage facility operator a sufficient cash bond or other acceptable security, to be held in trust by the moorage facility operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall

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terminate and the moorage facility operator shall receive so much of the bond or other security as is agreed, or as is necessary to satisfy any judgment, costs, and interest as may be awarded to the moorage facility operator. The balance shall be refunded immediately to the owner at his or her last known address.

(4) If a vessel has been secured by the moorage facility operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ninety days after notifying or attempting to notify the owner under subsection (1) of this section, the vessel shall be conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a moorage facility is abandoned, the moorage facility operator may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as prescribed by this subsection (5). Either a minimum bid may be established or a letter of credit may be required, or both, to discourage the future reabandonment of the vessel.

(a) Before the vessel is sold, the owner of the vessel shall be given at least twenty days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of port charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the moorage facility is located. Such notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The moorage facility operator may bid all or part of its port charges at the sale and may become a purchaser at the sale.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of the port charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided pursuant to subsection (1) of this section, or the right to a hearing shall be deemed waived and the owner shall be liable for any port charges owing the moorage facility operator. In the event of litigation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall first be applied to the payment of port charges. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the moorage facility operator within one year of the date of the sale, the excess funds from the sale shall revert to the derelict vessel removal account established in RCW 79.100.100. If the sale is for a sum less than the applicable port charges, the moorage facility operator is entitled to assert a claim for a deficiency.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within ten days of sale, title to the vessel will revert to the moorage facility operator.

(6) The rules authorized under this section shall be enforceable only if the moorage facility has had its tariff containing such rules conspicuously posted at its moorage facility at all times.

**Sec. 4.** RCW 79.100.030 and 2002 c 286 s 4 are each amended to read as follows:

(1) An authorized public entity has the authority, subject to the processes and limitations of this chapter, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above aquatic lands within the jurisdiction of the authorized public entity. A vessel disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal

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provisions provided for in chapter 70.95 RCW. Scuttling or sinking of a vessel is only permissible after obtaining the express permission of the owner or owners of the aquatic lands below where the scuttling or sinking would occur, and obtaining all necessary state and federal permits or licenses.

(2) The primary responsibility to remove a derelict or abandoned vessel belongs to the owner, operator, or lessee of the moorage facility or the aquatic lands where the vessel is located. If the authorized public entity with the primary responsibility is unwilling or unable to exercise the authority granted by this section, it may request the department to assume the authorized public entity's authority for a particular vessel. The department may at its discretion assume the authorized public entity's authority for a particular vessel after being requested to do so. For vessels not at a moorage facility, an authorized public entity with jurisdiction over the aquatic lands where the vessel is located may, at its discretion, request to assume primary responsibility for that particular vessel from the owner of the aquatic lands where the vessel is located.

(3) The authority granted by this chapter is permissive, and no authorized public entity has a duty to exercise the authority. No liability attaches to an authorized public entity that chooses not to exercise this authority. An authorized public entity, in the good faith performance of the actions authorized under this chapter, is not liable for civil damages resulting from any act or omission in the performance of the actions other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person whose assistance has been requested by an authorized public entity, who has entered into a written agreement pursuant to RCW 79.100.070, and who, in good faith, renders assistance or advice with respect to activities conducted by an authorized public entity pursuant to this chapter, is not liable for civil damages resulting from any act or omission in the rendering of the assistance or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5271.

Senators Rockefeller and Morton spoke in favor of the motion.

MOTION

On motion of Senator White, Senators Kastama and Kline were excused.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5271.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5271 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5271, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5271, as amended by the House, and the bill

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passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kastama, Kline and Parlette

SUBSTITUTE SENATE BILL NO. 5271, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5628 with the following amendment(s): 5628 AMH WAYS H2299.4

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that King county currently imposes an emergency medical services levy throughout the entire county. The legislature further finds that the city of Milton is located partially within King and Pierce counties and the residents of Milton within King county pay the county emergency medical services levy. The legislature further finds that King county, through an interlocal agreement with the city of Milton, has not provided emergency medical services to the city for many years and instead has remitted the county emergency medical services levy collected within the city back to the city. The legislature further finds that the city of Milton has collected only twenty cents per thousand dollars of assessed valuation under its city emergency medical services levy, and not the full fifty cents authorized by the city's voters, because state law limits the city's levy, as well as any other taxing district's emergency medical services levy, if the county also imposes the tax. The legislature further finds that the city of Milton is exploring the possibility of being annexed by a fire protection district located in Pierce county; however, if the district annexes the entire city, including the portion in King county, the district would have to lower its emergency medical services levy as required under state law.

(2) It is the intent of the legislature to address this unusual situation by excluding the portion of the city of Milton within King county from the county emergency medical services levy. It is the further intent of the legislature to clarify that a fire protection district is able to levy the full amount of emergency medical services levy otherwise allowed by law throughout the entire city.

**Sec. 2.** RCW 84.52.069 and 2004 c 129 s 23 are each amended to read as follows:

(1) As used in this section, "taxing district" means a county, emergency medical service district, city or town, public hospital district, urban emergency medical service district, regional fire protection service authority, or fire protection district.

(2) Except as provided in subsection (10) of this section, a taxing district may impose additional regular property tax levies in an amount equal to fifty cents or less per thousand dollars of the assessed value of property in the taxing district. The tax shall be imposed (a) each year for six consecutive years, (b) each year for ten consecutive years, or (c) permanently. A tax levy under this section must be specifically authorized by a majority of at least three-fifths of the registered voters thereof approving a proposition authorizing

the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election when the number of registered voters voting on the proposition does not exceed forty percent of the total number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the registered voters thereof voting on the proposition when the number of registered voters voting on the proposition exceeds forty percent of the total number of voters voting in such taxing district in the last preceding general election. Ballot propositions ~~((shall))~~ must conform with RCW 29A.36.210. A taxing district ~~((shall))~~ may not submit to the voters at the same election multiple propositions to impose a levy under this section.

(3) A taxing district imposing a permanent levy under this section shall provide for separate accounting of expenditures of the revenues generated by the levy. The taxing district ~~((shall))~~ must maintain a statement of the accounting which ~~((shall))~~ must be updated at least every two years and ~~((shall))~~ must be available to the public upon request at no charge.

(4)(a) A taxing district imposing a permanent levy under this section ~~((shall))~~ must provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. This referendum procedure ~~((shall))~~ must specify that a referendum petition may be filed at any time with a filing officer, as identified in the ordinance or resolution. Within ten days, the filing officer ~~((shall))~~ must confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner ~~((shall have))~~ has thirty days in which to secure the signatures of not less than fifteen percent of the registered voters of the taxing district, as of the last general election, upon petition forms which contain the ballot title and the full text of the measure to be referred. The filing officer ~~((shall))~~ must verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, ~~((shall))~~ must certify the referendum measure to the next election within the taxing district if one is to be held within one hundred eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose in accordance with RCW 29A.04.330.

(b) The referendum procedure provided in this subsection ~~((shall be))~~ (4) is exclusive in all instances for any taxing district imposing the tax under this section and ~~((shall))~~ supersedes the procedures provided under all other statutory or charter provisions for initiative or referendum which might otherwise apply.

(5) Any tax imposed under this section ~~((shall))~~ may be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services.

(6) If a county levies a tax under this section, no taxing district within the county may levy a tax under this section. If a regional fire protection service authority imposes a tax under this section, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may levy a tax under this section. No other taxing district may levy a tax under this section if another taxing district has levied a tax under this section within its boundaries: PROVIDED, That if a county levies less than fifty cents per thousand dollars of the assessed value of property, then any other taxing district may levy a tax under this section equal to the difference between the rate of the levy by the county and fifty cents: PROVIDED FURTHER, That if a taxing district within a county levies this tax, and the voters of the county

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subsequently approve a levying of this tax, then the amount of the taxing district levy within the county ((shall) must be reduced, when the combined levies exceed fifty cents. Whenever a tax is levied countywide, the service ((shall) must, insofar as is feasible, be provided throughout the county: PROVIDED FURTHER, That no countywide levy proposal may be placed on the ballot without the approval of the legislative authority of each city exceeding fifty thousand population within the county: AND PROVIDED FURTHER, That this section and RCW 36.32.480 shall not prohibit any city or town from levying an annual excess levy to fund emergency medical services: AND PROVIDED, FURTHER, That if a county proposes to impose tax levies under this section, no other ballot proposition authorizing tax levies under this section by another taxing district in the county may be placed before the voters at the same election at which the county ballot proposition is placed: AND PROVIDED FURTHER, That any taxing district emergency medical service levy that is limited in duration and that is authorized subsequent to a county emergency medical service levy that is limited in duration, ((shall) expires concurrently with the county emergency medical service levy. A fire protection district that has annexed an area described in subsection (10) of this section may levy the maximum amount of tax that would otherwise be allowed, notwithstanding any limitations in this subsection (6).

(7) The limitations in RCW 84.52.043 ((shall) do not apply to the tax levy authorized in this section.

(8) If a ballot proposition approved under subsection (2) of this section did not impose the maximum allowable levy amount authorized for the taxing district under this section, any future increase up to the maximum allowable levy amount must be specifically authorized by the voters in accordance with subsection (2) of this section at a general or special election.

(9) The limitation in RCW 84.55.010 ((shall) does not apply to the first levy imposed pursuant to this section following the approval of such levy by the voters pursuant to subsection (2) of this section.

(10) For purposes of imposing the tax authorized under this section, the boundary of a county with a population greater than one million five hundred thousand does not include all of the area of the county that is located within a city that has a boundary in two counties, if the locally assessed value of all the property in the area of the city within the county having a population greater than one million five hundred thousand is less than two hundred fifty million dollars.

(11) For purposes of this section, the following definitions apply:

(a) "Fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district; and

(b) "Participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of a regional fire protection service authority.

NEW SECTION. Sec. 3. This act applies to taxes levied for collection in 2012 and thereafter."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Fain moved that the Senate concur in the House amendment(s) to Senate Bill No. 5628.

Senators Fain and Eide spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fain that the Senate concur in the House amendment(s) to Senate Bill No. 5628.

The motion by Senator Fain carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5628 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5628, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5628, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin, Kastama and Parlette

SENATE BILL NO. 5628, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5304 with the following amendment(s): 5304 AMH WAYS H2480.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28B.118 RCW to read as follows:

The caseload forecast council shall estimate the anticipated caseload of the Washington college bound scholarship program and shall submit this forecast as specified in RCW 43.88C.020.

Sec. 2. RCW 43.88C.010 and 2000 c 90 s 1 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast

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without approval and the forecast shall have the same effect as if approved by the council.

(5) A council member who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030.

(8) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Senate Bill No. 5304.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Senate Bill No. 5304.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5304 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5304, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5304, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter and Stevens

Excused: Senators Delvin, Kastama and Parlette

SENATE BILL NO. 5304, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 15, 2011

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5662. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5662-S2 AMH TAYL REIL 131, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 39.04 RCW to read as follows:

(1) The department of general administration must conduct a survey and compile the results into a list of which states provide a bidding preference on public works contracts for their resident contractors. The list must include details on the type of preference, the amount of the preference, and how the preference is applied. The list must be updated periodically as needed. The initial survey must be completed by November 1, 2011, and by December 1, 2011, the department must submit a report to the appropriate committees of the legislature on the results of the survey. The report must include the list and recommendations necessary to implement the intent of this section and section 2 of this act.

(2) The department of general administration must distribute the report, along with the requirements of this section and section 2 of this act, to all state and local agencies with the authority to procure public works. The department may adopt rules and procedures to implement the reciprocity requirements in subsection (3) of this section. However, subsection (3) does not take effect until the department of general administration has adopted the rules and procedures for reciprocity under subsection (2) of this section or announced that it will not be issuing rules or procedures pursuant to this section.

(3) In any bidding process for public works in which a bid is received from a nonresident contractor from a state that provides a percentage bidding preference, a comparable percentage disadvantage must be applied to the bid of that nonresident contractor. This subsection does not apply until the department of general administration has adopted the rules and procedures for reciprocity under subsection (2) of this section, or has determined and announced that rules are not necessary for implementation.

(4) A nonresident contractor from a state that provides a percentage bid preference means a contractor that:

(a) Is from a state that provides a percentage bid preference to its resident contractors bidding on public works contracts; and

(b) At the time of bidding on a public works project, does not have a physical office located in Washington.

(5) The state of residence for a nonresident contractor is the state in which the contractor was incorporated or, if not a corporation, the state where the contractor's business entity was formed.

(6) This section does not apply to public works procured pursuant to RCW 39.04.155, 39.04.280, or any other procurement exempt from competitive bidding.

NEW SECTION. Sec. 2. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or local authority, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or local authority."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

BARBARA BAKER, Chief Clerk

MOTION

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5662.

Senator Conway spoke in favor of the motion.

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5708.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5662.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5708.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5662 by voice vote.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5708 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5662, as amended by the House.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5708, as amended by the House.

ROLL CALL

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5662, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5708, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and White

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Ericksen, Hewitt, Hill, Litzow, Morton, Pflug, Schoesler, Sheldon, Stevens and Zarelli

Excused: Senators Delvin and Parlette

Excused: Senators Delvin and Parlette

SECOND SUBSTITUTE SENATE BILL NO. 5662, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5708, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MESSAGE FROM THE HOUSE

April 9, 2011

April 11, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5708 with the following amendment(s): 5708-S.E AMH HCW BLAC 039

On page 5, line 32, after "enabler, and" strike "prefilling insulin syringes" and insert "handing prefilled insulin syringes to the nonresident"

On page 5, line 34, after "programs;" strike "or (l)" and insert "(l) prefilling insulin syringes when performed by a nurse licensed under chapter 18.79 RCW; or (m)"

On page 9, after line 22, insert the following:

"**NEW SECTION. Sec. 9.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

and the same are herewith transmitted.

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5722 with the following amendment(s): 5722-S AMH WAYS H2227.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.460 and 2010 c 127 s 2 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax equals

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one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except ~~((a portion of moneys collected under this section may be used to supplant existing funding for these purposes in any county or city as follows: Up to fifty percent may be used to supplant existing funding in calendar year 2010; up to forty percent may be used to supplant existing funding in calendar year 2011; up to thirty percent may be used to supplant existing funding in calendar year 2012; up to twenty percent may be used to supplant existing funding in calendar year 2013; and up to ten percent may be used to supplant existing funding in calendar year 2014))~~ as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(c) Notwithstanding (a) and (b) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5722.

Senator Hargrove spoke in favor of the motion.

Senator Stevens spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5722.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5722 by voice vote.

MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5722, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5722, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 14; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Hewitt, Honeyford, King, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Delvin, Holmquist Newbry and Parlette  
SUBSTITUTE SENATE BILL NO. 5722, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5748 with the following amendment(s): 5748-S.E AMH ENGR H2411.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.

(2) "Cottage food products" means nonpotentially hazardous baked goods; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150 as it existed on the effective date of this section; and other nonpotentially hazardous foods identified by the director in rule.

(3) "Department" means the department of agriculture.

(4) "Director" means the director of the department.

(5) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) A group or communal residential setting within any type of structure; or

(b) An outbuilding, shed, barn, or other similar structure.

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(6) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.

(7) "Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.

(8) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

**NEW SECTION. Sec. 2.** (1) The director may adopt, by rule, requirements for cottage food operations. These requirements may include, but are not limited to:

(a) The application and renewal of permits under section 3 of this act;

(b) Inspections as provided under section 4 of this act;

(c) Sanitary procedures;

(d) Facility, equipment, and utensil requirements;

(e) Labeling specificity beyond the requirements of this section;

(f) Requirements for clean water sources and waste and wastewater disposal; and

(g) Requirements for washing and other hygienic practices.

(2) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the food may not be repackaged, sold, or used as an ingredient in other foods by a food processing plant, or sold by a food service establishment.

(3) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

(a) The name and address of the business of the cottage food operation;

(b) The name of the cottage food product;

(c) The ingredients of the cottage food product, in descending order of predominance by weight;

(d) The net weight or net volume of the cottage food product;

(e) Allergen labeling as specified by the director in rule;

(f) If any nutritional claim is made, appropriate labeling as specified by the director in rule;

(g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

(4) Cottage food products may only be sold directly to the consumer and may not be sold by internet, mail order, or for retail sale outside the state.

(5) Cottage food products must be stored only in the primary domestic residence.

**NEW SECTION. Sec. 3.** (1) All cottage food operations must be permitted annually by the department on forms developed by the department. All permits and permit renewals must be made on forms developed by the director and be accompanied by an inspection fee as provided in section 4 of this act, a seventy-five dollar public health review fee, and a thirty dollar processing fee. All fees must be deposited into the food processing inspection account created in RCW 69.07.120.

(2) In addition to the provision of any information required by the director on forms developed under subsection (1) of this section and the payment of all fees, an applicant for a permit or a permit renewal as a cottage food operation must also provide documentation that all individuals to be involved in the preparation of cottage foods have secured a food and beverage service worker's permit under chapter 69.06 RCW.

(3) All cottage food operations permitted under this section must include a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants

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to the director the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspections under this chapter.

**NEW SECTION. Sec. 4.** (1) The permitted area of all cottage food operations must be inspected for basic hygiene by the director both before initial permitting under section 3 of this act and annually after initial permitting. In addition, the director may inspect the permitted area of a cottage food operation at any time in response to a foodborne outbreak or other public health emergency.

(2) When conducting an annual basic hygiene inspection, the director shall, at a minimum, inspect for the following:

(a) That the permitted cottage food operator understands that no person other than the permittee, or a person under the direct supervision of the permittee, may be engaged in the processing, preparing, packaging, or handling of any cottage food products or be in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(b) That no cottage food preparation, packaging, or handling is occurring in the home kitchen concurrent with any other domestic activities such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;

(c) That no infants, small children, or pets are in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(d) That all food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products are washed, rinsed, and sanitized before each use;

(e) That all food preparation and food and equipment storage areas are maintained free of rodents and insects; and

(f) That all persons involved in the preparation and packaging of cottage food products:

(i) Have obtained a food and beverage service workers permit under chapter 69.06 RCW;

(ii) Are not going to work in the home kitchen when ill;

(iii) Wash their hands before any food preparation and food packaging activities; and

(iv) Avoid bare hand contact with ready-to-eat foods through the use of single-service gloves, bakery papers, tongs, or other utensils.

(3) The department shall charge an inspection fee of one hundred twenty-five dollars for any initial or annual basic hygiene inspection, which must be deposited into the food processing inspection account created in RCW 69.07.120. An additional inspection fee must be collected for each visit to a cottage food operation for the purposes of conducting an inspection for compliance.

(4) The director may contract with local health jurisdictions to conduct the inspections required under this section.

**NEW SECTION. Sec. 5.** (1) The gross sales of cottage food products may not exceed an annual amount set by the department. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(2) If gross sales exceed the maximum annual gross sales amount, the cottage food operation must either obtain a food processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum annual gross sales amount is not entitled to a full or partial refund of any fees paid under section 3 or 4 of this act.

(4) The maximum annual gross sales amount must be established in rule by the department consistent with this subsection. The amount must be set at fifteen thousand dollars until December 31, 2012. Beginning January 1, 2013, the department must

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increase the fifteen thousand dollar annual gross sales limit biennially to reflect inflation. The department may determine inflation-based increases in any matter it deems most efficient.

(5) The director may request in writing documentation to verify the annual gross sales figure.

**NEW SECTION. Sec. 6.** (1) For the purpose of determining compliance with this chapter, the director may access, for inspection purposes, the permitted area of a domestic residence housing a cottage food operation permitted by the director under this chapter. This authority includes the authority to inspect any records required to be kept under the provisions of this chapter.

(2) All inspections must be made at reasonable times and, when possible, during regular business hours.

(3) Should the director be denied access to the permitted area of a domestic residence housing a cottage food operation where access was sought for the purposes of enforcing or administering this chapter, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the permitted area of a domestic residence housing a permitted cottage food operation, upon which the court may issue a search warrant for the purposes requested.

(4) Any access under this section must be limited to the permitted area and further limited to the purpose of enforcing or administering this chapter.

**NEW SECTION. Sec. 7.** (1) After conducting a hearing, the director may deny, suspend, or revoke any permit provided for in this chapter if it is determined that a permittee has committed any of the following acts:

(a) Refused, neglected, or failed to comply with the provisions of this chapter, any rules adopted to administer this chapter, or any lawful order of the director;

(b) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make the records available when requested pursuant to the provisions of this chapter;

(c) Consistent with section 6 of this act, refused the director access to the permitted area of a domestic residence housing a cottage food operation for the purpose of carrying out the provisions of this chapter;

(d) Consistent with section 6 of this act, refused the department access to any records required to be kept under the provisions of this chapter; or

(e) Exceeded the annual income limits provided in section 5 of this act.

(2) The director may summarily suspend a permit issued under this chapter if the director finds that a cottage food operation is operating under conditions that constitute an immediate danger to public health or if the director is denied access to the permitted area of a domestic residence housing a cottage food operation and records where the access was sought for the purposes of enforcing or administering this chapter.

**NEW SECTION. Sec. 8.** The rights, remedies, and procedures respecting the administration of this chapter, including rule making, emergency actions, and permit suspension, revocation, or denial are governed by chapter 34.05 RCW.

**NEW SECTION. Sec. 9.** (1)(a) Any person engaging in a cottage food operation without a valid permit issued under section 3 of this act or otherwise violating any provision of this chapter, or any rule adopted under this chapter, is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil

penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense.

**NEW SECTION. Sec. 10.** Except as otherwise provided in this chapter, cottage food operations with a valid permit under section 3 of this act are not subject to the provisions of chapter 69.07 RCW or to permitting and inspection by a local health jurisdiction.

**NEW SECTION. Sec. 11.** Nothing in this chapter affects the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

**Sec. 12.** RCW 69.07.120 and 1992 c 160 s 5 are each amended to read as follows:

All moneys received by the department under the provisions of this chapter and chapter 69.--- RCW (the new chapter created in section 14 of this act) shall be paid into the food processing inspection account hereby created within the agricultural local fund established in RCW 43.23.230 and shall be used solely to carry out the provisions of this chapter and chapters 69.--- RCW (the new chapter created in section 14 of this act) and 69.04 RCW.

**Sec. 13.** RCW 69.07.100 and 2002 c 301 s 10 are each amended to read as follows:

(1) The provisions of this chapter shall not apply to establishments issued a permit or licensed under the provisions of:

((+)) (a) Chapter 69.25 RCW, the Washington wholesome eggs and egg products act;

((2)) (b) Chapter 69.28 RCW, the Washington state honey act;

((3)) (c) Chapter 16.49 RCW, the Meat inspection act;

((4)) (d) Chapter 77.65 RCW, relating to the direct retail endorsement for wild-caught seafood;

((5)) (e) Chapter 69.--- RCW (the new chapter created in section 14 of this act), relating to cottage food operations;

(f) Title 66 RCW, relating to alcoholic beverage control; and

((6)) (g) Chapter 69.30 RCW, the sanitary control of shellfish act. ((However,))

(2) If any such establishments process foods not specifically provided for in the above entitled acts, ((such)) the establishments ((shall be)) are subject to the provisions of this chapter.

(3) The provisions of this chapter ((shall)) do not apply to restaurants or food service establishments.

**NEW SECTION. Sec. 14.** Sections 1 through 11 of this act constitute a new chapter in Title 69 RCW."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5748.

Senator Rockefeller spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5748.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5748 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5748, as amended by the House.

ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5748, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE SENATE BILL NO. 5748, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5691 with the following amendment(s): 5691-S AMH WAYS H2497.1; 5691-S AMH PSEP H2197.4

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature that eligible victims of crime who suffer bodily injury or death as a result of violent crime receive benefits under the crime victims' compensation program. To ensure benefits are provided, within funds available, to the largest number of eligible victims, it is imperative to streamline and provide flexibility in the administration of the program. Therefore, the legislature intends to simplify the administration of the benefits and services provided to victims of crime by separating the administration of the benefits and services provided to crime victims from the workers' compensation program under Title 51 RCW. These changes are intended to clarify that the limited funding available to help victims of crimes will be managed to help the largest number of crime victims as possible.

#### I. DEFINITIONS

**Sec. 101.** RCW 7.68.020 and 2006 c 268 s 1 are each amended to read as follows:

The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) (~~"Department" means the department of labor and industries.~~

~~(2))~~ "Accredited school" means a school or course of instruction which is:

(a) Approved by the state superintendent of public instruction, the state board of education, or the state board for community and technical colleges; or

(b) Regulated or licensed as to course content by any agency of the state or under any occupational licensing act of the state, or recognized by the apprenticeship council under an agreement registered with the apprenticeship council pursuant to chapter 49.04 RCW.

(2) "Average monthly wage" means the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve.

(3) "Beneficiary" means a husband, wife, registered domestic partner, or child of a victim in whom shall vest a right to receive

payment under this chapter, except that a husband or wife of an injured victim, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received or attempted by process of law to collect funds for maintenance, shall be deemed living in a state of abandonment.

(4) "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, child born after the injury where conception occurred prior to the injury, and dependent child in the legal custody and control of the victim, all while under the age of eighteen years, or under the age of twenty-three years while permanently enrolled as a full-time student in an accredited school, and over the age of eighteen years if the child is a dependent as a result of a physical, mental, or sensory handicap.

(5) "Criminal act" means an act committed or attempted in this state which is: (a) Punishable as a federal offense that is comparable to a felony or gross misdemeanor in this state; (b) punishable as a felony or gross misdemeanor under the laws of this state; (c) an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state and the crime occurred in a state which does not have a crime victims' compensation program, for which the victim is eligible as set forth in the Washington compensation law; or (d) ~~((an act of terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2, 1997, committed outside of the United States against a resident of the state of Washington, except as follows))~~ trafficking as defined in RCW 9A.40.100. A "criminal act" does not include the following:

(i) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law ~~((does not constitute a "criminal act"))~~ unless:

(A) The injury or death was intentionally inflicted;

(B) The operation thereof was part of the commission of another nonvehicular criminal act as defined in this section;

(C) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained ~~((PROVIDED, That))~~. In cases where a probable criminal defendant has died in perpetration of vehicular assault or, in cases where the perpetrator of the vehicular assault is unascertainable because he or she left the scene of the accident in violation of RCW 46.52.020 or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits;

(D) The injury or death was caused by a driver in violation of RCW 46.61.502; or

(E) The injury or death was caused by a driver in violation of RCW 46.61.655(7)(a), failure to secure a load in the first degree;

(ii) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in (d)(i)(C) of this subsection;

(iii) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

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(iv) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

((3)) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5)) (6) "Department" means the department of labor and industries.

(7) "Financial support for lost wages" means a partial replacement of lost wages due to a temporary or permanent total disability.

(8) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

((6)) (9) "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.

(10) "Invalid" means one who is physically or mentally incapacitated from earning wages.

(11) "Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis, or other condition permanently incapacitating the victim from performing any work at any gainful occupation.

(12) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

((7)) (13) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(14) "Temporary total disability" means any condition that temporarily incapacitates a victim from performing any type of gainful employment as certified by the victim's attending physician.

(15) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his or her good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "worker" as defined in chapter 51.08 RCW as now or hereafter amended.

**II. GENERAL PROVISIONS**

NEW SECTION. Sec. 201. On all claims under this chapter, claimants' written or electronic notices, orders, or warrants must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the department. Claimants' written or electronic notices, orders, or warrants may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded.

NEW SECTION. Sec. 202. The department may, at any time, on receipt of written or electronic authorization, transmit amounts payable to a claimant or to the account of such person in a bank or other financial institution regulated by state or federal authority.

NEW SECTION. Sec. 203. (1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this chapter shall, before the issuance and delivery of the check or warrant, or disbursement of electronic funds or electronic payment, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a victim or other beneficiary and made in accordance with section 204 of this act.

(2)(a) If any victim suffers an injury and dies from it before he or she receives payment of any monthly installment covering financial support for lost wages for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) Any application for compensation under this subsection (2) shall be filed with the department within one year of the date of death. The department may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3) Any victim or beneficiary receiving benefits under this chapter who is subsequently confined in, or who subsequently becomes eligible for benefits under this chapter while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the victim or beneficiary would, except for the provisions of this subsection (3), otherwise be eligible for them.

NEW SECTION. Sec. 204. Any victim or other recipient of benefits under this chapter may elect to have any payments due transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. A single warrant may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a warrant in accordance with the procedure set forth in this section and proper endorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended.

NEW SECTION. Sec. 205. (1) The department may require that the victim present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department may require that the victim present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable travel expenses, shall be paid by the department as part of the victim's total claim under RCW 7.68.070(1).

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(2) The director may establish a medical bureau within the department to perform medical examinations under this section.

(3) Where a dispute arises from the handling of any claim before the condition of the injured victim becomes fixed, the victim may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

**Sec. 206.** RCW 7.68.030 and 2009 c 479 s 7 are each amended to read as follows:

(1) It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. ~~((In so doing, the director shall, in accordance with chapter 34.05 RCW, adopt rules and regulations necessary to the administration of this chapter, and the provisions contained in chapter 51.04 RCW, including but not limited to RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or hereafter amended, shall apply where appropriate in keeping with the intent of this chapter.))~~ The director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the state general fund and may be expended only for purposes authorized by applicable federal law.

(2) The director shall:

(a) Establish and adopt rules governing the administration of this chapter in accordance with chapter 34.05 RCW;

(b) Regulate the proof of accident and extent thereof, the proof of death, and the proof of relationship and the extent of dependency;

(c) Supervise the medical, surgical, and hospital treatment to the extent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(d) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(e) Designate a medical director who is licensed under chapter 18.57 or 18.71 RCW;

(f) Supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to victims at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, electronic communications, rules, regulations, and practices for the furnishing of such care and treatment. The medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule. The department may recommend to a victim particular health care services and providers where specialized treatment is indicated or where cost-effective payment levels or rates are obtained by the department, and the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured victims;

(g) In consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, and physician assistants as

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defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to victims. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to victims, whether aliens or other victims, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as used in RCW 34.05.010(16);

(h) Make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured victims, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

(3) The director and his or her authorized assistants:

(a) Have power to issue subpoenas to enforce the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department or any billing submitted to the department. The superior court has the power to enforce any such subpoena by proper proceedings;

(b)(i) May apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must (A) state that an order is sought pursuant to this subsection; (B) adequately specify the records, documents, or testimony; and (C) declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(ii) Where the application under this subsection (3)(b) is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(iii) The director and his or her authorized assistants may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(4) In all hearings, actions, or proceedings before the department, any physician or licensed advanced registered nurse practitioner having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of the physician or licensed advanced registered nurse practitioner to the patient.

**Sec. 207.** RCW 7.68.075 and 1977 ex.s. c 302 s 6 are each amended to read as follows:

((Notwithstanding the provisions of any of the sections, as now or hereafter amended, of Title 51 RCW which are made applicable to)) Under this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references

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to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" ~~((as defined in RCW 51.08.030, as now or hereafter amended,))~~ or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person. It shall be the duty of any person or persons receiving payments because of legal custody of any child to immediately notify the department of any change in such legal custody.

**III. APPLICATION FOR BENEFITS**

**Sec. 301.** RCW 7.68.060 and 2001 c 153 s 1 are each amended to read as follows:

(1) Except for ((the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 shall apply: PROVIDED, That except for)) applications received pursuant to subsection ~~((4))~~ (6) of this section, no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within two years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of ~~((dependents or))~~ beneficiaries accrued, unless the director has determined that "good cause" exists to expand the time permitted to receive the application. "Good cause" shall be determined by the department on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of ~~((dependents or))~~ beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

~~(2) ((This section shall apply only to criminal acts reported after December 31, 1985.~~

~~—(3))~~ No person or spouse, child, or dependent of such person is eligible for benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or

living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(3) No person or spouse, child, or dependent of such person is eligible for benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator of the criminal act which gave rise to the claim.

(4) A victim is not eligible for benefits under this chapter if he or she:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after the criminal act for which they are applying; and

(b) Has not completely satisfied all legal financial obligations owed.

(5) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.

~~((4) A right to))~~ (6)(a) Benefits under this chapter ~~((s))~~ are available to any victim of a person against whom the state initiates proceedings under chapter 71.09 RCW. The right created under this subsection shall accrue when the victim is notified of proceedings under chapter 71.09 RCW or the victim is interviewed, deposed, or testifies as a witness in connection with the proceedings. An application for benefits under this subsection must be received by the department within two years after the date the victim's right accrued unless the director determines that good cause exists to expand the time to receive the application. The director shall determine "good cause" on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the right of the victim accrued. Benefits under this subsection shall be limited to compensation for costs or losses incurred on or after the date the victim's right accrues for a claim allowed under this subsection.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

NEW SECTION. Sec. 302. (1)(a) Where a victim is eligible for compensation under this chapter he or she shall file with the department his or her application for such, together with the certificate of the physician or licensed advanced registered nurse practitioner who attended him or her. An application form developed by the department shall include a notice specifying the victim's right to receive health services from a physician or licensed advanced registered nurse practitioner utilizing his or her private or public insurance or if no insurance, of the victim's choice under section 507 of this act.

(b) The physician or licensed advanced registered nurse practitioner who attended the injured victim shall inform the injured victim of his or her rights under this chapter and lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the victim.

(2) If the application required by this section is filed on behalf of the victim by the physician who attended the victim, the physician may transmit the application to the department electronically.

**NEW SECTION. Sec. 303.** Where death results from injury the parties eligible for compensation under this chapter, or someone in their behalf, shall make application for the same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be eligible for compensation under this chapter, certificates of attending physician or licensed advanced registered nurse practitioner, if any, and such proof as required by the rules of the department.

**NEW SECTION. Sec. 304.** If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor. Where the application has been granted, compensation and other benefits if in order shall be allowed for periods of time up to sixty days prior to the receipt of such application.

**NEW SECTION. Sec. 305.** If injury or death results to a victim from the deliberate intention of the victim himself or herself to produce such injury or death, or while the victim is engaged in the attempt to commit, or the commission of, a felony, neither the victim nor the widow, widower, child, or dependent of the victim shall receive any payment under this chapter.

If injury or death results to a victim from the deliberate intention of a beneficiary of that victim to produce the injury or death, or if injury or death results to a victim as a consequence of a beneficiary of that victim engaging in the attempt to commit, or the commission of, a felony, the beneficiary shall not receive any payment under this chapter.

An invalid child, while being supported and cared for in a state institution, shall not receive compensation under this chapter.

No payment shall be made to or for a natural child of a deceased victim and, at the same time, as the stepchild of a deceased victim.

**NEW SECTION. Sec. 306.** Except as otherwise provided by treaty or this chapter, whenever compensation is payable to a beneficiary who is an alien not residing in the United States, the department shall pay the compensation to which a resident beneficiary is eligible under this chapter. But if a nonresident alien beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he or she shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due.

**NEW SECTION. Sec. 307.** Physicians or licensed advanced registered nurse practitioners examining or attending injured victims under this chapter shall comply with rules and regulations adopted by the director, and shall make such reports as may be requested by the department upon the condition or treatment of any such victim, or upon any other matters concerning such victims in their care. Except under RCW 49.17.210 and 49.17.250, all medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any victim whose injury is the basis of a claim under this chapter shall be made available at any stage of the proceedings to the claimant's representative and the department upon request, and no person shall incur any legal liability by reason of releasing such information.

#### IV. BENEFITS

**Sec. 401.** RCW 7.68.070 and 2010 c 289 s 6 and 2010 c 122 s 1 are each reenacted and amended to read as follows:

The ~~((right to))~~ eligibility for benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in this chapter ~~((51.32 RCW except as provided in this section, provided that no more than fifty thousand dollars shall be paid per claim:))~~.

(1) ~~((The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.~~

(2)) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or ~~((dependents))~~ beneficiary in case of death of the victim, are ~~((entitled to))~~ eligible for benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. ~~((The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.~~

(3(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter, except that:

(a)) No more than fifty thousand dollars shall be paid in total per claim, of which nonmedical benefits shall not exceed forty thousand dollars of the entire claim. Benefits may include a combination of burial expenses, financial support for lost wages, and medical expenses.

(a) Benefits payable for temporary total disability that results in financial support for lost wages shall not exceed fifteen thousand dollars.

(b) Benefits payable for a permanent total disability or fatality that results in financial support for lost wages shall not exceed forty thousand dollars. After at least twelve monthly payments have been paid, the department shall have the sole discretion to make a final lump sum payment of the balance remaining.

(c) Benefits for disposition of remains or burial expenses shall not exceed five thousand seven hundred fifty dollars per claim.

(2) If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries.

(3) No victim or beneficiary shall receive compensation for or during the day on which the injury was received.

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(4) If a victim's employer continues to pay the victim's wages that he or she was earning at the time of the crime, the victim shall not receive any financial support for lost wages.

(5) When the director determines that a temporary total disability results in a loss of wages, the victim shall receive monthly subject to subsection (1) of this section, during the period of disability, sixty percent of the victim's monthly wage but no more than one hundred percent of the state's average monthly wage as defined in RCW 7.68.020. The minimum monthly payment shall be no less than five hundred dollars. Monthly wages shall be based upon employer wage statements, employment security records, or documents reported to and certified by the internal revenue service. Monthly wages must be determined using the actual documented monthly wage or averaging the total wages earned for up to twelve successive calendar months preceding the injury. In cases where the victim's wages and hours are fixed, they shall be determined by multiplying the daily wage the victim was receiving at the time of the injury:

(a) By five, if the victim was normally employed one day a week;

(b) By nine, if the victim was normally employed two days a week;

(c) By thirteen, if the victim was normally employed three days a week;

(d) By eighteen, if the victim was normally employed four days a week;

(e) By twenty-two, if the victim was normally employed five days a week;

(f) By twenty-six, if the victim was normally employed six days a week; or

(g) By thirty, if the victim was normally employed seven days a week.

(6) When the director determines that a permanent total disability or death results in a loss of wages, the victim or eligible spouse shall receive the monthly payments established in this subsection, not to exceed forty thousand dollars or the limits established in this chapter.

(7) If the director determines that the victim is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(8) In the case of death, if there is no eligible spouse, benefits shall be paid to the child or children of the deceased victim. If there is no spouse or children, no payments shall be made under this section. If the spouse remarries before this benefit is paid in full benefits shall be paid to the victim's child or children and the spouse shall not receive further payment. If there is no child or children no further payments will be made.

(9) The benefits for disposition of remains or burial expenses shall not exceed five thousand seven hundred fifty dollars per claim(;) and

((b) An application for benefits relating to payment for burial expenses, pursuant to this subsection, must be received within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for burial, application for benefits must be received within twelve months of the date of the release of the remains for burial)) to receive reimbursement for expenses related to the disposition of remains or burial, the department must receive an itemized statement from a provider of services within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for disposition or burial, an itemized statement from a provider of services must be received within twelve months of the date of the release of the remains.

((5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act.

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter, except that benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate

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counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(14)) ~~(10)~~ Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

~~((15))~~ ~~(11)~~ Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act ~~((except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement)).~~

~~((16))~~ In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

(18)) ~~(12)~~ A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060 ~~((4))~~ ~~(6)~~ may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

~~((19))~~ A victim is not eligible for benefits under this act if such victim:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a felony offense after applying; and

(b) Has not completely satisfied all legal financial obligations owed prior to applying for benefits.)

(13) If the provisions of this title relative to compensation for injuries to or death of victims become invalid because of any adjudication, or are repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death.

(14) The benefits established in RCW 51.32.080 for permanent

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partial disability will not be provided to any crime victim or for any claim submitted on or after July 1, 2011.

**Sec. 402.** RCW 7.68.070 and 2010 c 289 s 6 are each amended to read as follows:

The ~~((right to))~~ eligibility for benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in this chapter ~~((51.32 RCW except as provided in this section)).~~

(1) ~~((The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.~~

(2)) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or ~~((dependents))~~ beneficiary in case of death of the victim, are ~~((entitled to))~~ eligible for benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. ~~((The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.~~

(3)(a) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(i) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(ii) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(iii) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(b) A person identified as the "minor" in the charge of commercial sexual abuse of a minor under RCW 9.68A.100, promoting commercial sexual abuse of a minor under RCW 9.68A.101, or promoting travel for commercial sexual abuse of a minor under RCW 9.68A.102 is considered a victim of a criminal act for the purpose of the right to benefits under this chapter even if the person is also charged with prostitution under RCW 9A.88.030.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter. Benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim. If the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three

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thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter. No person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter. Benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars)) Of the entire amount paid in total per claim, nonmedical benefits shall not exceed forty thousand dollars of the entire claim. Benefits may include a combination of burial expenses, financial support for lost wages, and medical expenses.

(a) Benefits payable for temporary total disability that results in financial support for lost wages shall not exceed fifteen thousand dollars.

(b) Benefits payable for a permanent total disability or fatality that results in financial support for lost wages shall not exceed forty thousand dollars. After at least twelve monthly payments have been paid, the department shall have the sole discretion to make a final lump sum payment of the balance remaining.

(c) Benefits for disposition of remains or burial expenses shall not exceed seven thousand seven hundred dollars per claim.

(2) If the victim was not gainfully employed at the time of the criminal act, no financial support for lost wages will be paid to the victim or any beneficiaries.

(3) No victim or beneficiary shall receive compensation for or during the day on which the injury was received.

(4) If a victim's employer continues to pay the victim wages that he or she was earning at the time of the crime, the victim shall not receive any financial support for lost wages.

(5) When the director determines that a temporary total disability results in a loss of wages, the victim shall receive monthly subject to subsection (1) of this section, during the period of disability, sixty percent of the victim's monthly wage but no more than one hundred percent of the state's average monthly wage as defined in RCW 7.68.020. The minimum monthly payment shall be no less than five hundred dollars. Monthly wages shall be based upon employer wage statements, employment security records, or

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documents reported to and certified by the internal revenue service. Monthly wages must be determined using the actual documented monthly wage or averaging the total wages earned for up to twelve successive calendar months preceding the injury. In cases where the victim's wages and hours are fixed, they shall be determined by multiplying the daily wage the victim was receiving at the time of the injury:

(a) By five, if the victim was normally employed one day a week;

(b) By nine, if the victim was normally employed two days a week;

(c) By thirteen, if the victim was normally employed three days a week;

(d) By eighteen, if the victim was normally employed four days a week;

(e) By twenty-two, if the victim was normally employed five days a week;

(f) By twenty-six, if the victim was normally employed six days a week; or

(g) By thirty, if the victim was normally employed seven days a week.

(6) When the director determines that a permanent total disability or death results in a loss of wages the victim or eligible spouse shall receive the monthly payments established in this subsection, not to exceed forty thousand dollars or the limits established in this chapter.

(7) If the director determines that the victim is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(8) In the case of death, if there is no eligible spouse, benefits shall be paid to the child or children of the deceased victim. If there is no spouse or children, no payments shall be made under this section. If the spouse remarries before this benefit is paid in full benefits shall be paid to the victim's child or children and the spouse shall not receive further payment. If there is no child or children no further payments will be made.

(9) To receive reimbursement for expenses related to the disposition of remains or burial, the department must receive an itemized statement from a provider of services within twelve months of the date upon which the death of the victim is officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for disposition or burial, an itemized statement from a provider of services must be received within twelve months of the date of the release of the remains.

~~((45))~~ (10) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

~~((46))~~ (11) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act (, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement).

~~((17))~~ In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(18) A dependent mother, father, stepmother, or stepfather, as

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defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

~~(19))~~ (12) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060((4)) (6) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(13) If the provisions of this title relative to compensation for injuries to or death of victims become invalid because of any adjudication, or are repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death.

(14) Beginning July 1, 2015, applying only prospectively to criminal acts occurring on or after July 1, 2015, the benefits established in RCW 51.32.080 for permanent partial disability shall be obtainable under this chapter, and provisions relating to payment contained in that section shall equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(15) Beginning July 1, 2015, applying only prospectively to criminal acts occurring on or after July 1, 2015, the department may make payments for home or vehicle modifications solely according to the following terms and limitations:

(a) Whenever in the sole discretion of the director it is reasonable and necessary to provide residence modifications necessary to meet the needs and requirements of the victim who has sustained catastrophic injury, the department may be ordered to pay an amount not to exceed the state's average annual wage for one year as determined under RCW 50.04.355, as now existing or hereafter amended, toward the cost of such modifications or construction. Such payment shall only be made for the construction or modification of a residence in which the injured victim resides. Only one residence of any victim may be modified or constructed under this subsection, although the director may order more than one payment for any one home, up to the maximum amount permitted under RCW 7.68.070.

(b) Whenever in the sole discretion of the director it is reasonable and necessary to modify a motor vehicle owned by a victim who has become an amputee or becomes paralyzed because of a criminal act, the director may order up to fifty percent of the state's average annual wage for one year, as determined under RCW 50.04.355, to be paid by the department toward the costs thereof.

(c) In the sole discretion of the director after his or her review, the amount paid under this subsection may be increased by no more than four thousand dollars by written order of the director.

NEW SECTION. Sec. 403. (1) Benefits for permanent total disability shall be determined under the director's supervision, only after the injured victim's condition becomes fixed.

(2) All determinations of permanent total disabilities shall be made by the department. The victim may make a request or the inquiry may be initiated by the director. Determinations shall be required in every instance where permanent total disability is likely to be present.

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(3) A request for determination of permanent total disability shall be examined by the department, and the department shall issue an order in accordance with RCW 51.52.050.

**NEW SECTION. Sec. 404.** (1) If aggravation, diminution, or termination of disability takes place, the director may, upon the application of the beneficiary, made within seven years from the date the first closing order becomes final, or at any time upon his or her own motion, readjust the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment. The director may, upon application of the victim made at any time, provide proper and necessary medical and surgical services as authorized under section 507 of this act.

(2) "Closing order" as used in this section means an order based on factors which include medical recommendation, advice, examination, or the maximum benefit has been met.

**NEW SECTION. Sec. 405.** (1) For persons receiving compensation for temporary total disability pursuant to the provisions of this chapter, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors, and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 U.S.C. Sec. 424a. However, such reduction shall not apply when the combined compensation provided pursuant to this chapter and the federal old-age, survivors, and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

(2) Any reduction under subsection (1) of this section shall be effective the month following the month in which the department is notified by the federal social security administration that the person is receiving disability benefits under the federal old-age, survivors, and disability insurance act. In the event of an overpayment of benefits, the department may not recover more than the overpayments for the six months immediately preceding the date on which the department notifies the victim that an overpayment has occurred. Upon determining that there has been an overpayment, the department shall immediately notify the person who received the overpayment that he or she shall be required to make repayment pursuant to this section and section 702 of this act.

(3) Recovery of any overpayment must be taken from future temporary or permanent total disability benefits or permanent partial disability benefits provided by this chapter. In the case of temporary or permanent total disability benefits, the recovery shall not exceed twenty-five percent of the monthly amount due from the department or one-sixth of the total overpayment, whichever is the lesser.

(4) No reduction may be made unless the victim receives notice of the reduction prior to the month in which the reduction is made.

(5) In no event shall the reduction reduce total benefits to less than the greater amount the victim may be eligible under this chapter or the federal old-age, survivors, and disability insurance act.

(6) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any overpayment where the recovery would be against equity and good conscience.

(7) Subsection (1) of this section applies to:

(a) Victims under the age of sixty-two whose effective entitlement to total disability compensation begins before January 2, 1983;

(b) Victims under the age of sixty-five whose effective entitlement to total disability compensation begins after January 1, 1983; and

(c) Victims who will become sixty-five years of age on or after June 10, 2004.

(8)(a) If the federal social security administration makes a retroactive reduction in the federal social security disability benefit entitlement of a victim for periods of temporary total, temporary partial, or total permanent disability for which the department also reduced the victim's benefit amounts under this section, the department shall make adjustments in the calculation of benefits and pay the additional benefits to the victim as appropriate. However, the department shall not make changes in the calculation or pay additional benefits unless the victim submits a written request, along with documentation satisfactory to the director of an overpayment assessment by the social security administration, to the department.

(b) Additional benefits paid under this subsection:

(i) Are paid without interest and without regard to whether the victim's claim under this chapter is closed; and

(ii) Do not affect the status or the date of the claim's closure.

(c) This subsection does not apply to requests on claims for which a determination on the request has been made and is not subject to further appeal.

**NEW SECTION. Sec. 406.** Victims otherwise eligible for compensation under this chapter may also claim compensation for loss of or damage to the victim's personal clothing or footwear incurred in the course of emergency medical treatment for injuries.

**NEW SECTION. Sec. 407.** A beneficiary shall at all times furnish the department with proof satisfactory to the director of the nature, amount, and extent of the contribution made by the deceased victim.

## V. MEDICAL BENEFITS

**Sec. 501.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read as follows:

((The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: PROVIDED, That:

(a)) (1) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed ((from the fund established pursuant to RCW 7.68.090; and)) by the department as part of the victim's total claim under RCW 7.68.070(1).

((~~(b))~~) (2) In the case of alleged rape or molestation of a child, the reasonable costs of a colposcope examination shall be reimbursed ((from the fund pursuant to RCW 7.68.090)) by the department as part of the victim's total claim under RCW 7.68.070(1).

(3) The director shall adopt rules for fees and charges for hospital, clinic, ((and)) medical ~~((charges along with all related fees under this chapter shall conform to regulations promulgated by the director)), and other health care services, including fees and costs for durable medical equipment, eye glasses, hearing aids, and other medically necessary devices for crime victims under this chapter. The director shall set these service levels and fees at a level no lower than those established by the department of social and health~~

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services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

(4) Whenever the director deems it necessary in order to resolve any medical issue, a victim shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The department shall provide the physician performing an examination with all relevant medical records from the victim's claim file. The director, in his or her discretion, may charge the cost of such examination or examinations to the crime victims' compensation fund. If the examination is paid for by the victim, then the cost of said examination shall be reimbursed to the victim for reasonable costs connected with the examination as part of the victim's total claim under RCW 7.68.070(1).

(5) Victims of sexual assault are eligible to receive appropriate counseling. Fees for such counseling shall be determined by the department. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(6) Immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Up to twelve counseling sessions may be received for one year after the crime victim's claim has been allowed. Fees for counseling shall be determined by the department in accordance with and subject to this section. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

(7) Pursuant to RCW 7.68.070(12), a victim of a sex offense that occurred outside of Washington may be eligible to receive mental health counseling related to participation in proceedings to civilly commit a perpetrator.

(8) The crime victims' compensation program shall consider payment of benefits solely for the effects of the criminal act.

(9) The legislature finds and declares it to be in the public interest of the state of Washington that a proper regulatory and inspection program be instituted in connection with the provision of any services provided to crime victims pursuant to this chapter. In order to effectively accomplish such purpose and to assure that the victim receives such services as are paid for by the state of Washington, the acceptance by the victim of such services, and the request by a provider of services for reimbursement for providing such services, shall authorize the director of the department or the director's authorized representative to inspect and audit all records in connection with the provision of such services. In the conduct of such audits or investigations, the director or the director's authorized representatives may:

(a) Examine all records, or portions thereof, including patient records, for which services were rendered by a health care provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential, except that no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information obtained under authority of this section by the department is prohibited and constitutes a violation of RCW 42.52.050, unless such disclosure is directly connected to the official duties of the department. The disclosure of patient information as required under this section shall not subject any physician, licensed advanced registered nurse practitioner, or other health care provider to any

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liability for breach of any confidential relationships between the provider and the patient. The director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;

(b) Approve or deny applications to participate as a provider of services furnished to crime victims pursuant to this title;

(c) Terminate or suspend eligibility to participate as a provider of services furnished to victims pursuant to this title; and

(d) Pursue collection of unpaid overpayments and/or penalties plus interest accrued from health care providers pursuant to RCW 51.32.240(6).

(10) When contracting for health care services and equipment, the department, upon request of a contractor, shall keep confidential financial and valuable trade information, which shall be exempt from public inspection and copying under chapter 42.56 RCW.

**Sec. 502.** RCW 7.68.085 and 2010 c 122 s 2 are each amended to read as follows:

(1) This section has no force or effect from April 1, 2010, until July 1, 2015.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. ~~((Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:~~

~~—(a) Necessary for a previously accepted condition;~~

~~—(b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and~~

~~—(c) Not available from an alternative source.))~~

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

(3) This section applies prospectively only to criminal acts that occur on or after July 1, 2015.

**Sec. 503.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. ~~((Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:~~

~~—(1) Necessary for a previously accepted condition;~~

~~—(2) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and~~

~~—(3) Not available from an alternative source.))~~

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

(2) This section applies prospectively only to criminal acts that occur on or after July 1, 2015.

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**NEW SECTION. Sec. 504.** Health care professionals providing treatment or services to crime victims shall maintain all proper credentials and educational standards as required by law, and be registered with the department of health. The crime victims' compensation program does not pay for experimental or controversial treatment. Treatment shall be evidence-based and curative.

**NEW SECTION. Sec. 505.** The department shall examine the credentials of persons conducting special medical examinations and shall monitor the quality and objectivity of examinations and reports. The department shall adopt rules to ensure that examinations are performed only by qualified persons meeting department standards.

**NEW SECTION. Sec. 506.** (1) Any victim eligible to receive any benefits or claiming such under this title shall, if requested by the department submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the victim as may be provided by the rules of the department. An injured victim, whether an alien or other injured victim, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department.

(2) If the victim refuses to submit to medical examination, or obstructs the same, or, if any injured victim shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery does not cooperate in reasonable efforts at such rehabilitation, the department may suspend any further action on any claim of such victim so long as such refusal, obstruction, noncooperation, or practice continues and thus, the department may reduce, suspend, or deny any compensation for such period. The department may not suspend any further action on any claim of a victim or reduce, suspend, or deny any compensation if a victim has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment, or practice requested by the department or required under this section.

(3) If the victim necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her upon proper voucher and audit.

(4) If the medical examination required by this section causes the victim to be absent from his or her work without pay, the victim shall be paid compensation in an amount equal to his or her usual wages for the time lost from work while attending the medical examination when the victim is insured by the department.

**NEW SECTION. Sec. 507.** Upon the occurrence of any injury to a victim eligible for compensation under the provisions of this chapter, he or she shall receive proper and necessary medical and surgical services using his or her private or public insurance or if no insurance, using a provider of his or her own choice. In all accepted claims, treatment shall be limited in point of duration as follows:

(1) No treatment shall be provided once the victim has received the maximum compensation under this chapter.

(2) In case of temporary disability, treatment shall not extend beyond the time when monthly allowances to him or her shall cease. After any injured victim has returned to his or her work, his or her medical and surgical treatment may be continued if, and so long as, such continuation is determined by the director to be necessary to his or her recovery, and as long as the victim has not received the maximum compensation under this chapter.

**NEW SECTION. Sec. 508.** Any medical provider who fails, neglects, or refuses to file a report with the director, as required by this chapter, within five days of the date of treatment, showing the

condition of the injured victim at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured victim, as required by this chapter, shall be subject to a civil penalty determined by the director but not to exceed two hundred fifty dollars. The amount shall be paid into the crime victims' compensation account.

## VI. APPEALS

**NEW SECTION. Sec. 601.** (1)(a) If the victim or beneficiary in a claim prevails in an appeal by any party to the department or the court, the department shall comply with the department or court's order with respect to the payment of compensation within the later of the following time periods:

(i) Sixty days after the compensation order has become final and is not subject to review or appeal; or

(ii) If the order has become final and is not subject to review or appeal and the department has, within the period specified in (a)(i) of this subsection, requested the filing by the victim or beneficiary of documents necessary to make payment of compensation, sixty days after all requested documents are filed with the department.

The department may extend the sixty-day time period for an additional thirty days for good cause.

(b) If the department fails to comply with (a) of this subsection, any person eligible for compensation under the order may institute proceedings for injunctive or other appropriate relief for enforcement of the order. These proceedings may be instituted in the superior court for the county in which the claimant resides, or, if the claimant is not then a resident of this state, in the superior court for Thurston county.

(2) In a proceeding under this section, the court shall enforce obedience to the order by proper means, enjoining compliance upon the person obligated to comply with the compensation order. The court may issue such writs and processes as are necessary to carry out its orders and may award a penalty of up to one thousand dollars to the person eligible for compensation under the order.

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this chapter.

## VII. ERRONEOUS PAYMENT DUE TO ERROR OR PAYMENT DUE TO MISREPRESENTATION

**Sec. 701.** RCW 7.68.125 and 1995 c 33 s 2 are each amended to read as follows:

(1)(a) Whenever any payment ((under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed that any claim therefor has been waived. The department may exercise its discretion to waive, in whole or in part, the amount of any such timely claim.

(2) Whenever any payment under this chapter has been made pursuant to an adjudication by the department, board, or any court and timely appeal therefrom has been made and the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department may exercise its discretion to waive, in whole or in part, the amount thereof.

(3) Whenever any payment under this chapter has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient under this chapter and the amount of the penalty shall be placed in the fund or funds established pursuant to RCW 7.68.090.

(4) If the department issues an order contending a debt due and owing under this section, the order is subject to chapter 51.52 RCW. If the order becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount stated in the order plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately enter the warrant in the execution docket. The amount of the warrant as docketed becomes a lien upon all real and personal property of the person against whom the warrant is issued, the same as a judgment in a civil case. The warrant shall then be subject to execution, garnishment, and other procedures for the collection of judgments. The filing fee must be added to the amount of the warrant. The department shall mail a conformed copy of the warrant to the person named within seven working days of filing with the clerk.

(5)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a final order of debt due and owing has been entered. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150)) of benefits under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the crime victims' compensation program. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3) and (4) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in

the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the crime victims' compensation programs subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department or an appeal with the department within ninety days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever any payment of benefits under this chapter has been made pursuant to an adjudication by the department or by order of any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(b) The department shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the victim to the extent that the health insurance entity would have provided health insurance benefits.

(4)(a) Whenever any payment of benefits under this chapter has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the crime victims' compensation program against whom the willful misrepresentation was committed and the amount of such penalty shall be placed in the crime victims' compensation fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (4), it is willful misrepresentation for a person to obtain payments or other benefits under this chapter in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (4), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this chapter.

(d) For purposes of this subsection (4), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (4), a material fact is one

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which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages.

(5) The victim, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (4) of this section, the director or director's designee may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the victim, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim, beneficiary, or other person within three days of filing with the clerk.

The director or director's designee may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any victim, beneficiary, or other person upon whom a warrant has been served for payments due the department. The notice and order to withhold and deliver shall be served by certified mail accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director or director's designee, or by electronic means or other methods authorized by law. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the

notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director or the director's designee in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991. This subsection shall apply retroactively to all orders assessing an overpayment resulting from willful misrepresentation, civil or criminal.

(6) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department.

NEW SECTION. Sec. 702. Notwithstanding any other provisions of law, any overpayments previously recovered under the provisions of section 405 of this act as now or hereafter amended shall be limited to six months' overpayments. Where greater recovery has already been made, the director, in his or her discretion, may make restitution in those cases where an extraordinary hardship has been created.

**Sec. 703.** RCW 7.68.130 and 1995 c 33 s 3 are each amended to read as follows:

(1) Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available, less a proportionate share of reasonable attorneys' fees and costs, if any, incurred by the victim in obtaining recovery from the insurer. Calculation of a proportionate share of attorneys' fees and costs shall be made under the formula established in RCW ~~((51.24.060))~~ 7.68.050 (9) through (14). The department or the victim may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(2) Benefits payable after 1980 to victims injured or killed before 1980 shall be reduced by any other public or private insurance including but not limited to social security.

(3) Payment by the department under this chapter shall be secondary to other insurance benefits, notwithstanding the provision of any contract or coverage to the contrary. In the case of private life insurance proceeds, the first forty thousand dollars of the proceeds shall not be considered for purposes of any reduction in benefits.

(4) If the department determines that a victim is likely to be eligible for other public insurance or support services, the department may require the applicant to apply for such services before awarding benefits under RCW 7.68.070. If the department determines that a victim shall apply for such services and the victim refuses or does not apply for those services, the department may deny any further benefits under this chapter. The department may require an applicant to provide a copy of their determination of eligibility before providing benefits under this chapter.

(5) Before payment of benefits will be considered victims shall use their private insurance coverage.

(6) For the purposes of this section, the collection methods available under RCW 7.68.125~~((4))~~ (5) apply.

**Sec. 704.** RCW 7.68.050 and 1998 c 91 s 1 are each amended to read as follows:

(1) No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. The victim or his beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or

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beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in ~~((RCW 51.24.050 through 51.24.140))~~ subsections (3) through (25) of this section apply.

(3) (If the recovery involved is against the state, the lien of the department includes the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment.) (a) If a third person is or may become liable to pay damages on account of a victim's injury for which benefits and compensation are provided under this chapter, the injured victim or beneficiary may elect to seek damages from the third person.

(b) In every action brought under this section, the plaintiff shall give notice to the department when the action is filed. The department may file a notice of statutory interest in recovery. When such notice has been filed by the department, the parties shall thereafter serve copies of all notices, motions, pleadings, and other process on the department. The department may then intervene as a party in the action to protect its statutory interest in recovery.

(c) For the purposes of this subsection, "injury" includes any physical or mental condition, disease, ailment, or loss, including death, for which compensation and benefits are paid or payable under this chapter.

(d) For the purposes of this chapter, "recovery" includes all damages and insurance benefits, including life insurance, paid in connection with the victim's injuries or death.

(4) An election not to proceed against the third person operates as an assignment of the cause of action to the department, which may prosecute or compromise the action in its discretion in the name of the victim, beneficiary, or legal representative.

(5) If an injury to a victim results in the victim's death, the department to which the cause of action has been assigned may petition a court for the appointment of a special personal representative for the limited purpose of maintaining an action under this chapter and chapter 4.20 RCW.

(6) If a beneficiary is a minor child, an election not to proceed against a third person on such beneficiary's cause of action may be exercised by the beneficiary's legal custodian or guardian.

(7) Any recovery made by the department shall be distributed as follows:

(a) The department shall be paid the expenses incurred in making the recovery including reasonable costs of legal services;

(b) The victim or beneficiary shall be paid twenty-five percent of the balance of the recovery made, which shall not be subject to subsection (8) of this section, except that in the event of a compromise and settlement by the parties, the victim or beneficiary may agree to a sum less than twenty-five percent;

(c) The department shall be paid the amount paid to or on behalf of the victim or beneficiary by the department; and

(d) The victim or beneficiary shall be paid any remaining balance.

(8) Thereafter no payment shall be made to or on behalf of a victim or beneficiary by the department for such injury until any further amount payable shall equal any such remaining balance. Thereafter, such benefits shall be paid by the department to or on behalf of the victim or beneficiary as though no recovery had been made from a third person.

(9) If the victim or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the victim or beneficiary and the department. The department may require court approval of costs and attorneys'

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fees or may petition a court for determination of the reasonableness of costs and attorneys' fees;

(b) The victim or beneficiary shall be paid twenty-five percent of the balance of the award, except that in the event of a compromise and settlement by the parties, the victim or beneficiary may agree to a sum less than twenty-five percent;

(c) The department shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department for the amount paid;

(i) The department shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the victim or beneficiary to the extent of the benefits paid under this title. The department's proportionate share shall not exceed one hundred percent of the costs and reasonable attorneys' fees;

(ii) The department's proportionate share of the costs and reasonable attorneys' fees shall be determined by dividing the gross recovery amount into the benefits paid amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the victim or beneficiary;

(iii) The department's reimbursement share shall be determined by subtracting their proportionate share of the costs and reasonable attorneys' fees from the benefits paid amount;

(d) Any remaining balance shall be paid to the victim or beneficiary; and

(e) Thereafter no payment shall be made to or on behalf of a victim or beneficiary by the department for such injury until the amount of any further amount payable shall equal any such remaining balance minus the department's proportionate share of the costs and reasonable attorneys' fees in regards to the remaining balance. This proportionate share shall be determined by dividing the gross recovery amount into the remaining balance amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the victim or beneficiary. Thereafter, such benefits shall be paid by the department to or on behalf of the victim or beneficiary as though no recovery had been made from a third person.

(10) The recovery made shall be subject to a lien by the department for its share under this section. Notwithstanding RCW 48.18.410, a recovery made from life insurance shall be subject to a lien by the department.

(11) The department has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the victim or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(12) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(13) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by electronic, registered or certified mail, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid

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lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such victim or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the victim or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the victim or beneficiary within three days of filing with the clerk.

(14) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any victim or beneficiary upon whom a warrant has been served by the department for payments due to the crime victims' compensation program. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy; by certified mail, return receipt requested; or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

(15) The department may require the victim or beneficiary to exercise the right of election under this chapter by serving a written demand by electronic mail, registered mail, certified mail, or personal service on the victim or beneficiary.

(16) Unless an election is made within sixty days of the receipt of the demand, and unless an action is instituted or settled within the time granted by the department, the victim or beneficiary is deemed to have assigned the action to the department. The department shall allow the victim or beneficiary at least ninety days from the election to institute or settle the action. When a beneficiary is a minor child

the demand shall be served upon the legal custodian or guardian of such beneficiary.

(17) If an action which has been filed is not diligently prosecuted, the department may petition the court in which the action is pending for an order assigning the cause of action to the department. Upon a sufficient showing of a lack of diligent prosecution the court in its discretion may issue the order.

(18) If the department has taken an assignment of the third party cause of action under subsection (16) of this section, the victim or beneficiary may, at the discretion of the department, exercise a right of reelection and assume the cause of action subject to reimbursement of litigation expenses incurred by the department.

(19) If the victim or beneficiary elects to seek damages from the third person, notice of the election must be given to the department. The notice shall be by registered mail, certified mail, or personal service. If an action is filed by the victim or beneficiary, a copy of the complaint must be sent by registered mail to the department.

(20) A return showing service of the notice on the department shall be filed with the court but shall not be part of the record except as necessary to give notice to the defendant of the lien imposed by subsection (10) of this section.

(21) Any compromise or settlement of the third party cause of action by the victim or beneficiary which results in less than the entitlement under this title is void unless made with the written approval of the department. For the purposes of this chapter, "entitlement" means benefits and compensation paid and estimated by the department to be paid in the future.

(22) If a compromise or settlement is void because of subsection (21) of this section, the department may petition the court in which the action was filed for an order assigning the cause of action to the department. If an action has not been filed, the department may proceed as provided in chapter 7.24 RCW.

(23) The fact that the victim or beneficiary is entitled to compensation under this title shall not be pleaded or admissible in evidence in any third-party action under this chapter. Any challenge of the right to bring such action shall be made by supplemental pleadings only and shall be decided by the court as a matter of law.

(24) Actions against third persons that are assigned by the claimant to the department, voluntarily or by operation of law in accordance with this chapter, may be prosecuted by special assistant attorneys general.

(25) The attorney general shall select special assistant attorneys general from a list compiled by the department and the Washington state bar association. The attorney general, in conjunction with the department and the Washington state bar association, shall adopt rules and regulations outlining the criteria and the procedure by which private attorneys may have their names placed on the list of attorneys available for appointment as special assistant attorneys general to litigate third-party actions under subsection (24) of this section.

(26) The 1980 amendments to this section apply only to injuries which occur on or after April 1, 1980.

## VIII. MISCELLANEOUS

NEW SECTION. Sec. 801. RCW 7.68.100 (Physicians' reporting) and 1973 1st ex.s. c 122 s 10 are each repealed.

NEW SECTION. Sec. 802. This act applies retroactively for claims of victims of criminal acts that occurred on or after July 1, 1981, in which a closing order has not been issued or become final and binding as of July 1, 2011, except that victims receiving time loss or loss of support on or before July 1, 2011, may continue to receive time loss at the rate established prior to July 1, 2011. Aggravation applications filed by crime victims who had claims

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prior to July 1, 2011, will be adjudicated under the laws in effect on or after the effective date of this section. This act does not affect the retroactive application of chapter 122, Laws of 2010.

**NEW SECTION. Sec. 803.** Sections 201 through 205, 302 through 307, 403 through 407, 504 through 508, 601, and 702 of this act are each added to chapter 7.68 RCW.

**NEW SECTION. Sec. 804.** Sections 401 and 502 of this act expire July 1, 2015.

**NEW SECTION. Sec. 805.** Sections 402 and 503 of this act take effect July 1, 2015.

**NEW SECTION. Sec. 806.** Except for sections 402 and 503 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Correct the title.

On page 33, line 27 of the amendment, after "of a" strike "colposcope" and insert "~~(colposcope)~~ colposcopy"

On page 33, line 28 of the amendment, after "department" insert ". Costs for a colposcopy examination given under this subsection shall not be included"

On page 36, beginning on line 30 of the amendment, strike all material through "July 1, 2015." on line 31 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5691.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5691.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5691 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5691, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5691, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5691, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senator Brown was excused.

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On motion of Senator Ranker, Senator Hargrove was excused.

#### MESSAGE FROM THE HOUSE

April 20, 2011

MR. PRESIDENT:

The House receded from its amendment(s) to SENATE BILL NO. 5625. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5625 AMH ROBE H2691.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.260 and 2006 c 265 s 307 are each amended to read as follows:

(1) Each agency shall make application for a license or ~~(renewal of)~~ the continuation of a full license to the department on forms prescribed by the department. Upon receipt of such application, the department shall either grant or deny a license or continuation of a full license within ninety days. A license or continuation shall be granted if the agency meets the minimum requirements set forth in this chapter and the departmental requirements consistent with ~~((the [this]))~~ this chapter, except that an initial license may be issued as provided in RCW 43.215.280. The department shall consider whether an agency is in good standing, as defined in subsection (4)(b) of this section, before granting a continuation of a full license. Full licenses provided for in this chapter shall ((be issued for a period of three years)) continue to remain valid so long as the licensee meets the requirements for a nonexpiring license in subsection (2) of this section. The licensee, however, shall advise the director of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed family day care homes having an acceptable history of child care, the license may remain in effect for two weeks after a move.

(2) In order to qualify for a nonexpiring full license, a licensee must meet the following requirements on an annual basis as established from the date of initial licensure:

- (a) Submit the annual licensing fee;
- (b) Submit a declaration to the department indicating the licensee's intent to continue operating a licensed child care program, or the intent to cease operation on a date certain;
- (c) Submit a declaration of compliance with all licensing rules; and
- (d) Submit background check applications on the schedule established by the department.

(3) If a licensee fails to meet the requirements in subsection (2) of this section for continuation of a full license the license expires and the licensee must submit a new application for licensure under this chapter.

(4)(a) Nothing about the nonexpiring license process may interfere with the department's established monitoring practice.

(b) For the purpose of this section, an agency is considered to be in good standing if in the intervening period between monitoring visits the agency does not have any of the following:

- (i) Valid complaints;
- (ii) A history of noncompliance related to those valid complaints or pending from prior monitoring visits; or
- (iii) Other information that when evaluated would result in a finding of noncompliance with this section.

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(c) The department shall consider whether an agency is in good standing when determining the most appropriate approach and process for monitoring visits, for the purposes of administrative efficiency while protecting children, consistent with this chapter. If the department determines that an agency is not in good standing, the department may issue a probationary license, as provided in RCW 43.215.290.

**Sec. 2.** RCW 43.215.290 and 2006 c 265 s 310 are each amended to read as follows:

(1) The department may issue a probationary license to a licensee who has had ~~((a)) an initial, expiring, or other~~ license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance if:

(a) The noncompliance does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue; and

(b) The licensee has a plan approved by the department to correct the area of noncompliance within the probationary period.

(2) Before issuing a probationary license, the department shall, in writing, refer the licensee to the child care resource and referral network or other appropriate resource for technical assistance. The department may issue a probationary license pursuant to subsection (1) of this section if within fifteen working days after the department has sent its referral:

(a) The licensee, in writing, has refused the department's referral for technical assistance; or

(b) The licensee has failed to respond in writing to the department's referral for technical assistance.

(3) If the licensee accepts the department's referral for technical assistance issued under subsection (2) of this section, the department, the licensee, and the technical assistance provider shall meet within thirty days after the licensee's acceptance. The licensee and the department, in consultation with the technical assistance provider, shall develop a plan to correct the areas of noncompliance identified by the department. If, after sixty days, the licensee has not corrected the areas of noncompliance identified in the plan developed in consultation with the technical assistance provider, the department may issue a probationary license pursuant to subsection (1) of this section.

(4) A probationary license may be issued for up to six months, and at the discretion of the department it may be extended for an additional six months. The department shall immediately terminate the probationary license, if at any time the noncompliance for which the probationary license was issued presents an immediate threat to the health or well-being of the children.

~~((3))~~ (5) The department may, at any time, issue a probationary license for due cause that states the conditions of probation.

~~((4))~~ (6) An existing license is invalidated when a probationary license is issued.

~~((5))~~ (7) At the expiration of the probationary license, the department shall reinstate the original license for the remainder of its term, issue a new license, or revoke the original license.

~~((6))~~ (8) A right to an adjudicative proceeding shall not accrue to the licensee whose license has been placed on probationary status unless the licensee does not agree with the placement on probationary status and the department then suspends, revokes, or modifies the license.

**Sec. 3.** RCW 43.215.270 and 2006 c 265 s 308 are each amended to read as follows:

(1) If a licensee desires to apply for a renewal of its license, a request for a renewal shall be filed ninety days before the expiration date of the license. If the department has failed to act at the time of the expiration date of the license, the license shall continue in effect until such time as the department acts.

(2) License renewal under this section does not apply to nonexpiring licenses described in RCW 43.215.260."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Harper moved that the Senate concur in the House amendment(s) to Senate Bill No. 5625.

Senator Harper spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Harper that the Senate concur in the House amendment(s) to Senate Bill No. 5625.

The motion by Senator Harper carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5625 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5625, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5625, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Delvin and Parlette

SENATE BILL NO. 5625, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 7, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5023 with the following amendment(s): 5023-S AMH ENGR H2272.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.154.010 and 1989 c 117 s 1 are each amended to read as follows:

The legislature finds and declares that ~~((assisting persons regarding immigration matters))~~ the practice by nonlawyers and other unauthorized persons of providing legal advice and legal services to others in immigration matters substantially affects the public interest. The practice(s) of ~~((immigration assistants have a significant impact on the residents of the state of Washington))~~ nonlawyers and other unauthorized persons providing immigration-related legal advice and legal services for compensation may impact the ability of their customers to reside and work within the United States and to establish and maintain stable families and business relationships. The legislature further finds and declares that the previous scheme for regulating the

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behavior of nonlawyers and other unauthorized persons who provide immigration-related services is inadequate to address the level of unfair and deceptive practices that exists in the marketplace and often contributes to the unauthorized practice of law. It is the intent of the legislature, through this act, to ~~((establish rules of practice and conduct for immigration assistants to promote honesty and fair dealing with residents and to preserve public confidence))~~ prohibit nonlawyers and other unauthorized persons from providing immigration-related services that constitute the practice of law.

**Sec. 2.** RCW 19.154.020 and 1989 c 117 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ("Immigration assistant" means every person who, for compensation or the expectation of compensation, gives nonlegal assistance on an immigration matter. That assistance is limited to:

(a) Transcribing responses to a government agency form selected by the customer which is related to an immigration matter, but does not include advising a person as to his or her answers on those forms;

(b) Translating a person's answer to questions posed on those forms;

(c) Securing for a person supporting documents currently in existence, such as birth and marriage certificates, which may be needed to submit with those forms;

(d) Making referrals to attorneys who could undertake legal representation for a person in an immigration matter.

(2)) "Immigration matter" means any proceeding, filing, or action affecting the nonimmigrant, immigrant, or citizenship status of any person ((which arises)) arising under immigration and naturalization law, executive order, or presidential proclamation, or ((which arises under)) pursuant to any action of the United States citizenship and immigration ((and naturalization)) services, the United States department of labor, ((or)) the United States department of state, the United States department of justice, the United States department of homeland security, the board of immigration appeals, or any other entity or agency having jurisdiction over immigration law.

~~((3))~~ (2) "Compensation" means money, property, or anything else of value.

(3) "Practice of law" has the definition given to it by the supreme court of Washington whether by rule or decision, and includes all exceptions and exclusions to that definition currently in place or hereafter created, whether by rule or decision.

**Sec. 3.** RCW 19.154.060 and 1989 c 117 s 6 are each amended to read as follows:

~~((Immigration assistants shall offer or provide only nonlegal assistance in an immigration matter as defined in RCW 19.154.020.))~~ (1) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the practice of law in an immigration matter for compensation.

(2) Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, for compensation:

(a) Advising or assisting another person in determining the person's legal or illegal status for the purpose of an immigration matter;

(b) Selecting or assisting another in selecting, or advising another as to his or her answers on, a government agency form or document in an immigration matter;

(c) Selecting or assisting another in selecting, or advising another in selecting, a benefit, visa, or program to apply for in an

immigration matter;

(d) Soliciting to prepare documents for, or otherwise representing the interests of, another in a judicial or administrative proceeding in an immigration matter;

(e) Explaining, advising, or otherwise interpreting the meaning or intent of a question on a government agency form in an immigration matter;

(f) Charging a fee for referring another to a person licensed to practice law;

(g) Selecting, drafting, or completing legal documents affecting the legal rights of another in an immigration matter.

(3) Persons, other than those holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the following acts or practices, regardless of whether compensation is sought:

(a) Representing, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she is a notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the area of immigration law;

(b) Representing, in any language, either orally or in any document, letterhead, advertisement, stationery, business card, web site, or other comparable written material, that he or she can or is willing to provide services in an immigration matter, if such services would constitute the practice of law.

(4)(a) The prohibitions of subsections (1) through (3) of this section shall not apply to the activities of nonlawyer assistants acting under the supervision of a person holding an active license to practice law issued by the Washington state bar association or otherwise permitted to practice law or represent others under federal law in an immigration matter.

(b) This section does not prohibit a person from offering translation services, regardless of whether compensation is sought. Translating words contained on a government form from English to another language and translating a person's words from another language to English does not constitute the unauthorized practice of law.

(5) In addition to complying with the prohibitions of subsections (1) through (3) of this section, persons licensed as a notary public under chapter 42.44 RCW who do not hold an active license to practice law issued by the Washington state bar association shall not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or any other designation or title, in any language, that conveys or implies that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services in the conduct of their business. A violation of any provision of this chapter by a person licensed as a notary public under chapter 42.44 RCW shall constitute unprofessional conduct under the uniform regulation of business and professions act, chapter 18.235 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 19.154 RCW to read as follows:

Persons who are not licensed to practice law in this state or who are not otherwise permitted to represent others under federal law in an immigration matter may engage in the following services for compensation:

(1) Translate words on a government form that the person seeking services presents to the person providing translation services;

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(2) Secure existing documents for the person seeking services. Existing documents include, for example, birth and marriage certificates; and

(3) Offer other immigration related services that are not prohibited under this chapter or any other provision of law or do not constitute the practice of law.

**Sec. 5.** RCW 19.154.090 and 1989 c 117 s 9 are each amended to read as follows:

(1) The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce as set forth in RCW 19.86.020.

(2) In addition to all remedies available in chapter 19.86 RCW, a person injured by a violation of this chapter may bring a civil action to recover the actual damages proximately caused by a violation of this chapter, or one thousand dollars, whichever is greater.

**Sec. 6.** RCW 42.44.030 and 2002 c 86 s 287 are each amended to read as follows:

(1) In addition to the unprofessional conduct specified in RCW 18.235.130, the director may deny appointment as a notary public to any person based on the following conduct, acts, or conditions:

- ((+)) (a) Has had disciplinary action taken against any professional license in this or any other state; (~~or~~
- (2)) (b) Has engaged in official misconduct as defined in RCW 42.44.160(1), whether or not criminal penalties resulted; or
- (c) Has violated any of the provisions of chapter 19.154 RCW.

(2) The director shall deliver a certificate evidencing the appointment to each person appointed as a notary public. The certificate may be signed in facsimile by the governor, the secretary of state, and the director or the director's designee. The certificate must bear a printed seal of the state of Washington.

**NEW SECTION. Sec. 7.** A new section is added to chapter 19.154 RCW to read as follows:

Nothing in this chapter shall apply to or regulate any business to the extent such regulation is prohibited or preempted by federal law.

**Sec. 8.** RCW 19.154.900 and 1989 c 117 s 11 are each amended to read as follows:

This chapter shall be known and cited as the "immigration (~~assistant practices~~) services fraud prevention act."

**NEW SECTION. Sec. 9.** (1)(a) The legislature recognizes that immigrants in Washington need legal services to assist them in immigration matters, and it is difficult for existing organizations to meet those needs because of high case loads and limited resources.

(b) The legislature also recognizes that the difference between offering nonlegal services and offering legal services in immigration matters is sometimes difficult to distinguish. Not understanding or recognizing the distinction between nonlegal services and legal services in immigration matters can result in a person engaging in the unauthorized practice of law and can result in irreparable consequences for immigrants who seek assistance.

(2) Therefore, the legislature respectfully requests that the supreme court's practice of law board, within available resources, evaluate the following:

(a) The specific services nonattorneys may provide to immigrants that do not rise to the level of the practice of law in immigration matters;

(b) The level of access to and the quality of nonlegal and legal services immigrants have and the ways in which access and quality can be improved;

(c) The level of need immigrants have for nonlegal services compared to the need for legal services in immigration matters.

(3) A report of the board's findings and recommendations must be presented to the legislature no later than December 1, 2011.

**NEW SECTION. Sec. 10.** The following acts or parts of acts are each repealed:

- (1) RCW 19.154.030 (Exemptions) and 1989 c 117 s 3;
- (2) RCW 19.154.040 (Registration required) and 1989 c 117 s 4;
- (3) RCW 19.154.050 (Change of address) and 1989 c 117 s 5;
- (4) RCW 19.154.070 (Written contract--Requirements--Right to rescind) and 1989 c 117 s 7;
- (5) RCW 19.154.080 (Prohibited activities) and 1989 c 117 s 8; and
- (6) RCW 19.154.902 (Effective date--1989 c 117) and 1989 c 117 s 15.

**NEW SECTION. Sec. 11.** This act takes effect one hundred eighty days after final adjournment of the legislative session in which it is enacted."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5023.

Senators Prentice and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5023.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5023 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5023, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5023, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and White

Voting nay: Senators Hewitt, Holmquist Newbry, Roach and Zarelli

Excused: Senators Brown, Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5023, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 19, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1874 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 1874 and ask the House to concur thereon.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 1874 and ask the House to concur thereon.

The motion by Senator Hargrove carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 1874 and asked the House to concur thereon by voice vote.

## MOTION

On motion of Senator White, Senator Ranker was excused.

## MOTION

On motion of Senator Eide, Substitute House Bill No. 1874 was immediately transmitted to the House of Representatives.

## MOTION

At 3:22 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 4:50 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599, by House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Maxwell, Orwall, Haigh, Santos, Dammeier, Seaquist, Liias, Reykdal, Kagi, Roberts, Kenney and Ormsby)

Establishing the pay for actual student success dropout prevention program.

The measure was read the second time.

## MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) Providing students with the opportunity to graduate from high school with the knowledge and skills to be successful in today's world is now clearly part of Washington's definition of a basic education. Some students will only achieve this objective with supplemental interventions, support, and counseling;

(b) Dropout prevention is a fundamental strategy for strengthening society, building the economy, reducing crime, reducing government spending, and increasing individual freedom and opportunity;

(c) There are known and proven strategies to reduce the dropout rate, including ones that are successful for high-risk and troubled students. For example, the opportunity internship program, the jobs for America's graduates program, the building bridges program, and individualized student support services provided by the college success foundation have all had a measurable impact on helping at-risk students be successful in school. In addition, the Everett school district successfully increased its extended graduation rate from fifty-three percent in 2003 to ninety percent in 2010 by tracking the progress toward graduation of each student and assigning success coordinators to ensure students pursued all possible avenues to complete and make up credits. The Renton school district, through a combination of leadership, community partnerships and resources, and high expectations for all students, has increased its graduation rate to ninety percent, with ninety-six percent of graduating seniors in 2010 meeting proficiency on the state high school assessments. However, these types of models have never been brought to scale; and

(d) For every dropout prevented, the chances of that person committing a crime are reduced by twenty percent, and that person stands to increase his or her lifetime earnings by three hundred thousand dollars in today's dollars. In addition, for every dropout prevented, taxpayers save an estimated ten thousand five hundred dollars per year for each year of the individual's life between the ages of twenty and sixty-five.

(2) Therefore, the state should use a dual strategy of making front-end investments in proven programs in order to expand them into an effective dropout prevention and intervention system, while simultaneously recognizing and rewarding actual success in reducing the dropout rate by investing a portion of the savings generated from each prevented dropout in the public schools.

(3) The legislature recognizes that the current fiscal climate in the state is a likely contributing factor to an increase in dropout rates. Reductions in state funding for schools are often felt first in student support services, counseling, supplemental instruction and tutoring, and increased class size, all of which affect struggling students. A poor economy negatively affects families through unemployment, uncertainty, and reduced public services, and students bring these stresses with them to school. If allowed to go unaddressed, these economic and fiscal circumstances are likely to slow or reverse progress on improving high school completion rates. Therefore, a concentrated effort at improvement is required at this time.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.175 RCW to read as follows:

(1) The pay for actual student success (PASS) program is created under this section and sections 3 through 8 of this act to invest in proven dropout prevention and intervention programs as provided in section 3 of this act and provide a financial award for high schools that demonstrate improvement in the dropout prevention indicators established under section 4 of this act. The legislature finds that increased accumulation of credits and reductions in incidents of student discipline lead to improved graduation rates.

(2) The office of the superintendent of public instruction, the workforce training and education coordinating board, the building bridges working group, the higher education coordinating board, and the college scholarship organization under section 3(4) of this act shall collaborate to assure that the programs under section 3 of this act operate systematically and are expanded to include as many additional students and schools as possible.

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**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.175 RCW to read as follows:

Subject to funds appropriated for this purpose, funds shall be allocated as specified in the omnibus appropriations act to support the PASS program through the following programs:

(1) The opportunity internship program under RCW 28C.18.160 through 28C.18.168;

(2) The jobs for America's graduates program administered through the office of the superintendent of public instruction;

(3) The building bridges program under RCW 28A.175.025, to be used to expand programs that have been implemented by building bridges partnerships and determined by the building bridges work group to be successful in reducing dropout rates, or to replicate such programs in new partnerships; and

(4) Individualized student support services provided by a college scholarship organization with expertise in managing scholarships for low-income, high potential students and foster care youth under contract with the higher education coordinating board, including but not limited to college and career advising, counseling, tutoring, community mentor programs, and leadership development.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28A.175 RCW to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the state board of education, must:

(a) Calculate the annual extended graduation rate for each high school, which is the rate at which a class of students enters high school as freshmen and graduates with a high school diploma, including students who receive a high school diploma after the year they were expected to graduate. The office may statistically adjust the rate for student demographics in the high school, including the number of students eligible for free and reduced price meals, special education and English language learner students, students of various racial and ethnic backgrounds, and student mobility;

(b) Annually calculate the proportion of students at grade level for each high school, which shall be measured by the number of credits a student has accumulated at the end of each school year compared to the total number required for graduation. For the purposes of this subsection (1)(b), the office shall adopt a standard definition of "at grade level" for each high school grade;

(c) Annually calculate the proportion of students in each high school who are suspended or expelled from school, as reported by the high school. In-school suspensions shall not be included in the calculation. Improvement on the indicator under this subsection (1)(c) shall be measured by a reduction in the number of students suspended or expelled from school; and

(d) Beginning with the 2012-13 school year, annually measure student attendance in each high school as provided under section 10 of this act.

(2) The office of the superintendent of public instruction may add dropout prevention indicators to the list of indicators under subsection (1) of this section, such as student grades, state assessment mastery, or student retention.

(3) To the maximum extent possible, the office of the superintendent of public instruction shall rely on data collected through the comprehensive education data and research system to calculate the dropout prevention indicators under this section and shall minimize additional data collection from schools and school districts unless necessary to meet the requirements of this section.

(4) The office of the superintendent of public instruction shall develop a metric for measuring the performance of each high school on the indicators under subsection (1) of this section that assigns points for each indicator and results in a single numeric dropout prevention score for each high school. The office shall weight the extended graduation rate indicator within the metric so that a high school does not qualify for an award under section 5 of this act

without an increase in its extended graduation rate. The metric used through the 2012-13 school year shall include the indicators in subsection (1)(a) through (c) of this section and shall measure improvement against the 2010-11 school year as the baseline year. Beginning in the 2013-14 school year, the metric shall also include the indicator in subsection (1)(d) of this section, with improvement in this indicator measured against the 2012-13 school year as the baseline year. The office may establish a minimum level of improvement in a high school's dropout prevention score for the high school to qualify for a PASS program award under section 5 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28A.175 RCW to read as follows:

(1)(a) Subject to funds appropriated for this purpose or otherwise available in the account established in section 7 of this act, beginning in the 2011-12 school year and each year thereafter, a high school that demonstrates improvement in its dropout prevention score compared to the baseline school year as calculated under section 4 of this act may receive a PASS program award as provided under this section. The legislature intends to recognize and reward continuous improvement by using a baseline year for calculating eligibility for PASS program awards so that a high school retains previously earned award funds from one year to the next unless its performance declines.

(b) The office of the superintendent of public instruction must determine the amount of PASS program awards based on appropriated funds and eligible high schools. The intent of the legislature is to provide an award to each eligible high school commensurate with the degree of improvement in the high school's dropout prevention score and the size of the high school. The office must establish a minimum award amount. If funds available for PASS program awards are not sufficient to provide an award to each eligible high school, the office of the superintendent of public instruction shall establish objective criteria to prioritize awards based on eligible high schools with the greatest need for additional dropout prevention and intervention services. The office of the superintendent of public instruction shall encourage and may require a high school receiving a PASS program award to demonstrate an amount of community matching funds or an amount of in-kind community services to support dropout prevention and intervention.

(c) Ninety percent of an award under this section must be allocated to the eligible high school to be used for dropout prevention activities in the school as specified in subsection (2) of this section. The principal of the high school shall determine the use of funds after consultation with parents and certificated and classified staff of the school.

(d) Ten percent of an award under this section must be allocated to the school district in which the eligible high school is located to be used for dropout prevention activities as specified in subsection (2) of this section in the high school or in other schools in the district.

(e) The office of the superintendent of public instruction may withhold distribution of award funds under this section to an otherwise eligible high school or school district if the superintendent of public instruction issues a finding that the school or school district has willfully manipulated the dropout prevention indicators under section 4 of this act, for example by expelling, suspending, transferring, or refusing to enroll students at risk of dropping out of school or at risk of low achievement.

(2) High schools and school districts may use PASS program award funds for any programs or activities that support the development of a dropout prevention, intervention, and reengagement system as described in RCW 28A.175.074, offered directly by the school or school district or under contract with education agencies or community-based organizations, including

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but not limited to educational service districts, workforce development councils, and boys and girls clubs. Such programs or activities may include but are not limited to the following:

(a) Strategies to close the achievement gap for disadvantaged students and minority students;

(b) Use of graduation coaches as defined in section 6 of this act;

(c) Opportunity internship activities under RCW 28C.18.164;

(d) Dropout reengagement programs provided by community-based organizations or community and technical colleges;

(e) Comprehensive guidance and planning programs as defined under RCW 28A.600.045, including but not limited to the navigation 101 program;

(f) Reduced class sizes, extended school day, extended school year, and tutoring programs for students identified as at risk of dropping out of school, including instruction to assist these students in meeting graduation requirements in mathematics and science;

(g) Outreach and counseling targeted to students identified as at risk of dropping out of school, or who have dropped out of school, to encourage them to consider learning alternatives such as preapprenticeship programs, skill centers, running start, technical high schools, and other options for completing a high school diploma;

(h) Preapprenticeship programs or running start for the trades initiatives under RCW 49.04.190;

(i) Mentoring programs for students;

(j) Development and use of dropout early warning data systems;

(k) Counseling, resource and referral services, and intervention programs to address social, behavioral, and health factors associated with dropping out of school;

(l) Implementing programs for in-school suspension or other strategies to avoid excluding middle and high school students from the school whenever possible;

(m) Parent engagement activities such as home visits and off-campus parent support group meetings related to dropout prevention and reengagement; and

(n) Early learning programs for prekindergarten students.

(3) High schools and school districts are encouraged to implement dropout prevention and reengagement strategies in a comprehensive and systematic manner, using strategic planning, school improvement plans, evaluation and feedback, and response to intervention tools.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.175 RCW to read as follows:

For the purposes of section 5 of this act, a "graduation coach" means a staff person, working in consultation with counselors, who is assigned to identify and provide intervention services to students who have dropped out or are at risk of dropping out of school or of not graduating on time through the following activities:

(1) Monitoring and advising on individual student progress toward graduation;

(2) Providing student support services and case management;

(3) Motivating students to focus on a graduation plan;

(4) Encouraging parent and community involvement;

(5) Connecting parents and students with appropriate school and community resources;

(6) Securing supplemental academic services for students;

(7) Implementing schoolwide dropout prevention programs and interventions; and

(8) Analyzing data to identify at-risk students.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.175 RCW to read as follows:

The high school completion account is created in the custody of the state treasurer. Revenues to the account shall consist of appropriations made by the legislature, federal funds, gifts or grants

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from the private sector or foundations, and other sources deposited in the account. Expenditures from the account may be used only for proven dropout prevention and intervention programs identified under section 3 of this act and to make PASS program awards under section 5 of this act. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 8.** A new section is added to chapter 28A.175 RCW to read as follows:

The office of the superintendent of public instruction must regularly inform high schools and school districts about the opportunities under section 3 of this act to receive funding to implement programs that have been proven to reduce dropout rates and increase graduation rates, as well as the opportunities under section 5 of this act for high schools to receive a financial incentive for success. Within available funds, the office shall develop systemic, ongoing strategies for identifying and disseminating successful dropout prevention and reengagement programs and strategies and for incorporating dropout prevention and reengagement into high school and school district strategic planning and improvement. The office may offer support and assistance to schools and districts through regional networks. The office shall make every effort to keep dropout prevention and reduction of the dropout rate a top priority for school directors, administrators, and teachers.

**Sec. 9.** RCW 28A.175.035 and 2007 c 408 s 3 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall:

(a) Identify criteria for grants and evaluate proposals for funding in consultation with the workforce training and education coordinating board;

(b) Develop and monitor requirements for grant recipients to:

(i) Identify students who both fail the Washington assessment of student learning and drop out of school;

(ii) Identify their own strengths and gaps in services provided to youth;

(iii) Set their own local goals for program outcomes;

(iv) Use research-based and emerging best practices that lead to positive outcomes in implementing the building bridges program; and

(v) Coordinate an outreach campaign to bring public and private organizations together and to provide information about the building bridges program to the local community;

(c) In setting the requirements under (b) of this subsection, encourage creativity and provide for flexibility in implementing the local building bridges program;

(d) Identify and disseminate successful practices;

(e) Develop requirements for grant recipients to collect and report data, including, but not limited to:

(i) The number of and demographics of students served including, but not limited to, information regarding a student's race and ethnicity, a student's household income, a student's housing status, whether a student is a foster youth or youth involved in the juvenile justice system, whether a student is disabled, and the primary language spoken at a student's home;

(ii) Washington assessment of student learning scores;

(iii) Dropout rates;

(iv) On-time graduation rates;

(v) Extended graduation rates;

(vi) Credentials obtained;

(vii) Absenteeism rates;

(viii) Truancy rates; and

(ix) Credit retrieval;

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(f) Contract with a third party to evaluate the infrastructure and implementation of the partnership including the leveraging of outside resources that relate to the goal of the partnership. The third-party contractor shall also evaluate the performance and effectiveness of the partnerships relative to the type of entity, as identified in RCW 28A.175.045, serving as the lead agency for the partnership; and

(g) Report to the legislature by December 1, 2008.

(2) In performing its duties under this section, the office of superintendent of public instruction is encouraged to consult with the work group identified in RCW 28A.175.075.

(3) In selecting recipients for grant funds appropriated under section 3 of this act, the office of the superintendent of public instruction shall use a streamlined and expedited application and review process for those programs that have already proven to be successful in dropout prevention.

**NEW SECTION. Sec. 10.** A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) The superintendent of public instruction shall adopt rules establishing a standard definition of student absence from school. In adopting the definition, the superintendent shall review current practices in Washington school districts, definitions used in other states, and any national standards or definitions used by the national center for education statistics or other national groups. The superintendent shall also consult with the building bridges work group established under RCW 28A.175.075.

(b) Using the definition of student absence adopted under this section, the superintendent shall establish an indicator for measuring student attendance in high schools for purposes of the PASS program under section 2 of this act.

(2)(a) The K-12 data governance group under RCW 28A.300.507 shall establish the parameters and an implementation schedule for statewide collection through the comprehensive education and data research system of: (i) Student attendance data using the definitions of student absence adopted under this section; and (ii) student discipline data with a focus on suspensions and expulsions from school.

(b) At a minimum, school districts must collect and submit student attendance data and student discipline data for high school students through the comprehensive education and data research system for purposes of the PASS program under section 2 of this act beginning in the 2012-13 school year.

**NEW SECTION. Sec. 11.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

Senators McAuliffe and Litzow spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator White, Senator Brown was excused.

MOTION

On motion of Senator Ericksen, Senator Benton was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1599.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28A.175.035; adding new sections to chapter 28A.175 RCW; adding a new section to chapter 28A.300 RCW; and creating new sections."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 1599 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1599 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1599 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 6; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Honeyford, King, Roach and Stevens

Excused: Senators Brown, Delvin and Parlette

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:  
The House has passed SUBSTITUTE SENATE BILL NO. 5385. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:  
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5622. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5531. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5531-S AMH PEDE ADAM 059, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature recognizes that counties that host evaluation and treatment beds incur costs by providing judicial services associated with civil commitments under chapters 71.05 and 71.34 RCW. Because evaluation and treatment beds are not evenly distributed across the state, these commitments frequently occur in a different county from the county in which the person was originally detained. The intent of this act is to create a process for the state to reimburse counties through the regional support networks for the counties' reasonable direct costs incurred in providing these judicial services, and to prevent the burden of these costs from falling disproportionately on the counties or regional support networks in which the commitments are most likely to occur. The legislature recognizes that the costs of judicial services may vary across the state based on different factors and conditions.

**NEW SECTION. Sec. 2.** A new section is added to chapter 71.05 RCW to read as follows:

(1) A county may apply to its regional support network on a quarterly basis for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter and chapter 71.34 RCW. The regional support network shall in turn be entitled to reimbursement from the regional support network that serves the county of residence of the individual who is the subject of the civil commitment case. Reimbursements under this section shall be paid out of the regional support network's nonmedicaid appropriation.

(2) Reimbursement for judicial services shall be provided per civil commitment case at a rate to be determined based on an independent assessment of the county's actual direct costs. This assessment must be based on an average of the expenditures for judicial services within the county over the past three years. In the event that a baseline cannot be established because there is no significant history of similar cases within the county, the reimbursement rate shall be equal to eighty percent of the median reimbursement rate of counties included in the independent assessment.

(3) For the purposes of this section:

(a) "Civil commitment case" includes all judicial hearings related to a single episode of hospitalization, or less restrictive alternative detention in lieu of hospitalization, except that the filing of a petition for a one hundred eighty-day commitment under this chapter or a petition for a successive one hundred eighty-day commitment under chapter 71.34 RCW shall be considered to be a new case regardless of whether there has been a break in detention. "Civil commitment case" does not include the filing of a petition for a one hundred eighty-day commitment under this chapter on behalf of a patient at a state psychiatric hospital.

(b) "Judicial services" means a county's reasonable direct costs in providing prosecutor services, assigned counsel and defense services, court services, and court clerk services for civil commitment cases under this chapter and chapter 71.34 RCW.

(4) To the extent that resources have shared purpose, the regional support network may only reimburse counties to the extent such resources are necessary for and devoted to judicial services as described in this section.

(5) No filing fee may be charged or collected for any civil commitment case subject to reimbursement under this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 71.05 RCW to read as follows:

(1) The joint legislative audit and review committee shall conduct an independent assessment of the direct costs of providing judicial services under this chapter and chapter 71.34 RCW as defined in section 2 of this act. The assessment shall include a review and analysis of the reasons for differences in costs among counties. The assessment shall be conducted for any county in which more than twenty civil commitment cases were conducted during the year prior to the study. The assessment must be completed by June 1, 2012.

(2) The administrative office of the courts and the department shall provide the joint legislative audit and review committee with assistance and data required to complete the assessment.

(3) The joint legislative audit and review committee shall present recommendations as to methods for updating the costs identified in the assessment to reflect changes over time.

**NEW SECTION. Sec. 4.** A new section is added to chapter 71.34 RCW to read as follows:

A county may apply to its regional support network for reimbursement of its direct costs in providing judicial services for civil commitment cases under this chapter, as provided in section 2 of this act.

**Sec. 5.** RCW 71.05.110 and 1997 c 112 s 7 are each amended to read as follows:

Attorneys appointed for persons pursuant to this chapter shall be compensated for their services as follows: (1) The person for whom an attorney is appointed shall, if he or she is financially able pursuant to standards as to financial capability and indigency set by the superior court of the county in which the proceeding is held, bear the costs of such legal services; (2) if such person is indigent pursuant to such standards, the ~~((costs of such services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held ~~((subject however to the responsibility for costs provided in RCW 71.05.320(2)))~~ for the direct costs of such legal services, as provided in section 2 of this act.

**Sec. 6.** RCW 71.24.160 and 2001 c 323 s 15 are each amended to read as follows:

The regional support networks shall make satisfactory showing to the secretary that state funds shall in no case be used to replace local funds from any source being used to finance mental health services prior to January 1, 1990. Maintenance of effort funds devoted to judicial services related to involuntary commitment reimbursed under section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

**Sec. 7.** RCW 71.34.300 and 1985 c 354 s 14 are each amended to read as follows:

(1) The county or combination of counties is responsible for development and coordination of the evaluation and treatment program for minors, for incorporating the program into the county mental health plan, and for coordination of evaluation and treatment services and resources with the community mental health program required under chapter 71.24 RCW.

(2) The county shall be responsible for maintaining its support of involuntary treatment services for minors at its 1984 level, adjusted for inflation, with the department responsible for additional costs to the county resulting from this chapter. Maintenance of effort funds devoted to judicial services related to involuntary

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commitment reimbursed under section 2 of this act must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

**Sec. 8.** RCW 71.34.330 and 1985 c 354 s 23 are each amended to read as follows:

Attorneys appointed for minors under this chapter shall be compensated for their services as follows:

(1) Responsible others shall bear the costs of such legal services if financially able according to standards set by the court of the county in which the proceeding is held.

(2) If all responsible others are indigent as determined by these standards, the ~~((costs of these legal services shall be borne by))~~ regional support network shall reimburse the county in which the proceeding is held for the direct costs of such legal services, as provided in section 2 of this act.

**Sec. 9.** RCW 71.05.230 and 2009 c 217 s 2 and 2009 c 293 s 3 are each reenacted and amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. ~~((There shall be no fee for filing petitions for fourteen days of involuntary intensive treatment.))~~ A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the designated mental health professional has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by:

(a) Two physicians;

(b) One physician and a mental health professional;

(c) Two psychiatric advanced registered nurse practitioners;

(d) One psychiatric advanced registered nurse practitioner and a mental health professional; or

(e) A physician and a psychiatric advanced registered nurse practitioner. The persons signing the petition must have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The petition reflects that the person was informed of the loss of firearm rights if involuntarily committed; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

**NEW SECTION. Sec. 10.** Except for section 3 of this act, this act takes effect July 1, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator King moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5531.

Senator King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator King that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5531.

The motion by Senator King carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5531 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5531, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5531, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoessler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5531, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator King: "Well, there's been a lot of work that's gone into the bill that we just passed and we've been working on this diligently since the start of session and I would be remiss if I didn't thank you Heather from the Democratic staff for her work as well as Senator Eide and particularly Senator Hargrove for their efforts in getting us to this point. I just wanted to say thank you for all their efforts. Thank you Mr. President."

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1053 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kline moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1053.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1053.

The motion by Senator Kline carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1053 by voice vote.

#### MOTION

On motion of Senator Kline, the rules were suspended and Substitute House Bill No. 1053 was returned to second reading for the purpose of amendment.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1053, by House Committee on Judiciary (originally sponsored by Representatives Moeller, Kenney, Ladenburg, Appleton, Roberts, Darneille and Upthegrove)

Implementing recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 11.88.020 and 1997 c 312 s 1 are each amended to read as follows:

(1) Any suitable person over the age of eighteen years, or any parent under the age of eighteen years or, if the petition is for appointment of a professional guardian, any individual or guardianship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incapacitated person. A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may act as a guardian of the estate of an incapacitated person without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian who is

(a) under eighteen years of age except as otherwise provided herein;

(b) of unsound mind;

(c) convicted of a felony or of a misdemeanor involving moral turpitude;

(d) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(e) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(f) a person whom the court finds unsuitable.

(2) The professional guardian certification requirements required under this section shall not apply to a testamentary guardian appointed under RCW 11.88.080.

(3) If a guardian or limited guardian is not a certified professional guardian or financial institution authorized under this section, the guardian or limited guardian shall complete any standardized training video or web cast for lay guardians made available by the administrative office of the courts and the superior court where the petition is filed unless granted a waiver by the court under RCW 11.92.043 or 11.92.040. The training video or web cast must be provided at no cost to the guardian or limited guardian.

(a) If a petitioner requests the appointment of a specific individual to act as a guardian or limited guardian, the petition for guardianship or limited guardianship shall include evidence of the successful completion of the required training video or web cast by the proposed guardian or limited guardian. The superior court may defer the completion of the training requirement to a date no later than ninety days after appointment if the petitioner requests expedited appointment due to emergent circumstances.

(b) If no person is identified to be appointed guardian or limited guardian at the time the petition is filed, then the court shall require the completion of the required training video or web cast by a date no later than ninety days after the appointment.

Sec. 2. RCW 11.88.030 and 2009 c 521 s 36 are each amended to read as follows:

(1) Any person or entity may petition for the appointment of a qualified person, (~~trust company, national bank, or nonprofit corporation~~) certified professional guardian, or financial institution authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the alleged incapacitated person;

(b) The nature of the alleged incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of property, including any compensation, pension, insurance, or allowance, to which the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood, marriage, or state registered domestic partnership to the alleged incapacitated person;

(g) The name and address of the person or facility having the care and custody of the alleged incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

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(i) A description of any alternate arrangements previously made by the alleged incapacitated person, such as trusts or powers of attorney, including identifying any guardianship nominations contained in a power of attorney, and why a guardianship is nevertheless necessary;

(j) The nature and degree of the alleged incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(k) The requested term of the limited guardianship to be included in the court's order of appointment; and

(l) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2) The petition shall include evidence of successful completion of any training required under RCW 11.88.020 by the proposed guardian or limited guardian unless the petitioner requests expedited appointment due to emergent circumstances.

~~((2))~~ (3)(a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

~~((3))~~ (4) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged incapacitated person has total assets of a value of less than three thousand dollars.

~~((4))~~ (5)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person and the guardian ad litem along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than five court days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

IMPORTANT NOTICE PLEASE READ CAREFULLY

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE ..... COUNTY SUPERIOR COURT BY ..... IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED DOMESTIC PARTNERSHIP;
- (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- (6) TO POSSESS A LICENSE TO DRIVE;

(7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;

(8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;

(9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;

(10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE THAT PERSON.

~~((5))~~ (6) All petitions filed under the provisions of this section shall be heard within sixty days unless an extension of time is requested by a party or the guardian ad litem within such sixty day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

Sec. 3. RCW 11.92.043 and 1991 c 289 s 11 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of the person:

(1) To file within three months after appointment a personal care plan for the incapacitated person which shall include (a) an assessment of the incapacitated person's physical, mental, and emotional needs and of such person's ability to perform or assist in activities of daily living, and (b) the guardian's specific plan for meeting the identified and emerging personal care needs of the incapacitated person.

(2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW 11.92.040, a report on the status of the incapacitated person, which shall include:

- (a) The address and name of the incapacitated person and all residential changes during the period;
- (b) The services or programs which the incapacitated person receives;
- (c) The medical status of the incapacitated person;
- (d) The mental status of the incapacitated person;
- (e) Changes in the functional abilities of the incapacitated person;
- (f) Activities of the guardian for the period;
- (g) Any recommended changes in the scope of the authority of the guardian;
- (h) The identity of any professionals who have assisted the incapacitated person during the period;
- (i) Evidence of the guardian or limited guardian's successful completion of any standardized training video or web cast for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or

limited guardian: (A) Was appointed prior to the effective date of this section; (B) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (C) has not previously completed the requirements of RCW 11.88.020(3). The training video or web cast must be provided at no cost to the guardian or limited guardian.

(ii) The superior court may, upon (A) petition by the guardian or limited guardian; or (B) any other method as provided by local court rule:

(I) For good cause, waive this requirement for guardians appointed prior to the effective date of this section. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts, the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or

(II) Extend the time period for completion of the training requirement for ninety days; and

(j) Evidence of the guardian or limited guardian's successful completion of any additional or updated training video or web cast offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020. The training video or web cast must be provided at no cost to the guardian or limited guardian.

(3) To report to the court within thirty days any substantial change in the incapacitated person's condition, or any changes in residence of the incapacitated person.

(4) Consistent with the powers granted by the court, to care for and maintain the incapacitated person in the setting least restrictive to the incapacitated person's freedom and appropriate to the incapacitated person's personal care needs, assert the incapacitated person's rights and best interests, and if the incapacitated person is a minor or where otherwise appropriate, to see that the incapacitated person receives appropriate training and education and that the incapacitated person has the opportunity to learn a trade, occupation, or profession.

(5) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the incapacitated person, except in the case of a limited guardian where such power is not expressly provided for in the order of appointment or subsequent modifying order as provided in RCW 11.88.125 as now or hereafter amended, the standby guardian or standby limited guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. No guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incapacitated person who is unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapter 71.05 or 72.23 RCW are followed. Nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

(a) Therapy or other procedure which induces convulsion;

(b) Surgery solely for the purpose of psychosurgery;

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement, or the rights set forth in RCW ~~((71.05.370))~~ 71.05.217.

A guardian, limited guardian, or standby guardian who believes these procedures are necessary for the proper care and maintenance

of the incapacitated person shall petition the court for an order unless the court has previously approved the procedure within the past thirty days. The court may order the procedure only after an attorney is appointed in accordance with RCW 11.88.045 if no attorney has previously appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040.

**Sec. 4.** RCW 11.88.095 and 1995 c 297 s 5 are each amended to read as follows:

(1) In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

(a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;

(b) The amount of the bond, if any, or a bond review period;

(c) ~~((When the next report of the guardian is due; —(d)))~~ The date the account or report shall be filed. The date of filing an account or report shall be within ninety days after the anniversary date of the appointment;

(d) A date for the court to review the account or report and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment and follow the provisions of RCW 11.92.050. The court may review and approve an account or report without conducting a hearing;

(e) A directive to the clerk of court to issue letters of guardianship as specified in section 6 of this act;

(f) Whether the guardian ad litem shall continue acting as guardian ad litem;

~~((e))~~ (g) Whether a review hearing shall be required upon the filing of the inventory;

~~((f))~~ (h) Whether a review hearing is required upon filing the initial personal care plan;

(i) The authority of the guardian, if any, for investment and expenditure of the ward's estate; ~~(and~~

~~—(g))~~ (j) Names and addresses of those persons described in RCW 11.88.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship. The guardian, within ninety days from the date of the appointment, shall, in writing, notify the persons identified by the court of their right to request special notice of proceedings as described in RCW 11.92.150; and

(k) A guardianship summary placed directly below the case caption or on a separate cover page in the following form, or a substantially similar form, containing the following information:

GUARDIANSHIP SUMMARY

Date Guardian Appointed: .....

Due Date for Report and

Accounting: .....

Date of Next Review: .....

Letters Expire On: .....

Bond Amount: \$.....

Restricted Account

Agreements Required: .....

Due Date for Inventory: .....

Due Date for Care Plan: .....



The Guardian has fulfilled all legal requirements to serve, including, but not limited to: Taking and filing the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order; and appointing a resident agent for a nonresident guardian.

The Court, having found the Guardian duly qualified, now makes it known . . . . . is authorized as the Guardian for . . . . . designated in the Court's order as referenced above.

The next filing and reporting deadline in this matter is on the . . . day of . . . . .

THESE LETTERS ARE NO LONGER VALID ON . . . . .

These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

This matter is before the Honorable . . . . . of Superior Court, the seal of the Court being affixed this . . . . . of . . . . .

State of Washington)

) ss.

County of . . . . .)

I, . . . . ., Clerk of the Superior Court of said County and State, certify that this document represents true and correct Letters of Guardianship in the above entitled case, entered upon the record on this . . . . . day of . . . . .

These Letters remain in full force and effect until the date of expiration set forth above.

The seal of Superior Court has been affixed and witnessed by my hand this . . . . . day of . . . . .

(2) The court shall order the clerk to issue letters of guardianship that are valid for a period of up to five years from the anniversary date of the appointment. When determining the time period for which the letters will be valid, the court must consider: The length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian.

Sec. 7. RCW 11.88.140 and 1991 c 289 s 9 are each amended to read as follows:

(1) TERMINATION WITHOUT COURT ORDER. A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW 26.28.010 as now or hereafter amended, of any person defined as an incapacitated person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding, subject to subsection (2) of this section;

(b) By an adjudication of capacity or an adjudication of termination of incapacity;

(c) By the death of the incapacitated person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW

11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF COMPLETION. A guardianship for the benefit of a minor may be terminated upon the minor's attainment of legal age, as defined in RCW 26.28.010 as now or hereafter amended, by the guardian filing a declaration that states:

(a) The date the minor attained legal age;

(b) That the guardian has paid all of the minor's funds in the guardian's possession to the minor, who has signed a receipt for the funds, and that the receipt has been filed with the court;

(c) That the guardian has completed the administration of the minor's estate and the guardianship is ready to be closed; and

(d) The amount of fees paid or to be paid to each of the following: (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or accountants; and that the guardian believes the fees are reasonable and does not intend to obtain court approval of the amount of the fees or to submit a guardianship accounting to the court for approval. Subject to the requirement of notice as provided in this section, unless the minor petitions the court either for an order requiring the guardian to obtain court approval of the amount of fees paid or to be paid to the guardian, lawyers, or accountants, or for an order requiring an accounting, or both, within thirty days from the filing of the declaration of completion of guardianship, the guardian shall be automatically discharged without further order of the court. The guardian's powers will cease thirty days after filing the declaration of completion of guardianship. The declaration of completion of guardianship shall, at the time, be the equivalent of an entry of a decree terminating the guardianship, distributing the assets, and discharging the guardian for all legal intents and purposes.

Within five days of the date of filing the declaration of completion of guardianship, the guardian or the guardian's lawyer shall mail a copy of the declaration of completion to the minor together with a notice that shall be substantially as follows:

CAPTION OF CASE NOTICE OF FILING A DECLARATION OF COMPLETION OF GUARDIANSHIP

NOTICE IS GIVEN that the attached Declaration of Completion of Guardianship was filed by the undersigned in the above-entitled court on the . . . . . day of . . . . ., 19 . . . ; unless you file a petition in the above-entitled court requesting the court to review the reasonableness of the fees, or for an accounting, or both, and serve a copy of the petition on the guardian or the guardian's lawyer, within thirty days after the filing date, the amount of fees paid or to be paid will be deemed reasonable, the acts of the guardian will be deemed approved, the guardian will be automatically discharged without further order of the court and the Declaration of Completion of Guardianship will be final and deemed the equivalent of an order terminating the guardianship, discharging the guardian and decreeing the distribution of the guardianship assets.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place of the hearing, by mail, or by personal service, not less than ten days before the hearing on the petition.

DATED this . . . . . day of . . . . ., 19 . . .

.....

Guardian

If the minor, after reaching legal age, waives in writing the notice required by this section, the guardian will be automatically discharged without further order of the court and the declaration of completion of guardianship will be effective as an order terminating the guardianship without an accounting upon filing the declaration. If the guardian has been required to furnish a bond, and a declaration of completion of guardianship is filed according to this section, any bond furnished by the guardian shall be automatically discharged upon the discharge of the guardian.

(3) TERMINATION ON COURT ORDER. A guardianship or limited guardianship may be terminated by court order after such notice as the court may require if the guardianship or limited guardianship is no longer necessary.

The guardian or limited guardian shall, within ~~((thirty))~~ ninety days of the date of termination of the guardianship, unless the court orders a different deadline for good cause, prepare and file with the court a final verified account of administration. The final verified account of administration shall contain the same information as required for (a) an intermediate verified account of administration of the estate under RCW 11.92.040(2) and (b) an intermediate personal care status report under RCW 11.92.043(2).

(4) EFFECT OF TERMINATION. When a guardianship or limited guardianship terminates other than by the death of the incapacitated person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incapacitated person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incapacitated person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the incapacitated person's estate shall be determined by the law of decedents' estates.

Sec. 8. RCW 11.92.053 and 1995 c 297 s 7 are each amended to read as follows:

Within ninety days, unless the court orders a different deadline for good cause, after the termination of a guardianship for any reason, the guardian or limited guardian of the estate shall petition the court for an order settling his or her account as filed in accordance with RCW 11.92.040(2) with regard to any receipts, expenditures, and investments made and acts done by the guardian to the date of the termination. Upon the filing of the petition, the court shall set a date for the hearing of the petition after notice has been given in accordance with RCW 11.88.040. Any person interested may file objections to the petition or may appear at the time and place fixed for the hearing thereof and present his or her objections thereto. The court may take such testimony as it deems proper or necessary to determine whether an order settling the account should be issued and the transactions of the guardian be approved, and the court may appoint a guardian ad litem to review the report.

At the hearing on the petition of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving the account, and the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order. However, within one year after the incompetent attains his or her majority any such account

may be challenged by the incapacitated person on the ground of fraud.

Sec. 9. RCW 11.92.040 and 1991 c 289 s 10 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of an estate:

(1) To file within three months after the guardian's appointment a verified inventory of all the property of the incapacitated person which comes into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within ninety days after the anniversary date of the guardian's or limited guardian's appointment, and also within ~~((thirty))~~ ninety days after termination of the appointment, unless the court for good cause orders a different deadline to file following termination, a written verified account of the administration for court approval, which account shall contain at least the following information:

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets;

(3) The court in its discretion may allow reports at intervals of up to thirty-six months for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian shall report any substantial change in income or assets of the guardianship estate within thirty days of the occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;

(4) All court orders approving accounts or reports filed by a guardian or limited guardian must contain a guardianship summary placed directly below the case caption or on a separate cover page in the following form, or a substantially similar form, containing the following information:

GUARDIANSHIP SUMMARY

Date Guardian Appointed: .....

Due Date for Report and

Accounting: .....

Date of Next Review: .....

Letters Expire On: .....

Bond Amount: \$.....

Restricted Account:

Agreements Required: .....

Incapacitated Person                      Guardian of:  Estate  Person  
(IP)

|              |              |
|--------------|--------------|
| <u>Name:</u> | <u>Name:</u> |
|--------------|--------------|

|                 |                 |
|-----------------|-----------------|
| <u>Address:</u> | <u>Address:</u> |
|-----------------|-----------------|

|               |               |
|---------------|---------------|
| <u>Phone:</u> | <u>Phone:</u> |
|---------------|---------------|

|                   |                   |
|-------------------|-------------------|
| <u>Facsimile:</u> | <u>Facsimile:</u> |
|-------------------|-------------------|

|                         |                |                       |
|-------------------------|----------------|-----------------------|
| <u>Standby Guardian</u> | <u>Address</u> | <u>Relation to IP</u> |
|-------------------------|----------------|-----------------------|

|  |  |  |
|--|--|--|
|  |  |  |
|--|--|--|

|                           |                |                       |
|---------------------------|----------------|-----------------------|
| <u>Interested Parties</u> | <u>Address</u> | <u>Relation to IP</u> |
|---------------------------|----------------|-----------------------|

(5) To protect and preserve the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

~~((5))~~ (6) To invest and reinvest the property of the incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the incapacitated person that a specific property be used by the incapacitated person rather than sold and the proceeds invested, the court may so order;

~~((6))~~ (7) To apply to the court no later than the filing of the inventory for an order authorizing disbursements on behalf of the incapacitated person (~~PROVIDED, HOWEVER, THAT~~), However, the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incapacitated person, or if the guardian or limited guardian of the

estate has the care and custody of the incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof;

(8) To provide evidence of the guardian or limited guardian's successful completion of any standardized training video or web cast for guardians or limited guardians made available by the administrative office of the courts and the superior court when the guardian or limited guardian: (a) Was appointed prior to the effective date of this section; (b) is not a certified professional guardian or financial institution authorized under RCW 11.88.020; and (c) has not previously completed the requirements of RCW 11.88.020(3). The training video or web cast must be provided at no cost to the guardian or limited guardian. The superior court may, upon (i) petition by the guardian or limited guardian; or (ii) any other method as provided by local court rule: (A) For good cause, waive this requirement for guardians appointed prior to the effective date of this section. Good cause shall require evidence that the guardian already possesses the requisite knowledge to serve as a guardian without completing the training. When determining whether there is good cause to waive the training requirement, the court shall consider, among other facts, the length of time the guardian has been serving the incapacitated person; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian; or (B) extend the time period for completion of the training requirement for ninety days; and

(9) To provide evidence of the guardian or limited guardian's successful completion of any additional or updated training video or web cast offered by the administrative office of the courts and the superior court as is required at the discretion of the superior court unless the guardian or limited guardian is a certified professional guardian or financial institution authorized under RCW 11.88.020. The training video or web cast must be provided at no cost to the guardian or limited guardian.

**Sec. 10.** RCW 11.92.050 and 1995 c 297 s 6 are each amended to read as follows:

(1) Upon the filing of any intermediate guardianship or limited guardianship account or report required by statute, or of any intermediate account or report required by court rule or order, the ~~((guardian or limited guardian may petition the court for))~~ court shall enter an order settling ((his or her)) the guardianship account or report with regard to any receipts, expenditures, and investments made and acts done by the guardian or limited guardian to the date of the interim report.

(2) Upon such ((petition)) account or report being filed, the court may, in its discretion, ((where the size or condition of the estate warrants it,)) set a date for the hearing ((of the petition)) and require the service of the ((petition)) guardian's report or account and a notice of the hearing as provided in RCW 11.88.040 as now or hereafter amended or as specified by the court; and, in the event a hearing is ordered, the court may also appoint a guardian ad litem, whose duty it shall be to investigate the account or report of the guardian or limited guardian of the estate and to advise the court thereon at the hearing, in writing.

ONE HUNDRED SECOND DAY, APRIL 21, 2011

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(3) At the hearing on or upon the court's review of the account or report of the guardian or limited guardian, if the court is satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his or her trust with relation to the receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account or report.

(4) If a guardian or limited guardian fails to file the account or report or fails to appear at the hearing, the court shall enter an order for one or more of the following actions:

(a) Entering an order to show cause and requiring the guardian to appear at a show cause hearing. At the hearing the court may take action to protect the incapacitated person, including, but not limited to, removing the guardian or limited guardian pursuant to RCW 11.88.120 and appointing a successor;

(b) Directing the clerk to extend the letters, for good cause shown, for no more than ninety days, to permit the guardian to file his or her account or report;

(c) Requiring the completion of any approved guardianship training made available to the guardian by the court;

(d) Appointing a guardian ad litem subject to the requirements in RCW 11.88.090;

(e) Providing other and further relief the court deems just and equitable.

(5) If the court has appointed a guardian ad litem, the order shall be final and binding upon the incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after the incapacitated person attains his or her majority any such interim account may be challenged by the incapacitated person on the ground of fraud.

~~((2))~~ (6) The procedure established in ~~((subsection (4) of))~~ this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under RCW 11.92.043.

**Sec. 11.** RCW 36.18.016 and 2009 c 417 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of thirty dollars. The clerk of the superior court shall transmit monthly twenty-four dollars of the thirty-dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based services within the county for victims of domestic violence, except for five percent of the six dollars, which may be retained by the court for administrative purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred twenty dollars as established by authority of local ordinance. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(26) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

(31) For the filing of accounts required under RCW 11.92.040(2), a fee must be charged to the estate of the incapacitated person. The amount of the fee is determined by the total net fair market value of the guardianship estate identified pursuant to RCW 11.92.040(2)(e). If the total fair market value of the guardianship estate is less than or equal to one hundred thousand dollars, a filing fee is not required. If the superior court finds that payment of the filing fee would result in substantial hardship upon the incapacitated person, the superior court may waive or reduce the filing fee. The amount of the fee is as follows:

(a) Seventy-five dollars for guardianship estates with a total net fair market value greater than one hundred thousand dollars but not exceeding five hundred thousand dollars;

(b) One hundred fifty dollars for guardianship estates with a total net fair market value greater than five hundred thousand dollars but not exceeding one million dollars; or

(c) Two hundred fifty dollars for guardianship estates with a total net fair market value greater than one million dollars.

(32) The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits."

Senators Kline and Pflug spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Pflug to Substitute House Bill No. 1053.

The motion by Senator Kline carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 3 of the title, after "force;" strike the remainder of the title and insert "amending RCW 11.88.020, 11.88.030, 11.92.043, 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, 11.92.050, and 36.18.016; and adding a new section to chapter 11.88 RCW."

#### MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1053 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1053 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1053 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Brown, Delvin and Parlette

SUBSTITUTE HOUSE BILL NO. 1053 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1081 and again asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate adhere to its position in the Senate amendment(s) to Substitute House Bill No. 1081 and ask the House to concur thereon.

Senator Rockefeller spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate adhere to its position in the Senate amendment(s) to Substitute House Bill No. 1081 and ask the House to concur thereon.

The motion by Senator Rockefeller carried and the Senate adhered to its position in the Senate amendment(s) to Substitute House Bill No. 1081 and asked the House to concur thereon by voice vote.

#### MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 1229 and asks the Senate to recede therefrom. and the same is herewith transmitted.

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BARBARA BAKER, Chief Clerk

## MOTION

Senator Haugen moved that the Senate recede from its position on the Senate amendments to House Bill No. 1229.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate recede from its position on the Senate amendments to House Bill No. 1229.

The motion by Senator Haugen carried and the Senate receded from its amendments to House Bill No. 1229 by voice vote.

## MOTION

On motion of Senator Haugen, the rules were suspended and House Bill No. 1229 was returned to second reading for the purposes of amendment.

## SECOND READING

HOUSE BILL NO. 1229, by Representatives Moscoso, Armstrong and Kenney

Concerning the certification of commercial driver's license holders and applicants. (REVISED FOR PASSED LEGISLATURE: Concerning certain commercial motor vehicle provisions.)

The measure was read the second time.

## MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen and King be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.25.010 and 2009 c 181 s 2 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

(a) The number of grams of alcohol per one hundred milliliters of blood; or

(b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with the requirements of this chapter to authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to ~~(the CMVSA)~~ 49 U.S.C. Sec. 31309 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit with a gross

vehicle weight rating of more than 4,536 kilograms (10,000 pounds or more); or

(b) Has a gross vehicle weight rating of 11,794 kilograms or more (26,001 pounds or more); or

(c) Is designed to transport sixteen or more passengers, including the driver; or

(d) Is of any size and is used in the transportation of hazardous materials as defined in this section; or

(e) Is a school bus regardless of weight or size.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, entry into a deferred prosecution program under chapter 10.05 RCW, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. Sec. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single vehicle. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under subpart F of 49 C.F.R. Part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. Secs. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. Part 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

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A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. Part 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. Sec. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

(22) "Type of driving" means one of the following:

(a) "Nonexcepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 C.F.R. Part 391 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(b) "Excepted interstate," which means the CDL holder or applicant operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Secs. 390.3(f), 391.2, 391.68, or 398.3, as they existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, from all or parts of the qualification requirements of 49 C.F.R. Part 391 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, and is therefore not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45 as it existed on the effective date of this section, or such

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subsequent date as may be provided by the department by rule, consistent with the purposes of this section;

(c) "Nonexcepted intrastate," which means the CDL holder or applicant operates only in intrastate commerce and is therefore subject to state driver qualification requirements; or

(d) "Excepted intrastate," which means the CDL holder or applicant operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the state driver qualification requirements.

(23) "United States" means the fifty states and the District of Columbia.

~~((23))~~ (24) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. Sec. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. Part 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 2.** RCW 46.25.080 and 2004 c 249 s 8 and 2004 c 187 s 5 are each reenacted and amended to read as follows:

(1) The commercial driver's license must be marked "commercial driver's license" or "CDL," and must be, to the maximum extent practicable, tamperproof. It must include, but not be limited to, the following information:

(a) The name and residence address of the person;

(b) The person's color photograph;

(c) A physical description of the person including sex, height, weight, and eye color;

(d) Date of birth;

(e) The person's social security number or any number or identifier deemed appropriate by the department;

(f) The person's signature;

(g) The class or type of commercial motor vehicle or vehicles that the person is authorized to drive, together with any endorsements or restrictions;

(h) The name of the state; and

(i) The dates between which the license is valid.

(2) Commercial driver's licenses may be issued with the classifications, endorsements, and restrictions set forth in this subsection. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement, unless the proper endorsement appears on the license.

(a) Licenses may be classified as follows:

(i) Class A is a combination of vehicles with a gross combined weight rating (GCWR) of 26,001 pounds or more, if the GVWR of the vehicle or vehicles being towed is in excess of 10,000 pounds.

(ii) Class B is a single vehicle with a GVWR of 26,001 pounds or more, and any such vehicle towing a vehicle not in excess of 10,000 pounds.

(iii) Class C is a single vehicle with a GVWR of less than 26,001 pounds or any such vehicle towing a vehicle with a GVWR not in excess of 10,000 pounds consisting of:

(A) Vehicles designed to transport sixteen or more passengers, including the driver; or

(B) Vehicles used in the transportation of hazardous materials.

(b) The following endorsements and restrictions may be placed on a license:

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(i) "H" authorizes the driver to drive a vehicle transporting hazardous materials.

(ii) "K" restricts the driver to vehicles not equipped with air brakes.

(iii) "T" authorizes driving double and triple trailers.

(iv) "P1" authorizes driving all vehicles, other than school buses, carrying passengers.

(v) "P2" authorizes driving vehicles with a GVWR of less than 26,001 pounds, other than school buses, carrying sixteen or more passengers, including the driver.

(vi) "N" authorizes driving tank vehicles.

(vii) "X" represents a combination of hazardous materials and tank vehicle endorsements.

(viii) "S" authorizes driving school buses.

(ix) "V" means that the driver has been issued a medical variance.

The license may be issued with additional endorsements and restrictions as established by rule of the director.

(3) All school bus drivers must have either a "P1" or "P2" endorsement depending on the GVWR of the school bus being driven.

(4) Before issuing a commercial driver's license, the department shall obtain driving record information:

(a) Through the commercial driver's license information system;

(b) Through the national driver register;

(c) From the current state of record; and

(d) From all states where the applicant was previously licensed over the last ten years to drive any type of motor vehicle.

A check under (d) of this subsection need be done only once, either at the time of application for a new commercial driver's license, or upon application for a renewal of a commercial driver's license for the first time after July 1, 2005, provided a notation is made on the driver's record confirming that the driving record check has been made and noting the date it was completed.

(5) Within ten days after issuing a commercial driver's license, the department must notify the commercial driver's license information system of ~~(that fact,)~~ the information required under 49 C.F.R. Sec. 383.73 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section and provide all information required to ensure identification of the person.

(6) A commercial driver's license shall expire in the same manner as provided in RCW 46.20.181.

(7) When applying for renewal of a commercial driver's license, the applicant shall:

(a) Complete the application form required by RCW 46.25.070(1), providing updated information and required certifications;

(b) Submit the application to the department in person; and

(c) If the applicant wishes to retain a hazardous materials endorsement, take and pass the written test for a hazardous materials endorsement.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.25 RCW to read as follows:

(1)(a) Any person applying for a CDL must certify that he or she is or expects to be engaged in one of the following types of driving:

(i) Nonexcepted interstate;

(ii) Excepted interstate;

(iii) Nonexcepted intrastate; or

(iv) Excepted intrastate.

(b) From January 30, 2012, to January 30, 2014, the department may require that any person holding a CDL prior to the effective date of this section must provide the department with the certification required under (a) of this subsection. The CDL of a

person failing to submit the required certification is subject to downgrade under subsection (4) of this section.

(2) A CDL applicant or holder who certifies under subsection (1)(a)(i) of this section that he or she is or expects to be engaged in nonexcepted interstate commerce must provide a copy of a medical examiner's certificate prepared by a medical examiner, as defined in 49 C.F.R. Sec. 390.5 as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. Upon submission, a copy of the medical examiner's certificate must be date-stamped by the department. A CDL holder who certifies under subsection (1)(a)(i) of this section must submit a copy of each subsequently issued medical examiner's certificate.

(3) For each operator of a commercial motor vehicle required to have a commercial driver's license, the department must meet the following requirements:

(a)(i) The driver's self-certification of type of driving under subsection (1) of this section must be maintained on the driver's record and the CDLIS driver record;

(ii) The copy of a medical examiner's certificate, when submitted under subsection (2) of this section, must be retained for three years beyond the date the certificate was issued; and

(iii) When a medical examiner's certificate is submitted under subsection (2) of this section, the information required under 49 C.F.R. Sec. 383.73(j)(1)(iii) as it existed on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section must be posted to the CDLIS driver record within ten calendar days from the date submitted. The indicator of medical certification status, such as "certified" or "not-certified," must be maintained on the driver's record.

(b) Within ten calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, the medical certification status of the driver must be updated to "not-certified."

(c) Within ten calendar days of receiving information from the federal motor carrier safety administration regarding issuance or renewal of a medical variance for a driver, the department must update the CDLIS driver record to include the medical variance information.

(4)(a) If a driver's medical certification or medical variance expires, or the federal motor carrier safety administration notifies the department that a medical variance was removed or rescinded, the department must:

(i) Notify the driver of his or her "not-certified" medical certification status and that the CDL privilege will be removed from the driver's license unless the driver submits a current medical certificate or medical variance, or changes his or her self-certification to driving only in excepted or intrastate commerce; and

(ii) Initiate procedures for downgrading the license. The CDL downgrade must be completed and recorded within sixty days of the driver's medical certification status becoming "not-certified" to operate a commercial motor vehicle.

(b) Beginning January 30, 2014, if a driver fails to provide the department with the certification required in subsection (1) of this section, or a current medical examiner's certificate if the driver self-certifies under subsection (1)(a)(i) of this section that he or she is operating in nonexcepted interstate commerce as required in subsection (2) of this section, the department must mark the CDLIS driver record as "not-certified" and initiate a CDL downgrade in accordance with (a)(ii) of this subsection.

(c) A driver whose CDL has been downgraded under this subsection may restore the CDL privilege by providing the necessary certifications or medical variance information to the department.

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**Sec. 4.** RCW 46.25.090 and 2006 c 327 s 4 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if:

(A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

(ii) Not less than one hundred twenty days if:

(A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

(B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial

motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ~~((ninety))~~ one hundred eighty days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than ~~((one))~~ two years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

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(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

**Sec. 5.** RCW 46.32.100 and 2010 c 161 s 1116 are each amended to read as follows:

(1)(a) In addition to all other penalties provided by law, and except as provided otherwise in (a)(i), (ii), or (iii) of this subsection, a commercial motor vehicle that is subject to compliance reviews under this chapter and an officer, agent, or employee of a company operating a commercial motor vehicle who violates or who procures, aids, or abets in the violation of this title or any order or rule of the state patrol is liable for a penalty of one hundred dollars for each violation.

(i) It is a violation of this chapter for a person operating a commercial motor vehicle to fail to comply with the requirements of 49 C.F.R. Pt. 382, controlled substances and alcohol use and testing, 49 C.F.R. Sec. 391.15, disqualification of drivers, and 49 C.F.R. Sec. 396.9(c)(2), moving a vehicle placed out of service before the out of service defects have been satisfactorily repaired. For each violation the person is liable for a penalty of five hundred dollars.

(ii) The driver of a commercial motor vehicle who ~~((violates))~~ is convicted of violating an out-of-service order is liable for a penalty of at least ~~((one)) two~~ thousand ~~((one)) five~~ hundred dollars ~~((but not more than two thousand seven hundred fifty dollars for each))~~ for a first violation, and not less than five thousand dollars for second or subsequent violation.

(iii) An employer who allows ~~((a driver to operate))~~ the operation of a commercial motor vehicle when there is an out-of-service order is liable for a penalty of at least two thousand seven hundred fifty dollars but not more than ~~((eleven))~~ twenty-five thousand dollars for each violation.

(iv) Each violation under this subsection (1)(a) is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(b) In addition to all other penalties provided by law, any motor carrier, company, or any officer or agent of a motor carrier or company operating a commercial motor vehicle subject to compliance reviews under this chapter who refuses entry or to make the required records, documents, and vehicles available to a duly authorized agent of the state patrol is liable for a penalty of at least five thousand dollars as well as an out-of-service order being placed on the department of transportation number, as defined in RCW

46.16A.010, and vehicle registration to operate. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(c) A motor carrier operating a commercial motor vehicle after receiving a final unsatisfactory rating or being placed out of service is liable for a penalty of not more than eleven thousand dollars for each violation. Each violation is a separate and distinct offense, and in case of a continuing violation every day's continuance is a separate and distinct violation.

(d) A high-risk carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. Each repeat violation is a separate and distinct offense, and in case of a repeat continuing violation every day's continuance is a separate and distinct violation.

(2) The Washington state patrol may place an out-of-service order on a department of transportation number, as defined in RCW 46.16A.010, for violations of this chapter or for nonpayment of any monetary penalties assessed by the state patrol or the utilities and transportation commission, as a result of compliance reviews, or for violations of cease and desist orders issued by the utilities and transportation commission. The state patrol shall notify the department of licensing when an out-of-service order has been placed on a motor carrier's department of transportation number. The state patrol shall notify the motor carrier when there has been an out-of-service order placed on the motor carrier's department of transportation number and the vehicle registrations have been revoked by sending a notice by first-class mail using the last known address for the registered or legal owner or owners, and recording the transmittal on an affidavit of first-class mail. Notices under this section fulfill the requirements of RCW 46.12.550. Motor carriers may not be eligible for a new department of transportation number, vehicle registration, or temporary permits to operate unless the violations that resulted in the out-of-service order have been corrected.

(3) Any penalty provided in this section is due and payable when the person incurring it receives a notice in writing from the state patrol describing the violation and advising the person that the penalty is due.

(a)(i) Any motor carrier who incurs a penalty as provided in this section, except for a high-risk carrier that incurs a penalty for a repeat violation during a follow-up compliance review, may, upon written application, request that the state patrol mitigate the penalty. An application for mitigation must be received by the state patrol within twenty days of the receipt of notice.

(ii) The state patrol may decline to consider any application for mitigation.

(b) Any motor carrier who incurs a penalty as provided in this section has a right to an administrative hearing under chapter 34.05 RCW to contest the violation or the penalty imposed, or both. In all such hearings, the procedure and rules of evidence are as specified in chapter 34.05 RCW except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the later of (i) receipt of the notice imposing the penalty, or (ii) disposition of a request for mitigation, or the right to a hearing is waived.

(c) All penalties recovered under this section shall be paid into the state treasury and credited to the state patrol highway account of the motor vehicle fund.

**Sec. 6.** RCW 46.20.049 and 2005 c 314 s 309 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee

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for each class shall be (~~thirty~~) sixty-one dollars for the original commercial driver's license or subsequent renewals. If the commercial driver's license is renewed or extended for a period other than five years, the fee for each class shall be (~~six~~) twelve dollars and twenty cents for each year that the commercial driver's license is renewed or extended. The fee shall be deposited in the highway safety fund.

**NEW SECTION. Sec. 7.** Sections 1 through 3 of this act take effect January 30, 2012."

Senator Haugen spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and King to House Bill No. 1229.

The motion by Senator Haugen carried and the striking amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "certain commercial motor vehicle provisions; amending RCW 46.25.010, 46.25.090, 46.32.100, and 46.20.049; reenacting and amending RCW 46.25.080; adding a new section to chapter 46.25 RCW; prescribing penalties; and providing an effective date."

## MOTION

On motion of Senator Haugen, the rules were suspended, House Bill No. 1229 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 1229 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1229 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 5; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Holmquist Newbry, Morton, Sheldon and Stevens

Absent: Senator Haugen

Excused: Senators Brown, Delvin and Parlette

HOUSE BILL NO. 1229 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

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The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Kline moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1026.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1026.

The motion by Senator Kline carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1026 by voice vote.

## MOTION

On motion of Senator Kline, the rules were suspended and Engrossed Substitute House Bill No. 1026 was returned to second reading for the purpose of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026, by House Committee on Judiciary (originally sponsored by Representatives Rolfes, Orcutt, Carlyle, Blake, Angel and McCune)

Specifying procedures for adverse possession actions. Revised for 1st Substitute: Changing provisions relating to adverse possession claims.

The measure was read the second time.

## MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 7.28 RCW to read as follows:

(1) A party who prevails against the holder of record title at the time an action asserting title to real property by adverse possession was filed, or against a subsequent purchaser from such holder, may be required to:

(a) Reimburse such holder or purchaser for part or all of any taxes or assessments levied on the real property during the period the prevailing party was in possession of the real property in question and which are proven by competent evidence to have been paid by such holder or purchaser; and

(b) Pay to the treasurer of the county in which the real property is located part or all of any taxes or assessments levied on the real property after the filing of the adverse possession claim and which are due and remain unpaid at the time judgment on the claim is entered.

(2) If the court orders reimbursement for taxes or assessments paid or payment of taxes or assessments due under subsection (1) of this section, the court shall determine how to allocate taxes or assessments between the property acquired by adverse possession and the property retained by the title holder. In making its

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determination, the court shall consider all the facts and shall order such reimbursement or payment as appears equitable and just.

(3) The prevailing party in an action asserting title to real property by adverse possession may request the court to award costs and reasonable attorneys' fees. The court may award all or a portion of costs and reasonable attorneys' fees to the prevailing party if, after considering all the facts, the court determines such an award is equitable and just.

**NEW SECTION. Sec. 2.** This act applies to actions filed on or after July 1, 2012."

Senators Kline and Pflug spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Pflug to Engrossed Substitute House Bill No. 1026.

The motion by Senator Kline carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "possession;" strike the remainder of the title and insert "adding a new section to chapter 7.28 RCW; and creating a new section."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1026 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1026 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1026 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1547.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1547.

The motion by Senator Hargrove carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1547 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Substitute House Bill No. 1547 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547, by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Hunter, Dickerson, Cody, Hunt, Kagi, Sullivan and Kenney)

Concerning the deportation of criminal alien offenders.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove, Carrell and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.685 and 1993 c 419 s 1 are each amended to read as follows:

(1) Subject to the limitations of this section, any alien offender committed to the custody of the department under the sentencing reform act of 1981, chapter 9.94A RCW, who has been found by the United States attorney general to be subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation at any time prior to the expiration of the offender's term of confinement. Conditional release shall continue until the expiration of the statutory maximum sentence provided by law for the crime or crimes of which the offender was convicted. If the offender has multiple current convictions, the statutory maximum sentence allowed by law for each crime shall run concurrently.

(2) No offender may be released under this section unless the secretary or the secretary's designee ((find [finds] that such release is in the best interests of the state of Washington. Further, releases under this section may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction)) has reached an agreement with the immigration and

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customs enforcement agency that the alien offender placed on conditional release status will be detained in total confinement at a facility operated by the immigration and customs enforcement agency pending the offender's return to the country of origin or other location designated in the final deportation or exclusion order.

~~((3))~~ (3) No offender may be released under this section who is serving a sentence for a violent offense or sex offense, as defined in RCW 9.94A.030 ~~(or any other offense that is a crime against a person).~~

~~((4))~~ (3) The unserved portion of the term of confinement of any offender released under this section shall be tolled at the time the offender is released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation. Upon the release of an offender to the immigration and ~~((naturalization service))~~ customs enforcement agency, the department shall issue a warrant for the offender's arrest within the United States. This warrant shall remain in effect ~~((until the expiration of the offender's conditional release))~~ indefinitely.

~~((5))~~ (4) Upon arrest of an offender, the department ~~((shall))~~ may seek extradition as necessary and the offender ~~((shall))~~ may be returned to the department for completion of the unserved portion of the offender's term of total confinement. If returned, the offender shall also be required to fully comply with all the terms and conditions of the sentence.

~~((6))~~ (5) Alien offenders released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation under this section are not thereby relieved of their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

~~((7))~~ (6) Any offender released pursuant to this section who returns illegally to the United States may not thereafter be released again pursuant to this section.

~~((8))~~ (7) The secretary is authorized to take all reasonable actions to implement this section and shall assist federal authorities in prosecuting alien offenders who may illegally reenter the United States and enter the state of Washington.

(8) The provisions of this section apply to persons convicted before, on, or after the effective date of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall provide a written notice of rights in removal proceedings to all offenders in the department's custody who are subject to early release pursuant to RCW 9.94A.685. The notice shall be provided as early in the removal process as feasible.

(2) The department shall work in conjunction with a qualified nonprofit legal services organization in the state recognized by the department of justice pursuant to 8 C.F.R. 1003.61, to create the written notice required by subsection (1) of this section. A written notice containing the advisals given to an individual at the first master calendar hearing in a removal proceeding meets the requirements of this section.

Sec. 3. RCW 10.40.200 and 1983 c 199 s 1 are each amended to read as follows:

(1) The legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea be preceded by an appropriate warning of the special consequences for such a defendant which may result from the plea.

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It is further the intent of the legislature that at the time of the plea no defendant be required to disclose his or her legal status to the court.

(2) Prior to acceptance of a plea of guilty to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall determine that the defendant has been advised of the following potential consequences of conviction for a defendant who is not a citizen of the United States: Deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. A defendant signing a guilty plea statement containing the advisement required by this subsection shall be presumed to have received the required advisement. If, after September 1, 1983, the defendant has not been advised as required by this section and the defendant shows that conviction of the offense to which the defendant pleaded guilty may have the consequences for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, the court, on defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty and enter a plea of not guilty. Absent a written acknowledgement by the defendant of the advisement required by this subsection, the defendant shall be presumed not to have received the required advisement.

(3) With respect to pleas accepted prior to September 1, 1983, it is not the intent of the legislature that a defendant's failure to receive the advisement required by subsection (2) of this section should require the vacation of judgment and withdrawal of the plea or constitute grounds for finding a prior conviction invalid.

(4) Prior to acceptance of a plea of guilty to any offense punishable as a crime under state law, except offenses designated as infractions under state law, the court shall advise the defendant that, pursuant to RCW 9.94A.685, the defendant may be subject to early release from custody for removal from the United States as a consequence of conviction and that the defendant may be able to contest a removal order.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Hargrove and Carrell spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Carrell and Stevens to Engrossed Substitute House Bill No. 1547.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.685 and 10.40.200; adding a new section to chapter 9.94A RCW; and declaring an emergency."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1547 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1547 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1547 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 1547 was immediately transmitted to the House of Representatives.

MESSAGE FROM THE HOUSE

April 20, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1899 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate recede from its position on Substitute House Bill No. 1899 and consider the bill without the Senate amendment(s).

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pridemore that the Senate recede from its position on Substitute House Bill No. 1899 and consider the bill without Senate amendment(s).

The motion by Senator Pridemore carried and the Senate receded from its position on Substitute House Bill No. 1899 and consider the bill without the Senate amendment(s) by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1899 without the Senate amendments.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1899, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

SUBSTITUTE HOUSE BILL NO. 1899, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 13, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1725.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1725.

The motion by Senator Kohl-Welles carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1725.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended and Engrossed Substitute House Bill No. 1725 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725, by House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Reykdal, Ormsby, Kenney and Upthegrove)

Addressing administrative efficiencies for the workers' compensation program.

The measure was read the second time.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama, Holmquist Newbry and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.04.030 and 2004 c 65 s 1 are each amended to read as follows:

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(1) The director shall supervise the providing of prompt and efficient care and treatment, including care provided by physician assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician, including chiropractic care, and including care provided by licensed advanced registered nurse practitioners, to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and adopt and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That the medical coverage decisions of the department do not constitute a "rule" as used in RCW 34.05.010(16), nor are such decisions subject to the rule-making provisions of chapter 34.05 RCW except that criteria for establishing medical coverage decisions shall be adopted by rule after consultation with the workers' compensation advisory committee established in RCW 51.04.110: PROVIDED FURTHER, That the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: AND PROVIDED FURTHER, That the department may enter into contracts for goods and services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

(2) The director shall, in consultation with interested persons, establish and, in his or her discretion, periodically change as may be necessary, and make available a fee schedule of the maximum charges to be made by any physician, surgeon, chiropractor, hospital, druggist, licensed advanced registered nurse practitioner, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. The department shall coordinate with other state purchasers of health care services to establish as much consistency and uniformity in billing and coding practices as possible, taking into account the unique requirements and differences between programs. No service covered under this title, including services provided to injured workers, whether aliens or other injured workers, who are not residing in the United States at the time of receiving the services, shall be charged or paid at a rate or rates exceeding those specified in such fee schedule, and no contract providing for greater fees shall be valid as to the excess. The establishment of such a schedule, exclusive of conversion factors, does not constitute "agency action" as used in RCW 34.05.010(3), nor does such a fee schedule and its associated billing or payment instructions and policies constitute a "rule" as used in RCW 34.05.010(16).

(3) The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall approve and pay those which conform to the adopted rules, regulations, established fee schedules, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules, regulations, or the established fee schedules and rules and regulations adopted under it.

**Sec. 2.** RCW 51.04.082 and 1986 c 9 s 2 are each amended to read as follows:

Any notice or order required by this title to be mailed to any employer may be served in the manner prescribed by law for personal service of summons and complaint in the commencement of actions in the superior courts of the state, but if the notice or order is mailed, it shall be addressed to the address of the employer as

shown by the records of the department, or, if no such address is shown, to such address as the department is able to ascertain by reasonable effort. If requested by the employer, any notice or order may be sent by secure electronic means except orders communicating the closure of a claim. Correspondence and notices sent electronically are considered received on the date sent by the department. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax or any increases or penalties thereon.

**NEW SECTION. Sec. 3.** A new section is added to chapter 51.18 RCW to read as follows:

Payment by an employer for direct primary care services as defined in RCW 48.150.010 when used for medical services on an allowed industrial injury or occupational disease claim does not disqualify: (1) the employer from participating in a retrospective rating plan; (2) any related group sponsor from promoting a retrospective rating plan; or (3) any related plan administrator from administering a retrospective rating plan, provided the employer or group sponsor or plan administrator provides any medical cost or payment information that may be required by the department. Prior to the first retrospective rating adjustment for the plan year beginning January 1, 2012, the department shall determine the information needed and any changes to the retrospective rating premium and claim cost calculations to maintain appropriate and equitable retrospective rating refunds when employers pay for direct primary care services. These changes shall apply beginning with the January 1, 2012 plan year.

The department may adopt rules to implement this section.

**Sec. 4.** RCW 51.24.060 and 2001 c 146 s 9 are each amended to read as follows:

(1) If the injured worker or beneficiary elects to seek damages from the third person, any recovery made shall be distributed as follows:

(a) The costs and reasonable attorneys' fees shall be paid proportionately by the injured worker or beneficiary and the department and/or self-insurer: PROVIDED, That the department and/or self-insurer may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees;

(b) The injured worker or beneficiary shall be paid twenty-five percent of the balance of the award: PROVIDED, That in the event of a compromise and settlement by the parties, the injured worker or beneficiary may agree to a sum less than twenty-five percent;

(c) The department and/or self-insurer shall be paid the balance of the recovery made, but only to the extent necessary to reimburse the department and/or self-insurer for benefits paid;

(i) The department and/or self-insurer shall bear its proportionate share of the costs and reasonable attorneys' fees incurred by the worker or beneficiary to the extent of the benefits paid under this title: PROVIDED, That the department's and/or self-insurer's proportionate share shall not exceed one hundred percent of the costs and reasonable attorneys' fees;

(ii) The department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees shall be determined by dividing the gross recovery amount into the benefits paid amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary;

(iii) The department's and/or self-insurer's reimbursement share shall be determined by subtracting their proportionate share of the costs and reasonable attorneys' fees from the benefits paid amount;

(d) Any remaining balance shall be paid to the injured worker or beneficiary; and

(e) Thereafter no payment shall be made to or on behalf of a worker or beneficiary by the department and/or self-insurer for such injury until the amount of any further compensation and benefits

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shall equal any such remaining balance minus the department's and/or self-insurer's proportionate share of the costs and reasonable attorneys' fees in regards to the remaining balance. This proportionate share shall be determined by dividing the gross recovery amount into the remaining balance amount and multiplying this percentage times the costs and reasonable attorneys' fees incurred by the worker or beneficiary. Thereafter, such benefits shall be paid by the department and/or self-insurer to or on behalf of the worker or beneficiary as though no recovery had been made from a third person.

(2) The recovery made shall be subject to a lien by the department and/or self-insurer for its share under this section.

(3) The department or self-insurer has sole discretion to compromise the amount of its lien. In deciding whether or to what extent to compromise its lien, the department or self-insurer shall consider at least the following:

(a) The likelihood of collection of the award or settlement as may be affected by insurance coverage, solvency, or other factors relating to the third person;

(b) Factual and legal issues of liability as between the injured worker or beneficiary and the third person. Such issues include but are not limited to possible contributory negligence and novel theories of liability; and

(c) Problems of proof faced in obtaining the award or settlement.

(4) In an action under this section, the self-insurer may act on behalf and for the benefit of the department to the extent of any compensation and benefits paid or payable from state funds.

(5) It shall be the duty of the person to whom any recovery is paid before distribution under this section to advise the department or self-insurer of the fact and amount of such recovery, the costs and reasonable attorneys' fees associated with the recovery, and to distribute the recovery in compliance with this section.

(6) The distribution of any recovery made by award or settlement of the third party action shall be confirmed by department order, served by ~~((registered or certified mail))~~ a method for which receipt can be confirmed or tracked, and shall be subject to chapter 51.52 RCW. In the event the order of distribution becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount of the sum representing the unpaid lien plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of such worker or beneficiary mentioned in the warrant, the amount of the unpaid lien plus interest accrued and the date when the warrant was filed. The amount of such warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the injured worker or beneficiary against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the injured worker or beneficiary within three days of filing with the clerk.

(7) The director, or the director's designee, may issue to any person, firm, corporation, municipal corporation, political

subdivision of the state, public corporation, or agency of the state, a notice and order to withhold and deliver property of any kind if he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property which is due, owing, or belonging to any worker or beneficiary upon whom a warrant has been served by the department for payments due to the state fund. The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy; by ~~((certified mail, return receipt requested))~~ a method for which receipt can be confirmed or tracked; or by any authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's authorized representative upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount claimed by the director in the notice together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

NEW SECTION. Sec. 5. A new section is added to Chapter 51.36 RCW to read as follows:

The department shall report to the appropriate committees of the legislature by December 1, 2011 on statutory changes needed to ensure an injured worker may receive care from a health care provider who furnishes primary care services through a direct agreement in compliance with chapter 48.150 RCW and that the injured worker is not paying directly for medical services related to their industrial injury or occupational disease. The report shall provide a timeline for rule development with a goal to have necessary changes in place by July 1, 2013, and include the data required from direct care providers necessary to establish premium rates, experience modification factors, and retrospective rating adjustments; medical cost or payment information that may be required from retrospective rating participants; any requirements specific to direct primary care providers in order for them participate in the statewide medical provider network and to ensure the department has information to efficiently manage worker claims; and any other issues or barriers to participation of direct primary care providers in the workers' compensation system.

Sec. 6. RCW 51.32.240 and 2008 c 280 s 2 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department

or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of

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the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

**Sec. 7.** RCW 51.48.120 and 1995 c 160 s 5 are each amended to read as follows:

If any employer should default in any payment due to the state fund the director or the director's designee may issue a notice of assessment certifying the amount due, which notice shall be served upon the employer by mailing such notice to the employer by ~~((certified mail))~~ a method for which receipt can be confirmed or tracked to the employer's last known address or served in the manner prescribed for the service of a summons in a civil action. Such notice shall contain the information that an appeal must be filed with the board of industrial insurance appeals and the director by mail or personally within thirty days of the date of service of the notice of assessment in order to appeal the assessment unless a written request for reconsideration is filed with the department of labor and industries.

**Sec. 8.** RCW 51.48.150 and 1995 c 160 s 6 are each amended to read as follows:

The director or the director's designee is hereby authorized to issue to any person, firm, corporation, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind whatsoever when he or she has reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or any agency of the state, property which is or shall become due, owing, or belonging to any employer upon whom a notice of assessment has been served by the department for payments due to the state fund. The effect of a notice and order to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability out of which such notice and order to withhold and deliver arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order to withhold and deliver when the liability out of which the notice and order to withhold and deliver arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order to withhold and deliver was made that such notice and order to withhold and deliver has been released.

The notice and order to withhold and deliver shall be served by the sheriff of the county or by the sheriff's deputy, by ~~((certified mail, return receipt requested))~~ a method for which receipt can be confirmed or tracked, or by any duly authorized representatives of the director. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation or any agency of the state upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property shall be delivered forthwith to the director or the director's duly authorized representative upon service of the notice to withhold and deliver which will be held in trust by the director for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review, or in the alternative such party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. Should any party served and named in the notice to withhold and deliver fail to make answer to such notice and order to withhold and deliver, within the time prescribed herein, it shall be lawful for the court, after the time to answer such

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order has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the director in the notice to withhold and deliver together with costs. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, then the employer shall be entitled to assert in the answer to all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

**Sec. 9.** RCW 51.52.050 and 2008 c 280 s 1 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, ~~((which shall be addressed to such person at his or her last known address as shown by the records of the department))~~ or if the worker, beneficiary, employer, or other person affected thereby chooses, the department may send correspondence and other legal notices by secure electronic means except for orders communicating the closure of a claim. Persons who choose to receive correspondence and other legal notices electronically shall be provided information to assist them in ensuring all electronic documents and communications are received. Correspondence and notices must be addressed to such a person at his or her last known postal or electronic address as shown by the records of the department. Correspondence and notices sent electronically are considered received on the date sent by the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia. However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal.

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of

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the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter."

Senators Kastama and Holmquist Newbry spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama, Holmquist Newbry and Kohl-Welles to Engrossed Substitute House Bill No. 1725.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1725 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1725 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1725 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 1725 was immediately transmitted to the House of Representatives.

MOTION

At 5:46 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 22, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**ONE HUNDRED THIRD DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Friday, April 22, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Delvin, Parlette and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Marcrey Kallstrom and Quynh Tran, presented the Colors. Diana Wakefield of Westwood Baptist Church offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fourth order of business.

**MESSAGE FROM THE HOUSE**

April 21, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

- ENGROSSED SUBSTITUTE HOUSE BILL 1026,
  - SUBSTITUTE HOUSE BILL 1053,
  - HOUSE BILL 1229,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1267,
  - ENGROSSED SUBSTITUTE HOUSE BILL 1547,
  - ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1599,
  - ENGROSSED SUBSTITUTE HOUSE BILL 1725,
  - SUBSTITUTE HOUSE BILL 1874.
- and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 21, 2011

MR. PRESIDENT:

The House has passed:  
SUBSTITUTE HOUSE BILL 2021.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

SHB 2021 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Darneille, Seaquist, Carlyle, Hunter and Cody)

AN ACT Relating to annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1; amending RCW 41.32.483, 41.32.489, 41.32.4851, 41.40.183, 41.40.197, 41.40.1984, and 41.45.150; creating a new section; declaring an emergency; and providing an effective date.

**MOTION**

On motion of Senator Eide, and without objection, Substitute House Bill No. 2021 was placed on the second reading calendar under suspension of the rules.

**MOTION**

On motion of Senator Eide, the Senate advanced to the eighth order of business.

**MOTION**

Senator Holmquist Newbry moved adoption of the following resolution:

**SENATE RESOLUTION**

8660

By Senators Delvin, Morton, Holmquist Newbry, Eide, King, Kohl-Welles, Brown, Schoesler, Haugen, and Hargrove

WHEREAS, Sheridan McDonald, a senior at Kiona-Benton High School, on February 19th 2011, won the state girls' wrestling championship in the annual Mat Classic; and

WHEREAS, Her 2011 state championship marks Sheridan McDonald's fourth straight girls' wrestling state championship, making her the first young woman to achieve this feat in the history of Washington state women's high school athletics; and

WHEREAS, Over the course of her high school career, Sheridan McDonald amassed a 90-33 win-loss record against both boys and girls, serving as a team captain of the Kiona-Benton Boys' Wrestling Team and winning a critical match in 2011 to lift her team to their league wrestling championship; and

WHEREAS, Sheridan McDonald's leadership, hard work, and tenacity have made her an inspiration to her teammates as well as to other young women throughout her high school athletic career, helping to raise the popularity of her sport among young women around the state; and

WHEREAS, Kiona-Benton City Wrestling Coach Ben Hill, has coached Sheridan since she was a freshman. "We have always challenged her and she always rose to the occasion. After her freshman season ended in a championship we told her that you have the bulls eye on your back. We told her to get in the weight room and she hit them hard"; and

WHEREAS, Both weight coaches in Benton City said, "We would love a room full of Sheridans. Her work ethic is out of this world. Sheridan was someone who would work her tail off and will be successful in whatever her field of endeavor"; and

WHEREAS, Sheridan McDonald has chosen to follow in her grandfather's footsteps by serving her country in the United States Marine Corps and hopes to wrestle competitively for the United States Marine Corps;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate hereby commend Sheridan McDonald for

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her outstanding accomplishments as the first four-time girls' wrestling state champion in the state of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Sheridan McDonald and to Kiona-Benton High School.

Senators Holmquist Newbry, Eide, Hargrove, Haugen and Kohl-Welles spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8660.

The motion by Senator Holmquist Newbry carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President introduced Miss Sheridan McDonald who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Brian McDonald father; Marvin & Sandy McDonald grandparents; Tony & Sandy Finley grandparents; Harold Studholme great grandfather; and Kayleah Terral friend who were seated in the gallery.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 5457 and has passed the bill as recommended by the Conference Committee. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

REPORT OF THE CONFERENCE COMMITTEE

Engrossed Substitute Senate Bill No. 5457

April 20, 2011

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute Senate Bill No. 5457, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that public transportation provides many benefits to the citizens of the state and the environment, including through public transportation's ability to alleviate congestion and offset the burdens placed by general vehicular traffic on the state's transportation infrastructure. In these challenging economic times, many transit agencies find themselves struggling to continue to provide a level of service that reduces congestion.

The legislature further recognizes that King county conducted a regional transit task force in 2010 that considered a policy framework for the potential future growth and, if necessary,

contraction of King county's transit system. The task force members were selected to represent a broad diversity of interests and perspectives. The task force recommendations, which were unanimously accepted, addressed key elements, such as the adoption of performance measures, controlling operating costs, developing policy guidance for making service reductions, and clear and transparent guidelines for service allocation. As a result of the work done by the task force and King county's commitment to comply with the recommendations, it is the intent of the legislature that King county be provided the opportunity to impose a temporary congestion reduction charge, which is separate and distinct from the base motor vehicle license fee, that can help address its revenue shortfalls during this economic crisis and allow it to continue reducing congestion and the corresponding burdens placed on the highway system on some of the state's most crowded corridors.

The legislature recognizes that the title of Initiative Measure No. 1053 states that it applies only to tax and fee increases imposed by state government, and that the text of the initiative requires a two-thirds majority only for tax increases. The legislature further recognizes that Initiative Measure No. 1053 does not apply to local government. Despite these facts, this act requires a two-thirds majority of the metropolitan King county council in order to implement a local option fee, in the form of a congestion reduction charge, to help fund King county metro transit service. Faced with the potential loss of hundreds of thousands of hours of vital transit service, it is the intent of the legislature to provide King county with this temporary local option funding mechanism. It is further the intent of the legislature not to expand the parameters of Initiative Measure No. 1053 beyond what the voters intended and thus interfere with local control or limit the ability of local governments to provide services to the people of Washington.

**NEW SECTION. Sec. 2.** A new section is added to chapter 82.80 RCW to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system may impose, if approved by a majority of the voters within that county or a two-thirds majority of the governing body, an annual congestion reduction charge of up to twenty dollars per vehicle registered in the boundaries of the county for each vehicle subject to vehicle license fees under RCW 46.17.350(1) (a), (c), (d), (e), (g), (h), (j), (n), (o), (p), or (q) and for each vehicle subject to gross weight license fees under RCW 46.17.355 with an unladen weight of six thousand pounds or less.

(b) Prior to the imposition of a congestion reduction charge authorized under (a) of this subsection, a governing body must complete a congestion reduction plan indicating the proposed expenditures of the proceeds of the congestion reduction charge.

(c) If a governing body that imposes a congestion reduction charge authorized under (a) of this subsection completed a regional transit task force evaluating system improvements and efficiencies within two years prior to the imposition of the charge, the proceeds from the charge must be expended in a manner consistent with the recommendations of the regional transit task force.

(d) A governing body that imposes a congestion reduction charge authorized under (a) of this subsection must complete a report by July 1, 2012, detailing the expenditures of the proceeds of the congestion reduction charge through June 1, 2012.

(e) A governing body that imposes a congestion reduction charge authorized under (a) of this subsection must complete a report by June 1, 2014, detailing the expenditures of the proceeds of the congestion reduction charge.

(2) The governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal

corporation under chapter 36.56 RCW and is operating a public transportation system may not impose a congestion reduction charge authorized under subsection (1)(a) of this section for a passenger-only ferry transportation improvement, unless the charge is first approved by a majority of the voters within that county.

(3) The governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system shall contract with the department of licensing as provided under section 3 of this act for the collection of the congestion reduction charge.

(4) A congestion reduction charge imposed under this section may not be assessed until six months after approval.

(5) A congestion reduction charge imposed under this section applies only for vehicle registration renewals and is effective upon the registration renewal date as provided by the department of licensing.

(6) The following vehicles are exempt from the congestion reduction charge imposed under this section:

(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181;

(b) Off-road vehicles as defined in RCW 46.04.365;

(c) Nonhighway vehicles as defined in RCW 46.09.310;

(d) Vehicles registered under chapter 46.87 RCW and the international registration plan; and

(e) Snowmobiles as defined in RCW 46.04.546.

(7) The authority to impose a congestion reduction charge authorized in subsection (1)(a) of this section expires with vehicle registrations that expire two years after the imposition of the charge or no later than June 30, 2014, whichever comes first.

(8) A congestion reduction charge authorized under subsection (1)(a) of this section may only be imposed after June 30, 2014, if approved by a majority of the voters within a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system.

(9) This section expires December 31, 2014.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

Whenever the department enters into a contract with the governing body of a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW and is operating a public transportation system for the collection of congestion reduction charges authorized under section 2 of this act:

(1) The contract must require that the governing body provide any information specified by the department to identify the vehicle owners who owe the congestion reduction charges, and must specify that it is the responsibility of the governing body to ensure that the congestion reduction charges are appropriately applied;

(2) The department is not responsible for the collection of congestion reduction charges until a date agreed to by both parties as specified in the contract;

(3) The department shall deduct a percentage amount as provided in the contract, not to exceed three percent of the charges collected, necessary to reimburse the department for the costs incurred for the collection of the congestion reduction charges; and

(4) The department shall remit remaining proceeds to the custody of the state treasurer. The state treasurer shall distribute the proceeds to the governing body on a monthly basis."

Correct the title.

And the bill do pass as recommended by the conference committee.

Signed by Senators Haugen, King and White; Representatives Armstrong, Clibborn and Liias.

## MOTION

Senator White moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5457 be adopted.

Senator White spoke in favor of the motion.

## MOTION

On motion of Senator White, Senators Baumgartner, Delvin, Parlette and Pflug were excused.

The President declared the question before the Senate to be the motion by Senator White that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5457 be adopted.

The motion by Senator White carried and the Report of the Conference Committee was adopted by voice vote.

Senators King and Sheldon spoke against passage of the bill.

Senators Kline and Haugen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5457, as recommended by the Conference Committee.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5457, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 25; Nays, 21; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Roach, Schoesler, Sheldon, Stevens, Tom and Zarelli

Excused: Senators Delvin, Parlette and Pflug

ENGROSSED SUBSTITUTE SENATE BILL NO. 5457, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5457 was immediately transmitted to the House of Representatives.

## REPORT OF THE CONFERENCE COMMITTEE

Substitute House Bill No. 1793

April 20, 2011

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Substitute House Bill No. 1793, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

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Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that:

(1) One of the goals of the juvenile justice system is to rehabilitate juvenile offenders and promote their successful reintegration into society. Without opportunities to reintegrate, juveniles suffer increased recidivism and decreased economic function.

(2) The public has an interest in accessing information relating to juvenile records for public safety and research purposes.

(3) The public's legitimate interest in accessing personal information must be balanced with the rehabilitative goals of the juvenile justice system. All benefit when former juvenile offenders, after paying their debt to society, reintegrate and contribute to their local communities as productive citizens.

(4) It is the intent of the legislature to balance the rehabilitative and reintegration needs of an effective juvenile justice system with the public's need to access personal information for public safety and research purposes.

**Sec. 2.** RCW 19.182.040 and 1993 c 476 s 6 are each amended to read as follows:

(1) Except as authorized under subsection (2) of this section, no consumer reporting agency may make a consumer report containing any of the following items of information:

(a) Bankruptcies that, from date of adjudication of the most recent bankruptcy, antedate the report by more than ten years;

(b) Suits and judgments that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period;

(c) Paid tax liens that, from date of payment, antedate the report by more than seven years;

(d) Accounts placed for collection or charged to profit and loss that antedate the report by more than seven years;

(e) Records of arrest, indictment, or conviction of an adult for a crime that, from date of disposition, release, or parole, antedate the report by more than seven years;

(f) Juvenile records, as defined in RCW 13.50.010(1)(c), when the subject of the records is twenty-one years of age or older at the time of the report; and

(g) Any other adverse item of information that antedates the report by more than seven years.

(2) Subsection (1)(a) through (e) and (g) of this section is not applicable in the case of a consumer report to be used in connection with:

(a) A credit transaction involving, or that may reasonably be expected to involve, a principal amount of fifty thousand dollars or more;

(b) The underwriting of life insurance involving, or that may reasonably be expected to involve, a face amount of fifty thousand dollars or more; or

(c) The employment of an individual at an annual salary that equals, or that may reasonably be expected to equal, twenty thousand dollars or more.

**NEW SECTION. Sec. 3.** (1)(a) A joint legislative task force on juvenile record sealing is established, with members as provided in this subsection.

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives;

(iii) A representative of the administrative office of the courts;

(iv) A representative of the judicial information systems data dissemination committee;

(v) A representative of the association of counties, specifically county clerks;

(vi) A representative of the Washington association of prosecuting attorneys;

(vii) A representative of the Washington state patrol;

(viii) A representative from the juvenile law section of the Washington state bar association;

(ix) A representative of the Washington defenders' association;

(x) A representative of the juvenile rehabilitation administration within the department of social and health services; and

(xi) A representative of the juvenile court administrator's association.

(b) The task force shall choose one of the legislative members from the senate and one of the legislative members from the house of representatives to cochair the task force. The legislative members shall convene the first meeting of the task force.

(2) The task force shall determine how to cost-effectively restrict public access to juvenile records when an individual has met the statutory requirements of RCW 13.50.050(12) and without requiring individuals who are the subject of the records to file a motion to seal the records in juvenile court; whether and how to restrict access to diversion records; and other juvenile criminal record access issues that may arise during the work of the task force.

(3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(4) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by December 15, 2011.

(5) This section expires January 1, 2012.

**Sec. 4.** RCW 13.50.050 and 2010 c 150 s 2 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports

would jeopardize the investigation or prosecution or endanger witnesses, law enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central recordkeeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central recordkeeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central recordkeeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12)(a) The court shall not grant any motion to seal records for class A offenses made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(b) The court shall not grant any motion to seal records for class B, C, gross misdemeanor and misdemeanor offenses and diversions made under subsection (11) of this section unless:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) The person has not been convicted of a sex offense; and

(v) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14)(a) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a)(i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after June 12, 2008;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

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(b) All records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within thirty days of being notified by the governor's office that the subject of those records received a full and unconditional pardon by the governor.

(c) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to June 12, 2008, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

~~((e))~~ (d) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(~~(b)-(e)~~) (c) or (d) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(~~(b)-(e)~~) (c) or (d) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) Except for subsection (17)(b) of this section, no identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law

enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.

NEW SECTION. Sec. 5. RCW 13.50.050 (14)(b) and (17)(b) apply to all records of a full and unconditional pardon and should be applied retroactively as well as prospectively.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "amending RCW 19.182.040 and 13.50.050; creating new sections; and providing an expiration date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Hargrove and Harper; Representatives Darneille, Dickerson and Walsh.

#### MOTION

Senator Harper moved that the Report of the Conference Committee on Substitute House Bill No. 1793 be adopted.

Senator Harper spoke in favor of the motion.

Senator Carrell spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Harper that the Report of the Conference Committee on Substitute House Bill No. 1793 be adopted.

The motion by Senator Harper carried and the Report of the Conference Committee was adopted by voice vote.

Senators Carrell and Roach spoke against passage of the bill. Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1793, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1793, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, Kilmer, King, Morton, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Delvin, Parlette and Pflug

SUBSTITUTE HOUSE BILL NO. 1793, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### REPORT OF THE CONFERENCE COMMITTEE

Engrossed Substitute House Bill No. 1478

April 20, 2011

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 1478, have had the same under consideration and recommend that all previous

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amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the legislature's intent to provide local governments with more time to meet certain statutory requirements. Many cities and counties in Washington are facing revenue shortfalls, higher expenses, and more difficulty with borrowing money as a result of the economic downturn. The effects of the economic downturn on the budgets of local governments will be felt most deeply from 2010 to 2012. Local governments are facing the combined impact of decreased tax revenues, a falloff in state and federal aid, and increased demand for social services. With the loss of tax revenue and state and federal aid, local governments are being forced to make significant cuts that will eliminate jobs, curtail essential services, and increase the number of people in need. Additionally, local governments are struggling to comply with certain statutory requirements. Local governments want to comply with these statutory requirements, but with budget constraints, they need more time to do so. The legislature does not intend to remove any existing statutory requirement, but rather modify the time under which a local government must meet certain statutory requirements.

**Sec. 2.** RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) ((The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section.)) The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered

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more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, ~~((at least every ten years))~~ according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

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(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsection (6) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before (~~December 1, 2014~~) June 30, 2015, and every (~~seven~~) eight years thereafter, for (~~Clallam, Clark, Jefferson,~~) King, (~~Kitsap,~~) Pierce, and Snohomish (~~Thurston, and Whatcom~~) counties and the cities within those counties;

(b) On or before (~~December 1, 2015~~) June 30, 2016, and every (~~seven~~) eight years thereafter, for (~~Cowlitz,~~) Clallam, Clark, Island, (Lewis) Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and (Skamania) Whatcom counties and the cities within those counties;

(c) On or before (~~December 1, 2016~~) June 30, 2017, and every (~~seven~~) eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, (Grant,) Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before (~~December 1, 2017~~) June 30, 2018, and every (~~seven~~) eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) A county that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The county has a population of less than fifty thousand and has had its population increase by no more

than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(f) A city that is subject to a deadline established in subsection (5)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the twenty-four months following the deadline established in subsection (5) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (5) of this section as of that date.

(g) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

**Sec. 3.** RCW 36.70A.215 and 1997 c 429 s 25 are each amended to read as follows:

(1) Subject to the limitations in subsection (7) of this section, a county shall adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. This program shall be in addition to the requirements of RCW 36.70A.110, 36.70A.130, and 36.70A.210. In developing and implementing the review and evaluation program required by this section, the county and its cities shall consider information from other appropriate jurisdictions and sources. The purpose of the review and evaluation program shall be to:

(a) Determine whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions, targets, and objectives contained in the countywide planning policies and the county and city comprehensive plans with actual growth and development that has occurred in the county and its cities; and

(b) Identify reasonable measures, other than adjusting urban growth areas, that will be taken to comply with the requirements of this chapter.

(2) The review and evaluation program shall:

(a) Encompass land uses and activities both within and outside of urban growth areas and provide for annual collection of data on urban and rural land uses, development, critical areas, and capital facilities to the extent necessary to determine the quantity and type of land suitable for development, both for residential and employment-based activities;

(b) Provide for evaluation of the data collected under (a) of this subsection (~~every five years~~) as provided in subsection (3) of this section. (~~The first evaluation shall be completed not later than September 1, 2002.~~) The evaluation shall be completed not later than one year prior to the deadline for review and, if necessary, update of comprehensive plans and development regulations as required by RCW 36.70A.130. The county and its cities may

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establish in the countywide planning policies indicators, benchmarks, and other similar criteria to use in conducting the evaluation;

(c) Provide for methods to resolve disputes among jurisdictions relating to the countywide planning policies required by this section and procedures to resolve inconsistencies in collection and analysis of data; and

(d) Provide for the amendment of the countywide policies and county and city comprehensive plans as needed to remedy an inconsistency identified through the evaluation required by this section, or to bring these policies into compliance with the requirements of this chapter.

(3) At a minimum, the evaluation component of the program required by subsection (1) of this section shall:

(a) Determine whether there is sufficient suitable land to accommodate the countywide population projection established for the county pursuant to RCW 43.62.035 and the subsequent population allocations within the county and between the county and its cities and the requirements of RCW 36.70A.110;

(b) Determine the actual density of housing that has been constructed and the actual amount of land developed for commercial and industrial uses within the urban growth area since the adoption of a comprehensive plan under this chapter or since the last periodic evaluation as required by subsection (1) of this section; and

(c) Based on the actual density of development as determined under (b) of this subsection, review commercial, industrial, and housing needs by type and density range to determine the amount of land needed for commercial, industrial, and housing for the remaining portion of the twenty-year planning period used in the most recently adopted comprehensive plan.

(4) If the evaluation required by subsection (3) of this section demonstrates an inconsistency between what has occurred since the adoption of the countywide planning policies and the county and city comprehensive plans and development regulations and what was envisioned in those policies and plans and the planning goals and the requirements of this chapter, as the inconsistency relates to the evaluation factors specified in subsection (3) of this section, the county and its cities shall adopt and implement measures that are reasonably likely to increase consistency during the subsequent five-year period. If necessary, a county, in consultation with its cities as required by RCW 36.70A.210, shall adopt amendments to countywide planning policies to increase consistency. The county and its cities shall annually monitor the measures adopted under this subsection to determine their effect and may revise or rescind them as appropriate.

(5)(a) Not later than July 1, 1998, the department shall prepare a list of methods used by counties and cities in carrying out the types of activities required by this section. The department shall provide this information and appropriate technical assistance to counties and cities required to or choosing to comply with the provisions of this section.

(b) By December 31, 2007, the department shall submit to the appropriate committees of the legislature a report analyzing the effectiveness of the activities described in this section in achieving the goals envisioned by the countywide planning policies and the comprehensive plans and development regulations of the counties and cities.

(6) From funds appropriated by the legislature for this purpose, the department shall provide grants to counties, cities, and regional planning organizations required under subsection (7) of this section to conduct the review and perform the evaluation required by this section.

(7) The provisions of this section shall apply to counties, and the cities within those counties, that were greater than one hundred fifty thousand in population in 1995 as determined by office of financial

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management population estimates and that are located west of the crest of the Cascade mountain range. Any other county planning under RCW 36.70A.040 may carry out the review, evaluation, and amendment programs and procedures as provided in this section.

**Sec. 4.** RCW 43.19.648 and 2009 c 459 s 7 are each amended to read as follows:

(1) Effective June 1, 2015, all state agencies (~~and local government subdivisions of the state~~), to the extent determined practicable by the rules adopted by the department of (~~community, trade, and economic development~~) commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) Effective June 1, 2018, all local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(3) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of (~~community, trade, and economic development~~) commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the department of (~~community, trade, and economic development~~) commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

~~((3))~~ (4) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

~~((4))~~ (5) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

~~((5))~~ (6) The department of transportation's obligations under subsection ~~((2))~~ (3) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ~~((2))~~ (3) of this section.

~~((6))~~ (7) The department of transportation's obligations under subsection ~~((4))~~ (5) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ~~((4))~~ (5) of this section unless the department receives federal or private funds for the specific purpose identified in subsection ~~((4))~~ (5) of this section.

~~((7))~~ (8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.

**Sec. 5.** RCW 43.325.080 and 2007 c 348 s 204 are each amended to read as follows:

(1) By June 1, 2010, the department shall adopt rules to define practicability and clarify how state agencies (~~and local government~~

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subdivisions)) will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(1). At a minimum, the rules must address:

((4)) (a) Criteria for determining how the goal in RCW 43.19.648(1) will be met by June 1, 2015;

((2)) (b) Factors considered to determine compliance with the goal in RCW 43.19.648(1), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

((3)) (c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(1) that may include different schedules for different fuel applications or different quantities of biofuels.

(2) By June 1, 2015, the department shall adopt rules to define practicability and clarify how local government subdivisions of the state will be evaluated in determining whether they have met the goals set out in RCW 43.19.648(2). At a minimum, the rules must address:

(a) Criteria for determining how the goal in RCW 43.19.648(2) will be met by June 1, 2018;

(b) Factors considered to determine compliance with the goal in RCW 43.19.648(2), including but not limited to: The regional availability of fuels; vehicle costs; differences between types of vehicles, vessels, or equipment; the cost of program implementation; and cost differentials in different parts of the state; and

(c) A schedule for phased-in progress towards meeting the goal in RCW 43.19.648(2) that may include different schedules for different fuel applications or different quantities of biofuels.

**Sec. 6.** RCW 43.185C.210 and 2008 c 256 s 1 are each amended to read as follows:

(1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult

member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383(a)(8).

(5)(a) Except as provided in (b) of this subsection, beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: ((a)) (i) State housing-related funding sources; ((b)) (ii) the affordable housing for all surcharge in RCW 36.22.178; ((c)) (iii) the home security fund surcharges in RCW 36.22.179 and 36.22.1791; and ((d)) (iv) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(b) Cities and counties are exempt from the provisions of (a) of this subsection until 2018.

(6) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(7) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's homeless housing strategic plan as described in RCW 43.185C.040. The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and achieve self-sufficiency or increase their levels of self-sufficiency, which shall be defined by the department based upon the costs of living, including housing costs, needed to support: (i) One adult individual; and (ii) two adult individuals and one preschool-aged child and one school-aged child;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

**Sec. 7.** RCW 46.68.113 and 2006 c 334 s 21 are each amended to read as follows:

During the ((2003-2005)) 2013-2015 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia, but in no case shall it exceed eighty percent. The rating system used by cities and towns must be based upon the Washington state pavement rating method

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or an equivalent standard approved by the department of transportation. Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

**Sec. 8.** RCW 82.02.070 and 2009 c 263 s 1 are each amended to read as follows:

(1) Impact fee receipts shall be earmarked specifically and retained in special interest-bearing accounts. Separate accounts shall be established for each type of public facility for which impact fees are collected. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed. Annually, each county, city, or town imposing impact fees shall provide a report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

(2) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the comprehensive plan.

(3)(a) Except as provided otherwise by (b) of this subsection, impact fees shall be expended or encumbered for a permissible use within ~~((six))~~ ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ~~((six))~~ ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(4) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

**Sec. 9.** RCW 82.02.080 and 1990 1st ex.s. c 17 s 47 are each amended to read as follows:

(1) The current owner of property on which an impact fee has been paid may receive a refund of such fees if the county, city, or town fails to expend or encumber the impact fees within ~~((six))~~ ten years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county, city, or town shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

The request for a refund must be submitted to the county, city, or town governing body in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds,

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including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(3) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted.

**Sec. 10.** RCW 82.14.415 and 2009 c 550 s 1 are each amended to read as follows:

(1) The legislative authority of any city that is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW ~~((:))~~ may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and ~~((shall be))~~ is collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area having a population of at least ten thousand people, or four thousand in the case of a city described under subsection (3)(a)(i) of this section, prior to January 1, 2015; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue ~~((shall))~~ must perform the collection of such taxes on behalf of the city at no cost to the city and ~~((shall))~~ must remit the tax to the city as provided in RCW 82.14.060.

(3)(a) Except as provided in (b) of this subsection, the maximum rate of tax any city may impose under this section is:

(i) 0.1 percent for each annexed area in which the population is greater than ten thousand and less than twenty thousand. The ten thousand population threshold in this subsection (3)(a)(i) is four thousand for a city with a population between one hundred fifteen thousand and one hundred forty thousand and located within a county with a population over one million five hundred thousand; and

(ii) 0.2 percent for an annexed area in which the population is greater than twenty thousand.

(b) Beginning July 1, 2011, the maximum rate of tax imposed under this section is 0.85 percent for an annexed area in which the population is greater than ~~((eighteen))~~ sixteen thousand if the annexed area was, prior to November 1, 2008, officially designated as a potential annexation area by more than one city, one of which has a population greater than four hundred thousand.

(4)(a) Except as provided in (b) of this subsection, the maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.2 percent for the total number of annexed areas the city may annex.

(b) The maximum cumulative rate of tax a city may impose under subsection (3)(a) of this section is 0.3 percent, beginning July 1, 2011, if the city commenced annexation of an area, prior to

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January 1, 2010, that would have otherwise allowed the city to increase the rate of tax imposed under this section absent the rate limit imposed in (a) of this subsection.

(c) The maximum cumulative rate of tax a city may impose under subsection (3)(b) of this section is 0.85 percent for the single annexed area the city may annex and the amount of tax distributed to a city under subsection (3)(b) of this section ~~((shall))~~ may not exceed five million dollars per fiscal year.

(5) The tax imposed by this section ~~((shall))~~ may only be imposed at the beginning of a fiscal year and ~~((shall))~~ may continue for no more than ten years from the date that each increment of the tax is first imposed. Tax rate increases due to additional annexed areas ~~((shall be))~~ are effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (9) of this section.

(6) All revenue collected under this section ~~((shall))~~ may be used solely to provide, maintain, and operate municipal services for the annexation area.

(7) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city ~~((shall))~~ must notify the department and the tax distributions authorized in this section ~~((shall))~~ must be suspended for the remainder of the year.

(8) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city ~~((shall))~~ must adopt an ordinance that includes the following:

(a) A certification that the amount needed to provide municipal services to the annexed area reflects the city's true and actual costs;

(b) The rate of tax under this section that ~~((shall be))~~ is imposed within the city; and

(c) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(9) The tax ~~((shall))~~ must cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city ~~((shall))~~ must provide the department with a certification of the city's true and actual costs to provide municipal services to the annexed area, a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section ~~((shall))~~ must begin again on July 1st of the next fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount ~~((shall))~~ belongs to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, ~~((shall))~~ may not be carried forward to the next fiscal year.

(10) The tax ~~((shall))~~ must cease to be distributed to a city imposing the tax under subsection (3)(b) of this section for the remainder of the fiscal year, if the total distributions to the city imposing the tax exceed five million dollars for the fiscal year.

(11) The resident population of the annexation area must be determined in accordance with chapter 35.13 or 35A.14 RCW.

(12) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

(b) "Commenced annexation" means the initiation of annexation proceedings has taken place under the direct petition method or the election method under chapter 35.13 or 35A.14 RCW.

(c) "Department" means the department of revenue.

(d) "Municipal services" means those services customarily provided to the public by city government.

(e) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(f) "Potential annexation area" means one or more geographic areas that a city has officially designated for potential future annexation, as part of its comprehensive plan adoption process under the state growth management act, chapter 36.70A RCW.

(g) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (7) of this section that the department ~~((shall))~~ must distribute to the city generated from the tax imposed under this section in a fiscal year.

**Sec. 11.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct groundwater recharge, wetland discharge, surface percolation, constructed wetlands, and streamflow or surface water augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, ~~((although the department of ecology is encouraged to adopt the final rules as soon as possible))~~ except that the department of ecology shall adopt rules for reclaimed water use no earlier than June 30, 2013.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

**Sec. 12.** RCW 90.48.260 and 2007 c 341 s 55 are each amended to read as follows:

(1) The department of ecology is hereby designated as the state water pollution control agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound partnership, created in RCW 90.71.210. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement

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with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

~~((H))~~ (a) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: ~~((H))~~ (i) Effluent treatment and limitation requirements together with timing requirements related thereto; ~~((H))~~ (ii) applicable receiving water quality standards requirements; ~~((H))~~ (iii) requirements of standards of performance for new sources; ~~((H))~~ (iv) pretreatment requirements; ~~((H))~~ (v) termination and modification of permits for cause; ~~((H))~~ (vi) requirements for public notices and opportunities for public hearings; ~~((H))~~ (vii) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; ~~((H))~~ (viii) requirements for inspection, monitoring, entry, and reporting; ~~((H))~~ (ix) enforcement of the program through penalties, emergency powers, and criminal sanctions; ~~((H))~~ (x) a continuing planning process; and ~~((H))~~ (xi) user charges.

~~((H))~~ (b) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

~~((H))~~ (c) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

(2) By July 31, 2012, the department shall:

(a) Reissue without modification and for a term of one year any national pollutant discharge elimination system municipal storm water general permit first issued on January 17, 2007; and

(b) Issue an updated national pollutant discharge elimination system municipal storm water general permit for any permit first issued on January 17, 2007. An updated permit issued under this subsection shall become effective beginning August 1, 2013.

**Sec. 13.** RCW 90.58.080 and 2007 c 170 s 1 are each amended to read as follows:

(1) Local governments shall develop or amend a master program for regulation of uses of the shorelines of the state consistent with the required elements of the guidelines adopted by the department in accordance with the schedule established by this section.

(2)(a) Subject to the provisions of subsections (5) and (6) of this section, each local government subject to this chapter shall develop or amend its master program for the regulation of uses of shorelines within its jurisdiction according to the following schedule:

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(i) On or before December 1, 2005, for the city of Port Townsend, the city of Bellingham, the city of Everett, Snohomish county, and Whatcom county;

(ii) On or before December 1, 2009, for King county and the cities within King county greater in population than ten thousand;

(iii) Except as provided by (a)(i) and (ii) of this subsection, on or before December 1, 2011, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(iv) On or before December 1, 2012, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(v) On or before December 1, 2013, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(vi) On or before December 1, 2014, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(b) Nothing in this subsection (2) shall preclude a local government from developing or amending its master program prior to the dates established by this subsection (2).

(3)(a) Following approval by the department of a new or amended master program, local governments required to develop or amend master programs on or before December 1, 2009, as provided by subsection (2)(a)(i) and (ii) of this section, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) of this section and shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable dates established by subsection ~~((2)(a)(iii))~~ (4)(b) of this section. Any jurisdiction listed in subsection (2)(a)(i) of this section that has a new or amended master program approved by the department on or after March 1, 2002, but before July 27, 2003, shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable date provided by subsection ~~((2)(a)(iii))~~ (4)(b) of this section.

(b) Following approval by the department of a new or amended master program, local governments choosing to develop or amend master programs on or before December 1, 2009, shall be deemed to have complied with the schedule established by subsection (2)(a)(iii) through (vi) of this section and shall not be required to complete master program amendments until ~~((seven years after))~~ the applicable dates established by subsection ~~((2)(a)(iii) through (vi))~~ (4)(b) of this section.

(4)(a) Following the updates required by subsection (2) of this section, local governments shall conduct a review of their master programs at least once every ~~((seven))~~ eight years ~~((after the applicable dates established by subsection (2)(a)(iii) through (vi) of this section))~~ as required by (b) of this subsection. Following the review required by this subsection (4), local governments shall, if necessary, revise their master programs. The purpose of the review is:

~~((H))~~ (i) To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and

~~((H))~~ (ii) To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.

(b) Counties and cities shall take action to review and, if necessary, revise their master programs as required by (a) of this subsection as follows:

(i) On or before June 30, 2019, and every eight years thereafter, for King, Pierce, and Snohomish counties and the cities within those counties;

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(ii) On or before June 30, 2020, and every eight years thereafter, for Clallam, Clark, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Thurston, and Whatcom counties and the cities within those counties;

(iii) On or before June 30, 2021, and every eight years thereafter, for Benton, Chelan, Cowlitz, Douglas, Grant, Kittitas, Lewis, Skamania, Spokane, and Yakima counties and the cities within those counties; and

(iv) On or before June 30, 2022, and every eight years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) In meeting the update requirements of subsection (2) of this section, local governments are encouraged to begin the process of developing or amending their master programs early and are eligible for grants from the department as provided by RCW 90.58.250, subject to available funding. Except for those local governments listed in subsection (2)(a)(i) and (ii) of this section, the deadline for completion of the new or amended master programs shall be two years after the date the grant is approved by the department. Subsequent master program review dates shall not be altered by the provisions of this subsection.

(6) In meeting the update requirements of subsection (2) of this section, the following shall apply:

(a) Grants to local governments for developing and amending master programs pursuant to the schedule established by this section shall be provided at least two years before the adoption dates specified in subsection (2) of this section. To the extent possible, the department shall allocate grants within the amount appropriated for such purposes to provide reasonable and adequate funding to local governments that have indicated their intent to develop or amend master programs during the biennium according to the schedule established by subsection (2) of this section. Any local government that applies for but does not receive funding to comply with the provisions of subsection (2) of this section may delay the development or amendment of its master program until the following biennium.

(b) Local governments with delayed compliance dates as provided in (a) of this subsection shall be the first priority for funding in subsequent biennia, and the development or amendment compliance deadline for those local governments shall be two years after the date of grant approval.

(c) Failure of the local government to apply in a timely manner for a master program development or amendment grant in accordance with the requirements of the department shall not be considered a delay resulting from the provisions of (a) of this subsection.

(7) ~~((Notwithstanding the provisions))~~ In meeting the update requirements of subsection (2) of this section, all local governments subject to the requirements of this chapter that have not developed or amended master programs on or after March 1, 2002, shall, no later than December 1, 2014, develop or amend their master programs to comply with guidelines adopted by the department after January 1, 2003.

(8) In meeting the update requirements of subsection (2) of this section, local governments may be provided an additional year beyond the deadlines in this section to complete their master program or amendment. The department shall grant the request if it determines that the local government is likely to adopt or amend its master program within the additional year.

**Sec. 14.** RCW 90.58.090 and 2003 c 321 s 3 are each amended to read as follows:

(1) A master program, segment of a master program, or an amendment to a master program shall become effective when

approved by the department. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

The department shall strive to achieve final action on a submitted master program within one hundred eighty days of receipt and shall post an annual assessment related to this performance benchmark on the agency web site.

(2) Upon receipt of a proposed master program or amendment, the department shall:

(a) Provide notice to and opportunity for written comment by all interested parties of record as a part of the local government review process for the proposal and to all persons, groups, and agencies that have requested in writing notice of proposed master programs or amendments generally or for a specific area, subject matter, or issue. The comment period shall be at least thirty days, unless the department determines that the level of complexity or controversy involved supports a shorter period;

(b) In the department's discretion, conduct a public hearing during the thirty-day comment period in the jurisdiction proposing the master program or amendment;

(c) Within fifteen days after the close of public comment, request the local government to review the issues identified by the public, interested parties, groups, and agencies and provide a written response as to how the proposal addresses the identified issues;

(d) Within thirty days after receipt of the local government response pursuant to (c) of this subsection, make written findings and conclusions regarding the consistency of the proposal with the policy of RCW 90.58.020 and the applicable guidelines, provide a response to the issues identified in (c) of this subsection, and either approve the proposal as submitted, recommend specific changes necessary to make the proposal approvable, or deny approval of the proposal in those instances where no alteration of the proposal appears likely to be consistent with the policy of RCW 90.58.020 and the applicable guidelines. The written findings and conclusions shall be provided to the local government, all interested persons, parties, groups, and agencies of record on the proposal;

(e) If the department recommends changes to the proposed master program or amendment, within thirty days after the department mails the written findings and conclusions to the local government, the local government may:

(i) Agree to the proposed changes. The receipt by the department of the written notice of agreement constitutes final action by the department approving the amendment; or

(ii) Submit an alternative proposal. If, in the opinion of the department, the alternative is consistent with the purpose and intent of the changes originally submitted by the department and with this chapter it shall approve the changes and provide written notice to all recipients of the written findings and conclusions. If the department determines the proposal is not consistent with the purpose and intent of the changes proposed by the department, the department may resubmit the proposal for public and agency review pursuant to this section or reject the proposal.

(3) The department shall approve the segment of a master program relating to shorelines unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines.

(4) The department shall approve the segment of a master program relating to critical areas as defined by RCW 36.70A.030(5) provided the master program segment is consistent with RCW 90.58.020 and applicable shoreline guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by the local government's critical areas ordinances adopted and thereafter amended pursuant to RCW 36.70A.060(2).

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(5) The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest. If the department does not approve a segment of a local government master program relating to a shoreline of statewide significance, the department may develop and by rule adopt an alternative to the local government's proposal.

(6) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with the provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines.

(7) A master program or amendment to a master program takes effect when and in such form as approved or adopted by the department. Shoreline master programs that were adopted by the department prior to July 22, 1995, in accordance with the provisions of this section then in effect, shall be deemed approved by the department in accordance with the provisions of this section that became effective on that date. The department shall maintain a record of each master program, the action taken on any proposal for adoption or amendment of the master program, and any appeal of the department's action. The department's approved document of record constitutes the official master program."

On page 1, line 3 of the title, after "requirements;" strike the remainder of the title and insert "amending RCW 36.70A.215, 43.19.648, 43.325.080, 43.185C.210, 46.68.113, 82.02.070, 82.02.080, 82.14.415, 90.46.015, 90.48.260, 90.58.080, and 90.58.090; reenacting and amending RCW 36.70A.130; and creating a new section."

And the bill do pass as recommended by the conference committee.

Signed by Senators Nelson, Pridemore and Swecker; Representatives Angel, Fitzgibbon and Springer.

#### MOTION

Senator Pridemore moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1478 be adopted.

Senators Pridemore and Swecker spoke in favor of passage of the motion.

Senator Kastama spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1478 be adopted.

The motion by Senator Pridemore carried and the Report of the Conference Committee was adopted by a rising vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1478, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1478, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 13; Absent, 1; Excused, 2.

Voting yea: Senators Baumgartner, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles,

Litzow, McAuliffe, Murray, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Carrell, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Morton, Roach, Sheldon and Stevens

Absent: Senator Nelson

Excused: Senators Delvin and Parlette

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Kastama: "I'd like to make this a point of personal privilege because I believe that there are things being said on the Senate floor that affect me personally and I'd like to explain to members here about that last speech so that there is absolutely no confusion as to my involvement in state accountability. I asked to be the Chair of the Senate Government Operations, Tribal Relations and Elections Committee. During that time there was a piece of legislation that passed that all state agencies apply for something called the 'Washington State Quality Award.' I went ahead and passed that bill. I didn't know exactly what it was about but frankly I went on from there and I took the classes necessary to become an examiner for the Washington State Quality Awards at my cost and I volunteer for this organization. There are three sources of audits in the State of Washington: the State Auditor, but that's very infrequent and it's very subjective; there's JLARC, which we direct but it's very expensive; and the third thing is the Washington State Quality Awards, which is a state agency that gets no money from the state. It gets it from its private contributors and it relies on volunteers like myself to take the classes, pay for them and then go out and do examinations of state agencies and companies. That is my involvement with the Washington State Quality Awards so I know it very well. It is a performance audit. It is not just something that you capriciously do. It is where, you have a team of examiners come into your organization. They examine it. The most comprehensive performance audit of any of those other entities that I have mentioned. So, I really, frankly, Mr. President bring this up because I'm offended when people think that there is some personal gain out of that. I volunteer my time. I know it probably better than most people here because I have gone through the classes and training. And yet that Malcolm Baldrige National Quality Award criteria-this from the Federal Government-that Washington State Quality Awards use is constantly disparaged in this institution. I challenge anyone here to find better criteria in the world than that. It is by our Commerce Department in Washington D. C. that makes it. It is used by Boeing. It is used by Proctor and Gamble. It is used by my local hospital, Good Samaritan Hospital Multi care. So, this is excellent stuff and I'm tired of it being disparaged in both the House and the Senate. And I'm tired of it being disparaged by cities and counties who do not take the time to learn it. People are fed up with the way government operates., We say it just needs more money. Frankly it needs better performance. It needs better performance measures and this is a good system if not the best way to do it. And frankly Mr. President, that's why I'm bringing it up because I am tired of these disparaging remarks and I challenge anyone to come forward and refute what I've said. Thank you Mr. President."

#### MOTION

On motion of Senator Ericksen, Senator Carrell was excused.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 5836 and has passed the bill as recommended by the Conference Committee, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

REPORT OF THE CONFERENCE COMMITTEE

Substitute Senate Bill No. 5836

April 20, 2011

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Substitute Senate Bill No. 5836, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.165 and 1999 c 206 s 1 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles ~~((or));~~ (b) private motor vehicles carrying no fewer than a specified number of passengers; or (c) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy

vehicle lane fails to meet department of transportation standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

**Sec. 2.** RCW 47.04.290 and 2008 c 257 s 1 are each amended to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by: ~~Auto~~ transportation companies regulated under chapter 81.68 RCW ~~((and));~~ passenger charter carriers regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; private, nonprofit transportation providers regulated under chapter 81.66 RCW ~~((, that intend to provide or already provide regularly scheduled service at that lot));~~ and private employer transportation service vehicles, provided that such use does not interfere with the efficiency, reliability, and safety of public transportation operations. The accommodation must be in the form of an agreement between the applicable local transit agency and the private ~~((transit))~~ transportation provider ~~((regulated under chapter 81.68 or 81.66 RCW)).~~ The transit agency may require that the agreement include provisions to recover actual costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private ~~((transit))~~ transportation provider's use does not unduly burden the transit agency. The transit agency may consider benefits to its public transportation system when establishing an amount to charge for the use of the park and ride lot and its related facilities. If the agreement includes provisions to recover actual costs, the private transportation provider is responsible to remit the full actual costs of park and ride lot use to the appropriate transit agency. No accommodation is required, and any agreement may be terminated, if the park and ride lot is at or exceeds ninety percent capacity between the hours of 6:00 a.m. and 4:00 p.m., Monday through Friday for two consecutive months. Additionally, any agreement may be terminated if the private transportation provider violates any policies guiding the terms of use of the park and ride lot. The transit agency may reserve the authority to designate which pick-up and drop-off zones of the park and ride lot may be used by the private transportation provider.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to

accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties.

(3) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

(4) For the purposes of this section, "private transportation provider" means:

(a) A company regulated under chapter 81.68 RCW; chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; and chapter 81.66 RCW; and

(b) An entity providing private employer transportation service.

(5)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (4) of this section, to apply for the use of park and ride facilities.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(6) The department must convene a stakeholder process that includes interested public and private transportation providers, which must develop standard permit forms, clear explanations of permit rate calculations, and standard indemnification provisions that may be used by all local authorities.

**Sec. 3.** RCW 47.52.025 and 1974 ex.s. c 133 s 1 are each amended to read as follows:

(1) Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of (a) public transportation vehicles, (b) privately owned buses, ((c)) (c) private motor vehicles carrying not less than a specified number of passengers, or (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are reserved pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of

this section.

(3) Highway authorities of the state, counties, or incorporated cities and towns may prohibit the use of limited access facilities by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle travel lane fails to meet department standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours for two consecutive months.

(4)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (3) of this section, to apply for the use of limited access facilities that are reserved for the exclusive or preferential use of public transportation vehicles.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(5) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.04 RCW to read as follows:

When designing portions of a highway that are intended to be used as portions reserved for the exclusive or preferential use of public transportation vehicles, state and local jurisdictions shall consider whether the design will safely accommodate private transportation provider vehicles that may be authorized to use the reserved portions under RCW 46.61.165 and 47.52.025 without interfering with the efficiency, reliability, and safety of public transportation operations.

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with mitigation requirements under the state environmental policy act (chapter 43.21C RCW) or the national environmental policy act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts with federal requirements that are a condition or part of the allocation of federal funds to the state or local facilities, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or local authorities."

Correct the title.

And the bill do pass as recommended by the conference committee.

Signed by Senators Haugen, King and White; Representatives Billig, Clibborn and Hargrove.

MOTION

Senator Haugen moved that the Report of the Conference Committee on Substitute Senate Bill No. 5836 be adopted.

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Senator Haugen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Substitute Senate Bill No. 5836 be adopted.

The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5836, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5836, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Nelson

Excused: Senators Carrell, Delvin and Parlette

SUBSTITUTE SENATE BILL NO. 5836, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

NOTICE OF RECONSIDERATION

Having voted on the prevailing side Senator Benton gave notice to reconsider the vote by which Engrossed Substitute House Bill No. 1478 passed the Senate earlier in the day.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5836 was immediately transmitted to the House of Representatives.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2021, by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Darneille, Seaquist, Carlyle, Hunter and Cody)

Limiting the annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 2021 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray, Hargrove and Ericksen spoke in favor of passage of the bill.

Senators Fraser and Conway spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2021.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2021 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 17; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Brown, Chase, Eide, Ericksen, Hargrove, Hatfield, Hewitt, Hobbs, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Benton, Conway, Fain, Fraser, Harper, Haugen, Hill, Holmquist Newbry, Honeyford, Keiser, McAuliffe, Ranker, Roach, Sheldon and Swecker

Absent: Senator Nelson

Excused: Senators Carrell, Delvin and Parlette

SUBSTITUTE HOUSE BILL NO. 2021, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:28 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:17 p.m. by President Owen.

MOTION

On motion of Senator Benton, the motion by Senator Benton to reconsider the vote by which Engrossed Substitute House Bill No. 1478 passed the Senate was withdrawn and the measure was immediately transmit to the House of Representatives.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1516 and again asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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Senator Haugen moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1516.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1516.

The motion by Senator Haugen carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1516 by voice vote.

#### MOTION

On motion of Senator Haugen, the rules were suspended and Substitute House Bill No. 1516 was returned to second reading for the purpose of amendment.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1516, by House Committee on Transportation (originally sponsored by Representatives Morris, Armstrong, Rolfes, Clibborn, Fitzgibbon, Liias, Maxwell, Appleton, Sells, Eddy and Smith)

Concerning the performance of state ferry system management.

The measure was read the second time.

#### MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen and King be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, working conditions, and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by

constitutional provision or statute, must include, but not be limited to, the following:

- (a) Directing promotions;
- (b) Directing staffing levels; and
- (c) Directing the use of part-time shifts.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2013, all captains of Washington state ferry vessels are part of Washington state ferries management.

(2) The captain, also known as the master of a vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

(a) Ensuring the safe navigation of the vessel and its crew and passengers;

(b) Following all applicable federal, state, and agency policies and regulations;

(c) Supervising crew in performance, operations, training, security, and environmental protection; and

(d) Overseeing all aspects of vessel operations including, but not limited to:

- (i) Vessel arrivals and departures;
- (ii) Schedule adherence;
- (iii) Customer service;
- (iv) Cost containment; and
- (v) Fuel efficiency.

(3) Effective July 1, 2013, the public employment relations commission shall sever from the masters, mates, and pilots bargaining unit all captains. In anticipation of the captains' severance from the masters, mates, and pilots bargaining unit, the public employment relations commission shall conduct an election by August 31, 2011, to determine representation of the captains. If a majority of the captains in the masters, mates, and pilots bargaining unit indicate by vote that they desire to be included in a newly formed captains-only bargaining unit, the public employment relations commission shall certify a captains-only bargaining unit, to be effective July 1, 2013. Notwithstanding the results of the election, captains shall remain a part of the masters, mates, and pilots bargaining unit through June 30, 2013.

(4) If a new captains-only bargaining unit is created, the employer and the exclusive bargaining representative for the captains-only bargaining unit must negotiate a collective bargaining agreement exclusive to the captains-only bargaining unit.

(5) For negotiations covering the 2013-2015 biennium, the employer and the exclusive bargaining representative of the captains-only bargaining unit must negotiate agreements that are consistent with this section.

(6) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

**NEW SECTION. Sec. 3.** A new section is added to chapter 47.64 RCW to read as follows:

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Washington state ferry system management must meet with its union employees twice a year and encourage an open and direct exchange of ideas and concerns between line employees and management.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.64 RCW to read as follows:

For the purposes of this section and sections 5 through 10 of this act:

(1) "Management" means an employee at the Washington state ferries who is part of Washington management services, is exempt, or is a captain.

(2) "Performance measure" means measurable standards to be used by the department to evaluate the sufficiency of the services being provided to ferry riders.

(3) "Performance report" means a report that summarizes ferry system performance using the performance measures identified in sections 5 and 6 of this act.

(4) "Performance target" means the desired outcome of a performance measure.

**NEW SECTION. Sec. 5.** A new section is added to chapter 47.64 RCW to read as follows:

Performance targets must be established by an ad hoc committee with members from and designated by the office of the governor. The committee may not consist of more than eleven members. By July 1, 2011, the committee shall present performance targets to the representatives of the legislative transportation committees and the joint transportation committee for review of the performance measures listed under this section. The committee may also develop performance measures in addition to the following:

(1) Safety performance as measured by passenger injuries per one million passenger miles and by injuries per ten thousand revenue service hours that are recordable by standards of the federal occupational safety and health administration and related to standard operating procedures;

(2) Service effectiveness measures including, but not limited to, passenger satisfaction of interactions with ferry employees, cleanliness and comfort of vessels and terminals, and satisfactory response to requests for assistance. Passenger satisfaction must be measured by an evaluation that is created by a contracted market research company and conducted by the Washington state transportation commission as part of the ferry riders' opinion group survey. The Washington state transportation commission shall, to the extent possible, integrate the passenger satisfaction evaluation into the ferry user data survey described in RCW 47.60.286;

(3) Cost-containment measures including, but not limited to, operating cost per passenger mile, operating cost per revenue service mile, discretionary overtime as a percentage of straight time, and gallons of fuel consumed per revenue service mile; and

(4) Maintenance and capital program effectiveness measures including, but not limited to: Project delivery rate as measured by the number of projects completed on time and within the omnibus transportation appropriations act; vessel and terminal design and engineering costs as measured by a percentage of the total capital program, including measurement of the ongoing operating and maintenance costs; and total vessel out-of-service time.

**NEW SECTION. Sec. 6.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Beginning on October 1, 2011, the department shall report on peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions. On-time is defined as within ten minutes of the scheduled time. Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah

ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measure in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site. The statistics must include reasons for any delays over five minutes and any delays over ten minutes from the scheduled time.

(3) The department may not eliminate any ferry route without prior legislative approval.

**NEW SECTION. Sec. 7.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The office of financial management shall complete a performance report that provides a baseline assessment of current performance on the performance measures identified in sections 5 and 6 of this act using final 2009-2011 data. This report must be presented to the joint transportation committee by November 1, 2011, for review.

(2) By October 1, 2012, and each year thereafter, the office of financial management shall complete a performance report for the prior fiscal year. This report must be reviewed by the joint transportation committee, and the findings of the report must be incorporated into the governor's proposed biennial transportation budget. The office of financial management shall transmit a copy of the accepted performance report to the legislature with the governor's biennial transportation budget.

(3) Management shall lead implementation of the performance measures in sections 5 and 6 of this act.

**NEW SECTION. Sec. 8.** A new section is added to chapter 47.64 RCW to read as follows:

If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 5 and 6 of this act by June 30, 2013, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the performance targets in sections 5 and 6 of this act within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

**NEW SECTION. Sec. 9.** A new section is added to chapter 47.64 RCW to read as follows:

(1) If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 5 and 6 of this act by June 30, 2013, the department must:

(a) Solicit a fixed cost bid for meeting the performance measures in sections 5 and 6 of this act, which must include a request for information or a request for qualifications to identify qualifications necessary and costs associated with privatizing the management functions of the Washington state ferries; and

(b) Present the results of the request for information or request for qualifications to the transportation committees of the legislature and the governor.

(2) In consultation with the governor's office, the transportation committees of the legislature shall utilize the information provided in subsection (1) of this section to determine whether or not to competitively contract out the management functions of the Washington state ferry system the following biennium.

(3) If the governor and the transportation committees of the legislature opt to competitively contract out the management

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functions of the Washington state ferry system in the following biennium, the contract must be a fixed cost contract that requires the private management services firm to meet or exceed the performance target for eighty percent of the performance measures under sections 5 and 6 of this act. Based on these performance measures, the contract must provide for incentive or retained payment arrangements as a means of ensuring satisfactory performance of the contract and improved performance of the ferry system over time.

(4) The contract must include a requirement that the firm retain existing and future collective bargaining agreements as negotiated between the state and the employees' labor representatives. The private management services firm may rehire Washington management services employees or exempt employees at the Washington state ferries.

(5) The contract must be for a two-year period. If the private management services firm meets or exceeds the performance measures under sections 5 and 6 of this act, the contract is renewable for an additional two years for a maximum of ten years. After ten years, the department shall implement an invitation for bid process.

(6) Consistent with RCW 41.06.142(3), the contract is not subject to requirements for agencies purchasing services that have been customarily and historically provided by state employees.

**NEW SECTION. Sec. 10.** A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in sections 5 and 6 of this act.

**Sec. 11.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the

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health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 12.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees'))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

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(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**Sec. 13.** RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only with the approval of the employee organization. The costs of arbitrators shall be shared equally by the parties.

Ferry system employees shall follow ~~((either))~~ the grievance procedures provided in a collective bargaining agreement, or if ~~((no))~~ such procedures are ~~((so))~~ not provided, shall submit the grievances to the ~~((marine employees'))~~ commission ~~((as provided in RCW 47.64.280)).~~

**Sec. 14.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

**Sec. 15.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) ~~((All employees of the marine employees' commission; —(z))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ (z) The manager of the energy facility site evaluation council;

~~((bb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy

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functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((ee))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) ~~((and (y)))~~ and (2) of this section,

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shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 16.** (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of

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financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**NEW SECTION. Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

**NEW SECTION. Sec. 18.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Senators Haugen, King, Rockefeller and Conway spoke in favor of adoption of the striking amendment.

MOTION

On motion of Senator Swecker, Senator Ericksen was excused.

MOTION

On motion of Senator White, Senator Nelson was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and King to Substitute House Bill No. 1516.

The motion by Senator Haugen carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "system;" strike the remainder of the title and insert "amending RCW 47.64.120, 47.64.011, 47.64.150, and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070; adding new sections to chapter 47.64 RCW; creating a new section; repealing RCW 47.64.080 and 47.64.280; and declaring an emergency."

MOTION

On motion of Senator Haugen, the rules were suspended, Substitute House Bill No. 1516 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1516 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1516 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Eide, Fain, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Pflug, Prentice, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Chase, Conway, Harper, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Pridemore, Ranker, Roach and White

Excused: Senators Delvin, Ericksen, Nelson and Parlette

SUBSTITUTE HOUSE BILL NO. 1516 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Substitute House Bill No. 1516 was immediately transmitted to the House of Representatives.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SENATE BILL NO. 5005,  
 SENATE BILL NO. 5044,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5073,  
 SUBSTITUTE SENATE BILL NO. 5187,  
 SUBSTITUTE SENATE BILL NO. 5204,  
 SUBSTITUTE SENATE BILL NO. 5271,  
 SUBSTITUTE SENATE BILL NO. 5385,  
 SUBSTITUTE SENATE BILL NO. 5487,  
 SECOND SUBSTITUTE SENATE BILL NO. 5622,  
 SECOND SUBSTITUTE SENATE BILL NO. 5636,  
 SECOND SUBSTITUTE SENATE BILL NO. 5662,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5708,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5748,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5769,  
 SUBSTITUTE SENATE BILL NO. 5791.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5023,  
 SENATE BILL NO. 5304,  
 SUBSTITUTE SENATE BILL NO. 5531,  
 SENATE BILL NO. 5625,  
 SENATE BILL NO. 5628,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5656,  
 SUBSTITUTE SENATE BILL NO. 5691,  
 SUBSTITUTE SENATE BILL NO. 5722,  
 SENATE JOINT MEMORIAL NO. 8008.

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:  
 The Speaker has signed:

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ENGROSSED SENATE BILL NO. 5005,  
 SUBSTITUTE SENATE BILL NO. 5023,  
 SENATE BILL NO. 5044,  
 SUBSTITUTE SENATE BILL NO. 5067,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL

NO. 5073,

SUBSTITUTE SENATE BILL NO. 5187,  
 SUBSTITUTE SENATE BILL NO. 5204,  
 SUBSTITUTE SENATE BILL NO. 5271,  
 SENATE BILL NO. 5304,

SUBSTITUTE SENATE BILL NO. 5326,  
 SUBSTITUTE SENATE BILL NO. 5350,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5371,

SUBSTITUTE SENATE BILL NO. 5385,  
 SUBSTITUTE SENATE BILL NO. 5487,  
 SUBSTITUTE SENATE BILL NO. 5531,  
 SECOND SUBSTITUTE SENATE BILL NO. 5622,

SENATE BILL NO. 5625,  
 SENATE BILL NO. 5628,  
 SECOND SUBSTITUTE SENATE BILL NO. 5636,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5656,

SECOND SUBSTITUTE SENATE BILL NO. 5662,  
 SUBSTITUTE SENATE BILL NO. 5691,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5708,  
 SUBSTITUTE SENATE BILL NO. 5722,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5748,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL

NO. 5769,

SUBSTITUTE SENATE BILL NO. 5791,  
 SENATE JOINT MEMORIAL NO. 8008.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

At 12:38 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:45 p.m. by President Owen.

## MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478 and has passed the bill as recommended by the Conference Committee.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175,  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on SUBSTITUTE HOUSE BILL NO. 1793 and has passed the bill as recommended by the Conference Committee.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

April 21, 2011

MR. PRESIDENT:

The House adheres to its position on SUBSTITUTE HOUSE BILL NO. 1081 and asks the Senate to recede therefrom.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Rockefeller moved that the Senate adhere to its position and refuse to recede in the Senate amendment(s) to Substitute House Bill No. 1081.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate adhere to its position and refused to recede in the Senate amendment(s) to Substitute House Bill No. 1081.

The motion by Senator Rockefeller carried and the Senate adhered to its position in the Senate amendment(s) to Substitute House Bill No. 1081.

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

## SUPPLEMENTAL INTRODUCTION AND FIRST READING

SCR 8401 by Senators Brown and Hewitt

Adjourning SINE DIE.

SCR 8402 by Senators Brown and Hewitt

Returning bills to their house of origin.

## MOTION

On motion of Senator Eide, and without objections, Senate Concurrent Resolution No. 8401 and Senate Concurrent Resolution No. 8402 were placed on the second reading calendar under suspension of the rules.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

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SENATE CONCURRENT RESOLUTION NO. 8402, by  
Senators Brown and Hewitt

Returning bills to their house of origin.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8402 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8402. SENATE CONCURRENT RESOLUTION NO. 8402, was adopted on third reading by voice vote.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8401, by  
Senators Brown and Hewitt

Adjourning SINE DIE.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8401 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8401. SENATE CONCURRENT RESOLUTION NO. 8401, was adopted on third reading by voice vote.

MOTION

On motion of Senator Eide and without objections, all measures remaining on the second and third reading calendars were returned to the Committee on Rules.

MOTION

On motion of Senator Eide, the reading of the Journal for the 103<sup>rd</sup> day of the Regular Session of the 62<sup>nd</sup> Legislature was dispensed with and it was approved.

PERSONAL PRIVILEGE

Senator Pridemore: "Mr. President, I realize that this sine die feels a little different knowing that we're coming back here Tuesday but I just wanted everybody in this chamber, particularly you Mr. President to realize that I am blinded by the light, revved up like a deuce another runner in the night. Thank you Mr. President."

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478,  
SUBSTITUTE HOUSE BILL NO. 1793.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1175,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1478,  
SUBSTITUTE HOUSE BILL NO. 1793.

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026,  
SUBSTITUTE HOUSE BILL NO. 1037,  
SUBSTITUTE HOUSE BILL NO. 1046,  
SUBSTITUTE HOUSE BILL NO. 1053,  
SECOND SUBSTITUTE HOUSE BILL NO. 1128,  
HOUSE BILL NO. 1229,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267,  
SUBSTITUTE HOUSE BILL NO. 1312,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,  
HOUSE BILL NO. 1544,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547,  
SUBSTITUTE HOUSE BILL NO. 1560,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599,  
SUBSTITUTE HOUSE BILL NO. 1691,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790,  
SUBSTITUTE HOUSE BILL NO. 1874,  
SECOND SUBSTITUTE HOUSE BILL NO. 1903,  
HOUSE BILL NO. 1916,  
HOUSE BILL NO. 1953,  
ENGROSSED HOUSE BILL NO. 1969,  
SUBSTITUTE HOUSE BILL NO. 2017,  
HOUSE BILL NO. 2019,  
ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4404.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8401,  
SENATE CONCURRENT RESOLUTION NO. 8402.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SENATE CONCURRENT RESOLUTION NO. 8401,  
SENATE CONCURRENT RESOLUTION NO. 8402.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5457,  
SUBSTITUTE SENATE BILL NO. 5836.

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5457,  
SUBSTITUTE SENATE BILL NO. 5836,  
SENATE CONCURRENT RESOLUTION NO. 8401,  
SENATE CONCURRENT RESOLUTION NO. 8402.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 5072.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:  
The Speaker has signed:  
HOUSE BILL NO. 1000,  
SUBSTITUTE HOUSE BILL NO. 1008,  
SUBSTITUTE HOUSE BILL NO. 1127,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311,  
ENGROSSED HOUSE BILL NO. 1382,  
HOUSE BILL NO. 1418,  
HOUSE BILL NO. 1419,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1546,  
SUBSTITUTE HOUSE BILL NO. 1570,  
HOUSE BILL NO. 1594,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635,  
SUBSTITUTE HOUSE BILL NO. 1899,  
SUBSTITUTE HOUSE BILL NO. 2021.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:  
The Speaker has signed:

SUBSTITUTE SENATE BILL NO. 5025,  
SENATE BILL NO. 5083,  
SUBSTITUTE SENATE BILL NO. 5097,  
SENATE BILL NO. 5119,  
SENATE BILL NO. 5141,  
SUBSTITUTE SENATE BILL NO. 5156,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5186,  
SUBSTITUTE SENATE BILL NO. 5192,  
SUBSTITUTE SENATE BILL NO. 5203,  
SUBSTITUTE SENATE BILL NO. 5232,  
SUBSTITUTE SENATE BILL NO. 5239,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5253,  
SUBSTITUTE SENATE BILL NO. 5392,  
SUBSTITUTE SENATE BILL NO. 5394,  
SECOND SUBSTITUTE SENATE BILL NO. 5427,  
SUBSTITUTE SENATE BILL NO. 5436,  
SUBSTITUTE SENATE BILL NO. 5445,  
SUBSTITUTE SENATE BILL NO. 5451,  
SUBSTITUTE SENATE BILL NO. 5452,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5485,  
SUBSTITUTE SENATE BILL NO. 5502,  
SUBSTITUTE SENATE BILL NO. 5504,  
ENGROSSED SENATE BILL NO. 5505,  
SUBSTITUTE SENATE BILL NO. 5525,  
SUBSTITUTE SENATE BILL NO. 5540,  
SUBSTITUTE SENATE BILL NO. 5579,  
SENATE BILL NO. 5584,  
SUBSTITUTE SENATE BILL NO. 5590,  
SECOND SUBSTITUTE SENATE BILL NO. 5595,  
SUBSTITUTE SENATE BILL NO. 5614,  
SUBSTITUTE SENATE BILL NO. 5658,  
SUBSTITUTE SENATE BILL NO. 5688,  
SUBSTITUTE SENATE BILL NO. 5700,  
SENATE BILL NO. 5731,  
SUBSTITUTE SENATE BILL NO. 5741,  
SUBSTITUTE SENATE BILL NO. 5784,  
SENATE BILL NO. 5806,  
ENGROSSED SENATE BILL NO. 5907.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
HOUSE BILL NO. 1000,  
SUBSTITUTE HOUSE BILL NO. 1008,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1026,  
SUBSTITUTE HOUSE BILL NO. 1037,  
SUBSTITUTE HOUSE BILL NO. 1046,  
SUBSTITUTE HOUSE BILL NO. 1053,  
SUBSTITUTE HOUSE BILL NO. 1127,  
SECOND SUBSTITUTE HOUSE BILL NO. 1128,  
HOUSE BILL NO. 1229,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1267,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1295,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1311,  
SUBSTITUTE HOUSE BILL NO. 1312,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1332,  
ENGROSSED HOUSE BILL NO. 1382,  
HOUSE BILL NO. 1418,  
HOUSE BILL NO. 1419,  
HOUSE BILL NO. 1544,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1546,

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 1547,  
 SUBSTITUTE HOUSE BILL NO. 1560,  
 SUBSTITUTE HOUSE BILL NO. 1570,  
 HOUSE BILL NO. 1594,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1599,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1635,  
 SUBSTITUTE HOUSE BILL NO. 1691,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1725,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1774,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1790,  
 SUBSTITUTE HOUSE BILL NO. 1874,  
 SUBSTITUTE HOUSE BILL NO. 1899,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1903,  
 HOUSE BILL NO. 1916,  
 HOUSE BILL NO. 1953,  
 ENGROSSED HOUSE BILL NO. 1969,  
 SUBSTITUTE HOUSE BILL NO. 2017,  
 HOUSE BILL NO. 2019,  
 SUBSTITUTE HOUSE BILL NO. 2021,  
 ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4404.

ENGROSSED SENATE BILL NO. 5377,  
 SENATE BILL NO. 5403,  
 SUBSTITUTE SENATE BILL NO. 5417,  
 SUBSTITUTE SENATE BILL NO. 5432,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5433,  
 SUBSTITUTE SENATE BILL NO. 5439,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5449,  
 SENATE BILL NO. 5484,  
 SUBSTITUTE SENATE BILL NO. 5493,  
 SENATE BILL NO. 5494,  
 SENATE BILL NO. 5497,  
 SENATE BILL NO. 5516,  
 SUBSTITUTE SENATE BILL NO. 5519,  
 SENATE BILL NO. 5521,  
 SUBSTITUTE SENATE BILL NO. 5545,  
 SUBSTITUTE SENATE BILL NO. 5553,  
 SUBSTITUTE SENATE BILL NO. 5556,  
 ENGROSSED SENATE BILL NO. 5566,  
 ENGROSSED SENATE BILL NO. 5575,  
 SUBSTITUTE SENATE BILL NO. 5576,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5605,  
 SENATE BILL NO. 5631,  
 ENGROSSED SENATE BILL NO. 5638,  
 ENGROSSED SENATE BILL NO. 5647,  
 SUBSTITUTE SENATE BILL NO. 5671,  
 SENATE BILL NO. 5674,  
 SUBSTITUTE SENATE BILL NO. 5676,  
 ENGROSSED SENATE BILL NO. 5730,  
 SUBSTITUTE SENATE BILL NO. 5749,  
 ENGROSSED SENATE BILL NO. 5764,  
 ENGROSSED SENATE BILL NO. 5773,  
 SUBSTITUTE SENATE BILL NO. 5785,  
 SUBSTITUTE SENATE BILL NO. 5796,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5798,  
 SENATE BILL NO. 5819,  
 SUBSTITUTE SENATE BILL NO. 5834,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5844,  
 SENATE BILL NO. 5852,  
 SENATE JOINT RESOLUTION NO. 8206,  
 SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215.  
 and the same are herewith transmitted.

MESSAGE FROM THE HOUSE

April 22, 2011

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8402, the following Senate bills are returned to the Senate:

SUBSTITUTE SENATE BILL NO. 5022,  
 SUBSTITUTE SENATE BILL NO. 5029,  
 SENATE BILL NO. 5030,  
 SENATE BILL NO. 5032,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5039,  
 SENATE BILL NO. 5046,  
 SUBSTITUTE SENATE BILL NO. 5069,  
 SENATE BILL NO. 5075,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5077,  
 SENATE BILL NO. 5080,  
 SUBSTITUTE SENATE BILL NO. 5114,  
 SUBSTITUTE SENATE BILL NO. 5128,  
 SUBSTITUTE SENATE BILL NO. 5142,  
 SENATE BILL NO. 5143,  
 SUBSTITUTE SENATE BILL NO. 5154,  
 SENATE BILL NO. 5161,  
 ENGROSSED SENATE BILL NO. 5169,  
 SUBSTITUTE SENATE BILL NO. 5185,  
 SUBSTITUTE SENATE BILL NO. 5201,  
 ENGROSSED SENATE BILL NO. 5205,  
 SUBSTITUTE SENATE BILL NO. 5222,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5230,  
 SUBSTITUTE SENATE BILL NO. 5244,  
 SUBSTITUTE SENATE BILL NO. 5250,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5251,  
 SENATE BILL NO. 5260,  
 SUBSTITUTE SENATE BILL NO. 5264,  
 SENATE BILL NO. 5265,  
 SENATE BILL NO. 5289,  
 SUBSTITUTE SENATE BILL NO. 5298,  
 SUBSTITUTE SENATE BILL NO. 5343,  
 SUBSTITUTE SENATE BILL NO. 5356,  
 SENATE BILL NO. 5362,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5366,

BARBARA BAKER, Chief Clerk

MOTION

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8402, the following House Bills were returned to the House of Representatives:

SUBSTITUTE HOUSE BILL NO. 1001,  
 HOUSE BILL NO. 1015,  
 HOUSE BILL NO. 1075,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094,  
 SUBSTITUTE HOUSE BILL NO. 1104,  
 SUBSTITUTE HOUSE BILL NO. 1167,  
 HOUSE BILL NO. 1195,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1214,  
 SUBSTITUTE HOUSE BILL NO. 1217,  
 HOUSE BILL NO. 1222,  
 HOUSE BILL NO. 1236,  
 HOUSE BILL NO. 1274,  
 HOUSE BILL NO. 1280,  
 HOUSE BILL NO. 1281,  
 HOUSE BILL NO. 1293,

ONE HUNDRED THIRD DAY, APRIL 22, 2011

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HOUSE BILL NO. 1327,  
 SUBSTITUTE HOUSE BILL NO. 1336,  
 SUBSTITUTE HOUSE BILL NO. 1339,  
 HOUSE BILL NO. 1343,  
 ENGROSSED HOUSE BILL NO. 1364,  
 HOUSE BILL NO. 1381,  
 HOUSE BILL NO. 1392,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1487,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1510,  
 SUBSTITUTE HOUSE BILL NO. 1522,  
 SUBSTITUTE HOUSE BILL NO. 1542,  
 SUBSTITUTE HOUSE BILL NO. 1549,  
 ENGROSSED HOUSE BILL NO. 1559,  
 SUBSTITUTE HOUSE BILL NO. 1563,  
 SUBSTITUTE HOUSE BILL NO. 1568,  
 SUBSTITUTE HOUSE BILL NO. 1608,  
 HOUSE BILL NO. 1613,  
 HOUSE BILL NO. 1657,  
 HOUSE BILL NO. 1667,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1676,  
 HOUSE BILL NO. 1677,  
 SUBSTITUTE HOUSE BILL NO. 1689,  
 SUBSTITUTE HOUSE BILL NO. 1745,  
 SUBSTITUTE HOUSE BILL NO. 1782,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 1792,  
 HOUSE BILL NO. 1805,  
 HOUSE BILL NO. 1812,  
 SUBSTITUTE HOUSE BILL NO. 1832,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1849,  
 SUBSTITUTE HOUSE BILL NO. 1860,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1869,  
 HOUSE BILL NO. 1875,  
 HOUSE BILL NO. 1900,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 1952,  
 ENGROSSED HOUSE BILL NO. 2011.

## MOTION

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8402, the following House Bills were returned to the House of Representatives:

SUBSTITUTE HOUSE BILL NO. 1003,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1009,  
 HOUSE BILL NO. 1014,  
 SUBSTITUTE HOUSE BILL NO. 1019,  
 HOUSE BILL NO. 1021,  
 HOUSE BILL NO. 1039,  
 ENGROSSED HOUSE BILL NO. 1050,  
 SUBSTITUTE HOUSE BILL NO. 1057,  
 SUBSTITUTE HOUSE BILL NO. 1078,  
 HOUSE BILL NO. 1166,  
 HOUSE BILL NO. 1168,  
 HOUSE BILL NO. 1176,  
 HOUSE BILL NO. 1184,  
 SUBSTITUTE HOUSE BILL NO. 1194,  
 SUBSTITUTE HOUSE BILL NO. 1205,  
 HOUSE BILL NO. 1207,  
 HOUSE BILL NO. 1212,  
 HOUSE BILL NO. 1221,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224,  
 HOUSE BILL NO. 1231,  
 ENGROSSED HOUSE BILL NO. 1234,  
 HOUSE BILL NO. 1244,  
 SUBSTITUTE HOUSE BILL NO. 1249,

SUBSTITUTE HOUSE BILL NO. 1253,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1265,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365,  
 HOUSE BILL NO. 1395,  
 ENGROSSED HOUSE BILL NO. 1398,  
 SUBSTITUTE HOUSE BILL NO. 1401,  
 HOUSE BILL NO. 1440,  
 HOUSE BILL NO. 1466,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1469,  
 SUBSTITUTE HOUSE BILL NO. 1470,  
 HOUSE BILL NO. 1486,  
 ENGROSSED HOUSE BILL NO. 1490,  
 HOUSE BILL NO. 1491,  
 HOUSE BILL NO. 1498,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1507,  
 SUBSTITUTE HOUSE BILL NO. 1518,  
 SUBSTITUTE HOUSE BILL NO. 1543,  
 SUBSTITUTE HOUSE BILL NO. 1564,  
 SUBSTITUTE HOUSE BILL NO. 1615,  
 SUBSTITUTE HOUSE BILL NO. 1621,  
 SUBSTITUTE HOUSE BILL NO. 1626,  
 SUBSTITUTE HOUSE BILL NO. 1650,  
 SUBSTITUTE HOUSE BILL NO. 1652,  
 HOUSE BILL NO. 1669,  
 ENGROSSED HOUSE BILL NO. 1674,  
 SUBSTITUTE HOUSE BILL NO. 1699,  
 SUBSTITUTE HOUSE BILL NO. 1700,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701,  
 ENGROSSED HOUSE BILL NO. 1702,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1708,  
 SUBSTITUTE HOUSE BILL NO. 1712,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1740,  
 SUBSTITUTE HOUSE BILL NO. 1756,  
 SUBSTITUTE HOUSE BILL NO. 1815,  
 HOUSE BILL NO. 1833,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1885,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 1901,  
 HOUSE BILL NO. 1926,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2002.

## MOTION

At 4:06 p.m., on motion of Senator Eide, the 2011 Regular Session of the Sixty-Second Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SENATE JOURNAL**  
**SIXTY-SECOND LEGISLATURE**  
**STATE OF WASHINGTON**

**AT**

**OLYMPIA, THE STATE CAPITOL**

*2011 Special Session Convened April 26, 2011*

*Adjourned Sine Die May 25, 2011*

Official Record of All Senate Actions Compiled, Edited and Indexed  
Pursuant to Article II, Section 11 of the Constitution of the State of  
Washington, by Thomas Hoemann, Secretary of the Senate



Linda Jansson,  
Minute and Journal Clerk

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Lieutenant Governor Brad Owen, *President of the Senate*  
Senator Margarita Prentice, *President Pro Tempore*  
Senator Paull Shin, *Vice President Pro Tempore*

**SENATE CAUCUS OFFICERS**

**2011**

**DEMOCRATIC CAUCUS**

*Majority Leader*.....Lisa Brown  
*Majority Caucus Chair*.....Karen Fraser  
*Majority Floor Leader* .....Tracey J. Eide  
*Majority Whip* .....Scott White  
*Majority Assistant Floor Leader*.....Phil Rockefeller  
*Majority Caucus Vice Chair* .....Debbie Regala  
*Majority Assistant Whip* .....Kevin Ranker

**REPUBLICAN CAUCUS**

*Republican Leader*.....Mike Hewitt  
*Republican Caucus Chair* .....Linda Evans Parlette  
*Republican Floor Leader*.....Mark Schoesler  
*Republican Whip*.....Doug Ericksen  
*Republican Deputy Leader*.....Mike Carrell  
*Republican Caucus Vice Chair*.....Dan Swecker  
*Republican Deputy Floor Leader*.....Jim Honeyford  
*Republican Deputy Whip*.....Jerome Delvin

=====

*Secretary of the Senate* ..... Thomas Hoemann  
*Deputy Secretary* ..... Brad Hendrickson  
*Sergeant at Arms* ..... Jim Ruble  
*Minute and Journal Clerk* ..... Linda Jansson  
*Readers* ..... Kenneth Edmonds and Dave Whitmore

FIRST DAY, APRIL 26, 2011

2011 1ST SPECIAL SESSION

## FIRST DAY

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, April 26, 2011

The Senate was called to order at 9:00 a.m. by President Owen.  
No roll call was taken.

## MOTION

At 9:01 a.m., on motion of Senator Fraser, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:30 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

## MESSAGE FROM THE GOVERNOR

## PROCLAMATION BY THE GOVERNOR

11-06

**WHEREAS**, in accordance with Article II, Section 12(Amendment 68) of the Washington State Constitution, the Legislature adjourned its 2011 regular session on April 22, 2011, the 103<sup>rd</sup> day of the session' and

**WHEREAS**, substantial work remains to be done with respect to the 2011-2013 biennial operating budget and bills necessary to implement the budget, including workers' compensation reform and related bills, state government reform, prospective changes to Washington's Guaranteed Education Tuition (GET) Program, and action on the Higher Education Funding Task Force recommendations; and

**WHEREAS**, substantial work remains to be done with respect to bills important to support the 2011-2013 biennial transportation budget, including transportation fees and the vessel replacement surcharge on ferry fares; and

**WHEREAS**, substantial work remains to be done with respect to the 2011-2013 biennial capital budget, bills necessary to implement the budget, and a constitutional amendment to reduce the maximum amount of debt the state can incur; and

**WHEREAS**, the Speaker of the House, House Minority Leader, Senate Majority Leader and Senate Republican Leader working together with the Governor may agree upon additional matters that are necessary for the legislature to address;

**NOW, THEREFOR**, I Christine O. Gregoire, Governor of the state of Washington, by virtue of the authority vested in me by Article II, Section 12(Amendment 68) and Article III, Section 7 of the Washington State Constitution, do hereby convene the Washington State Legislature in Special Session in the Capitol at Olympia on Tuesday, April 26, 2011, at 9 a.m. for the purpose of enacting legislation as described above.

Signed and sealed with the official seal of the state of Washington this 22<sup>nd</sup> day of April, A. D. Two-thousand and eleven at Olympia, Washington.

Seal

CHRISTINE GREGOIRE,  
Governor of Washington

BY THE GOVERNOR  
SAME REED  
Secretary of State

## MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

## MESSAGE FROM THE HOUSE

April 26, 2011

MR. PRESIDENT:  
The House has adopted:  
HOUSE CONCURRENT RESOLUTION 4405,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

HCR 4405 by Representatives Sullivan and Kretz

Specifying the status of bills, memorials, and resolutions for the 2011 first special session of the Sixty-second legislature.

## MOTION

On motion of Senator Eide and without objection, the rules were suspended and House Concurrent Resolution No. 4405 was placed on the second reading calendar.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4405, by Representatives Sullivan and Kretz

Specifying the status of bills, memorials, and resolutions for the 2011 first special session of the Sixty-second legislature.

The measure was read the second time.

## MOTION

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4405 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of House Concurrent Resolution No. 4405.

HOUSE CONCURRENT RESOLUTION NO. 4405 was adopted on third reading by voice vote.

MOTION

At 11:35 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:15 p.m. by President Owen.

The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Chase, Delvin, Hewitt, Holmquist Newbry, McAuliffe, Morton and Sheldon.

MOTION

On motion of Senator Eide, the Senate reverted to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 12, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

NATASHA K. PRANGER, appointed April 12, 2011, for the term ending December 31, 2011, as Member of the Investment Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Ericksen, Senators Benton, Delvin, Hewitt, Holmquist Newbry and Morton were excused.

MOTION

On motion of Senator White, Senators Chase, Hobbs, McAuliffe and Sheldon were excused.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596, by Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Zarelli, Becker and Hewitt).

Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program.

The bill was read on Third Reading.

Senators Parlette and Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5596.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5596 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Chase, Delvin, Hewitt, Holmquist Newbry, McAuliffe, Morton and Sheldon

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SENATE BILL NO. 5773, by Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry.

Making a health savings account option and high deductible health plan available to public employees. (REVISED FOR ENGROSSED: Making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees. )

The bill was read on Third Reading.

MOTION

On motion of Senator Zarelli, the rules were suspended and Engrossed Senate Bill No. 5773 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 5773, by Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry

FIRST DAY, APRIL 26, 2011

2011 1ST SPECIAL SESSION

Making a health savings account option and high deductible health plan available to public employees. (REVISED FOR ENGROSSED: Making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees. )

The measure was read the second time.

MOTION

Senator Zarelli moved that the following amendment by Senator Zarelli be adopted:

On page 6, line 9, after "For" strike "the open enrollment period beginning November 1, 2011" and insert "any open enrollment period following the effective date of this section"

On page 6, beginning on line 15, after "for" strike "the open enrollment period beginning November 1, 2011" and insert "any open enrollment period following the effective date of this section"

Senator Zarelli spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 6, line 9 to Engrossed Senate Bill No. 5773.

The motion by Senator Zarelli carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Zarelli, the rules were suspended, Second Engrossed Senate Bill No. 5773 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5773.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5773 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 9; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Eide, Ericksen, Fain, Hargrove, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Litzow, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Conway, Fraser, Harper, Hatfield, Keiser, Kline, Kohl-Welles, Nelson and White

Excused: Senators Benton, Chase, Delvin, Hewitt, McAuliffe, Morton and Sheldon

SECOND ENGROSSED SENATE BILL NO. 5773, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, by Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Murray, Kastama, Fraser, Hobbs, Hatfield, Regala, Sheldon and Hewitt).

Concerning financing local government infrastructure.  
Revised for 1st Substitute: Financing local government infrastructure.

The bill was read on Third Reading.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5844.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5844 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 7; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Becker, Brown, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Ericksen, Honeyford, Roach, Schoesler and Stevens

Excused: Senators Benton, Chase, Delvin, Hewitt, McAuliffe, Morton and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5844, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

THIRD READING

SENATE JOINT RESOLUTION NO. 8206, by Senators Zarelli, Brown, Pridemore, Tom, Kilmer, White and Parlette.

Requiring extraordinary revenue growth to be transferred to the budget stabilization account.

The bill was read on Third Reading.

Senator Zarelli spoke in favor of passage of the resolution.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8206.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8206 and the resolution passed the Senate by the following vote: Yeas, 39; Nays, 3; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Conway, Kohl-Welles and Nelson

Excused: Senators Benton, Chase, Delvin, Hewitt, McAuliffe, Morton and Sheldon

SENATE JOINT RESOLUTION NO. 8206, having received the constitutional majority, was declared passed.

THIRD READING

FIRST DAY, APRIL 26, 2011

SUBSTITTUE SENATE JOINT RESOLUTION NO. 8215,  
by Senators Kilmer, Parlette, Murray, Zarelli, Brown, Hobbs,  
Fraser, Tom, Sheldon, Honeyford and Hewitt.

Concerning the debt reduction act of 2011.

The bill was read on Third Reading.

Senators Kilmer, Parlette, Brown, Zarelli and Murray spoke  
in favor of passage of the resolution.

Senator Conway spoke against passage of the resolution.

The President declared the question before the Senate to be  
the final passage of Substitute Senate Joint Resolution No. 8215.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute  
Senate Joint Resolution No. 8215 and the resolution passed the  
Senate by the following vote: Yeas, 39; Nays, 3; Absent, 0;  
Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown,  
Carrell, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield,  
Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama,  
Keiser, Kilmer, King, Kline, Litzow, Murray, Parlette, Pflug,  
Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller,  
Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Conway, Kohl-Welles and Nelson

Excused: Senators Benton, Chase, Delvin, Hewitt,  
McAuliffe, Morton and Sheldon

SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215,  
having received the constitutional majority, was declared passed.

#### PERSONAL PRIVILEGE

Senator Parlette: "Thank you Mr. President. To all the  
members of the senate and the members listening and friends of  
the senate I would like to thank all of you for your cards and  
words of condolences for my father. I have to tell you, I feel so  
good because, although we are going into special session, it  
allowed me by having the weekend off last weekend to spend that  
time with my parents and my sister in Chelan and I was here  
briefly Monday morning and then I left immediately and my  
father passed away on Tuesday evening and I was there the whole  
time. I really appreciated it. Now my dad was a World War Two  
Marine and, right up to the very end, had projects that he wanted  
done before he passed on. One of them was fixing a skylight in a  
little apartment close to their house. Another was fixing the  
sliders in the door in the living room and the last one was  
surfacing the driveway and that happened on Monday. The last  
thing I told my dad at 7:00 on Tuesday April 19 was that, 'Dad,  
the driveway looks absolutely wonderful.' He passed away about  
fifteen minutes later as my mom and sister and I were having  
dinner. My dad had the same type of brain tumor that Ed Kennedy  
died of, multiforma glioblastoma. And we found out last year in  
February. The only reason my mother knew something was  
wrong is that he got his words a little mixed up at breakfast. Well,  
don't we all do that once in a while? So naturally she thought it  
was a stroke but it turned on that it was a brain tumor. So, we did  
a lot of fun things over the last year but that's sort of the way  
we've always done it. The service will be on Saturday. This  
coming Saturday, which will also be the birthday of my little  
granddaughter. She will be two and the reason we've waited a  
week is because the funeral directors in Chelan are on vacation  
and my best friend from college said, 'Are you kidding? You only  
have one?' I said, 'Well, it's a father and son and they are both in

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Mexico.' So, I have been working on writing the obituary, getting  
the program, Mr. President, may I share this photo?"

#### REPLY BY THE PRESIDENT

President Owen: "Of course."

Senator Parlette: "I have to show you, the front of the  
program is going to be this wonderful picture of my father fly  
fishing which I happen to take in Stehekin a couple years ago.  
Well, it's probably not as professional as those photographers  
around here but it is sort of special and low and behold, we didn't  
know it, it is the first day of fishing season. So I think it's very  
appropriate and again thank you to all of you for your cards and I  
really appreciate it. This truly is a senate family. You are  
appreciated. Thank you."

#### MOTION

At 2:02 p.m., on motion of Senator Eide, the Senate adjourned  
until 10:00 a.m. Wednesday, April 27, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## SECOND DAY

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, April 27, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Delvin, Ericksen, Kline, Prentice, Sheldon, Swecker and Zarelli.

The Sergeant at Arms Color Guard consisting of Legislative Staff Shawn O'Neill and Kyle Burleigh, presented the Colors. Senator Hargrove offered the prayer.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF  
WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JEFF JOHNSON, appointed April 13, 2011, for the term ending June 30, 2014, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Labor, Commerce & Consumer Protection.

## MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

## MOTION

At 10:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:48 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, Sheldon, Hobbs and White).

Imposing an additional vehicle license fee on electric vehicles. Revised for 1st Substitute: Concerning electric vehicle license fees.

The bill was read on Third Reading.

## MOTION

On motion of Senator Haugen, the rules were suspended and Engrossed Substitute Senate Bill No. 5251 was returned to second reading for the purpose of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, Sheldon, Hobbs and White)

Imposing an additional vehicle license fee on electric vehicles. Revised for 1st Substitute: Concerning electric vehicle license fees.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following amendment by Senators Haugen and King be adopted:

On page 1, line 17, after "for" strike "a vehicle registration" and insert "an annual vehicle registration renewal"

On page 2, beginning on line 4, after "of" strike "initial vehicle registration and annual" and insert "annual vehicle"

On page 2, line 9, after "(b)" strike "A vehicle registration" and insert "An annual vehicle registration renewal"

Senators Haugen and King spoke in favor of adoption of the amendment.

## MOTION

On motion of Senator White, Senators Kline and Sheldon were excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and King on page 1, line 17 to Engrossed Substitute Senate Bill No. 5251.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Haugen, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen and King spoke in favor of passage of the bill.

## MOTION

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On motion of Senator Holmquist Newbry, Senators Benton, Delvin, Swecker and Zarelli were excused.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5251.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5251 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 15; Absent, 2; Excused, 6.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Keiser, King, McAuliffe, Morton, Nelson, Parlette, Pflug, Ranker, Regala, Rockefeller, Schoesler, Shin and White

Voting nay: Senators Baumgartner, Baxter, Carrell, Fain, Hill, Holmquist Newbry, Kastama, Kilmer, Kohl-Welles, Litzow, Murray, Pridemore, Roach, Stevens and Tom

Absent: Senators Ericksen and Prentice

Excused: Senators Benton, Delvin, Kline, Sheldon, Swecker and Zarelli

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Morton, Senator Prentice was excused.

## MOTION

On motion of Senator Eide, Second Engrossed Substitute Senate Bill No. 5251 was immediately transmitted to the House of Representatives.

## MOTION

At 11:59 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:59 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9000, Harold Abbe, as a member of the Columbia River Gorge Commission, be confirmed.

Senator Pridemore spoke in favor of the motion.

## MOTION

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On motion of Senator Ericksen, Senators Carrell, Parlette and Schoesler were excused.

## MOTION

On motion of Senator White, Senator McAuliffe was excused.

## APPOINTMENT OF HAROLD ABBE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9000, Harold Abbe as a member of the Columbia River Gorge Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9000, Harold Abbe as a member of the Columbia River Gorge Commission and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Stevens, Tom and White

Excused: Senators Benton, Carrell, Delvin, McAuliffe, Prentice, Schoesler, Sheldon, Swecker and Zarelli

Gubernatorial Appointment No. 9000, Harold Abbe, having received the constitutional majority was declared confirmed as a member of the Columbia River Gorge Commission.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Shin moved that Gubernatorial Appointment No. 9120, Richard Van Hollebeke, as a member of the Board of Trustees, Edmonds Community College District No. 23, be confirmed.

Senator Shin spoke in favor of the motion.

## MOTION

On motion of Senator Ericksen, Senator Holmquist Newbry was excused.

## APPOINTMENT OF RICHARD VAN HOLLEBEKE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9120, Richard Van Hollebeke as a member of the Board of Trustees, Edmonds Community College District No. 23.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9120, Richard Van Hollebeke as a member of the Board of Trustees, Edmonds Community College District No. 23 and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Tom and White

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Excused: Senators Benton, Carrell, Delvin, Holmquist Newbry, McAuliffe, Prentice, Sheldon, Swecker and Zarelli

Gubernatorial Appointment No. 9120, Richard Van Hollebeke, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Edmonds Community College District No. 23.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9142, Thomas Cowan, as a member of the Transportation Commission, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Eide, Senator McAuliffe was excused.

APPOINTMENT OF THOMAS COWAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9142, Thomas Cowan as a member of the Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9142, Thomas Cowan as a member of the Transportation Commission and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Shin, Stevens, Tom and White

Absent: Senator Conway

Excused: Senators Benton, Delvin, Prentice, Regala, Sheldon, Swecker and Zarelli

Gubernatorial Appointment No. 9142, Thomas Cowan, having received the constitutional majority was declared confirmed as a member of the Transportation Commission.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

ENGROSSED SENATE BILL NO. 5764, by Senators Kastama, Chase, Shin, Kilmer, Brown, Conway and McAuliffe.

Creating innovate Washington. (REVISED FOR ENGROSSED: Creating innovate Washington, which includes the Washington clean energy partnership as a programmatic activity.)

The bill was read on Third Reading.

MOTION

On motion of Senator Kastama, the rules were suspended and Second Engrossed Senate Bill No. 5764 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 5764, by Senators Kastama, Chase, Shin, Kilmer, Brown, Conway and McAuliffe

Creating innovate Washington. (REVISED FOR ENGROSSED: Creating innovate Washington, which includes the Washington clean energy partnership as a programmatic activity.)

The measure was read the second time.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Baumgartner be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Innovate Washington is hereby created as a state agency exercising public and essential governmental functions. Innovate Washington is created as the successor to the Washington technology center and the Spokane intercollegiate research and technology institute. Innovate Washington is created to be a collaborative effort between the state's public and private institutions of higher education, private industry, and government and is to be the primary agency focused on growing the innovation-based economic sectors of the state and responding to the technology transfer needs of existing businesses in the state.

(2) The mission of innovate Washington is to make Washington the best place to develop, build, and deploy innovative products, services, and solutions to serve the world. To carry out this mission, innovate Washington is to: Develop and strengthen academic-industry relationships through research and assistance that is primarily of interest to existing small and medium-sized Washington-based companies; facilitate company growth through early stage financing; and leverage state investments in sector-focused, innovation-based economic development initiatives consistent with the state's economic development strategic plan and export strategy. As funds are available, innovate Washington shall:

(a) Facilitate leading edge collaborative research and technology transfer opportunities to existing state businesses directly and by working with industry associations and innovation partnership zones;

(b) Coordinate its activities with the commercialization and technology transfer activities of the state's research institutions to facilitate research that supports and develops state industries;

(c) Provide methods, systems, and venues for effective interaction and collaboration between the state's technology-based industries and its institutions of higher education;

(d) Provide assistance and support to businesses in:

(i) Securing federal and private funds to support product research and commercialization;

(ii) Developing and integrating technology in new or enhanced products and services; and

(iii) Launching those products and services in sustainable businesses in the state;

(e) Establish programmatic activities that, through partnerships with the private sector, increase the competitiveness of state industries. This may include support provided to firms in innovation partnership zones established under RCW 43.330.270;

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(f) Provide opportunities for training undergraduate and graduate students in technology transfer and commercialization processes through direct involvement in research and industry interactions;

(g) Work with regional public and private utilities, district energy providers, the utilities and transportation commission, and the state energy office to improve the alignment of investments in clean energy technologies with existing state policies. This may include facilitating public-private partnerships to encourage research and development of emerging clean and renewable energy technologies;

(h) Serve as the lead entity in the state for coordinating clean energy-related initiatives and establishing a long-term funding strategy for programs targeted at expanding the clean energy sector, while maintaining existing energy policy and regulatory functions at the department of commerce within the state energy office;

(i) Administer technology and innovation grant and loan programs including bridge funding programs for the state's technology sector;

(j) Emphasize and develop nonstate support of program activities; and

(k) Facilitate public-private partnerships that support the growth of strategic, innovation-based sectors.

(3)(a) Administrative responsibilities for the Washington technology center facilities located on the University of Washington Seattle campus and the Spokane intercollegiate research and technology institute facilities located on the Riverpoint campus operated by Washington State University Spokane are hereby transferred to innovate Washington except to the extent that such responsibilities are the subject of an interagency agreement between the University of Washington and the Washington technology center, in which case the terms of that agreement control. The facilities shall be used for purposes consistent with the obligations of innovate Washington under this chapter. As initially established, the University of Washington and Washington State University shall continue to provide the facility support and maintenance for these facilities as required by innovate Washington, except to the extent that such responsibilities are the subject of an interagency agreement between the University of Washington and the Washington technology center, in which case the terms of that agreement control. Other institutions of higher education may provide facility support and maintenance subsequently.

(b) The University of Washington, Washington State University, and other institutions of higher education participating in innovate Washington programs shall provide the affiliated staff and faculty participating in these programs at their own expense.

(4) The facilities of innovate Washington may be made available to any research institution or any public institution of higher education within the state when this would benefit specific program needs consistent with this chapter.

(5) Innovate Washington shall, by December 1, 2012, develop a five-year business plan that must be updated by December 1st of every even-numbered year and submitted to the appropriate committees of the legislature. The plan must include:

(a) A plan for operating additional facilities in Vancouver, the Tri-Cities, Bellingham, and such other locations as the innovate Washington board identifies as appropriate;

(b) Identification and specification of activities to be undertaken by those operating each of innovate Washington's facilities to include potential collaboration with innovative programs at the state's community and technical colleges and methods of working with the centers of excellence established under RCW 28B.50.902 to identify businesses that could benefit from innovate Washington services;

(c) The process to be followed, developed in collaboration with impact Washington or any successor manufacturing extension partnership program operating in the state, to ensure that impact Washington clients have ready access to innovate Washington's services when appropriate and that companies being assisted by innovate Washington have ready access to impact Washington's services; and

(d) Mechanisms for outreach to firms operating in the state's innovation partnership zones established under RCW 43.330.270 to ensure such firms benefit from innovate Washington services.

(6) The five-year business plan required under this section must include a clean energy component that includes:

(a) A strategy for implementation of the first three market-driving initiatives identified by the clean energy leadership council in its 2010 report. These market-driving initiatives are in the areas of:

(i) Combined energy efficiency, green buildings, and smart grid;

(ii) Renewable energy resource optimization and smart grid deployment; and

(iii) Bioenergy deployment acceleration.

(b) Recommendations on ways to improve policy alignment, streamline regulatory requirements, and remove administrative barriers that limit the growth of the clean energy sector in Washington.

(7) For the purposes of this section, "lead entity" means the organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support of clean energy initiatives.

**NEW SECTION. Sec. 2.** (1) The powers of innovate Washington are vested in and shall be exercised by a board of directors consisting of:

(a) The governor of the state of Washington or the governor's designee;

(b)(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(c) The president of the University of Washington or the president's designee;

(d) The president of Washington State University or the president's designee;

(e) The director of the department of commerce or the director's designee;

(f) The chairs of the sector advisory committees created under this chapter shall serve as ex officio voting members; and

(g) Seven members appointed by the governor from among individuals who own or are executives at technology-based and innovative firms in the state; of these members, at least four must be from firms manufacturing in the state. The term of office for each board member appointed by the governor shall be three years except, of the initial appointees, three shall be appointed for one year and three shall be appointed for two years. Members of the board may be appointed for additional terms.

(2) The board shall meet at least biannually. The initial meeting of the board must occur before December 31, 2011.

(3) A board member may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor must fill any vacancy on the board by appointment for the remainder of the unexpired term.

(4)(a) The appointed members of the board shall be compensated in accordance with RCW 43.03.240 and may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

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(b) The ex officio members of the board under subsection (1)(a) and (c) through (g) of this section may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

(c) Legislative members of the board may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 44.04.120.

(5) A majority of currently serving board members constitutes a quorum.

(6) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the board members so requests. Meetings of the board may be held at any location within or out of the state, and board members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(7) The innovate Washington board must:

(a) Develop operating policies for innovate Washington programs;

(b) Appoint, and perform an annual performance review of, an executive director;

(c) Approve an annual operating budget and ensure adequate funding for operations;

(d) Approve a five-year business plan and its updates;

(e) Perform the duties required under chapter 70.210 RCW relating to the investing in innovation program;

(f) Convene representatives of the commercialization and technology transfer offices of private and public research institutions in the state to determine the best methods for:

(i) Integrating existing databases into a single database of in-state technologies and inventions;

(ii) Making the technologies in the integrated database accessible; and

(iii) Promoting the integrated database to entrepreneurs and investors for commercialization and licensing purposes;

(g) Set performance goals for each program or service established; and

(h) Provide a report to the governor and the legislature detailing the fund-raising activities and outcomes, operations, economic impact, and performance of innovate Washington. The report is due by December 1st of every year and the first report is due by December 1, 2012. The report must include measures related to customer satisfaction as well as measures of results derived from assistance provided to businesses, including but not limited to manufacturing facilities established in Washington, job creation inside and outside of Washington, new product development, new markets opened and other export measures, the adoption of new production processes, revenue and sales growth, measures that would be included in a balanced scorecard, and such other outcome-based measures as the board determines is appropriate.

(8) The board may:

(a) Make and execute agreements, contracts, and other instruments with any private, public, or nonprofit entity for the performance, operation, administration, implementation, or advancement of any program in accordance with this chapter;

(b) Employ, contract with, or engage staff, advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter. Staff support for innovate Washington programs may be provided through cooperative agreements with any public or private institution of higher education;

(c) Solicit and receive gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source, and expend the same for any purpose consistent with this chapter;

(d) Establish such:

(i) Affiliated organizations, that may not be considered state agencies as defined under chapter 43.88 RCW, to facilitate partnerships and program delivery with the private sector;

(ii) Special funds consistent with the provisions of chapter 43.88 RCW; and

(iii) Controls as it finds convenient for the implementation of this chapter;

(e) Create one or more advisory committees;

(f) Adopt rules consistent with this chapter;

(g) Delegate any of its powers and duties if consistent with the purposes of this chapter; and

(h) Exercise any other power reasonably required to implement the purposes of this chapter.

**NEW SECTION. Sec. 3.** (1) To increase participation by Washington state small business innovators in federal small business research programs, innovate Washington shall provide or contract for the provision of a small business innovation assistance program. The program must include a proposal review process and must train and assist Washington small business innovators to win awards from federal small business research programs. The program must collaborate with small business development centers, entrepreneur-in-residence programs, and other appropriate sources of technical assistance to ensure that small business innovators also receive the planning, counseling, and support services necessary to expand their businesses and protect their intellectual property.

(2) In operating the program, innovate Washington must give priority to first-time applicants to the federal small business research programs, new businesses, and firms with fewer than ten employees, and may charge a fee for its services.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Federal small business research programs" means the programs, operating pursuant to the small business innovation development act of 1982, P.L. 97-219, and the small business technology transfer act of 1992, P.L. 102-564, title II, that provide funds to small businesses to conduct research having commercial application.

(b) "Small business" means a corporation, partnership, sole proprietorship, or individual, operating a business for profit, with two hundred fifty employees or fewer, including employees employed in a subsidiary or affiliated corporation, that otherwise meets the requirements of federal small business research programs.

**NEW SECTION. Sec. 4.** The investing in innovation account is created in the custody of the state treasurer to receive state and federal funds, grants, private gifts, or contributions to further the purpose of innovate Washington. Expenditures from the account may be used only for the purposes of the investing in innovation programs established in chapter 70.210 RCW and any other purpose consistent with this chapter. Only the executive director of innovate Washington or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 5.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions in RCW 41.06.070, this chapter does not apply to any position in or employee of innovate Washington under chapter 43.--- RCW (the new chapter created in section 19 of this act).

**Sec. 6.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to read as follows:

(1) The college board, in consultation with business, industry, labor, the workforce training and education coordinating board, the department of ((community, trade, and economic development))

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commerce, the employment security department, and community and technical colleges, shall designate centers of excellence and allocate funds to existing and new centers of excellence based on a competitive basis.

(2) Eligible applicants for the program established under this section include community and technical colleges. Priority shall be given to applicants that have an established education and training program serving the targeted industry and that have in their home district or region an industry cluster with the same targeted industry at its core.

(3) It is the role of centers of excellence to employ strategies to:

(a) Create educational efficiencies;

(b) Build a diverse, competitive workforce for strategic industries;

(c) Maintain an institutional reputation for innovation and responsiveness;

(d) Develop innovative curriculum and means of delivering education and training;

(e) Act as brokers of information and resources related to community and technical college education and training ~~((for))~~ and assistance available for firms in a targeted industry, including working with innovate Washington to develop methods to identify businesses within a targeted industry that could benefit from the services offered by innovate Washington under chapter 43.--- RCW (the new chapter created in section 19 of this act); and

(f) Serve as partners with workforce development councils, associate development organizations, and other workforce and economic development organizations.

(4) Examples of strategies under subsection (3) of this section include but are not limited to: Sharing curriculum and other instructional resources, to ensure cost savings to the system; delivering collaborative certificate and degree programs; and holding statewide summits, seminars, conferences, and workshops on industry trends and best practices in community and technical college education and training.

**Sec. 7.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to read as follows:

It is the intent of the legislature to promote growth in the technology sectors of our state's economy and to particularly focus support on the ~~((creation and))~~ commercialization of intellectual property ~~((in the technology, energy, and telecommunications industries))~~ and the manufacture of innovative products in the state.

**Sec. 8.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~((“Center” means the Washington technology center established under RCW 28B.20.283 through 28B.20.295.~~

~~—(2))~~ “Board” means the innovate Washington board of directors ~~((for the center)).~~

(3) “Innovate Washington” means the agency created in section 1 of this act.

**Sec. 9.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to read as follows:

(1) The investing in innovation ~~((grants))~~ program is established.

(2) ~~((The center))~~ Innovate Washington shall periodically make strategic assessments of the types of ~~((state))~~ investments in research ~~((and)),~~ technology, and industrial development in this state that would likely create new products, jobs, and business opportunities and produce the most beneficial long-term improvements to the lives and health of the citizens of the state. The assessments shall be available to the public and shall be used to guide decisions on awarding ~~((grants))~~ funds under this chapter.

**Sec. 10.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to read as follows:

The board shall:

(1) Develop criteria for the awarding of loans or grants to qualifying universities, institutions, businesses, or individuals;

(2) Make decisions regarding distribution of ~~((grant))~~ funds ~~((and make grant awards)); ((and))~~

(3) In making ~~((grant awards, seek to provide a balance between research grant awards and commercialization grant awards))~~ funding decisions and to the extent that economic impact is not diminished, provide priority to enterprises that:

(a) Were created through, and have existing intellectual property agreements in place with, public and private research institutions in the state; and

(b) Intend to produce new products or services, develop or expand facilities, or manufacture in the state; and

(4) Specify in contracts awarding funds that recipients must utilize funding received to support operations in the state of Washington and must subsequently report on the impact of their research, development, and any subsequent production activities within Washington for a period of ten years following the award of funds, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

**Sec. 11.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to read as follows:

(1) The board may accept grant and loan proposals and establish a competitive process for the awarding of grants and loans.

(2) The board shall establish a peer review committee to include board members, scientists, engineers, and individuals with specific recognized expertise. The peer review committee shall provide to the board an independent peer review of all proposals determined to be competitive for a loan or grant award that are submitted to the board.

(3) In the awarding of grants and loans, priority shall be given to proposals that leverage additional private and public funding resources.

(4) ~~((Up to fifty percent of available funds from the investing in innovation account may be used to support commercialization opportunities for research in Washington state through an organization with commercialization expertise such as the Spokane intercollegiate research and technology institute.~~

~~—(5) The center))~~ Innovate Washington may not be a direct recipient of ~~((grant awards))~~ funding under this chapter ~~((403, Laws of 2003))~~

**Sec. 12.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to read as follows:

The board shall establish performance benchmarks against which the program will be evaluated. The ~~((grants))~~ program shall be reviewed periodically by the board. The board shall report annually to the appropriate standing committees of the legislature on loans made and grants awarded and as appropriate on program reviews conducted by the board.

**Sec. 13.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to read as follows:

(1) ~~((The center))~~ Innovate Washington shall administer the investing in innovation ~~((grants))~~ program.

(2) Not more than one percent of the available funds from the investing in innovation account may be used for administrative costs of the program.

**Sec. 14.** RCW 42.30.110 and 2010 1st sp.s. c 33 s 5 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

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(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

**Sec. 15.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers

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supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of ~~((community, trade, and economic development))~~ commerce:

(i) Financial and proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of ~~((community, trade, and economic development))~~ commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of ~~((community, trade, and economic development))~~ commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

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(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business; ~~((and))~~

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.--- RCW (the new chapter created in section 19 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) RCW 28B.20.283 (Washington technology center--Findings) and 1995 c 399 s 25 & 1992 c 142 s 1;

(2) RCW 28B.20.285 (Washington technology center--Created--Purpose) and 2004 c 151 s 3, 2003 c 403 s 10, 1992 c 142 s 3, & 1983 1st ex.s. c 72 s 11;

(3) RCW 28B.20.287 (Washington technology center--Definitions) and 2004 c 151 s 4 & 1992 c 142 s 2;

(4) RCW 28B.20.289 (Washington technology center--Administration--Board of directors) and 2003 c 403 s 11, 1995 c 399 s 26, & 1992 c 142 s 4;

(5) RCW 28B.20.291 (Washington technology center--Support from participating institutions) and 1992 c 142 s 5;

(6) RCW 28B.20.293 (Washington technology center--Role of department of community, trade, and economic development) and 1995 c 399 s 27 & 1992 c 142 s 6;

(7) RCW 28B.20.295 (Washington technology center--Availability of facilities to other institutions) and 1992 c 142 s 7;

(8) RCW 28B.20.296 (Washington technology center--Renewable energy and energy efficiency business development--Strategic plan) and 2004 c 151 s 2;

(9) RCW 28B.20.297 (Washington technology center--Small business innovation research assistance program) and 2005 c 357 s 1;

(10) RCW 28B.38.010 (Spokane intercollegiate research and technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;

(11) RCW 28B.38.020 (Administration--Board of directors--Powers and duties) and 1998 c 344 s 10;

(12) RCW 28B.38.030 (Support from participating institutions) and 1998 c 344 s 11;

(13) RCW 28B.38.040 (Operating staff--Cooperative agreements for programs and research) and 1998 c 344 s 12;

(14) RCW 28B.38.050 (Role of department of community, trade, and economic development) and 1998 c 344 s 13;

(15) RCW 28B.38.060 (Availability of facilities to other institutions) and 1998 c 344 s 14;

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(16) RCW 28B.38.070 (Authority to receive and expend funds) and 1998 c 344 s 15; and

(17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

**NEW SECTION. Sec. 17.** (1) The Spokane intercollegiate research and technology institute and the Washington technology center are hereby abolished and the powers, duties, and functions are hereby transferred to innovate Washington. Once the board created in section 2 of this act has convened, all references to the Spokane intercollegiate research and technology institute or the Washington technology center in the Revised Code of Washington shall be construed to mean innovate Washington.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Spokane intercollegiate research and technology institute or the Washington technology center shall be delivered to the custody of innovate Washington. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Spokane intercollegiate research and technology institute or the Washington technology center shall be made available to innovate Washington. All funds, credits, or other assets held by the Spokane intercollegiate research and technology institute or the Washington technology center shall be assigned to innovate Washington.

(b) Any appropriations made to the Spokane intercollegiate research and technology institute or the Washington technology center shall, on the effective date of this section, be transferred and credited to innovate Washington.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the Spokane intercollegiate research and technology institute or the Washington technology center are transferred to the jurisdiction of innovate Washington. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to innovate Washington to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the Spokane intercollegiate research and technology institute or the Washington technology center shall be continued and acted upon by innovate Washington. All existing contracts and obligations shall remain in full force and shall be performed by innovate Washington.

(5) The transfer of the powers, duties, functions, and personnel of the Spokane intercollegiate research and technology institute and the Washington technology center shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the Spokane intercollegiate research and technology institute or the Washington technology center assigned to innovate Washington under this section whose positions are within an existing bargaining unit description at innovate Washington shall become a part of the existing bargaining unit at innovate Washington and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 18.** RCW 70.210.070 is recodified as a section in chapter 43.--- RCW (the new chapter created in section 19 of this act).

**NEW SECTION. Sec. 19.** Sections 1 through 4 and 17 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 20.** This act takes effect August 1, 2011."

Senators Kastama, Baumgartner, Chase and Rockefeller spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Baumgartner to Engrossed Senate Bill No. 5764.

The motion by Senator Kastama carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 1 of the title, after "Washington;" strike the remainder of the title and insert "amending RCW 28B.50.902, 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060, 70.210.070, 42.30.110, and 42.56.270; adding a new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW; recodifying RCW 70.210.070; repealing RCW 28B.20.283, 28B.20.285, 28B.20.287, 28B.20.289, 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297, 28B.38.010, 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060, 28B.38.070, and 28B.38.900; and providing an effective date."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Second Engrossed Senate Bill No. 5764 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5764.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5764 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Tom and White

Excused: Senators Benton, Delvin, Prentice, Sheldon, Swecker and Zarelli

SECOND ENGROSSED SENATE BILL NO. 5764, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

SENATE BILL NO. 5921, by Senate Committee on Ways & Means (originally sponsored by Senators Regala and Carrell)

Revising social services programs.

## MOTION

On motion of Senator Regala, Substitute Senate Bill No. 5921 was substituted for Senate Bill No. 5921 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Regala moved that the following striking amendment by Senators Regala and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that stable and sustainable employment is the key goal of the WorkFirst and temporary assistance for needy families programs. Achieving stable and sustainable employment is a developmental process that takes time, effort, and engagement. In times of fiscal challenge, temporary assistance for needy families and WorkFirst resources must be invested in program elements that produce the best results for low-income families and the state of Washington.

The legislature further finds that the core tenets that are the foundation of Washington state's WorkFirst program are: (1) Achieving stable and successful employment; (2) recognizing the critical role that participants play in their children's development, healthy growth, and promotion of family stability; (3) developing strategies founded on the principle that WorkFirst is a transitional, not long-term, program to assist families on the pathway to self-sufficiency while holding them accountable; and (4) leveraging resources outside the funding for temporary assistance for needy families is crucial to achieving WorkFirst goals. It is the intent of the legislature, using evidence-based and research-based practices, to develop a road map to self-sufficiency for WorkFirst participants and temporary assistance for needy families recipients.

**Sec. 2.** RCW 74.08A.260 and 2009 c 85 s 2 are each amended to read as follows:

(1) Each recipient shall be assessed after determination of program eligibility and before referral to job search. Assessments shall be based upon factors that are critical to obtaining employment, including but not limited to education, availability of child care, history of family violence, history of substance abuse, and other factors that affect the ability to obtain employment. Assessments may be performed by the department or by a contracted entity. The assessment shall be based on a uniform, consistent, transferable format that will be accepted by all agencies and organizations serving the recipient.

(2) Based on the assessment, an individual responsibility plan shall be prepared that: (a) Sets forth an employment goal and a plan for maximizing the recipient's success at meeting the employment goal; (b) considers WorkFirst educational and training programs from which the recipient could benefit; (c) contains the obligation of the recipient to participate in the program by complying with the plan; (d) moves the recipient into full-time WorkFirst activities as quickly as possible; and (e) describes the services available to the recipient either during or after WorkFirst to enable the recipient to obtain and

keep employment and to advance in the workplace and increase the recipient's wage earning potential over time.

~~((2))~~ (3) Recipients who are not engaged in work and work activities, and do not qualify for a good cause exemption under RCW 74.08A.270, shall engage in self-directed service as provided in RCW 74.08A.330.

~~((3))~~ (4) If a recipient refuses to engage in work and work activities required by the department, the family's grant shall be reduced by the recipient's share, and may, if the department determines it appropriate, be terminated.

~~((4))~~ (5) The department may waive the penalties required under subsection ~~((3))~~ (4) of this section, subject to a finding that the recipient refused to engage in work for good cause provided in RCW 74.08A.270.

~~((5) In implementing this section, the department shall assign the highest priority to the most employable clients, including adults in two-parent families and parents in single-parent families that include older preschool or school-age children to be engaged in work activities.)~~

(6) In consultation with the recipient, the department or contractor shall place the recipient into a work activity that is available in the local area where the recipient resides.

(7) Assessments conducted under this section shall include a consideration of the potential benefit to the recipient of engaging in financial literacy activities. The department shall consider the options for financial literacy activities available in the community, including information and resources available through the financial ~~(literacy)~~ education public-private partnership created under RCW 28A.300.450. The department may authorize up to ten hours of financial literacy activities as a core activity or an optional activity under WorkFirst.

(8) From July 1, 2011, through June 30, 2012, subsections (2) through (6) of this section are suspended for a recipient who is a parent or other relative personally providing care for a child under the age of six years. This suspension applies to both one and two parent families. Beginning July 1, 2012, the department shall phase in the work activity requirements that were suspended, beginning with those recipients closest to reaching the sixty-month limit of receiving temporary assistance for needy families under RCW 74.08A.010(1). The phase in shall be accomplished so that a fairly equal number of recipients required to participate in work activities are returned to those activities each month until the total number required to participate is participating by June 30, 2013. Nothing in this subsection shall prevent a recipient from participating in the WorkFirst program on a voluntary basis.

(9)(a) A legislative task force overseeing the WorkFirst program is established, with members as provided in this subsection.

(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The governor shall appoint members representing the department of social and health services, the department of early learning, the department of commerce, the employment security department, the office of financial management, and the state board for community and technical colleges.

(iv) The task force shall choose cochairs, one from among the legislative members and one from among the executive branch members. The legislative members shall convene the initial meeting of the task force.

(b) The task force shall:

(i) Oversee the redesign of the WorkFirst program and the implementation of the statutes and budget provisions controlling the

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temporary assistance for needy families program;

(ii) Determine evidence-based outcome measures for the WorkFirst program;

(iii) Establish strategies most likely to result in the achievement of the outcome measures and the recipient's progress towards self-sufficiency;

(iv) Develop accountability measures for the WorkFirst recipients and the state agencies responsible for their progress toward self-sufficiency;

(v) Develop and oversee, as part of the WorkFirst redesign, the implementation of a comprehensive family assessment to be used at program entry; the use of an evaluation after completion of the family assessment which is designed to identify the appropriate work preparation activities and service levels for the recipient; and the use of a predictive modeling tool to be used to identify risk factors relating to a recipient's participation in the temporary assistance for needy families program and his or her employability, and especially identifying those recipients most likely to experience long stays on the program as well as those recipients likely to experience short stays on the program;

(vi) Improve the responsiveness of the WorkFirst program in meeting the employment needs of Washington businesses;

(vii) Improve individual level outcomes; and

(viii) Support families in developing skills that lead to a stable family environment and reduce intergenerational poverty.

(c) Staff support for the task force must be provided by senate committee services and the house of representatives office of program research.

(d) Between July 1, 2011, and June 30, 2012, the task force shall meet monthly to focus on the redesign of the WorkFirst program. The task force shall report its initial findings and recommendations to the governor and the legislature no later than July 30, 2012.

(e) From July 1, 2012, to June 30, 2014, the task force will meet quarterly. During this time period the responsibilities of the task force shall be to:

(i) Provide ongoing review of the implementation of the WorkFirst redesign process and modify the program to ensure that it is achieving results for its clients;

(ii) Jointly decide how the temporary assistance for needy families state and federal dollars will be spent;

(iii) Make recommendations to the governor and the legislature regarding necessary changes to the program;

(iv) Receive regular reports from the partner agencies on the impact of program reductions;

(v) Receive regular reports on the characteristics of the families who have been unsuccessful on the program and have lost their benefits either through sanction or the sixty-month time limit;

(vi) Review and make recommendations on the implementation of federal changes to the temporary assistance for needy families program; and

(vii) Issue annual reports regarding its work.

(f) During its tenure, the task force will receive regular reports on the partner agencies' progress toward the outcome goals and it will advise the governor and the legislature on child care and temporary assistance for needy families policies to improve the effectiveness of the WorkFirst program over time.

(g) This subsection (9) expires June 30, 2014.

**Sec. 3.** RCW 74.08A.290 and 1997 c 58 s 316 are each amended to read as follows:

(1) ((It is the intent of the legislature that)) On or before July 1, 2012, the department ((is authorized to)) shall engage in competitive contracting using performance-based contracts to provide all WorkFirst work activities ((authorized in chapter 58, Laws of 1997, including the job search component authorized in section 312 of this act)). All contracted services procured pursuant to this chapter are

expressly mandated in accordance with RCW 41.06.142(3) and shall not be subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

(2) The department ((may)) shall use competitive performance-based contracting to select ((which vendors will participate)) the public or private vendors to provide services in the WorkFirst program. WorkFirst services provided by partner agencies shall also be pursuant to performance-based contracts. Performance-based contracts shall be awarded based on factors that include but are not limited to the criteria listed in RCW 74.08A.410, past performance of the contractor, demonstrated ability to perform the contract effectively, financial strength of the contractor, and merits of the proposal for services submitted by the contractor. Contracts shall be made without regard to whether the contractor is a public or private entity.

(3) The department ((may)) shall contract for an evaluation of the competitive contracting practices and outcomes to be performed by ((an independent entity with expertise in government privatization and competitive strategies)) the Washington state institute for public policy. The evaluation shall include ((quarterly)) annual progress reports to the appropriate policy and fiscal committees of the legislature and to the governor, starting ((at the first quarter after the effective date of the first competitive contract and ending two years after the effective date of the first competitive contract)) June 30, 2012.

(4) The department shall work with the WorkFirst task force to develop appropriate outcomes by which the contractors performance will be measured. The outcomes shall be developed no later than November 30, 2011.

(5) The department shall seek independent assistance in developing contracting strategies to implement this section. Assistance may include but is not limited to development of contract language, design of requests for proposal, developing full cost information on government services, evaluation of bids, and providing for equal competition between private and public entities.

**NEW SECTION. Sec. 4.** A new section is added to chapter 74.12 RCW to read as follows:

The department may adopt rules establishing income eligibility for temporary assistance for needy families benefits for a child, other than a foster child, who lives with a caregiver other than his or her parents. The department shall establish a sliding scale benefit standard for a child when the income of the child's caregiver is above two hundred percent but below three hundred percent of the federal poverty level based on family size. A caregiver with an income above three hundred percent of the federal poverty level shall not be eligible for temporary assistance for needy families benefits for a child, not a foster child, who is residing with that caregiver.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.08A RCW to read as follows:

In determining the income eligibility of an applicant or recipient for temporary assistance for needy families or WorkFirst, the department shall not count the federal supplemental security income received by a household member.

**Sec. 6.** RCW 74.08A.010 and 2004 c 54 s 4 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance. For purposes of this section, "adult" includes undocumented parents receiving temporary assistance for needy families on behalf of their biological children who are United States citizens.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member

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received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of ~~((community, trade, and economic development))~~ commerce, or the crime victims' compensation program of the department of labor and industries.

(4) The department may exempt a recipient and the recipient's family from the application of subsection (1) of this section by reason of hardship or if the recipient meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193. ~~((The number of recipients and their families exempted from subsection (1) of this section for a fiscal year shall not exceed twenty percent of the average monthly number of recipients and their families to which assistance is provided under the temporary assistance for needy families program.))~~

(5) The department shall not exempt a recipient and his or her family from the application of subsection (1) of this section until after the recipient has received fifty-two months of assistance under this chapter.

(6) Beginning on October 31, 2005, the department shall provide transitional food stamp assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's food stamp certification until the end of the transition period.

**Sec. 7.** RCW 74.20.040 and 2007 c 143 s 5 are each amended to read as follows:

(1) Whenever the department receives an application for public assistance on behalf of a child, or the department receives an application for subsidized child care services or working connections child care services, the department or the department of early learning shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required by subsection (6) of this section or through regulation issued by the secretary. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may adopt rules setting forth the duration and nature of services provided under this subsection.

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(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21A, or 26.26 RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary, in the case of an individual who has never received assistance under a state program funded under part A and for whom the state has collected at least five hundred dollars of support, shall impose an annual fee of twenty-five dollars for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual, but not from the first five hundred dollars of support. The secretary may, on showing of necessity, waive or defer any such fee or cost.

(7) Fees, due and owing, may be retained from support payments directly or collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21A RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys or fees owed.

(9) The secretary shall adopt rules conforming to federal laws, including but not limited to complying with section 7310 of the federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

**Sec. 8.** RCW 74.20.330 and 2007 c 143 s 6 are each amended to read as follows:

(1) Whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, each applicant or recipient is deemed to have made assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under a state-funded program, or a program funded under Title IV-A, IV-E, or XIX of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 shall:

(a) Operate as an assignment by operation of law; and

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

(3) Payment for subsidized child care services or working connections child care services shall constitute an authorization to

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the department to provide the recipient of the subsidy with support enforcement services. The department is authorized to collect, but not retain, child support payments under this subsection.

(4) Effective October 1, 2008, whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, a member of the family is deemed to have made an assignment to the state any right the family member may have, or on behalf of the family member receiving such assistance, to support from any other person, not exceeding the total amount of assistance paid to the family, which accrues during the period that the family receives assistance under the program.

**Sec. 9.** RCW 43.215.135 and 2010 c 273 s 2 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) As a condition of receiving a child care subsidy or a working connections child care subsidy, the applicant or recipient must seek child support enforcement services from the department of social and health services, division of child support, unless the department finds that the applicant or recipient has good cause not to cooperate.

(3) Except as provided in subsection (4) of this section, an applicant or recipient of a child care subsidy or a working connections child care subsidy is eligible to receive that subsidy for six months before having to recertify his or her income eligibility. The six-month certification provision applies only if enrollments in the child care subsidy or working connections child care program are capped.

(4) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

~~((3))~~ (5) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

**NEW SECTION. Sec. 10.** A new section is added to chapter 43.215 RCW to read as follows:

The department and the department of social and health services shall jointly explore different options to track subsidized child care attendance, including methods using a land line or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommended method to the legislature no later than December 31, 2011. Each department's recommendations must include addressing any implementation issues and timelines. The legislature shall review the recommendations and authorize implementation. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

**Sec. 11.** RCW 74.08.580 and 2002 c 252 s 1 are each amended to read as follows:

(1) Any person receiving public assistance is prohibited from using electronic benefit cards or cash obtained with electronic benefit cards:

(a) For the purpose of participating in any of the activities authorized under chapter 9.46 RCW;

(b) For the purpose of parimutuel wagering authorized under chapter 67.16 RCW; ~~((c))~~

(c) To purchase lottery tickets or shares authorized under chapter 67.70 RCW;

(d) For the purpose of participating in or purchasing any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(f) To purchase any items regulated under Title 66 RCW; or

(g) For the purpose of purchasing or participating in any activities in any location listed in subsection (2) of this section.

(2) On or before January 1, 2012, the businesses listed in this subsection must disable the ability of ATM and point-of-sale machines located on their business premises to accept the electronic benefit card. The following businesses are required to comply with this mandate:

(a) Taverns licensed under RCW 66.24.330;

(b) Beer/wine specialty stores licensed under RCW 66.24.371;

(c) Nightclubs licensed under RCW 66.24.600;

(d) Contract liquor stores defined under RCW 66.04.010;

(e) Bail bond agencies regulated under chapter 18.185 RCW;

(f) Gambling establishments licensed under chapter 9.46 RCW;

(g) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;

(h) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150; and

(i) Any establishments where persons under the age of eighteen are not permitted.

(3) The department must notify the licensing authority of any business listed in subsection (2) of this section that such business has continued to allow the use of the electronic benefit card in violation of subsection (2) of this section.

(4) Only the recipient, an eligible member of the household, or the recipient's authorized representative may use an electronic benefit card or the benefit and such use shall only be for the respective benefit program purposes. The recipient shall not sell, or attempt to sell, exchange, or donate an electronic benefit card or any benefits to any other person or entity.

(5) Violation of subsection (1) or (4) of this section constitutes a gross misdemeanor.

(a) The department shall notify, in writing, all recipients of electronic benefit cards that any violation of subsection (1) or (4) of this section could result in civil or criminal legal proceedings and, for recipients, the forfeiture of all cash public assistance.

(b) Whenever the department receives notice that a person has violated subsection (1) or (4) of this section, the department shall notify the person in writing that the violation could result in civil or criminal legal proceedings and, for recipients, the forfeiture of all cash public assistance.

(c) The department shall assign a protective payee to the person receiving public assistance who violates subsection (1) or (4) of this section.

**NEW SECTION. Sec. 12.** A new section is added to chapter 66.24 RCW to read as follows:

The board shall immediately suspend the license of a business that has been issued a license under RCW 66.24.330, 66.24.371, or 66.24.600 if the board receives information that the business has not complied with RCW 74.08.580(2). If the licensee has remained

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otherwise eligible to be licensed, the board may reinstate the suspended license when the business has complied with RCW 74.08.580(2).

**Sec. 13.** RCW 66.16.041 and 2005 c 151 s 6 are each amended to read as follows:

(1) The state liquor control board shall accept bank credit card and debit cards for purchases in state liquor stores, under such rules as the board may adopt. The board shall authorize contract liquor stores appointed under RCW 66.08.050 to accept bank credit cards and debit cards for liquor purchases under this title, under such rules as the board may adopt.

(2) If a contract liquor store chooses to use credit or debit cards for liquor purchases, the board shall provide equipment and installation and maintenance of the equipment necessary to implement the use of credit and debit cards. Any equipment provided by the board to a contract liquor store for this purpose may be used only for the purchase of liquor.

(3) It is the board's responsibility to ensure that the equipment used by the contract liquor stores to accept debit or credit cards for liquor purchases complies with the requirements of RCW 74.08.580(2) with regard to point-of-sale machines.

(4) It is the contract liquor store's responsibility to comply with the requirements of RCW 74.08.580(2) pertaining to the use of electronic benefit transfer cards in ATM machines located on the contract liquor store premises. The board shall immediately suspend the contract it has with the contract liquor store if it receives information that the store has not complied with RCW 74.08.580(2). The board may reinstate the suspended contract when the contract liquor store has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 14.** A new section is added to chapter 18.300 RCW to read as follows:

The department of licensing shall immediately suspend any license under this chapter if the department receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has remained otherwise eligible to be licensed, the department may reinstate the suspended license when the holder has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 15.** A new section is added to chapter 18.185 RCW to read as follows:

The director shall immediately suspend any license issued under this chapter if the director receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has otherwise remained eligible to be licensed, the director may reinstate the suspended license when the holder has complied with RCW 74.08.580(2).

**Sec. 16.** RCW 9.46.410 and 2002 c 252 s 2 are each amended to read as follows:

(1) Any licensee authorized under this chapter is prohibited from allowing the use of public assistance electronic benefit cards for the purpose of participating in any of the activities authorized under this chapter.

(2) Any licensee authorized under this chapter shall report to the department of social and health services any known violations of RCW 74.08.580.

(3) Any licensee authorized under this chapter is required to comply with RCW 74.08.580(2). If the licensee fails to comply with RCW 74.08.580(2), its license shall be immediately suspended until it complies with RCW 74.08.580(2). If the licensee remains otherwise eligible to be licensed, the commission may reinstate the license once the licensee has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 17.** The legislature finds that eliminating waste, fraud, and abuse of public assistance benefits should be a top priority of the department of social and health services, and this can best be reflected in a newly organized, accountable, and proactive fraud unit directly under the secretary's

authority with the resources necessary to combat fraud and to ensure the confidence of the public in the critical social safety net programs it funds.

**NEW SECTION. Sec. 18.** A new section is added to chapter 74.04 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse" means any use of public assistance resources that is contrary to purposes specified in statute whether or not it is defined as a criminal act.

(2) "Disclosable information" means public information that (a) is not exempt from disclosure under chapter 42.56 RCW; and (b) does not pertain to an ongoing investigation.

(3) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person.

(4) "Office" means the office of fraud and accountability.

(5) "Public assistance" or "public assistance programs" means public aid to persons in need including assistance grants, food assistance, work relief, disability lifeline benefits, temporary assistance for needy families, and, for purposes of this section, working connections child care subsidies. This definition excludes medicaid and other medical programs as defined in chapter 74.09 RCW, and fraud and abuse committed by medical providers and recipients of medicaid and other medical program services.

**Sec. 19.** RCW 74.04.012 and 2008 c 74 s 3 are each amended to read as follows:

(1) There is established (~~a unit~~) an office of fraud and accountability within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared to be unlawful in the public assistance programs administered by the department. The secretary will employ qualified supervisory, legal, and investigative personnel for the program. Program staff must be qualified by training and experience.

(2) The director of the office of fraud and accountability is the head of the office and is selected by the secretary and must demonstrate suitable capacity and experience in law enforcement management, public administration, and criminal investigations. The director of the office of fraud and accountability shall:

(a) Report directly to the secretary; and

(b) Ensure that each citizen complaint, employee complaint, law enforcement complaint, and agency referral is assessed and, when risk of fraud or abuse is present, is fully investigated, and is referred for prosecution or recovery when there is substantial evidence of wrongdoing.

(3) The office shall:

(a) Conduct independent and objective investigations into allegations of fraud and abuse, make appropriate referral to law enforcement when there is substantial evidence of criminal activity, and recover overpayment whenever possible and to the greatest possible degree;

(b) Recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, and to mitigate the risk for fraud and abuse and assure that public assistance benefits are being used for their statutorily stated goals;

(c) Analyze cost-effective, best practice alternatives to the current cash benefit delivery system consistent with federal law to ensure that benefits are being used for their intended purposes; and

(d) Use best practices to determine appropriate utilization and deployment of investigative resources, ensure that resources are deployed in a balanced and effective manner, and use all available methods to gather evidence necessary for proper investigation and successful prosecution.

(4) By December 31, 2011, the office shall report to the

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legislature on the development of the office, identification of any barriers to meeting the stated goals of the office, and recommendations for improvements to the system and laws related to the prevention, detection, and prosecution of fraud and abuse in public assistance programs.

**Sec. 20.** RCW 43.20A.605 and 2009 c 549 s 5078 are each amended to read as follows:

(1) The secretary or a designee shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him or her together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2).

(4) When a judicially approved subpoena is required by law, the secretary or designee may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or in the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(5) When an application under subsection (4) of this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. When a judicially approved subpoena is required by law, an order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(6) The secretary or designee may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

**NEW SECTION. Sec. 21.** A new section is added to chapter 74.04 RCW to read as follows:

(1) In carrying out the provisions of this chapter, the office of fraud and accountability shall have prompt access to all individuals, records, electronic data, reports, audits, reviews, documents, and other materials available to the department of revenue, department of labor and industries, department of early learning, employment security department, department of licensing, and any other government entity that can be used to help facilitate investigations of fraud or abuse as determined necessary by the director of the office of fraud and accountability.

(2) Information gathered by the department, the office or the fraud ombudsman shall remain confidential as required by state or federal law. Whenever information or assistance requested under subsection (1) of this section is, in the judgment of the director, unreasonably refused or not provided, the director of the office of fraud and accountability must report the circumstances to the secretary immediately.

**Sec. 22.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read as follows:

(1) It is an unfair practice for any employer, employment agency, labor union, or other person to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a charge, testified, or assisted in any proceeding under this chapter.

(2) It is an unfair practice for a government agency or government manager or supervisor to retaliate against a whistleblower as defined in chapter 42.40 RCW.

(3) It is an unfair practice for any employer, employment agency, labor union, government agency, government manager, or government supervisor to discharge, expel, discriminate, or otherwise retaliate against an individual assisting with an office of fraud and accountability investigation under RCW 74.04.012, unless the individual has willfully disregarded the truth in providing information to the office.

**NEW SECTION. Sec. 23.** A new section is added to chapter 43.09 RCW to read as follows:

(1) The auditor shall appoint a fraud ombudsman to audit the work of the office of fraud and accountability within the department of social and health services. The ombudsman shall review the fraud investigative work done by the office including cases filed with local prosecuting authorities. The ombudsman shall also have authority to investigate citizen complaints made to the auditor's office related to fraud or abuse in any public assistance program. The department of social and health services shall provide the ombudsman with access to any relevant records it has in its possession related to a fraud or abuse investigation as determined by the fraud ombudsman, including access to electronic benefit transfer card transaction data.

(2) The fraud ombudsman shall have access to persons within the office of fraud and accountability for purposes of interviews and evaluation.

(3) The fraud ombudsman must submit a report summarizing its auditing activities of the office of fraud and accountability to the appropriate committees of the legislature by November 30, 2012, and biennially thereafter. The office of fraud and accountability shall assist the ombudsman to the fullest extent practicable in producing this report. The report shall contain only information consistent with the requirements of chapter 42.56 RCW and any other applicable state or federal laws, including:

(a) A description of significant fraud or abuse, and of vulnerabilities or deficiencies relating to the prevention and detection of fraud or abuse in public assistance programs, discovered as a result of investigations completed during the reporting period;

(b) Recommendations for improving the activities of the office of fraud and accountability with respect to the vulnerabilities or deficiencies identified under (a) of this subsection;

(c) An identification of each significant recommendation described in the previous reports on which corrective action has, or has not, been completed;

(d) The response from the office of fraud and accountability to any of the report findings, recommendations, or information provided in the report;

(e) A summary of matters referred to prosecuting authorities during the reporting period and the charges filed and convictions entered during the reporting period that have resulted from referrals by the office of fraud and accountability; and

(f) A description of the ease of access allowed by the office of fraud and accountability to all necessary data and personnel for purposes of conducting the audit.

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(4) Information gathered by department staff, the office of fraud and accountability, and the fraud ombudsman shall be safeguarded and remain confidential as required by applicable state and federal law.

**NEW SECTION. Sec. 24.** A new section is added to chapter 43.20A RCW to read as follows:

No later than January 1, 2012, the department shall establish an employee incentive program pilot for those employees who work directly with participants in the WorkFirst program. The pilot shall provide for eight hours of paid annual leave per year, in addition to the annual leave the employee normally accrues, for those employees who assist participants in meeting certain outcomes to be established by the department. The outcomes established must be of significance for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to unsubsidized employment. The department shall report to the legislature by January 1, 2013, on the implementation of the pilot project, including how many employees received paid annual leave, what outcomes were achieved, and the savings associated with the achievement of the outcomes.

**NEW SECTION. Sec. 25.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senator Regala spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala and Carrell to Substitute Senate Bill No. 5921.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "services;" strike the remainder of the title and insert "amending RCW 74.08A.260, 74.08A.290, 74.08A.010, 74.20.040, 74.20.330, 43.215.135, 74.08.580, 66.16.041, 9.46.410, 74.04.012, 43.20A.605, and 49.60.210; adding a new section to chapter 74.12 RCW; adding a new section to chapter 74.08A RCW; adding a new section to chapter 43.215 RCW; adding a new section to chapter 66.24 RCW; adding a new section to chapter 18.300 RCW; adding a new section to chapter 18.185 RCW; adding new sections to chapter 74.04 RCW; adding a new section to chapter 43.09 RCW; adding a new section to chapter 43.20A RCW; creating new sections; prescribing penalties; providing an effective date; providing an expiration date; and declaring an emergency."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute Senate Bill No. 5921 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Carrell, Roach, Baxter and Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5921.

#### ROLL CALL

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The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5921 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and White

Excused: Senators Benton, Delvin, Prentice, Sheldon and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5921, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 2:48 p.m., on motion of Senator Eide, the Senate adjourned until 1:00 p.m. Thursday, April 28, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**THIRD DAY**

**AFTERNOON SESSION**

Senate Chamber, Olympia, Thursday, April 28, 2011

The Senate was called to order at 1:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner, Brown, Chase, Hewitt, Kline, McAuliffe, Prentice, Regala, Roach and Sheldon.

The Sergeant at Arms Color Guard consisting of staff Colleen Rust and Intern Dimitar Anguelov presented the Colors. Senator Shin offered the prayer.

**MOTION**

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

April 28, 2011

SB 5924 Prime Sponsor, Senator Zarelli: Regarding the running start program. Reported by Committee on Ways & Means

**MAJORITY recommendation:** That Substitute Senate Bill No. 5924 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

**MINORITY recommendation:** Do not pass. Signed by Senator Pflug.

**MINORITY recommendation:** That it be referred without recommendation. Signed by Senators Baumgartner; Baxter; Conway; Holmquist Newbry and Keiser.

Passed to Committee on Rules for second reading.

April 28, 2011

SB 5941 Prime Sponsor, Senator Eide: Concerning judicial branch funding. Reported by Committee on Ways & Means

**MAJORITY recommendation:** Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Fraser; Hatfield; Hewitt; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala and Rockefeller.

**MINORITY recommendation:** Do not pass. Signed by Senators Baxter; Holmquist Newbry; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

**MOTION**

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

**MOTION**

On motion of Senator Eide, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

SB 5953 by Senator Sheldon

AN ACT Relating to privatizing the sale of liquor; amending RCW 66.08.030, 66.08.070, 66.08.130, 66.08.140, 66.08.150, 66.24.010, 66.24.012, 66.24.015, 66.24.025, 66.24.120, 66.44.200, 66.44.318, 66.44.340, 66.04.010, 66.08.012, 66.08.020, 66.08.026, 66.08.030, 66.08.050, 66.08.060, 66.08.167, 66.16.110, 66.12.110, 66.12.120, 66.12.140, 66.20.010, 66.20.160, 66.20.170, 66.20.180, 66.20.190, 66.20.200, 66.20.210, 66.24.145, 66.24.360, 66.24.371, 66.24.380, 66.24.395, 66.24.400, 66.24.540, 66.24.590, 66.28.060, 66.32.010, 66.44.150, and 66.44.160; reenacting and amending RCW 66.04.010; adding new sections to chapter 66.08 RCW; creating a new section; recodifying RCW 66.16.110; repealing RCW 66.08.070, 66.08.160, 66.08.165, 66.08.166, 66.08.220, 66.08.235, 66.16.010, 66.16.040, 66.16.041, 66.16.050, 66.16.060, 66.16.070, 66.16.090, 66.16.100, 66.16.120, and 66.28.180; providing effective dates; and providing for submission of this act to a vote of the people.

Referred to Committee on Labor, Commerce & Consumer Protection.

**MOTION**

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

**MOTION**

On motion of Senator Ericksen, Senators Baumgartner, Hewitt, Roach and Schoesler were excused.

**MOTION**

On motion of Senator Eide, Senators McAuliffe, Prentice and Sheldon were excused.

**MOTION**

On motion of Senator Eide, the Senate advanced to the sixth order of business.

**SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS**

**MOTION**

Senator Litzow moved that Gubernatorial Appointment No. 9010, Lori Blanchard, as a member of the Professional Educator Standards Board, be confirmed.

Senator Litzow spoke in favor of the motion.

#### MOTION

On motion of Senator Ericksen, Senator Benton was excused.

#### APPOINTMENT OF LORI BLANCHARD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9010, Lori Blanchard as a member of the Professional Educator Standards Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9010, Lori Blanchard as a member of the Professional Educator Standards Board and the appointment was confirmed by the following vote: Yeas, 39; Nays, 0; Absent, 4; Excused, 6.

Voting yea: Senators Baxter, Becker, Benton, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Brown, Chase, Kline and Regala

Excused: Senators Baumgartner, Hewitt, McAuliffe, Prentice, Roach and Sheldon

Gubernatorial Appointment No. 9010, Lori Blanchard, having received the constitutional majority was declared confirmed as a member of the Professional Educator Standards Board.

#### MOTION

On motion of Senator White, Senators Brown, Kilmer, Pridemore and Regala were excused.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Fain moved that Gubernatorial Appointment No. 9133, Linda Cowan, as a member of the Board of Trustees, Green River Community College District No. 10, be confirmed.

Senator Fain spoke in favor of the motion.

#### MOTION

On motion of Senator Eide, Senators Chase, Kline and McAuliffe were excused.

#### APPOINTMENT OF LINDA COWAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9133, Linda Cowan as a member of the Board of Trustees, Green River Community College District No. 10.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9133, Linda Cowan as a member

of the Board of Trustees, Green River Community College District No. 10 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner, Hewitt, Kline, McAuliffe, Prentice, Regala, Roach and Sheldon

Gubernatorial Appointment No. 9133, Linda Cowan, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Green River Community College District No. 10.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

#### THIRD READING

SENATE BILL NO. 5289, by Senators Murray and Zarelli.

Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

The bill was read on Third Reading.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5289.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5289 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner, Hewitt, Kline, McAuliffe, Prentice, Regala and Sheldon

SENATE BILL NO. 5289, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

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Senator Ranker moved that Gubernatorial Appointment No. 9106, Bradley Smith, as a member of the Fish and Wildlife Commission, be confirmed.

Senator Ranker spoke in favor of the motion.

## APPOINTMENT OF BRADLEY SMITH

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9106, Bradley Smith as a member of the Fish and Wildlife Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9106, Bradley Smith as a member of the Fish and Wildlife Commission and the appointment was confirmed by the following vote: Yeas, 40; Nays, 3; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Honeyford and Schoesler

Excused: Senators Baumgartner, Hewitt, McAuliffe, Prentice, Regala and Sheldon

Gubernatorial Appointment No. 9106, Bradley Smith, having received the constitutional majority was declared confirmed as a member of the Fish and Wildlife Commission.

## MOTION

On motion of Senator Ranker, Senator Keiser was excused.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Parlette moved that Gubernatorial Appointment No. 9022, June Darling, as a member of the Board of Trustees, Wentachee Valley Community College District No. 15, be confirmed.

Senator Parlette spoke in favor of the motion.

## APPOINTMENT OF JUNE DARLING

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9022, June Darling as a member of the Board of Trustees, Wentachee Valley Community College District No. 15.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9022, June Darling as a member of the Board of Trustees, Wentachee Valley Community College District No. 15 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner, Keiser, McAuliffe, Prentice, Regala and Sheldon

Gubernatorial Appointment No. 9022, June Darling, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Wentachee Valley Community College District No. 15.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

SENATE BILL NO. 5852, by Senators Hewitt and Brown.

Addressing the public employment of retirees from plan 1 of the teachers' retirement system and plan 1 of the public employees' retirement system.

The bill was read on Third Reading.

Senator Hewitt spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5852.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5852 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 1; Absent, 0; Excused, 5.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senator Holmquist Newbry

Excused: Senators Baumgartner, McAuliffe, Prentice, Regala and Sheldon

SENATE BILL NO. 5852, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 1:47 p.m., on motion of Senator Eide, the Senate adjourned until 1:00 p.m. Friday, April 29, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FOURTH DAY**

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AFTERNOON SESSION

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Senate Chamber, Olympia, Friday, April 29, 2011

The Senate was called to order at 1:00 p.m. by Senator Fraser.  
No roll call was taken.

**MOTION**

On motion of Senator Swecker, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

At 1:01 p.m., on motion of Senator Swecker, the Senate adjourned until 9:30 a.m. Monday, May 2, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SEVENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Monday, May 2, 2011

The Senate was called to order at 9:30 a.m. by Senator Fraser.  
No roll call was taken.

MOTION

On motion of Senator Carrell, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

At 9:32 a.m., on motion of Senator Carrell, the Senate adjourned until 10:00 a.m. Tuesday, May 3, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, May 3, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Ericksen, Holmquist Newbry, Kline, Pflug, Prentice and Ranker.

The Sergeant at Arms Color Guard consisting of Lt. Governor's staff, Brian Dirks and Brent Pendleton, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5954 by Senators Carrell and Hill

AN ACT Relating to placing certain synthetic cannabimimetics into schedule I of the uniform controlled substances act; amending RCW 69.50.204; creating a new section; and declaring an emergency.

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Conway moved that Gubernatorial Appointment No. 9075, Thomas McLane, as a member of the Public Employment Relations Commission, be confirmed.

Senator Conway spoke in favor of the motion.

MOTION

On motion of Senator Delvin, Senators Benton, Ericksen and Pflug were excused.

MOTION

On motion of Senator White, Senators Brown, Holmquist Newbry, Prentice and Ranker were excused.

APPOINTMENT OF THOMAS MCLANE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9075, Thomas McLane as a member of the Public Employment Relations Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9075, Thomas McLane as a member of the Public Employment Relations Commission and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Kline

Excused: Senators Benton, Brown, Ericksen, Holmquist Newbry, Pflug, Prentice and Ranker

Gubernatorial Appointment No. 9075, Thomas McLane, having received the constitutional majority was declared confirmed as a member of the Public Employment Relations Commission.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9117, Paul Trause, as Commissioner of the Employment Security Department, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

On motion of Senator White, Senator Kline was excused.

APPOINTMENT OF PAUL TRAUSE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9117, Paul Trause as Commissioner of the Employment Security Department.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9117, Paul Trause as Commissioner of the Employment Security Department and the appointment was confirmed by the following vote: Yeas, 39; Nays, 2; Absent, 0; Excused, 8.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Regala, Roach, Rockefeller, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Hewitt and Schoesler

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Excused: Senators Benton, Brown, Ericksen, Holmquist Newbry, Kline, Pflug, Prentice and Ranker

Gubernatorial Appointment No. 9117, Paul Trause, having received the constitutional majority was declared confirmed as Commissioner of the Employment Security Department.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Hewitt moved that Gubernatorial Appointment No. 9105, Kathy Small, as a member of the Board of Trustees, Walla Walla Community College District No. 20, be confirmed.

Senator Hewitt spoke in favor of the motion.

## APPOINTMENT OF KATHY SMALL

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9105, Kathy Small as a member of the Board of Trustees, Walla Walla Community College District No. 20.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9105, Kathy Small as a member of the Board of Trustees, Walla Walla Community College District No. 20 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Brown, Ericksen, Pflug, Prentice and Ranker

Gubernatorial Appointment No. 9105, Kathy Small, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Walla Walla Community College District No. 20.

## MOTION

On motion of Senator Delvin, Senator Roach was excused.

## MOTION

At 10:30 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:47 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

May 2, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 1277,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1371,

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1738,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1965,

ENGROSSED SUBSTITUTE HOUSE BILL 1981.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

May 2, 2011

MR. PRESIDENT:

The House has passed:

SUBSTITUTE HOUSE BILL 1632,

SUBSTITUTE HOUSE BILL 1815,

HOUSE BILL 2070.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

## SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1277 by House Committee on Ways & Means (originally sponsored by Representative Cody)

AN ACT Relating to oversight of licensed or certified long-term care settings for vulnerable adults; amending RCW 70.128.005, 70.128.050, 70.128.065, 70.128.070, 70.128.120, 70.128.130, 70.128.140, 70.128.160, 70.128.220, 70.129.040, 70.128.125, 18.20.180, 18.51.050, 18.20.050, and 70.128.060; adding new sections to chapter 74.39A RCW; creating new sections; repealing RCW 70.128.175; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

E2SHB 1371 by House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunt)

AN ACT Relating to boards and commissions; amending RCW 72.23.025, 74.39A.095, 74.39A.220, 74.39A.240, 74.39A.250, 74.39A.260, 43.105.340, 67.16.012, 77.12.670, 77.12.690, 77.08.045, 77.12.850, 18.106.110, 49.04.010, 36.93.051, 15.92.090, 43.160.030, 70.94.537, 38.52.040, 70.168.020, 67.17.050, 41.60.015, 43.20A.685, 79A.30.030, 28A.300.136, 43.34.080, 72.09.070, 72.09.090, 72.09.100, 72.09.015, 72.62.020, 72.09.080, 43.31.425, 43.31.422, 18.280.040, 18.140.230, 18.44.221, 18.44.251, 18.44.195, 18.44.510, 18.44.500, 16.57.015, 16.57.353, 43.03.220, 43.03.230, 43.03.240, 43.03.250, 43.03.265, 43.03.050, and 43.03.060; reenacting and amending RCW 74.39A.270, 41.56.030, 18.44.011, and 28A.290.010; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 39.29 RCW; adding a new section to chapter 43.03 RCW; decodifying RCW 74.39A.290; repealing RCW

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79A.25.220, 70.127.041, 74.39A.230, 74.39A.280, 77.12.680, 28B.10.922, and 77.12.856; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1632 by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Hurst and Armstrong)

AN ACT Relating to the cost of supervision; amending RCW 9.94A.780, 9.95.214, 72.04A.120, 72.11.040, and 9.94A.74504; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

2E2SHB 1738 by House Committee on Ways & Means (originally sponsored by Representatives Cody and Jinkins)

AN ACT Relating to changing the designation of the medicaid single state agency from the department of social and health services to the health care authority and transferring the related powers, functions, and duties to the health care authority; amending RCW 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.5222, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659, 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730, 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011, 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.020, 70.47.110, 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020, 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010, 74.09.035, and 74.09.522; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.20A RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.20A.365; repealing RCW 74.09.085, 74.09.110, 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 1815 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Sullivan, Anderson, Haigh, Dammeier, Parker, Maxwell, Reykdal and Santos)

AN ACT Relating to preserving the school district levy base; reenacting and amending RCW 84.52.0531; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

E2SHB 1965 by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Jinkins, Frockt and Kenney)

AN ACT Relating to public and private partnership in addressing adverse childhood experiences; amending RCW 13.40.462, 43.121.100, 43.215.146, 43.215.147, 43.70.555, 74.14A.060, and 70.190.040; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 70 RCW; creating a new section; recodifying RCW 70.190.040; repealing RCW 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.185, 43.121.910, 70.190.005, 70.190.010, 70.190.020, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.920, and 74.14C.050; and providing effective dates.

Referred to Committee on Ways & Means.

ESHB 1981 by House Committee on Ways & Means (originally sponsored by Representatives Bailey and Carlyle)

AN ACT Relating to public employee postretirement employment and higher education employees' annuities and retirement income plans; amending RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.417, 28B.10.423, 28B.10.430, 41.32.570, 41.32.800, 41.32.802, 41.32.860, 41.32.862, 41.35.060, 41.35.230, 41.37.050, 41.40.037, 41.50.030, 41.50.080, and 41.50.110; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; creating a new section; providing effective dates; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2070 by Representative Seaquist

AN ACT Relating to determining average salary for the pension purposes of state and local government employees as certified by their employer; amending RCW 41.26.030, 41.35.010, and 43.43.120; reenacting and amending RCW 41.32.010, 41.37.010, and 41.40.010; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide, all measures listed on the Supplemental Introduction and First Reading report were referred to the committees as designated.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

#### MOTION

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On motion of Senator Ericksen, Senator Swecker was excused.

SECOND READING

SENATE BILL NO. 5182, by Senators White, Tom, Hill, Zarelli, Murray, Ericksen, Prentice, Hobbs and Nelson

Establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities.

MOTION

On motion of Senator White, Second Substitute Senate Bill No. 5182 was substituted for Senate Bill No. 5182 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator White moved that the following amendment by Senator White be adopted:

Beginning on page 68, line 4, strike all of section 181 and insert the following:

"Sec. 181. RCW 28B.102.060 and 2011 c 26 s 4 are each amended to read as follows:

(1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest and an equalization fee, unless they teach for two years in an approved education program for each year of scholarship received, under rules adopted by the ~~((board))~~ office. Participants who teach in a designated teacher shortage area shall have one year of loan canceled for each year they teach in the shortage area.

(2) The interest rate shall be determined by the ~~((board))~~ office. Participants who fail to complete the teaching service shall incur an equalization fee based on the remaining unforgiven balance of the loan. The equalization fee shall be added to the remaining balance and repaid by the participant.

(3) The minimum payment shall be set by the ~~((board))~~ office. The maximum period for repayment shall be ten years, with payments of principal and interest commencing six months from the date the participant completes or discontinues the course of study. The interest rate shall be determined by the ~~((board))~~ office and be established by rule. Provisions for deferral of payment shall be determined by the ~~((board))~~ office. The ~~((board))~~ office shall establish an appeal process by rule.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in an approved education program until the entire repayment obligation is satisfied. Should the participant cease to teach in an approved education program in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The ~~((board))~~ office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary. The ~~((board))~~ office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the ~~((board))~~ office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited in the future teachers conditional scholarship account and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The ~~((board))~~ office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The ~~((board))~~ office shall adopt rules to define the terms of repayment, including applicable interest rates, fees, and deferments.

Beginning on page 79, line 15, strike all of section 203 and insert the following:

"Sec. 203. RCW 28B.115.020 and 2011 c 26 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ~~(("Board"))~~ "Office" means the ~~((higher education coordinating board))~~ office of student financial assistance.

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the ~~((board))~~ office.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW and designated by the department in RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

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(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

Beginning on page 84, line 31, strike all of sections 209 and 210 and insert the following:

"**Sec. 209.** RCW 28B.115.110 and 2011 c 26 s 2 are each amended to read as follows:

Participants in the health professional loan repayment and scholarship program who are awarded loan repayments shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation in a designated health professional shortage area.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the ((board)) office and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the ((board)) office access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the ((board)) office, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area, payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf. This amount is due and payable immediately. Participants who are unable to pay the full amount due shall enter into a payment arrangement with the ((board)) office, including an arrangement for payment of interest. The maximum period for repayment is ten years. The ((board))

office shall determine the applicability of this subsection. The interest rate shall be determined by the ((board)) office and be established by rule.

(7) The ((board)) office is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The ((board)) office shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The ((board)) office shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The ((board)) office shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(10) The ((board)) office shall establish an appeal process by rule.

**Sec. 210.** RCW 28B.115.120 and 2011 c 26 s 3 are each amended to read as follows:

(1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an obligation to repay the scholarship, with penalty and interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be determined by the ((board)) office and established by rule.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest commencing no later than six months from the date the participant completes or discontinues the course of study or completes or discontinues the required postgraduate training. Provisions for deferral of payment shall be determined by the ((board)) office.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payment of the unsatisfied portion of the principal and interest is due and payable immediately.

(5) In addition to the amount determined in subsection (4) of this section, except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to pay a penalty of an amount equal to twice the unsatisfied portion of the principal.

(6) Participants who are unable to pay the full amount due shall enter into a payment arrangement with the ((board)) office for repayment including interest. The maximum period for repayment is ten years.

(7) The ((board)) office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The ((board)) office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(8) Receipts from the payment of principal or interest or any other subsidies to which the ((board)) office as administrator is entitled, which are paid by or on behalf of participants under this

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section, shall be deposited with the ~~((board))~~ office and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (7) of this section. The ~~((board))~~ office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(9) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The ~~((board))~~ office may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(10) The ~~((board))~~ office may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. The ~~((board))~~ office shall establish an appeal process by rule.

On page 108, beginning on line 9, strike all of section 239 and insert the following:

"Sec. 239. RCW 28B.133.030 and 2011 c 60 s 12 are each amended to read as follows:

(1) The students with dependents grant account is created in the custody of the state treasurer. All receipts from the program shall be deposited into the account. Only the ~~((higher education coordinating board))~~ office of student financial assistance, or its designee, may authorize expenditures from the account. Disbursements from the account are exempt from appropriations and the allotment procedures under chapter 43.88 RCW.

(2) The ~~((board))~~ office may solicit and receive gifts, grants, or endowments from private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the educational assistance grant program. The ~~((executive))~~ director, or the ~~((executive))~~ director's designee, may spend gifts, grants, or endowments or income from the private sources according to their terms unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(3) The earnings on the account shall be used solely for the purposes in RCW 28B.133.010, except when the terms of a conditional gift of private moneys in the account require that a portion of earnings on such moneys be reinvested in the account.

On page 121, line 20, after "3;" insert "and"

On page 121, beginning on line 22, after "2" strike all material through "19" on line 24

Beginning on page 175, line 6, strike all of section 402 and insert the following:

"Sec. 402. RCW 35.104.040 and 2011 c 155 s 1 are each amended to read as follows:

(1) The ~~((higher))~~ workforce training and education coordinating board may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director must determine the division to review applications submitted by local governments under this chapter. The application for designation must be in the form and manner and contain such information as the ~~((higher))~~ workforce training and education coordinating board may prescribe, provided the application:

(a) Contains sufficient information to enable the director to determine the viability of the proposal;

(b) Demonstrates that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;

(c) Is submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;

(d) Demonstrates that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;

(e) Provides a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and

(f) Demonstrates that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.

(2) The director must determine the division to develop criteria to evaluate the application. The criteria must include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

(c) The presence of facilities in which health services are provided.

(3) There may be no more than two authorities statewide.

(4) An authority may only be created in a county with a population of less than one million persons and located east of the crest of the Cascade mountains.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, 2010, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The ~~((higher))~~ workforce training and education coordinating board may adopt any rules necessary to implement this chapter.

(9) The ~~((higher))~~ workforce training and education coordinating board must develop evaluation criteria that enables the local governments to measure the effectiveness of the program.

Beginning on page 226, line 7, strike all of section 543 and insert the following:

"Sec. 543. RCW 43.215.090 and 2011 c 177 s 2 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The

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terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the council for higher education (~~(coordinating board)~~), and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint seven leaders in early childhood education, with at least one representative with experience or expertise in one or more of the areas such as the following: The K-12 system, family day care providers, and child care centers with four of the seven governor's appointees made as follows:

(i) The head start state collaboration office director or the director's designee;

(ii) A representative of a head start, early head start, migrant/seasonal head start, or tribal head start program;

(iii) A representative of a local education agency; and

(iv) A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9) The department shall provide staff support to the council."

On page 239, line 28, after "604," strike "Section 248 of this act takes" and insert "Sections 239 and 248 of this act take"

On page 240, line 3, after "for" strike "section 248" and insert "sections 239 and 248"

Senator White spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White on page 68, line 4 to Second Substitute Senate Bill No. 5182.

The motion by Senator White carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 2, line 2 of the title, after "28B.115.090," insert "28B.115.110,"

On page 2, line 27 of the title, after "28B.92.030," strike "28B.115.110,"

On page 2, line 35 of the title, after "28B.76.530," strike "28B.115.060,"

#### MOTION

Senator White moved that the following amendment by Senators White, Tom and Hill be adopted:

On page 121, beginning on line 4, strike all of subsections (10), (11), and (12)

Renumber the remaining subsections consecutively.

On page 132, after line 16, insert the following:

"**Sec. 313.** RCW 28B.76.240 and 2004 c 275 s 10 are each amended to read as follows:

The (~~board~~) council and the state board for community and technical colleges shall adopt statewide transfer and articulation policies that ensure efficient transfer of credits and courses across public two and four-year institutions of higher education. The intent of the policies is to create a statewide system of articulation and alignment between two and four-year institutions. Policies may address but are not limited to creation of a statewide system of course equivalency, creation of transfer associate degrees, statewide articulation agreements, applicability of technical courses toward baccalaureate degrees, and other issues. The institutions of higher education (~~and the state board for community and technical colleges~~) shall cooperate (~~with the board~~) in developing the statewide policies and shall provide support and staff resources as necessary to assist in maintaining the policies. (~~The board shall submit a progress report to the higher education committees of the senate and house of representatives by December 1, 2006, by which time the legislature expects measurable improvement in alignment and transfer efficiency.~~)

**Sec. 314.** RCW 28B.76.250 and 2004 c 55 s 2 are each amended to read as follows:

(1) The (~~higher education coordinating board~~) council and the state board for community and technical colleges must (~~convene work groups to~~) develop transfer associate degrees that will satisfy lower division requirements at public four-year institutions of higher education for specific academic majors. (~~Work groups must include representatives from the state board for community and technical colleges and the council of presidents, as well as faculty from two and four year institutions. Work groups may include representatives from independent four year institutions.~~)

(2) Each transfer associate degree developed under this section must enable a student to complete the lower-division courses or competencies for general education requirements and preparation for the major that a direct-entry student would typically complete in the freshman and sophomore years for that academic major.

(3) Completion of a transfer associate degree does not guarantee a student admission into an institution of higher education or admission into a major, minor, or professional program at an institution of higher education that has competitive admission standards for the program based on grade point average or other performance criteria.

(4) (~~During the 2004-05 academic year, the work groups must develop transfer degrees for elementary education, engineering, and nursing. Each year thereafter, the higher education coordinating board must convene additional groups to identify and develop additional transfer degrees. The board must give priority to majors in high demand by transfer students and majors that the general direct transfer agreement associate degree does not adequately prepare students to enter automatically upon transfer.~~)

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~~—(5)) The ((higher education coordinating board, in collaboration with the intercollege relations commission,)) council and the state board for community and technical colleges must collect and maintain lists of courses offered by each community and technical college and public four-year institution of higher education that fall within each transfer associate degree.~~

~~((6) The higher education coordinating board must monitor implementation of transfer associate degrees by public four year institutions to ensure compliance with subsection (2) of this section.~~

~~—(7) Beginning January 10, 2005, the higher education coordinating board must submit a progress report on the development of transfer associate degrees to the higher education committees of the house of representatives and the senate. The first progress report must include measurable benchmark indicators to monitor the effectiveness of the initiatives in improving transfer and baseline data for those indicators before the implementation of the initiatives. Subsequent reports must be submitted by January 10 of each odd-numbered year and must monitor progress on the indicators, describe development of additional transfer associate degrees, and provide other data on improvements in transfer efficiency.))"~~

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 172, after line 28, insert the following:

"28B.76.240

28B.76.2401

28B.76.250"

On page 173, line 10, after "2011" insert "1st sp. sess."

On page 201, beginning on line 28, strike all material through "College" on line 31 and insert "The council for higher education ((coordinating board)) and the state board for community and technical colleges"

Senator White spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators White, Tom and Hill on page 121, line 4 to Second Substitute Senate Bill No. 5182.

The motion by Senator White carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 2, line 10 of the title, after "28B.76.230," insert "28B.76.240, 28B.76.250,"

On page 2, line 31 of the title, after "28B.76.210," insert "28B.76.240, 28B.76.2401, 28B.76.250,"

On page 2, line 34 of the title, after "28B.76.200," strike all material through "28B.76.250,"

#### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Tom be adopted:

On page 131, line 2, after "institution" strike all material through "college" and insert "~~((or a community or technical college))~~"

On page 131, beginning on line 3, after "consortia;" strike all material through "28B.50.810" on line 8 and insert "and

(e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college~~((and~~

~~—(f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810))"~~

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Tom on page 131, line 2 to Second Substitute Senate Bill No. 5182.

The motion by Senator McAuliffe carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator White, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5182 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White, Hill and Tom spoke in favor of passage of the bill.

Senators Kohl-Welles and Rockefeller spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5182.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5182 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 9; Absent, 0; Excused, 6.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Murray, Parlette, Pridemore, Roach, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Chase, Conway, Kastama, Keiser, Kohl-Welles, Nelson, Regala and Rockefeller  
Excused: Senators Benton, Hewitt, Pflug, Prentice, Ranker and Swecker

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5182, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:05 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:06 p.m. by President Owen.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Brown moved that Gubernatorial Appointment No. 9129, Beth Thew, as a member of the Work Force Training and Education Coordinating Board, be confirmed.

Senator Brown spoke in favor of the motion.

#### APPOINTMENT OF BETH THEW

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9129, Beth Thew as a member of the Work Force Training and Education Coordinating Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9129, Beth Thew as a member of the Work Force Training and Education Coordinating Board and the appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 5; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Litzow, Murray, Nelson, Parlette, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Absent: Senators Kline, Kohl-Welles, McAuliffe, Morton and Pridemore

Excused: Senators Benton, Hewitt, Pflug, Prentice, Ranker and Swecker

Gubernatorial Appointment No. 9129, Beth Thew, having received the constitutional majority was declared confirmed as a member of the Work Force Training and Education Coordinating Board.

#### SECOND READING

SENATE BILL NO. 5534, by Senators Murray, Zarelli and Kohl-Welles

Concerning the business and occupation taxation of newspapers.

#### MOTIONS

On motion of Senator Murray, Substitute Senate Bill No. 5534 was substituted for Senate Bill No. 5534 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Murray, the rules were suspended, Substitute Senate Bill No. 5534 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Zarelli spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senator Morton was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5534.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5534 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 2; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Tom, White and Zarelli

Absent: Senators Kline and McAuliffe

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Excused: Senators Benton, Hewitt, Pflug, Prentice, Ranker and Swecker

SUBSTITUTE SENATE BILL NO. 5534, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5941, by Senators Eide, Regala, Rockefeller and Kline

Concerning judicial branch funding.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, the rules were suspended, Senate Bill No. 5941 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide, Murray and Hargrove spoke in favor of passage of the bill.

Senators Schoesler, Roach, Holmquist Newbry and Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5941.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5941 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 17; Absent, 0; Excused, 6.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Regala, Rockefeller, Shin, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pridemore, Roach, Schoesler, Sheldon and Stevens

Excused: Senators Benton, Hewitt, Pflug, Prentice, Ranker and Swecker

SENATE BILL NO. 5941, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Senate Bill No. 5941 was immediately transmitted to the House of Representatives.

#### SECOND READING

SENATE BILL NO. 5458, by Senators Keiser, Pflug, Kline, Becker, Conway, Pridemore, Rockefeller and Parlette

Concerning medicaid fraud.

#### MOTION

On motion of Senator Keiser, Second Substitute Senate Bill No. 5458 was substituted for Senate Bill No. 5458 and the second substitute bill was placed on the second reading and read the second time.

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## MOTION

Senator Becker moved that the following amendment by Senator Becker and others be adopted:

On page 12, line 1, after "interviews of" strike "qui tam realtor or other"

On page 12, beginning on line 21, strike all of subsections (13) and (14)

Beginning on page 14, line 5, strike all of sections 12, 13, 14, and 15

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 19, beginning on line 22, after "Sec. 17." Strike all material through "(5)" on page 20, line 1

On page 20, line 7, after "section 11" strike "or 12(1)"

On page 20, line 9, after "section 11" strike "or 12"

On page 20, line 19, after "section 11" strike "or 12"

On page 20, beginning on line 20, strike all of subsection (3)

Beginning on page 20, line 32, strike all of section 19

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Becker spoke in favor of adoption of the amendment.

Senators Keiser and Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker and others on page 12, line 1 to Second Substitute Senate Bill No. 5458.

The motion by Senator Becker carried and the amendment was adopted by a rising vote.

## MOTION

On motion of Senator Eide, further consideration of Second Substitute Senate Bill No. 5458 was deferred and the bill held its place on the second reading calendar.

## SECOND READING

SENATE BILL NO. 5927, by Senators Keiser and Pflug

Limiting payments for health care services provided to low-income enrollees in state purchased health care programs.

## MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5927 was substituted for Senate Bill No. 5927 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Becker be adopted:

On page 6, beginning on line 13, strike all of subsections (7) and (8) and insert the following:

"(7) A managed health care system shall negotiate in accordance with community standards for industry with health care providers to assure an adequate network of health care providers within its service areas and within each facility that has a written contract with the managed health care system. To facilitate negotiations with health care providers, a managed health care system shall provide the department documentation indicating that the managed health care system attempted to contract with the nonparticipating provider or provider group on similar terms to

other participating providers delivering the same care in the same service area.

(8) If the requirement of subsection (7) of this section is satisfied, for services provided by nonparticipating providers, the managed health care system shall only be obligated to pay an amount determined by establishing the mode reimbursement rate for the same services in the same service area contracted for under this section by the managed health care system.

(9) In any case where a managed health care system must send an enrollee to a nonparticipating provider for contracted services under the circumstances and conditions set forth in subsection (8) of this section, it must notify the department and the provider as to the basis for utilizing the nonparticipating provider's services. Any disagreement between the managed health care system and a provider or provider group regarding whether the managed health care system satisfied the requirements set forth in subsection (7) of this section shall be decided by the department.

(10) Pursuant to federal managed care access standards, 42 CFR 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the department, including hospital-based physician services."

(11) Subsections (7) through (10) of this section expire January 1, 2014.

On page 10, beginning on line 7, after "(2)" strike all material through "program." on line 10 and insert "(a) A managed health care system shall negotiate in accordance with community standards for industry with health care providers to assure an adequate network of health care providers within its service areas and within each facility that has a written contract with the managed health care system. To facilitate negotiations with health care providers, a managed health care system shall provide the administrator documentation indicating that the managed health care system attempted to contract with the nonparticipating provider or provider group on similar terms to other participating providers delivering the same care in the same service area.

(b) This subsection (2) expires January 1, 2014."

Beginning on page 11, line 29, strike all of section 5 and insert the following:

"NEW SECTION. Sec. 5. A new section is added to chapter 70.47 RCW to read as follows:

(1) If the requirements of RCW 70.47.100 are satisfied, for services provided by nonparticipating providers, the managed health care system shall only be obligated to pay an amount determined by establishing the mode reimbursement rate for the same services in the same service area contracted for under this section by the managed health care system.

(2) In any case where a managed health care system must send an enrollee to a nonparticipating provider for contracted services under the circumstances and conditions set forth in subsection (1) of this section, it must notify the administrator and the provider as to the basis for utilizing the nonparticipating provider's services. Any disagreement between the managed health care system and a provider or provider group regarding whether the managed health care system satisfied the requirements set forth in RCW 70.47.100 shall be decided by the administrator pursuant to the requirements set forth in RCW 70.47.100.

(3) This section expires January 1, 2014."

Senators Keiser and Becker spoke in favor of adoption of the amendment.

EIGHTH DAY, MAY 3, 2011

2011 1ST SPECIAL SESSION

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Becker on page 6, line 13 to Substitute Senate Bill No. 5927.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 4 of the title, after "70.47 RCW;" strike the remainder of the title and insert "creating a new section; and providing expiration dates."

## MOTION

Senator Keiser moved that the following amendment by Senator Keiser be adopted:

On page 6, line 13 after "system" strike "shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the amount paid for that service under the state's medicaid fee-for-service program." And insert, "shall only be obligated to pay the nonparticipating provider's charges based upon a statewide mode reimbursement rate for the same services contracted for under this section by the managed health care system. Any disputes over reimbursement shall be resolved pursuant to the managed health care system's dispute resolution process."

On page 6, line 29 after "18.130.180(7)." Insert the following: "(9) Pursuant to federal managed care access standards, 42 CFR 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the department, including hospital-based physician services."

On page 10, line 7 after "system" strike "shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the amount paid for that service under the state's medicaid fee-for-service program." And insert, "shall only be obligated to pay the nonparticipating provider's charges based upon a statewide mode reimbursement rate for the same services contracted for under this section by the managed health care system. Any disputes over reimbursement shall be resolved pursuant to the managed health care system's dispute resolution process."

On page 11, line 28 after "RCW 41.05.140." insert the following:

"(9) Pursuant to federal managed care access standards, 42 CFR 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the department, including hospital-based physician services."

On page 12, line 9 after "affected." Insert the following: "NEW SECTION. Sec. 7. This act expires on January 1, 2014."

## WITHDRAWAL OF AMENDMENT

On motion of Senator Keiser, the amendment by Senator Keiser on page 6, line 13 to Substitute Senate Bill No. 5927 was withdrawn.

## MOTION

Senator Becker moved that the following amendment by Senators Becker, Holmquist Newbry and Schoesler be adopted:

On page 6, after line 29, insert "(9) Subsections (7) and (8) of this section expire on January 1, 2014."

On page 10, line 10, after "program." insert "This subsection expires on January 1, 2014."

On page 12, line 5, after "RCW 18.130.180(7)." insert "This section expires on January 1, 2014."

## WITHDRAWAL OF AMENDMENT

On motion of Senator Becker, the amendment by Senators Becker, Holmquist Newbry and Schoesler on page 6, line 29 to Engrossed Substitute Senate Bill No. 5927 was withdrawn.

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5927 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Murray and Becker spoke in favor of passage of the bill.

Senator Parlette spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5927.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5927 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 9; Absent, 0; Excused, 6.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Shin, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Ericksen, Fain, Hill, Litzow, Parlette, Roach and Stevens

Excused: Senators Benton, Hewitt, Pflug, Prentice, Ranker and Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5927, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5927 was immediately transmitted to the House of Representatives.

## MOTION

At 1:59 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, May 4, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## NINTH DAY

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, May 4, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Hewitt, Prentice, Ranker and Zarelli.

The Sergeant at Arms Color Guard consisting of Senate Production Services staff Steve Parten and Jay Schaff, presented the Colors. Senator Fraser offered the prayer.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Ericksen, Senators Benton, Hewitt, Holmquist Newbry, Pflug, Swecker and Zarelli were excused.

## MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

## MOTION

Senator Carrell moved adoption of the following resolution:

## SENATE RESOLUTION

8661

By Senators Carrell, Hobbs, Hatfield, Kohl-Welles, Kilmer, Holmquist Newbry, Haugen, Shin, Conway, Eide, Baumgartner, White, Chase, Baxter, Delvin, Roach, and Fraser

WHEREAS, The Senate joins with people across Washington State, the nation, and the world in experiencing a sense of relief that the United States conducted a successful operation on May 1, 2011, that located, and ended the life of, Osama bin Laden, the leader of al-Qaeda, a terrorist organization responsible for the mass murder of thousands of innocent men, women, and children in the United States and many other areas of the world, including Madrid, Afghanistan, Bali, the USS Cole, U.S. embassies in Tanzania and Kenya, and other locations; and

WHEREAS, bin Laden had declared war on America and was the mastermind behind the tragic September 11, 2001, attacks on America that killed thousands of our fellow citizens; and

WHEREAS, In response, the United States and our allies responded by targeting members of al-Qaeda, including their leader bin Laden, through significantly upgraded and coordinated intelligence systems heeding and building upon the recommendations of the 9-11 Commission; and

WHEREAS, President Barack Obama, Commander-in-Chief of our armed forces, oversaw a complex, highly sophisticated process to locate bin Laden, and made the crucial decision to send in an elite, courageous, and heroic team of Navy Seals to put an end to his terrorism; and

WHEREAS, The people of Washington State take pride in the work of the dedicated military men and women living, or stationed,

in Washington State who have been in the forefront of the war on terrorism, who protect our country, and who were critical to the success of this mission, including those affiliated with the Washington National Guard and Washington's military bases, including Joint Base Lewis-McChord, Naval Station Everett, Naval Station Kitsap, Naval Station Bangor, Whidbey Island Naval Air Station, and Fairchild Air Force Base; and

WHEREAS, The people of Washington State take similar pride in the valuable work of the men and women in the Madigan Army Medical Center, the Yakima Firing Center, the Thirteenth Coast Guard District, the Marines' 4th Landing Support Battalion (4th LSB), the Air National Guard, the Army National Guard, the Naval Undersea Warfare Center at Keyport, the Washington Puget Sound Naval Shipyard and Intermediate Maintenance Facility; and

WHEREAS, In conducting this operation, and in the extensive, lengthy preparations leading to it, our military forces and intelligence agencies have been a shining example of the discipline, focus, and sacrifice it takes to achieve major success;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honors the strong, thoughtful leadership of President Barack Obama; the coordinated, precision leadership of the Joint Chiefs of Staff and the National Security Council; the tireless, dedicated work of our counter-terrorism professionals; the clear demonstration of leadership, ability, and unstinting bravery of our military forces and intelligence agencies; and the extraordinary skills, courage, and precision teamwork of the highest order of the elite Navy Seals who personally carried out this most complex and dangerous mission; and

BE IT FURTHER RESOLVED, That the Senate expresses its deep appreciation to the dedicated families of these patriotic men and women, who often lose their loved ones in patriotic service to their country; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to President Barack Obama; Secretary of Defense Robert Gates; Secretary of State Hillary Clinton; Admiral Michael Mullen, Chair of the Joint Chiefs of Staff; I Corps Commander Lieutenant General Curtis M. Scaparrotti; Navy Region Northwest Commander Rear Admiral Douglass T. Biesel; Thirteenth Coast Guard District Commander Rear Admiral Gary Blore; Washington Governor Christine Gregoire and First Gentleman Mike Gregoire; Washington National Guard Adjutant General Timothy J. Lowenberg; and Washington Department of Veterans Affairs Director John E. Lee.

Senators Carrell, Hobbs, Baumgartner, Shin, Roach, Sheldon, Becker, Parlette, Haugen and Baxter spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8661.

The motion by Senator Carrell carried and the resolution was adopted by voice vote.

## INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the U. S. Military who were seated in the gallery.

## MOTION

At 10:59 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

NINTH DAY, MAY 4, 2011

The Senate was called to order at 11:52 a.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

## SECOND READING

SENATE BILL NO. 5924, by Senator Zarelli

Regarding the running start program.

## MOTION

On motion of Senator Schoesler, Substitute Senate Bill No. 5924 was substituted for Senate Bill No. 5924 and the substitute bill was placed on the second reading and read the second time.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Zarelli be adopted:

On page 3, line 30, after "(5)", strike the remainder of line 30 through line 38

On page 4, strike lines 1 through 4 and insert the following:

"The office of the superintendent of public instruction, in collaboration with the state board for community and technical colleges and the other institutions of higher education that participate in the running start program, shall monitor enrollment in the running start program and shall report any enrollment declines in the running start program as a result of charging a maximum of ten percent of tuition and fees, in particular any declines in enrollment of running start students with family incomes at or below one hundred twenty-five percent of the median family income, annually to the governor and to the appropriate fiscal and policy committees of the legislature. The first report shall be submitted no later than September 1, 2012."

Senators Keiser and Schoesler spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Zarelli on page 3, line 30 to Substitute Senate Bill No. 5924.

The motion by Senator Keiser carried and the amendment was adopted by voice vote.

## MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove be adopted:

On page 6, after line 10, insert the following:

**"NEW SECTION. Sec. 4.** A new section is added to chapter 28B.10 RCW to read as follows:

The state universities, the regional universities, and The Evergreen State College must accept the transfer of college-level courses taken by running start students if a student seeking a transfer of the college-level courses has been admitted to the state university, the regional university, or The Evergreen State College, and if the college-level courses are recognized as transferrable by the admitting institution of higher education."

Senators Hargrove and Schoesler spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 6, after line 10 to Substitute Senate Bill No. 5924.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "program;" strike "and" and on line 2 of the title, after "28B.15.910" insert "; and adding a new section to chapter 28B.10 RCW"

## MOTION

On motion of Senator Schoesler, the rules were suspended, Engrossed Substitute Senate Bill No. 5924 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Hargrove spoke in favor of passage of the bill.

## MOTION

On motion of Senator White, Senators Prentice and Ranker were excused.

## MOTION

On motion of Senator Honeyford, Senator Ericksen was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5924.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5924 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 7; Absent, 0; Excused, 5.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Holmquist, Newbry, Pflug, Roach, Sheldon and Stevens

Excused: Senators Benton, Hewitt, Prentice, Ranker and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 5924, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 12:04 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Friday, May 6, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

## ELEVENTH DAY

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MORNING SESSION

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Senate Chamber, Olympia, Friday, May 6, 2011

The Senate was called to order at 9:30 a.m. by Senator Fraser. No roll call was taken.

Senator Fraser welcomed the student participants of the Youth Legislature, part of the Y.M.C.A.'s Youth in Government Program being held in the capitol buildings, who were present on the floor and in the galleries.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

There being no objection, the Senate advanced to the first order of business.

## REPORTS OF STANDING COMMITTEES

May 5, 2011

SB 5542 Prime Sponsor, Senator Delvin: Establishing special license endorsements for cigar lounges and retail tobacconist shops. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5542 be substituted therefor, and the substitute bill do pass. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Brown; Fraser; Hatfield; Holmquist Newbry; Honeyford; Kohl-Welles; Pridemore and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Conway; Kastama; Keiser; Regala; Rockefeller and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Kilmer, Vice Chair, Capital Budget Chair.

Passed to Committee on Rules for second reading.

May 5, 2011

SB 5587 Prime Sponsor, Senator Schoesler: Terminating the low-income property tax deferral program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5587 be substituted therefor, and the substitute bill do pass. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hatfield; Holmquist Newbry; Honeyford; Kastama; Pridemore; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Conway and Fraser.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Keiser.

Passed to Committee on Rules for second reading.

May 5, 2011

SB 5912 Prime Sponsor, Senator Keiser: Expanding family planning services to two hundred fifty percent of the federal poverty level. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5912 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Baumgartner; Baxter; Holmquist Newbry; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

May 5, 2011

SB 5935 Prime Sponsor, Senator Hargrove: Addressing adoption support payments for hard to place children. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5935 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Hatfield; Holmquist Newbry; Honeyford; Kastama; Kohl-Welles; Pridemore and Schoesler.

Passed to Committee on Rules for second reading.

May 5, 2011

SJM 8009 Prime Sponsor, Senator Regala: Requesting respectfully for adoption of the federal main street fairness act. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Baxter; Holmquist Newbry; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

May 5, 2011

ESHB 1277 Prime Sponsor, Committee on Ways & Means: Concerning oversight of licensed or certified long-term care settings for vulnerable adults. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget

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Chair; Zarelli; Parlette; Baxter; Brown; Conway; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

May 5, 2011

2E2SHB 1738 Prime Sponsor, Committee on Ways & Means: Changing the designation of the medicaid single state agency. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Brown; Conway; Hatfield; Holmquist Newbry; Honeyford; Kastama; Keiser; Pridemore; Regala; Schoesler and Tom.

Passed to Committee on Rules for second reading.

May 5, 2011

ESHB 1981 Prime Sponsor, Committee on Ways & Means: Addressing public employee postretirement employment and higher education employees' annuities and retirement income plans. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Holmquist Newbry.

Passed to Committee on Rules for second reading.

May 5, 2011

HB 2070 Prime Sponsor, Representative Seaquist: Determining average salary for the pension purposes of state and local government employees as certified by their employer. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Baxter; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette and Baumgartner.

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

May 5, 2011

SGA 9168 JEFF JOHNSON, appointed on April 13, 2011, for the term ending June 30, 2014, as Member of the Work Force

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Training and Education Coordinating Board. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; King and Keiser.

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

#### PERSONAL PRIVILEGE

Senator Eide: "Well, I too would like to thank each and every one of you here on the floor today for being involved in our government, youth and government. I have to tell you, this is my thirteenth year in the Senate, this is my fifth year serving as the Majority Floor Leader. I served two years prior to that in the House of Representatives but the one person that made a difference in my life and got me involved in civics was my high school teacher, my senior high school teacher, Mr. Cosgrove and to this day I thank him for that because he made me realize how important it was to be involved in your government and in your communities because truly you are the ones that are going to make a difference. Now we're in very tough, trying times right now in the state legislature and in the State of Washington with our budget. I'm sure you're quite aware of that but at these tough times it takes individuals like Senator Carrell, myself and Senator Fraser and all the rest of us on this floor to make some pretty tough decisions but we are here because we believe in the process and we believe in civics and that we can make a difference. So, hopefully one of these years, I'm going to see you down here, maybe perhaps sitting in my seat, sitting in Senator Carrell's seat because you are the ones, you are the ones of the future, you are the ones that are going to make a difference. So, thank you for participating in this great program. It's a pleasure to see all of you here today and have some fun along the way. I'd love to hear what bills you're working on quite frankly. I'm the one that brought up the cell phone bill that took me ten years to pass and text messaging. Do not text while you're driving. Whenever I can possibly say I do, no texting and no using your cell phone while driving, it's very dangerous. Ok, thank you Madam President for this indulgence."

#### PERSONAL PRIVILEGE

Senator Fraser: "To note that also I first became interested in public affairs through a high school class, civics class, my teacher was Mr. Prebezac in Seattle and you have a wonderful opportunity here. This is an important time in your life and you are the future of our democracy and I'd also like to thank the many adult sponsors and volunteers who are help making your participation here possible. And again, we in the Senate are very proud of you. We welcome you."

#### MOTION

At 9:36 a.m., on motion of Senator Eide, the Senate adjourned until 11:00 a.m. Monday, May 9, 2011.

BRAD OWEN, President of the Senate

ELEVENTH DAY, MAY 6, 2011

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THOMAS HOEMANN, Secretary of the Senate

FOURTEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, May 9, 2011

The Senate was called to order at 11:00 a.m. by Senator Fraser. The Secretary called the roll and announced that all Senators were present with the exception of Senators Becker, McAuliffe and Shin.

Senator Prentice the President Pro Tempore assumed the chair.

The Sergeant at Arms Color Guard consisting of staff Judy Best and Alyssa McClure, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

May 6, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

JOSHUA BROWN, appointed April 28, 2011, for the term ending July 15, 2013, as Member of the Salmon Recovery Funding Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources & Marine Waters.

May 9, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following reappointment, subject to your confirmation.

ELIZABETH A. WILLIS, reappointed April 19, 2011, for the term ending April 3, 2015, as Member of the State Board for Community and Technical Colleges.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 6, 2011

MR. PRESIDENT:

The Speaker has signed:

HOUSE CONCURRENT RESOLUTION NO. 4405,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

At 11:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 2:36 p.m. by the President Pro Tempore.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Ericksen, Senator Becker was excused.

MOTION

On motion of Senator White, Senators Eide, McAuliffe and Shin were excused.

SECOND READING

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1738, by House Committee on Ways & Means (originally sponsored by Representatives Cody and Jinkins)

Changing the designation of the medicaid single state agency.

The measure was read the second time.

MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Washington state government must be organized to be efficient, cost-effective, and responsive to its residents;

(2) The cost of state-purchased health care continues to grow at an unsustainable rate, now representing nearly one-third of the state's budget and hindering our ability to invest in other essential services such as education and public safety;

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(3) Responsibility for state health care purchasing is currently spread over multiple agencies, but successful interagency collaboration on quality and cost initiatives has helped demonstrate the benefits to the state of centralized health care purchasing;

(4) Consolidating the majority of state health care purchasing into a single state agency will best position the state to work with others, including private sector purchasers, health insurance carriers, health care providers, and consumers to increase the quality and affordability of health care for all state residents;

(5) The development and implementation of uniform state policies for all state-purchased health care is among the purposes for which the health care authority was originally created; and

(6) The state will be best able to take advantage of the opportunities and meet its obligations under the federal affordable care act, including establishment of a health benefit exchange and medicaid expansion, if primary responsibility for doing so rests with a single state agency.

The legislature therefore intends, where appropriate, to consolidate state health care purchasing within the health care authority, positioning the state to use its full purchasing power to get the greatest value for its money, and allowing other agencies to focus even more intently on their core missions.

**Sec. 2.** RCW 74.09.010 and 2010 1st sp.s. c 8 s 28 are each reenacted and amended to read as follows:

~~(As used in this chapter.)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Children's health program" means the health care services program provided to children under eighteen years of age and in households with incomes at or below the federal poverty level as annually defined by the federal department of health and human services as adjusted for family size, and who are not otherwise eligible for medical assistance or the limited casualty program for the medically needy.

~~((2) "Committee" means the children's health services committee created in section 3 of this act.)~~

(3) "County" means the board of county commissioners, county council, county executive, or tribal jurisdiction, or its designee. ~~((A combination of two or more county authorities or tribal jurisdictions may enter into joint agreements to fulfill the requirements of RCW 74.09.415 through 74.09.435.))~~

(4) "Department" means the department of social and health services.

(5) "Department of health" means the Washington state department of health created pursuant to RCW 43.70.020.

(6) "Director" means the director of the Washington state health care authority.

(7) "Full benefit dual eligible beneficiary" means an individual who, for any month: Has coverage for the month under a medicare prescription drug plan or medicare advantage plan with part D coverage; and is determined eligible by the state for full medicaid benefits for the month under any eligibility category in the state's medicaid plan or a section 1115 demonstration waiver that provides pharmacy benefits.

~~((7))~~ (8) "Internal management" means the administration of medical assistance, medical care services, the children's health program, and the limited casualty program.

~~((8))~~ (9) "Limited casualty program" means the medical care program provided to medically needy persons as defined under Title XIX of the federal social security act, and to medically indigent persons who are without income or resources sufficient to secure necessary medical services.

~~((9))~~ (10) "Medical assistance" means the federal aid medical care program provided to categorically needy persons as defined under Title XIX of the federal social security act.

~~((10))~~ (11) "Medical care services" means the limited scope of care financed by state funds and provided to disability lifeline benefits recipients, and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW.

~~((11))~~ (12) "Nursing home" means nursing home as defined in RCW 18.51.010.

~~((12))~~ (13) "Poverty" means the federal poverty level determined annually by the United States department of health and human services, or successor agency.

~~((13))~~ (14) "Secretary" means the secretary of social and health services.

**Sec. 3.** RCW 74.09.035 and 2010 1st sp.s. c 8 s 29 and 2010 c 94 s 22 are each reenacted and amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to recipients of disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the ~~((department))~~ authority. To the extent authorized in the operating budget, upon implementation of a federal medicaid 1115 waiver providing federal matching funds for medical care services, these services also may be provided to persons who have been terminated from disability lifeline benefits under RCW 74.04.005(5)(h).

(2) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the ~~((department))~~ authority, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

(3) The ~~((department))~~ authority shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services to recipients of disability lifeline benefits. The contract must provide for integrated delivery of medical and mental health services.

(4) The ~~((department))~~ authority shall establish standards of assistance and resource and income exemptions, which may include deductibles and co-insurance provisions. In addition, the ~~((department))~~ authority may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

(5) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for ~~((the mentally retarded))~~ persons with intellectual disabilities, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

(6) Payments made by the ~~((department))~~ authority under this program shall be the limit of expenditures for medical care services solely from state funds.

(7) Eligibility for medical care services shall commence with the date of certification for disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

**Sec. 4.** RCW 74.09.037 and 2004 c 115 s 3 are each amended to read as follows:

Any card issued ~~((after December 31, 2005,))~~ by the ~~((department))~~ authority or a managed health care system to a person receiving services under this chapter, that must be presented to providers for purposes of claims processing, may not display an identification number that includes more than a four-digit portion of the person's complete social security number.

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**Sec. 5.** RCW 74.09.050 and 2000 c 5 s 15 are each amended to read as follows:

(1) The ~~((secretary))~~ director shall appoint such professional personnel and other assistants and employees, including professional medical screeners, as may be reasonably necessary to carry out the provisions of this chapter. The medical screeners shall be supervised by one or more physicians who shall be appointed by the ~~((secretary))~~ director or his or her designee. The ~~((secretary))~~ director shall appoint a medical director who is licensed under chapter 18.57 or 18.71 RCW.

(2) Whenever the director's authority is not specifically limited by law, he or she has complete charge and supervisory powers over the authority. The director is authorized to create such administrative structures as deemed appropriate, except as otherwise specified by law. The director has the power to employ such assistants and personnel as may be necessary for the general administration of the authority. Except as elsewhere specified, such employment must be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

**Sec. 6.** RCW 74.09.055 and 2006 c 24 s 1 are each amended to read as follows:

The ~~((department))~~ authority is authorized to establish copayment, deductible, or coinsurance, or other cost-sharing requirements for recipients of any medical programs defined in RCW 74.09.010, except that premiums shall not be imposed on children in households at or below two hundred percent of the federal poverty level.

**Sec. 7.** RCW 74.09.075 and 1979 c 141 s 337 are each amended to read as follows:

The department ~~or authority, as appropriate,~~ shall provide ~~((a))~~ (1) for evaluation of employability when a person is applying for public assistance representing a medical condition as a basis for need, and ~~((b))~~ (2) for medical reports to be used in the evaluation of total and permanent disability. It shall further provide for medical consultation and assistance in determining the need for special diets, housekeeper and attendant services, and other requirements as found necessary because of the medical condition under the rules promulgated by the secretary or director.

**Sec. 8.** RCW 74.09.080 and 1979 c 141 s 338 are each amended to read as follows:

In carrying out the administrative responsibility of this chapter, the department or authority, as appropriate:

(1) May contract with an individual or a group, may utilize existing local state public assistance offices, or establish separate welfare medical care offices on a county or multicounty unit basis as found necessary; and

(2) Shall determine both financial and functional eligibility for persons applying for long-term care services under chapter 74.39 or 74.39A RCW as a unified process in a single long-term care organizational unit.

**Sec. 9.** RCW 74.09.120 and 2010 c 94 s 23 are each amended to read as follows:

~~((The department shall purchase necessary physician and dentist services by contract or "fee for service."))~~ (1) The department shall purchase nursing home care by contract and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department ~~((under the authority of RCW 74.46.800)).~~ No payment shall be made to a nursing home which does not permit inspection by the authority and the department ~~((of social and health services))~~ of every part of its premises and an examination of all records, including financial records, methods of administration, general and special dietary programs, the disbursement of drugs and methods of supply, and any other records the authority or the department deems relevant to

the regulation of nursing home operations, enforcement of standards for resident care, and payment for nursing home services.

(2) The department may purchase nursing home care by contract in veterans' homes operated by the state department of veterans affairs and payment for the care shall be in accordance with the provisions of chapter 74.46 RCW and rules adopted by the department under the authority of RCW 74.46.800.

(3) The department may purchase care in institutions for persons with intellectual disabilities, also known as intermediate care facilities for persons with intellectual disabilities. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for persons with intellectual disabilities include licensed nursing homes, public institutions, licensed boarding homes with fifteen beds or less, and hospital facilities certified as intermediate care facilities for persons with intellectual disabilities under the federal medicaid program to provide health, habilitative, or rehabilitative services and twenty-four hour supervision for persons with intellectual disabilities or related conditions and includes in the program "active treatment" as federally defined.

(4) The department may purchase care in institutions for mental diseases by contract. The department shall establish rules for reasonable accounting and reimbursement systems for such care. Institutions for mental diseases are certified under the federal medicaid program and primarily engaged in providing diagnosis, treatment, or care to persons with mental diseases, including medical attention, nursing care, and related services.

(5) Both the department and the authority may each purchase all other services provided under this chapter by contract or at rates established by the department or the authority respectively.

**Sec. 10.** RCW 74.09.160 and 1991 c 103 s 1 are each amended to read as follows:

Each vendor or group who has a contract and is rendering service to eligible persons as defined in this chapter shall submit such charges as agreed upon between the department or authority, as appropriate, and the individual or group no later than twelve months from the date of service. If the final charges are not presented within the twelve-month period, they shall not be a charge against the state. Said twelve-month period may also be extended by regulation, but only if required by applicable federal law or regulation, and to no more than the extension of time so required. ~~((For services rendered prior to July 28, 1991, final charges shall not be a charge against the state unless they are presented within one hundred twenty days from the date of service.))~~

**Sec. 11.** RCW 74.09.180 and 1997 c 236 s 1 are each amended to read as follows:

(1) The provisions of this chapter shall not apply to recipients whose personal injuries are occasioned by negligence or wrong of another: PROVIDED, HOWEVER, That the ~~((secretary))~~ director may furnish assistance, under the provisions of this chapter, for the results of injuries to or illness of a recipient, and the ~~((department))~~ authority shall thereby be subrogated to the recipient's rights against the recovery had from any tortfeasor or the tortfeasor's insurer, or both, and shall have a lien thereupon to the extent of the value of the assistance furnished by the ~~((department))~~ authority. To secure reimbursement for assistance provided under this section, the ~~((department))~~ authority may pursue its remedies under ~~((RCW 43.20B.060))~~ section 95 of this act.

(2) The rights and remedies provided to the ~~((department))~~ authority in this section to secure reimbursement for assistance, including the ~~((department's))~~ authority's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the ~~((department))~~ authority to secure and recover assistance

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provided under a managed health care system consistent with its agreement with the ~~((department))~~ authority.

**Sec. 12.** RCW 74.09.185 and 1995 c 34 s 6 are each amended to read as follows:

To the extent that payment for covered expenses has been made under medical assistance for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services. Recovery pursuant to the subrogation rights, assignment, or enforcement of the lien granted to the ~~((department))~~ authority by this section shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, except as provided in ~~((RCW 43.20B.050 and 43.20B.060))~~ sections 94 and 95 of this act. The doctrine of equitable subrogation shall not apply to defeat, reduce, or prorate recovery by the ~~((department))~~ authority as to its assignment, lien, or subrogation rights.

**Sec. 13.** RCW 74.09.190 and 1979 c 141 s 342 are each amended to read as follows:

Nothing in this chapter shall be construed as empowering the secretary or director to compel any recipient of public assistance and a medical indigent person to undergo any physical examination, surgical operation, or accept any form of medical treatment contrary to the wishes of said person who relies on or is treated by prayer or spiritual means in accordance with the creed and tenets of any well recognized church or religious denomination.

**Sec. 14.** RCW 74.09.200 and 1979 ex.s. c 152 s 1 are each amended to read as follows:

The legislature finds and declares it to be in the public interest and for the protection of the health and welfare of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the providing of medical, dental, and other health services to recipients of public assistance and medically indigent persons. In order to effectively accomplish such purpose and to assure that the recipient of such services receives such services as are paid for by the state of Washington, the acceptance by the recipient of such services, and by practitioners of reimbursement for performing such services, shall authorize the secretary ~~((of the department of social and health services))~~ or ~~((his designee))~~ director, to inspect and audit all records in connection with the providing of such services.

**Sec. 15.** RCW 74.09.210 and 1989 c 175 s 146 are each amended to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an individual public assistance recipient of health care, shall, on behalf of himself or others, obtain or attempt to obtain benefits or payments under this chapter in a greater amount than that to which entitled by means of:

- (a) A willful false statement;
- (b) By willful misrepresentation, or by concealment of any material facts; or
- (c) By other fraudulent scheme or device, including, but not limited to:
  - (i) Billing for services, drugs, supplies, or equipment that were unfurnished, of lower quality, or a substitution or misrepresentation of items billed; or
  - (ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person or entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess benefits or payments received, plus interest at the rate and in the manner provided in RCW 43.20B.695. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The secretary or

director, as appropriate, may assess civil penalties in an amount not to exceed three times the amount of such excess benefits or payments: PROVIDED, That these civil penalties shall not apply to any acts or omissions occurring prior to September 1, 1979. RCW 43.20A.215 governs notice of a civil fine and provides the right to an adjudicative proceeding.

(3) A criminal action need not be brought against a person for that person to be civilly liable under this section.

(4) In all proceedings under this section, service, adjudicative proceedings, and judicial review of such determinations shall be in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) Civil penalties shall be deposited in the general fund upon their receipt.

**Sec. 16.** RCW 74.09.240 and 1995 c 319 s 1 are each amended to read as follows:

(1) Any person, including any corporation, that solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind

(a) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this chapter, or

(b) in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter, shall be guilty of a class C felony; however, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(2) Any person, including any corporation, that offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person

(a) to refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under this chapter, or

(b) to purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter, shall be guilty of a class C felony; however, the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(3)(a) Except as provided in 42 U.S.C. 1395 nn, physicians are prohibited from self-referring any client eligible under this chapter for the following designated health services to a facility in which the physician or an immediate family member has a financial relationship:

- (i) Clinical laboratory services;
- (ii) Physical therapy services;
- (iii) Occupational therapy services;
- (iv) Radiology including magnetic resonance imaging, computerized axial tomography, and ultrasound services;
- (v) Durable medical equipment and supplies;
- (vi) Parenteral and enteral nutrients equipment and supplies;
- (vii) Prosthetics, orthotics, and prosthetic devices;
- (viii) Home health services;
- (ix) Outpatient prescription drugs;
- (x) Inpatient and outpatient hospital services;
- (xi) Radiation therapy services and supplies.

(b) For purposes of this subsection, "financial relationship" means the relationship between a physician and an entity that includes either:

- (i) An ownership or investment interest; or

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(ii) A compensation arrangement.

For purposes of this subsection, "compensation arrangement" means an arrangement involving remuneration between a physician, or an immediate family member of a physician, and an entity.

(c) The department or authority, as appropriate, is authorized to adopt by rule amendments to 42 U.S.C. 1395 nn enacted after July 23, 1995.

(d) This section shall not apply in any case covered by a general exception specified in 42 U.S.C. Sec. 1395 nn.

(4) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter(;-); and

(b) Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(5) Subsections (1) and (2) of this section, if applicable to the conduct involved, shall supersede the criminal provisions of chapter 19.68 RCW, but shall not preclude administrative proceedings authorized by chapter 19.68 RCW.

**Sec. 17.** RCW 74.09.260 and 1991 sp.s. c 8 s 7 are each amended to read as follows:

Any person, including any corporation, that knowingly:

(1) Charges, for any service provided to a patient under any medical care plan authorized under this chapter, money or other consideration at a rate in excess of the rates established by the department (~~(of social and health services)~~) or authority, as appropriate; or

(2) Charges, solicits, accepts, or receives, in addition to any amount otherwise required to be paid under such plan, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient):

(a) As a precondition of admitting a patient to a hospital or nursing facility; or

(b) As a requirement for the patient's continued stay in such facility,

when the cost of the services provided therein to the patient is paid for, in whole or in part, under such plan, shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

**Sec. 18.** RCW 74.09.280 and 1979 ex.s. c 152 s 9 are each amended to read as follows:

The secretary (~~(of social and health services)~~) or director may by rule require that any application, statement, or form filled out by suppliers of medical care under this chapter shall contain or be verified by a written statement that it is made under the penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each such paper shall in such event so state. The making or subscribing of any such papers or forms containing any false or misleading information may be prosecuted and punished under chapter 9A.72 RCW.

**Sec. 19.** RCW 74.09.290 and 1994 sp.s. c 9 s 749 are each amended to read as follows:

The secretary (~~(of the department of social and health services)~~) or (~~(his authorized representative)~~) director shall have the authority to:

(1) Conduct audits and investigations of providers of medical and other services furnished pursuant to this chapter, except that the Washington state medical quality assurance commission shall generally serve in an advisory capacity to the secretary or director in the conduct of audits or investigations of physicians. Any overpayment discovered as a result of an audit of a provider under

this authority shall be offset by any underpayments discovered in that same audit sample. In order to determine the provider's actual, usual, customary, or prevailing charges, the secretary or director may examine such random representative records as necessary to show accounts billed and accounts received except that in the conduct of such examinations, patient names, other than public assistance applicants or recipients, shall not be noted, copied, or otherwise made available to the department or authority. In order to verify costs incurred by the department or authority for treatment of public assistance applicants or recipients, the secretary or director may examine patient records or portions thereof in connection with services to such applicants or recipients rendered by a health care provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute which may make or purport to make such records privileged or confidential: PROVIDED, That no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information by the department (~~(of social and health services)~~) or the authority is prohibited and shall be punishable as a class C felony according to chapter 9A.20 RCW, unless such disclosure is directly connected to the official purpose for which the records or information were obtained: PROVIDED FURTHER, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationship between the provider and the patient, but no evidence resulting from such disclosure may be used in any civil, administrative, or criminal proceeding against the patient unless a waiver of the applicable evidentiary privilege is obtained: PROVIDED FURTHER, That the secretary or director shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished pursuant to this chapter;

(3) Terminate or suspend eligibility to participate as a provider of services furnished pursuant to this chapter; and

(4) Adopt, promulgate, amend, and repeal administrative rules, in accordance with the administrative procedure act, chapter 34.05 RCW, to carry out the policies and purposes of RCW 74.09.200 through 74.09.290.

**Sec. 20.** RCW 74.09.300 and 1979 ex.s. c 152 s 11 are each amended to read as follows:

Whenever the secretary (~~(of the department of social and health services)~~) or director imposes a civil penalty under RCW 74.09.210, or terminates or suspends a provider's eligibility under RCW 74.09.290, he or she shall, if the provider is licensed pursuant to Titles 18, 70, or 71 RCW, give written notice of such imposition, termination, or suspension to the appropriate licensing agency or disciplinary board.

**Sec. 21.** RCW 74.09.470 and 2009 c 463 s 2 are each amended to read as follows:

(1) Consistent with the goals established in RCW 74.09.402, through the apple health for kids program authorized in this section, the (~~(department)~~) authority shall provide affordable health care coverage to children under the age of nineteen who reside in Washington state and whose family income at the time of enrollment is not greater than two hundred fifty percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services, and effective January 1, 2009, and only to the extent that funds are specifically appropriated therefor, to children whose family income is not greater than three hundred percent of the federal poverty level. In administering the program, the (~~(department)~~) authority shall take such actions as may be necessary to ensure the receipt of federal financial participation under the medical assistance program, as

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codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available in the future. The ((department)) authority and the caseload forecast council shall estimate the anticipated caseload and costs of the program established in this section.

(2) The ((department)) authority shall accept applications for enrollment for children's health care coverage; establish appropriate minimum-enrollment periods, as may be necessary; and determine eligibility based on current family income. The ((department)) authority shall make eligibility determinations within the time frames for establishing eligibility for children on medical assistance, as defined by RCW 74.09.510. The application and annual renewal processes shall be designed to minimize administrative barriers for applicants and enrolled clients, and to minimize gaps in eligibility for families who are eligible for coverage. If a change in family income results in a change in the source of funding for coverage, the ((department)) authority shall transfer the family members to the appropriate source of funding and notify the family with respect to any change in premium obligation, without a break in eligibility. The ((department)) authority shall use the same eligibility redetermination and appeals procedures as those provided for children on medical assistance programs. The ((department)) authority shall modify its eligibility renewal procedures to lower the percentage of children failing to annually renew. The ((department)) authority shall manage its outreach, application, and renewal procedures with the goals of: (a) Achieving year by year improvements in enrollment, enrollment rates, renewals, and renewal rates; (b) maximizing the use of existing program databases to obtain information related to earned and unearned income for purposes of eligibility determination and renewals, including, but not limited to, the basic food program, the child care subsidy program, federal social security administration programs, and the employment security department wage database; (c) streamlining renewal processes to rely primarily upon data matches, online submissions, and telephone interviews; and (d) implementing any other eligibility determination and renewal processes to allow the state to receive an enhanced federal matching rate and additional federal outreach funding available through the federal children's health insurance program reauthorization act of 2009 by January 2010. The department shall advise the governor and the legislature regarding the status of these efforts by September 30, 2009. The information provided should include the status of the department's efforts, the anticipated impact of those efforts on enrollment, and the costs associated with that enrollment.

(3) To ensure continuity of care and ease of understanding for families and health care providers, and to maximize the efficiency of the program, the amount, scope, and duration of health care services provided to children under this section shall be the same as that provided to children under medical assistance, as defined in RCW 74.09.520.

(4) The primary mechanism for purchasing health care coverage under this section shall be through contracts with managed health care systems as defined in RCW 74.09.522, subject to conditions, limitations, and appropriations provided in the biennial appropriations act. However, the ((department)) authority shall make every effort within available resources to purchase health care coverage for uninsured children whose families have access to dependent coverage through an employer-sponsored health plan or another source when it is cost-effective for the state to do so, and the purchase is consistent with requirements of Title XIX and Title XXI of the federal social security act. To the extent allowable under federal law, the ((department)) authority shall require families to enroll in available employer-sponsored coverage, as a condition of

participating in the program established under this section, when it is cost-effective for the state to do so. Families who enroll in available employer-sponsored coverage under this section shall be accounted for separately in the annual report required by RCW 74.09.053.

(5)(a) To reflect appropriate parental responsibility, the ((department)) authority shall develop and implement a schedule of premiums for children's health care coverage due to the ((department)) authority from families with income greater than two hundred percent of the federal poverty level. For families with income greater than two hundred fifty percent of the federal poverty level, the premiums shall be established in consultation with the senate majority and minority leaders and the speaker and minority leader of the house of representatives. Premiums shall be set at a reasonable level that does not pose a barrier to enrollment. The amount of the premium shall be based upon family income and shall not exceed the premium limitations in Title XXI of the federal social security act. Premiums shall not be imposed on children in households at or below two hundred percent of the federal poverty level as articulated in RCW 74.09.055.

(b) Beginning no later than January 1, 2010, the ((department)) authority shall offer families whose income is greater than three hundred percent of the federal poverty level the opportunity to purchase health care coverage for their children through the programs administered under this section without an explicit premium subsidy from the state. The design of the health benefit package offered to these children should provide a benefit package substantially similar to that offered in the apple health for kids program, and may differ with respect to cost-sharing, and other appropriate elements from that provided to children under subsection (3) of this section including, but not limited to, application of preexisting conditions, waiting periods, and other design changes needed to offer affordable coverage. The amount paid by the family shall be in an amount equal to the rate paid by the state to the managed health care system for coverage of the child, including any associated and administrative costs to the state of providing coverage for the child. Any pooling of the program enrollees that results in state fiscal impact must be identified and brought to the legislature for consideration.

(6) The ((department)) authority shall undertake and continue a proactive, targeted outreach and education effort with the goal of enrolling children in health coverage and improving the health literacy of youth and parents. The ((department)) authority shall collaborate with the department of social and health services, department of health, local public health jurisdictions, the office of the superintendent of public instruction, the department of early learning, health educators, health care providers, health carriers, community-based organizations, and parents in the design and development of this effort. The outreach and education effort shall include the following components:

(a) Broad dissemination of information about the availability of coverage, including media campaigns;

(b) Assistance with completing applications, and community-based outreach efforts to help people apply for coverage. Community-based outreach efforts should be targeted to the populations least likely to be covered;

(c) Use of existing systems, such as enrollment information from the free and reduced-price lunch program, the department of early learning child care subsidy program, the department of health's women, infants, and children program, and the early childhood education and assistance program, to identify children who may be eligible but not enrolled in coverage;

(d) Contracting with community-based organizations and government entities to support community-based outreach efforts to help families apply for coverage. These efforts should be targeted

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to the populations least likely to be covered. The ~~((department))~~ authority shall provide informational materials for use by government entities and community-based organizations in their outreach activities, and should identify any available federal matching funds to support these efforts;

(e) Development and dissemination of materials to engage and inform parents and families statewide on issues such as: The benefits of health insurance coverage; the appropriate use of health services, including primary care provided by health care practitioners licensed under chapters 18.71, 18.57, 18.36A, and 18.79 RCW, and emergency services; the value of a medical home, well-child services and immunization, and other preventive health services with linkages to department of health child profile efforts; identifying and managing chronic conditions such as asthma and diabetes; and the value of good nutrition and physical activity;

(f) An evaluation of the outreach and education efforts, based upon clear, cost-effective outcome measures that are included in contracts with entities that undertake components of the outreach and education effort;

(g) An implementation plan to develop online application capability that is integrated with the ~~((department's))~~ automated client eligibility system, and to develop data linkages with the office of the superintendent of public instruction for free and reduced-price lunch enrollment information and the department of early learning for child care subsidy program enrollment information.

(7) The ~~((department))~~ authority shall take action to increase the number of primary care physicians providing dental disease preventive services including oral health screenings, risk assessment, family education, the application of fluoride varnish, and referral to a dentist as needed.

(8) The department shall monitor the rates of substitution between private-sector health care coverage and the coverage provided under this section ~~((and shall report to appropriate committees of the legislature by December 2010))~~.

**Sec. 22.** RCW 74.09.480 and 2009 c 463 s 4 are each amended to read as follows:

(1) The ~~((department))~~ authority, in collaboration with the department of health, department of social and health services, health carriers, local public health jurisdictions, children's health care providers including pediatricians, family practitioners, and pediatric subspecialists, community and migrant health centers, parents, and other purchasers, shall establish a concise set of explicit performance measures that can indicate whether children enrolled in the program are receiving health care through an established and effective medical home, and whether the overall health of enrolled children is improving. Such indicators may include, but are not limited to:

(a) Childhood immunization rates;

(b) Well child care utilization rates, including the use of behavioral and oral health screening, and validated, structured developmental screens using tools, that are consistent with nationally accepted pediatric guidelines and recommended administration schedule, once funding is specifically appropriated for this purpose;

(c) Care management for children with chronic illnesses;

(d) Emergency room utilization;

(e) Visual acuity and eye health;

(f) Preventive oral health service utilization; and

(g) Children's mental health status. In defining these measures the ~~((department))~~ authority shall be guided by the measures provided in RCW 71.36.025.

Performance measures and targets for each performance measure must be established and monitored each biennium, with a goal of achieving measurable, improved health outcomes for the children of Washington state each biennium.

(2) Beginning in calendar year 2009, targeted provider rate increases shall be linked to quality improvement measures established under this section. The ~~((department))~~ authority, in conjunction with those groups identified in subsection (1) of this section, shall develop parameters for determining criteria for increased payment, alternative payment methodologies, or other incentives for those practices and health plans that incorporate evidence-based practice and improve and achieve sustained improvement with respect to the measures.

(3) The department shall provide a report to the governor and the legislature related to provider performance on these measures, beginning in September 2010 for 2007 through 2009 and the authority shall provide the report biennially thereafter. ~~((The department shall advise the legislature as to its progress towards developing this biennial reporting system by September 30, 2009.))~~

**Sec. 23.** RCW 74.09.490 and 2007 c 359 s 5 are each amended to read as follows:

(1)~~((a))~~ The ~~((department))~~ authority, in consultation with the evidence-based practice institute established in RCW 71.24.061, shall develop and implement policies to improve prescribing practices for treatment of emotional or behavioral disturbances in children, improve the quality of children's mental health therapy through increased use of evidence-based and research-based practices and reduced variation in practice, improve communication and care coordination between primary care and mental health providers, and prioritize care in the family home or care which integrates the family where out-of-home placement is required.

~~((b))~~ (2) The ~~((department))~~ authority shall identify those children with emotional or behavioral disturbances who may be at high risk due to off-label use of prescription medication, use of multiple medications, high medication dosage, or lack of coordination among multiple prescribing providers, and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

~~((c))~~ (3) The ~~((department))~~ authority shall review the psychotropic medications of all children under five and establish one or more mechanisms to evaluate the appropriateness of the medication these children are using, including but not limited to obtaining second opinions from experts in child psychiatry.

~~((d))~~ (4) The ~~((department))~~ authority shall track prescriptive practices with respect to psychotropic medications with the goal of reducing the use of medication.

~~((e))~~ (5) The ~~((department))~~ authority shall encourage the use of cognitive behavioral therapies and other treatments which are empirically supported or evidence-based, in addition to or in the place of prescription medication where appropriate.

~~((2))~~ The department shall convene a representative group of regional support networks, community mental health centers, and managed health care systems contracting with the department under RCW 74.09.522 to:

— (a) Establish mechanisms and develop contract language that ensures increased coordination of and access to medicaid mental health benefits available to children and their families, including ensuring access to services that are identified as a result of a developmental screen administered through early periodic screening, diagnosis, and treatment;

— (b) Define managed health care system and regional support network contractual performance standards that track access to and utilization of services; and

— (c) Set standards for reducing the number of children that are prescribed antipsychotic drugs and receive no outpatient mental health services with their medication.

— (3) The department shall submit a report on progress and any findings under this section to the legislature by January 1, 2009.)

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**Sec. 24.** RCW 74.09.500 and 1979 c 141 s 343 are each amended to read as follows:

There is hereby established a new program of federal-aid assistance to be known as medical assistance to be administered by the ~~((state department of social and health services))~~ authority. The ~~((department of social and health services))~~ authority is authorized to comply with the federal requirements for the medical assistance program provided in the social security act and particularly Title XIX of Public Law (89-97), as amended, in order to secure federal matching funds for such program.

**Sec. 25.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the ~~((department))~~ authority, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

(1) Individuals who would be eligible for cash assistance except for their institutional status;

(2) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for persons with intellectual disabilities, or (d) inpatient psychiatric facilities;

(3) Individuals who:

(a) Are under twenty-one years of age;

(b) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

(c) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

(4) Persons who are aged, blind, or disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized;

(5) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

(6) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

(7) Children and pregnant women allowed by federal statute for whom funding is appropriated;

(8) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

(9) Other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

(10) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

(11) Women who: (a) Are under sixty-five years of age; (b) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and (c) are not otherwise covered by health insurance. Medical assistance provided under this subsection is limited to the period during which the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

**Sec. 26.** RCW 74.09.515 and 2007 c 359 s 8 are each amended to read as follows:

(1) The ~~((department))~~ authority shall adopt rules and policies providing that when youth who were enrolled in a medical

assistance program immediately prior to confinement are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The ~~((department))~~ authority, in collaboration with the department, county juvenile court administrators, and regional support networks, shall establish procedures for coordination between department field offices, juvenile rehabilitation administration institutions, and county juvenile courts that result in prompt reinstatement of eligibility and speedy eligibility determinations for youth who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services' applications on behalf of confined youth in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined youth and, to the extent practicable, completion of the review before the youth is released; and

(c) Mechanisms for providing medical assistance services' identity cards to youth eligible for medical assistance services immediately upon their release from confinement.

(3) For purposes of this section, "confined" or "confinement" means detained in a facility operated by or under contract with the department of social and health services, juvenile rehabilitation administration, or detained in a juvenile detention facility operated under chapter 13.04 RCW.

(4) The ~~((department))~~ authority shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined youth who is likely to be eligible for a medical assistance program.

**Sec. 27.** RCW 74.09.520 and 2007 c 3 s 1 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may ~~((not))~~ cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) ~~((The department shall amend the state plan for medical assistance under Title XIX of the federal social security act to include personal care services, as defined in 42 C.F.R. 440.170(f), in the categorically needy program.~~

~~((3))~~ The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX

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personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

~~((4))~~ (3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

~~((5))~~ (4) Effective July 1, 1989, the ~~((department))~~ authority shall offer hospice services in accordance with available funds.

~~((6))~~ (5) For Title XIX personal care services administered by aging and disability services administration of the department, the department shall contract with area agencies on aging:

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

~~((7))~~ (6) In the event that an area agency on aging is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

~~((8))~~ (7) Subject to the availability of amounts appropriated for this specific purpose, ~~((effective July 1, 2007,))~~ the ~~((department))~~ authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

**Sec. 28.** RCW 74.09.521 and 2009 c 388 s 1 are each amended to read as follows:

(1) To the extent that funds are specifically appropriated for this purpose the ~~((department))~~ authority shall revise its medicaid healthy options managed care and fee-for-service program standards under medicaid, Title XIX of the federal social security act to improve access to mental health services for children who do not meet the regional support network access to care standards. ~~((Effective July 1, 2008, the))~~ The program standards shall be revised to allow outpatient therapy services to be provided by licensed mental health professionals, as defined in RCW 71.34.020, or by a mental health professional regulated under Title 18 RCW who is under the direct supervision of a licensed mental health professional, and up to twenty outpatient therapy hours per calendar year, including family therapy visits integral to a child's treatment.

This section shall be administered in a manner consistent with federal early and periodic screening, diagnosis, and treatment requirements related to the receipt of medically necessary services when a child's need for such services is identified through developmental screening.

(2) The ~~((department))~~ authority and the children's mental health evidence-based practice institute established in RCW 71.24.061 shall collaborate to encourage and develop incentives for the use of prescribing practices and evidence-based and research-based treatment practices developed under RCW 74.09.490 by mental health professionals serving children under this section.

**Sec. 29.** RCW 74.09.522 and 1997 c 59 s 15 and 1997 c 34 s 1 are each reenacted and amended to read as follows:

(1) For the purposes of this section, "managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under RCW 74.09.520 and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act.

(2) The ~~((department of social and health services))~~ authority shall enter into agreements with managed health care systems to provide health care services to recipients of temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the ~~((department))~~ authority may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed twelve months: AND PROVIDED FURTHER, That the ~~((department))~~ authority shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the ~~((department))~~ authority by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the ~~((department))~~ authority under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e) In negotiating with managed health care systems the ~~((department))~~ authority shall adopt a uniform procedure to negotiate and enter into contractual arrangements, including standards regarding the quality of services to be provided; and financial integrity of the responding system;

(f) The ~~((department))~~ authority shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The ~~((department))~~ authority shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the ~~((department))~~ authority may enter into prepaid capitation contracts that do not include inpatient care;

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(h) The ~~((department))~~ authority shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services; and

(i) Nothing in this section prevents the ~~((department))~~ authority from entering into similar agreements for other groups of people eligible to receive services under this chapter.

(3) The ~~((department))~~ authority shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed health care systems are seriously considered as contractors. The ~~((department))~~ authority shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The ~~((department))~~ authority shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the ~~((department))~~ authority in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the ~~((department))~~ authority to the extent that minimum contracting requirements defined by the ~~((department))~~ authority are met, at payment rates that enable the ~~((department))~~ authority to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the ~~((department))~~ authority, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The ~~((department))~~ authority shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the ~~((department))~~ Washington state health care authority to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the ~~((department))~~ authority and contract bidders or the ~~((department))~~

authority and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document. ~~((In designing such procedures, the department shall give strong consideration to the negotiation and dispute resolution processes used by the Washington state health care authority in its managed health care contracting activities.))~~

(6) The ~~((department))~~ authority may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

**Sec. 30.** RCW 74.09.5222 and 2009 c 545 s 4 are each amended to read as follows:

(1) The ~~((department))~~ authority shall submit a section 1115 demonstration waiver request to the federal department of health and human services to expand and revise the medical assistance program as codified in Title XIX of the federal social security act. The waiver request should be designed to ensure the broadest federal financial participation under Title XIX and XXI of the federal social security act. To the extent permitted under federal law, the waiver request should include the following components:

(a) Establishment of a single eligibility standard for low-income persons, including expansion of categorical eligibility to include childless adults. The ~~((department))~~ authority shall request that the single eligibility standard be phased in such that incremental steps are taken to cover additional low-income parents and individuals over time, with the goal of offering coverage to persons with household income at or below two hundred percent of the federal poverty level;

(b) Establishment of a single seamless application and eligibility determination system for all state low-income medical programs included in the waiver. Applications may be electronic and may include an electronic signature for verification and authentication. Eligibility determinations should maximize federal financing where possible;

(c) The delivery of all low-income coverage programs as a single program, with a common core benefit package that may be similar to the basic health benefit package or an alternative benefit package approved by the secretary of the federal department of health and human services, including the option of supplemental coverage for select categorical groups, such as children, and individuals who are aged, blind, and disabled;

(d) A program design to include creative and innovative approaches such as: Coverage for preventive services with incentives to use appropriate preventive care; enhanced medical home reimbursement and bundled payment methodologies; cost-sharing options; use of care management and care coordination programs to improve coordination of medical and behavioral health services; application of an innovative predictive risk model to better target care management services; and mandatory enrollment in managed care, as may be necessary;

(e) The ability to impose enrollment limits or benefit design changes for eligibility groups that were not eligible under the Title XIX state plan in effect on the date of submission of the waiver application;

(f) A premium assistance program whereby employers can participate in coverage options for employees and dependents of employees otherwise eligible under the waiver. The waiver should make every effort to maximize enrollment in employer-sponsored health insurance when it is cost-effective for the state to do so, and the purchase is consistent with the requirements of Titles XIX and XXI of the federal social security act. To the extent allowable under federal law, the ~~((department))~~ authority shall require enrollment in available employer-sponsored coverage as a condition of eligibility for coverage under the waiver; and

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(g) The ability to share savings that might accrue to the federal medicare program, Title XVIII of the federal social security act, from improved care management for persons who are eligible for both medicare and medicaid. Through the waiver application process, the ~~((department))~~ authority shall determine whether the state could serve, directly or by contract, as a medicare special needs plan for persons eligible for both medicare and medicaid.

(2) The ~~((department))~~ authority shall hold ongoing stakeholder discussions as it is developing the waiver request, and provide opportunities for public review and comment as the request is being developed.

(3) The ~~((department and the health care))~~ authority shall identify statutory changes that may be necessary to ensure successful and timely implementation of the waiver request as submitted to the federal department of health and human services as the apple health program for adults.

(4) The legislature must authorize implementation of any waiver approved by the federal department of health and human services under this section.

**Sec. 31.** RCW 74.09.5225 and 2005 c 383 s 1 are each amended to read as follows:

(1) Payments for recipients eligible for medical assistance programs under this chapter for services provided by hospitals, regardless of the beneficiary's managed care enrollment status, shall be made based on allowable costs incurred during the year, when services are provided by a rural hospital certified by the centers for medicare and medicaid services as a critical access hospital. Any additional payments made by the ~~((medical assistance administration))~~ authority for the healthy options program shall be no more than the additional amounts per service paid under this section for other medical assistance programs.

(2) Beginning on July 24, 2005, a moratorium shall be placed on additional hospital participation in critical access hospital payments under this section. However, rural hospitals that applied for certification to the centers for medicare and medicaid services prior to January 1, 2005, but have not yet completed the process or have not yet been approved for certification, remain eligible for medical assistance payments under this section.

**Sec. 32.** RCW 74.09.530 and 2007 c 315 s 2 are each amended to read as follows:

(1)(a) The authority is designated as the single state agency for purposes of Title XIX of the federal social security act.

(b) The amount and nature of medical assistance and the determination of eligibility of recipients for medical assistance shall be the responsibility of the ~~((department of social and health services))~~ authority.

(c) The ~~((department))~~ authority shall establish reasonable standards of assistance and resource and income exemptions which shall be consistent with the provisions of the social security act and ~~((with the))~~ federal regulations ~~((of the secretary of health, education and welfare))~~ for determining eligibility of individuals for medical assistance and the extent of such assistance to the extent that funds are available from the state and federal government. The ~~((department))~~ authority shall not consider resources in determining continuing eligibility for recipients eligible under section 1931 of the social security act.

(d) The authority is authorized to collaborate with other state or local agencies and nonprofit organizations in carrying out its duties under this chapter and, to the extent appropriate, may enter into agreements with such other entities.

(2) Individuals eligible for medical assistance under RCW 74.09.510(3) shall be transitioned into coverage under that subsection immediately upon their termination from coverage under RCW 74.09.510(2)(a). The ~~((department))~~ authority shall use income eligibility standards and eligibility determinations

applicable to children placed in foster care. The ~~((department, in consultation with the health care))~~ authority~~(s)~~ shall provide information regarding basic health plan enrollment and shall offer assistance with the application and enrollment process to individuals covered under RCW 74.09.510(3) who are approaching their twenty-first birthday.

**Sec. 33.** RCW 74.09.540 and 2001 2nd sp.s. c 15 s 2 are each amended to read as follows:

(1) It is the intent of the legislature to remove barriers to employment for individuals with disabilities by providing medical assistance to ~~((the))~~ working ~~((disabled))~~ individuals with disabilities through a buy-in program in accordance with section 1902(a)(10)(A)(ii) of the social security act and eligibility and cost-sharing requirements established by the ~~((department))~~ authority.

(2) The ~~((department))~~ authority shall establish income, resource, and cost-sharing requirements for the buy-in program in accordance with federal law and any conditions or limitations specified in the omnibus appropriations act. The ~~((department))~~ authority shall establish and modify eligibility and cost-sharing requirements in order to administer the program within available funds. The ~~((department))~~ authority shall make every effort to coordinate benefits with employer-sponsored coverage available to the working ~~((disabled))~~ individuals with disabilities receiving benefits under this chapter.

**Sec. 34.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended to read as follows:

(1) The ~~((department))~~ authority shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The ~~((department))~~ authority, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between the authority and department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedited review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the ~~((department))~~ authority with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The ~~((department))~~ authority shall, to the maximum extent permitted by

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federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the disability lifeline program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the disability lifeline program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration within the department shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 35.** RCW 74.09.565 and 1989 c 87 s 4 are each amended to read as follows:

(1) An agreement between spouses transferring or assigning rights to future income from one spouse to the other shall be invalid for purposes of determining eligibility for medical assistance or the limited casualty program for the medically needy, but this subsection does not affect agreements between spouses transferring or assigning resources, and income produced by transferred or assigned resources shall continue to be recognized as the separate income of the transferee.

(2) In determining eligibility for medical assistance or the limited casualty program for the medically needy for a married person in need of institutional care, or care under home and community-based waivers as defined in Title XIX of the social security act, if the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess shall be considered unavailable to the applicant.

(3) The department or authority, as appropriate, shall adopt rules consistent with the provisions of section 1924 of the social security act entitled "Treatment of Income and Resources for Certain Institutionalized Spouses," in determining the allocation of income between an institutionalized and community spouse.

(4) The department or authority, as appropriate, shall establish the monthly maintenance needs allowance for the community spouse up to the maximum amount allowed by state appropriation or within available funds and permitted in section 1924 of the social security act. The total monthly needs allowance shall not exceed one thousand five hundred dollars, subject to adjustment provided in section 1924 of the social security act.

**Sec. 36.** RCW 74.09.575 and 2003 1st sp.s. c 28 s 1 are each amended to read as follows:

(1) The department or authority, as appropriate, shall promulgate rules consistent with the treatment of resources provisions of section 1924 of the social security act (~~entitled "Treatment of Income and Resources for Certain Institutionalized Spouses,"~~) in determining the allocation of resources between the institutionalized and community spouse.

(2) In the interest of supporting the community spouse the department or authority, as appropriate, shall allow the maximum resource allowance amount permissible under the social security act for the community spouse for persons institutionalized before August 1, 2003.

(3) For persons institutionalized on or after August 1, 2003, the department or authority, as appropriate, in the interest of supporting the community spouse, shall allow up to a maximum of forty thousand dollars in resources for the community spouse. For the fiscal biennium beginning July 1, 2005, and each fiscal biennium thereafter, the maximum resource allowance amount for the community spouse shall be adjusted for economic trends and conditions by increasing the amount allowable by the consumer price index as published by the federal bureau of labor statistics. However, in no case shall the amount allowable exceed the maximum resource allowance permissible under the social security act.

**Sec. 37.** RCW 74.09.585 and 1995 1st sp.s. c 18 s 81 are each amended to read as follows:

(1) The department or authority, as appropriate, shall establish standards consistent with section 1917 of the social security act in determining the period of ineligibility for medical assistance due to the transfer of resources.

(2) There shall be no penalty imposed for the transfer of assets that are excluded in a determination of the individual's eligibility for medicaid to the extent such assets are protected by the long-term care insurance policy or contract pursuant to chapter 48.85 RCW.

(3) The department or authority, as appropriate, may waive a period of ineligibility if the department or authority determines that denial of eligibility would work an undue hardship.

**Sec. 38.** RCW 74.09.595 and 1989 c 87 s 8 are each amended to read as follows:

The department or authority, as appropriate, shall in compliance with section 1924 of the social security act adopt procedures which provide due process for institutionalized or community spouses who request a fair hearing as to the valuation of resources, the amount of the community spouse resource allowance, or the monthly maintenance needs allowance.

**Sec. 39.** RCW 74.09.655 and 2008 c 245 s 1 are each amended to read as follows:

The ~~((department))~~ authority shall provide coverage under this chapter for smoking cessation counseling services, as well as prescription and nonprescription agents when used to promote smoking cessation, so long as such agents otherwise meet the definition of "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). However, the ~~((department))~~ authority may initiate an individualized inquiry and determine and implement by rule appropriate coverage limitations as may be required to encourage the use of effective, evidence-based services and prescription and nonprescription agents. The ~~((department))~~ authority shall track per-capita expenditures for a cohort of clients that receive smoking cessation benefits, and submit a cost-benefit analysis to the legislature on or before January 1, 2012.

**Sec. 40.** RCW 74.09.658 and 2009 c 326 s 1 are each amended to read as follows:

(1) The home health program shall require registered nurse oversight and intervention, as appropriate. In-person contact between a home health care registered nurse and a patient is not required under the state's medical assistance program for home health services that are: (a) Delivered with the assistance of telemedicine and (b) otherwise eligible for reimbursement as a medically necessary skilled home health nursing visit under the program.

(2) The department or authority, as appropriate, in consultation with home health care service providers shall develop reimbursement rules and, in rule, define the requirements that must be met for a reimbursable skilled nursing visit when services are rendered without a face-to-face visit and are assisted by telemedicine.

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(3)(a) The department or authority, as appropriate, shall establish the reimbursement rate for skilled home health nursing services delivered with the assistance of telemedicine that meet the requirements of a reimbursable visit as defined by the department or authority, as appropriate.

(b) Reimbursement is not provided for purchase or lease of telemedicine equipment.

(4) Any home health agency licensed under chapter 70.127 RCW and eligible for reimbursement under the medical programs authorized under this chapter may be reimbursed for services under this section if the service meets the requirements for a reimbursable skilled nursing visit ~~((as defined by the department))~~.

(5) Nothing in this section shall be construed to alter the scope of practice of any home health care services provider or authorizes the delivery of home health care services in a setting or manner not otherwise authorized by law.

(6) The use of telemedicine is not intended to replace registered nurse health care ~~((visits))~~ visits when necessary.

(7) For the purposes of this section, "telemedicine" means the use of telemonitoring to enhance the delivery of certain home health medical services through:

(a) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit; or

(b) The collection of clinical data and the transmission of such data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry.

**Sec. 41.** RCW 74.09.659 and 2009 c 545 s 5 are each amended to read as follows:

(1) The ~~((department))~~ authority shall continue to submit applications for the family planning waiver program.

(2) The ~~((department))~~ authority shall submit a request to the federal department of health and human services to amend the current family planning waiver program as follows:

(a) Provide coverage for sexually transmitted disease testing and treatment;

(b) Return to the eligibility standards used in 2005 including, but not limited to, citizenship determination based on declaration or matching with federal social security databases, insurance eligibility standards comparable to 2005, and confidential service availability for minors and survivors of domestic and sexual violence; and

(c) Within available funds, increase income eligibility to two hundred fifty percent of the federal poverty level, to correspond with income eligibility for publicly funded maternity care services.

**Sec. 42.** RCW 74.09.700 and 2010 c 94 s 25 are each amended to read as follows:

(1) To the extent of available funds and subject to any conditions placed on appropriations made for this purpose, medical care may be provided under the limited casualty program to persons not ~~((otherwise))~~ eligible for medical assistance or medical care services who are medically needy as defined in the social security Title XIX state plan and medical indigents in accordance with eligibility requirements established by the ~~((department))~~ authority. The eligibility requirements may include minimum levels of incurred medical expenses. This includes residents of nursing facilities, residents of intermediate care facilities for persons with intellectual disabilities, and individuals who are otherwise eligible for section 1915(c) of the federal social security act home and community-based waiver services, administered by the department ~~((of social and health services aging and adult services administration))~~ who are aged, blind, or disabled as defined in Title XVI of the federal social security act and whose income exceeds

three hundred percent of the federal supplement security income benefit level.

(2) Determination of the amount, scope, and duration of medical coverage under the limited casualty program shall be the responsibility of the ~~((department))~~ authority, subject to the following:

(a) Only the following services may be covered:

(i) For persons who are medically needy as defined in the social security Title XIX state plan: Inpatient and outpatient hospital services, and home and community-based waiver services;

(ii) For persons who are medically needy as defined in the social security Title XIX state plan, and for persons who are medical indigents under the eligibility requirements established by the ~~((department))~~ authority: Rural health clinic services; physicians' and clinic services; prescribed drugs, dentures, prosthetic devices, and eyeglasses; nursing facility services; and intermediate care facility services for persons with intellectual disabilities; home health services; hospice services; other laboratory and X-ray services; rehabilitative services, including occupational therapy; medically necessary transportation; and other services for which funds are specifically provided in the omnibus appropriations act;

(b) Medical care services provided to the medically indigent and received no more than seven days prior to the date of application shall be retroactively certified and approved for payment on behalf of a person who was otherwise eligible at the time the medical services were furnished: PROVIDED, That eligible persons who fail to apply within the seven-day time period for medical reasons or other good cause may be retroactively certified and approved for payment.

(3) The ~~((department))~~ authority shall establish standards of assistance and resource and income exemptions. All nonexempt income and resources of limited casualty program recipients shall be applied against the cost of their medical care services.

**Sec. 43.** RCW 74.09.710 and 2007 c 259 s 4 are each amended to read as follows:

(1) The ~~((department of social and health services))~~ authority, in collaboration with the department of health and the department of social and health services, shall:

(a) Design and implement medical homes for its aged, blind, and disabled clients in conjunction with chronic care management programs to improve health outcomes, access, and cost-effectiveness. Programs must be evidence based, facilitating the use of information technology to improve quality of care, must acknowledge the role of primary care providers and include financial and other supports to enable these providers to effectively carry out their role in chronic care management, and must improve coordination of primary, acute, and long-term care for those clients with multiple chronic conditions. The ~~((department))~~ authority shall consider expansion of existing medical home and chronic care management programs and build on the Washington state collaborative initiative. The ~~((department))~~ authority shall use best practices in identifying those clients best served under a chronic care management model using predictive modeling through claims or other health risk information; and

(b) Evaluate the effectiveness of current chronic care management efforts in the ~~((health and recovery services administration and the aging and disability services administration))~~ authority and the department, comparison to best practices, and recommendations for future efforts and organizational structure to improve chronic care management.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high quality, accessible, and efficient care.

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(b) "Chronic care management" means the ~~((department's))~~ authority's program that provides care management and coordination activities for medical assistance clients determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

**Sec. 44.** RCW 74.09.715 and 2008 c 146 s 13 are each amended to read as follows:

Within funds appropriated for this purpose, the ~~((department))~~ authority shall establish two dental access projects to serve seniors and other adults who are categorically needy blind or disabled. The projects shall provide:

(1) Enhanced reimbursement rates for certified dentists for specific procedures, to begin no sooner than July 1, 2009;

(2) Reimbursement for trained medical providers for preventive oral health services, to begin no sooner than July 1, 2009;

(3) Training, development, and implementation through a partnership with the University of Washington school of dentistry;

(4) Local program coordination including outreach and case management; and

(5) An evaluation that measures the change in utilization rates and cost savings.

**Sec. 45.** RCW 74.09.720 and 1983 c 194 s 26 are each amended to read as follows:

(1) A prevention of blindness program is hereby established in the ~~((department of social and health services))~~ authority to provide prompt, specialized medical eye care, including assistance with costs when necessary, for conditions in which sight is endangered or sight can be restored or significantly improved. The ~~((department of social and health services))~~ authority shall adopt rules concerning program eligibility, levels of assistance, and the scope of services.

(2) The ~~((department of social and health services))~~ authority shall employ on a part-time basis an ophthalmological and/or an optometrical consultant to provide liaison with participating eye physicians and to review medical recommendations made by an applicant's eye physician to determine whether the proposed services meet program standards.

(3) The ~~((department of social and health services))~~ authority and the department of services for the blind shall formulate a cooperative agreement concerning referral of clients between the two agencies and the coordination of policies and services.

**Sec. 46.** RCW 74.09.725 and 2006 c 367 s 8 are each amended to read as follows:

~~((The department))~~ The authority shall provide coverage for prostate cancer screening under this chapter, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

**Sec. 47.** RCW 74.09.730 and 2009 c 538 s 1 are each amended to read as follows:

In establishing Title XIX payments for inpatient hospital services:

(1) To the extent funds are appropriated specifically for this purpose, and subject to any conditions placed on appropriations made for this purpose, the ~~((department of social and health services))~~ authority shall provide a disproportionate share hospital adjustment considering the following components:

(a) A low-income care component based on a hospital's medicaid utilization rate, its low-income utilization rate, its provision of obstetric services, and other factors authorized by federal law;

(b) A medical indigency care component based on a hospital's services to persons who are medically indigent; and

(c) A state-only component, to be paid from available state funds to hospitals that do not qualify for federal payments under (b) of this subsection, based on a hospital's services to persons who are medically indigent;

(2) The payment methodology for disproportionate share hospitals shall be specified by the ~~((department))~~ authority in regulation.

(3) Nothing in this section shall be construed as a right or an entitlement by any hospital to any payment from the authority.

**Sec. 48.** RCW 74.09.770 and 1989 1st ex.s. c 10 s 2 are each amended to read as follows:

(1) The legislature finds that Washington state and the nation as a whole have a high rate of infant illness and death compared with other industrialized nations. This is especially true for minority and low-income populations. Premature and low weight births have been directly linked to infant illness and death. The availability of adequate maternity care throughout the course of pregnancy has been identified as a major factor in reducing infant illness and death. Further, the investment in preventive health care programs, such as maternity care, contributes to the growth of a healthy and productive society and is a sound approach to health care cost containment. The legislature further finds that access to maternity care for low-income women in the state of Washington has declined significantly in recent years and has reached a crisis level.

(2) It is the purpose of this ~~((chapter/subchapter))~~ subchapter to provide, consistent with appropriated funds, maternity care necessary to ensure healthy birth outcomes for low-income families. To this end, a maternity care access system is established based on the following principles:

(a) The family is the fundamental unit in our society and should be supported through public policy.

(b) Access to maternity care for eligible persons to ensure healthy birth outcomes should be made readily available in an expeditious manner through a single service entry point.

(c) Unnecessary barriers to maternity care for eligible persons should be removed.

(d) Access to preventive and other health care services should be available for low-income children.

(e) Each woman should be encouraged to and assisted in making her own informed decisions about her maternity care.

(f) Unnecessary barriers to the provision of maternity care by qualified health professionals should be removed.

(g) The system should be sensitive to cultural differences among eligible persons.

(h) To the extent possible, decisions about the scope, content, and delivery of services should be made at the local level involving a broad representation of community interests.

(i) The maternity care access system should be evaluated at appropriate intervals to determine effectiveness and need for modification.

(j) Maternity care services should be delivered in a cost-effective manner.

**Sec. 49.** RCW 74.09.790 and 1993 c 407 s 9 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 74.09.760 through 74.09.820 and 74.09.510:

(1) "At-risk eligible person" means an eligible person determined by the ~~((department))~~ authority to need special assistance in applying for and obtaining maternity care, including pregnant women who are substance abusers, pregnant and parenting adolescents, pregnant minority women, and other eligible persons who need special assistance in gaining access to the maternity care system.

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(2) "County authority" means the board of county commissioners, county council, or county executive having the authority to participate in the maternity care access program or its designee. Two or more county authorities may enter into joint agreements to fulfill the requirements of this chapter.

(3) "Department" means the department of social and health services.

(4) "Eligible person" means a woman in need of maternity care or a child, who is eligible for medical assistance pursuant to this chapter or the prenatal care program administered by the ~~((department))~~ authority.

(5) "Maternity care services" means inpatient and outpatient medical care, case management, and support services necessary during prenatal, delivery, and postpartum periods.

(6) "Support services" means, at least, public health nursing assessment and follow-up, health and childbirth education, psychological assessment and counseling, outreach services, nutritional assessment and counseling, needed vitamin and nonprescriptive drugs, transportation, family planning services, and child care. Support services may include alcohol and substance abuse treatment for pregnant women who are addicted or at risk of being addicted to alcohol or drugs to the extent funds are made available for that purpose.

(7) "Family planning services" means planning the number of one's children by use of contraceptive techniques.

(8) "Authority" means the Washington state health care authority.

**Sec. 50.** RCW 74.09.800 and 1993 c 407 s 10 are each amended to read as follows:

The ~~((department))~~ authority shall, consistent with the state budget act, develop a maternity care access program designed to ensure healthy birth outcomes as follows:

(1) Provide maternity care services to low-income pregnant women and health care services to children in poverty to the maximum extent allowable under the medical assistance program, Title XIX of the federal social security act;

(2) Provide maternity care services to low-income women who are not eligible to receive such services under the medical assistance program, Title XIX of the federal social security act;

(3) ~~(By January 1, 1990,)~~ Have the following procedures in place to improve access to maternity care services and eligibility determinations for pregnant women applying for maternity care services under the medical assistance program, Title XIX of the federal social security act:

(a) Use of a shortened and simplified application form;

(b) Outstationing ~~((department))~~ authority staff to make eligibility determinations;

(c) Establishing local plans at the county and regional level, coordinated by the ~~((department))~~ authority; and

(d) Conducting an interview for the purpose of determining medical assistance eligibility within five working days of the date of an application by a pregnant woman and making an eligibility determination within fifteen working days of the date of application by a pregnant woman;

(4) Establish a maternity care case management system that shall assist at-risk eligible persons with obtaining medical assistance benefits and receiving maternity care services, including transportation and child care services;

(5) Within available resources, establish appropriate reimbursement levels for maternity care providers;

(6) Implement a broad-based public education program that stresses the importance of obtaining maternity care early during pregnancy;

(7) Refer persons eligible for maternity care services under the program established by this section to persons, agencies, or

organizations with maternity care service practices that primarily emphasize healthy birth outcomes;

(8) Provide family planning services including information about the synthetic progestin capsule implant form of contraception, for twelve months immediately following a pregnancy to women who were eligible for medical assistance under the maternity care access program during that pregnancy or who were eligible only for emergency labor and delivery services during that pregnancy; and

(9) Within available resources, provide family planning services to women who meet the financial eligibility requirements for services under subsections (1) and (2) of this section.

**Sec. 51.** RCW 74.09.810 and 1989 1st ex.s. c 10 s 6 are each amended to read as follows:

(1) The ~~((department))~~ authority shall establish an alternative maternity care service delivery system, if it determines that a county or a group of counties is a maternity care distressed area. A maternity care distressed area shall be defined by the ~~((department))~~ authority, in rule, as a county or a group of counties where eligible women are unable to obtain adequate maternity care. The ~~((department))~~ authority shall include the following factors in its determination:

(a) Higher than average percentage of eligible persons in the distressed area who receive late or no prenatal care;

(b) Higher than average percentage of eligible persons in the distressed area who go out of the area to receive maternity care;

(c) Lower than average percentage of obstetrical care providers in the distressed area who provide care to eligible persons;

(d) Higher than average percentage of infants born to eligible persons per obstetrical care provider in the distressed area; and

(e) Higher than average percentage of infants that are of low birth weight, five and one-half pounds or two thousand five hundred grams, born to eligible persons in the distressed area.

(2) If the ~~((department))~~ authority determines that a maternity care distressed area exists, it shall notify the relevant county authority. The county authority shall, within one hundred twenty days, submit a brief report to the ~~((department))~~ authority recommending remedial action. The report shall be prepared in consultation with the ~~((department and its))~~ authority and with the ~~department's~~ local community service offices, the local public health officer, community health clinics, health care providers, hospitals, the business community, labor representatives, and low-income advocates in the distressed area. A county authority may contract with a local nonprofit entity to develop the report. If the county authority is unwilling or unable to develop the report, it shall notify the ~~((department))~~ authority within thirty days, and the ~~((department))~~ authority shall develop the report for the distressed area.

(3) The ~~((department))~~ authority shall review the report and use it, to the extent possible, in developing strategies to improve maternity care access in the distressed area. The ~~((department))~~ authority may contract with or directly employ qualified maternity care health providers to provide maternity care services, if access to such providers in the distressed area is not possible by other means. In such cases, the ~~((department))~~ authority is authorized to pay that portion of the health care providers' malpractice liability insurance that represents the percentage of maternity care provided to eligible persons by that provider through increased medical assistance payments.

**Sec. 52.** RCW 74.09.820 and 1989 1st ex.s. c 10 s 7 are each amended to read as follows:

To the extent that federal matching funds are available, the ~~((department))~~ authority or the department of health ~~((if one is created))~~ shall establish, in consultation with the health science programs of the state's colleges and universities, and community health clinics, a loan repayment program that will encourage

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maternity care providers to practice in medically underserved areas in exchange for repayment of part or all of their health education loans.

**NEW SECTION. Sec. 53.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The following persons have the right to an adjudicative proceeding:

(a) Any applicant or recipient who is aggrieved by a decision of the authority or an authorized agency of the authority; or

(b) A current or former recipient who is aggrieved by the authority's claim that he or she owes a debt for overpayment of assistance.

(2) For purposes of this section:

(a) "Applicant" means any person who has made a request, or on behalf of whom a request has been made to the authority for any medical services program established under chapter 74.09 RCW.

(b) "Recipient" means a person who is receiving benefits from the authority for any medical services program established in this chapter.

(3) An applicant or recipient has no right to an adjudicative proceeding when the sole basis for the authority's decision is a federal or state law requiring an assistance adjustment for a class of applicants or recipients.

(4) An applicant or recipient may file an application for an adjudicative proceeding with either the authority or the department and must do so within ninety calendar days after receiving notice of the aggrieving decision. The authority shall determine which agency is responsible for representing the state of Washington in the hearing, in accordance with agreements entered pursuant to RCW 41.05.021.

(5)(a) The adjudicative proceeding is governed by the administrative procedure act, chapter 34.05 RCW, and this subsection. The following requirements shall apply to adjudicative proceedings in which an appellant seeks review of decisions made by more than one agency. When an appellant files a single application for an adjudicative proceeding seeking review of decisions by more than one agency, this review shall be conducted initially in one adjudicative proceeding. The presiding officer may sever the proceeding into multiple proceedings on the motion of any of the parties, when:

(i) All parties consent to the severance; or

(ii) Either party requests severance without another party's consent, and the presiding officer finds there is good cause for severing the matter and that the proposed severance is not likely to prejudice the rights of an appellant who is a party to any of the severed proceedings.

(b) If there are multiple adjudicative proceedings involving common issues or parties where there is one appellant and both the authority and the department are parties, upon motion of any party or upon his or her own motion, the presiding officer may consolidate the proceedings if he or she finds that the consolidation is not likely to prejudice the rights of the appellant who is a party to any of the consolidated proceedings.

(c) The adjudicative proceeding shall be conducted at the local community services office or other location in Washington convenient to the applicant or recipient and, upon agreement by the applicant or recipient, may be conducted telephonically.

(d) The applicant or recipient, or his or her representative, has the right to inspect his or her file from the authority and, upon request, to receive copies of authority documents relevant to the proceedings free of charge.

(e) The applicant or recipient has the right to a copy of the audio recording of the adjudicative proceeding free of charge.

(f) If a final adjudicative order is issued in favor of an applicant, medical services benefits must be provided from the date of earliest

eligibility, the date of denial of the application for assistance, or forty-five days following the date of application, whichever is soonest. If a final adjudicative order is issued in favor of a recipient, medical services benefits must be provided from the effective date of the authority's decision.

(g) The authority is limited to recovering an overpayment arising from assistance being continued pending the adjudicative proceeding to the amount recoverable up to the sixtieth day after the director's receipt of the application for an adjudicative proceeding.

(6) If the director requires that a party seek administrative review of an initial order to an adjudicative proceeding governed by this section, in order for the party to exhaust administrative remedies pursuant to RCW 34.05.534, the director shall adopt and implement rules in accordance with this subsection.

(a) The director, in consultation with the secretary, shall adopt rules to create a process for parties to seek administrative review of initial orders issued pursuant to RCW 34.05.461 in adjudicative proceedings governed by this subsection when multiple agencies are parties.

(b) This process shall seek to minimize any procedural complexities imposed on appellants that result from multiple agencies being parties to the matter, without prejudicing the rights of parties who are public assistance applicants or recipients.

(c) Nothing in this subsection shall impose or modify any legal requirement that a party seek administrative review of initial orders in order to exhaust administrative remedies pursuant to RCW 34.05.534.

(7) This subsection only applies to an adjudicative proceeding in which the appellant is an applicant for or recipient of medical services programs established under this chapter and the issue is his or her eligibility or ineligibility due to the assignment or transfer of a resource. The burden is on the authority or its authorized agency to prove by a preponderance of the evidence that the person knowingly and willingly assigned or transferred the resource at less than market value for the purpose of qualifying or continuing to qualify for medical services programs established under this chapter. If the prevailing party in the adjudicative proceeding is the applicant or recipient, he or she is entitled to reasonable attorneys' fees.

(8) When an applicant or recipient files a petition for judicial review as provided in RCW 34.05.514 of an adjudicative order entered with respect to the medical services program, no filing fee may be collected from the person and no bond may be required on any appeal. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the applicant or recipient, the person is entitled to reasonable attorneys' fees and costs. If a decision of the court is made in favor of an applicant, assistance shall be paid from the date of earliest eligibility, the date of the denial of the application for assistance, or forty-five days following the date of application, whichever is soonest. If a decision of the court is made in favor of a recipient, assistance shall be paid from the effective date of the authority's decision.

(9) The provisions of RCW 74.08.080 do not apply to adjudicative proceedings requested or conducted with respect to the medical services program pursuant to this section.

(10) The authority shall adopt any rules it deems necessary to implement this section.

**Sec. 54.** RCW 41.05.011 and 2009 c 537 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (~~("Administrator")~~) "Director" means the (~~(administrator)~~) director of the authority.

(2) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment

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purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(3) "Authority" means the Washington state health care authority.

(4) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(5) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; and (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g). "Employee" does not include: Adult family homeowners; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(8) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(9) "Board" means the public employees' benefits board established under RCW 41.05.055.

(10) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district or educational service district on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district or educational service district due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(11) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(12) "Salary" means a state employee's monthly salary or wages.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(~~(44)~~) (17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(~~(40)~~) (33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(16) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(17) "Employer" means the state of Washington.

(18) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; and a tribal government covered by this chapter.

(19) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

(20) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(21) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(22) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

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**Sec. 55.** RCW 41.05.015 and 2000 c 5 s 16 are each amended to read as follows:

The ~~((administrator))~~ director shall designate a medical director who is licensed under chapter 18.57 or 18.71 RCW. The director shall also appoint such professional personnel and other assistants and employees, including professional medical screeners, as may be reasonably necessary to carry out the provisions of this chapter and chapter 74.09 RCW. The medical screeners must be supervised by one or more physicians whom the director or the director's designee shall appoint.

**Sec. 56.** RCW 41.05.021 and 2009 c 537 s 4 are each amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have ~~((an administrator))~~ a director appointed by the governor, with the consent of the senate. The ~~((administrator))~~ director shall serve at the pleasure of the governor. The ~~((administrator))~~ director may employ ~~((up to seven staff members))~~ a deputy director, and such assistant directors and special assistants as may be needed to administer the authority, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The ((administrator)) director may delegate any power or duty vested in him or her by ((this chapter)) law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to: Administer state employees' insurance benefits and retired or disabled school employees' insurance benefits; administer the basic health plan pursuant to chapter 70.47 RCW; administer the children's health program pursuant to chapter 74.09 RCW; study state-purchased health care programs in order to maximize cost containment in these programs while ensuring access to quality health care; implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services; and administer grants that further the mission and goals of the authority. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis;

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031; and

(vi) In collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(A) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(I) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(II) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(B) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020(4), integrated delivery systems, and providers that:

(I) Facilitate diagnosis or treatment;

(II) Reduce unnecessary duplication of medical tests;

(III) Promote efficient electronic physician order entry;

(IV) Increase access to health information for consumers and their providers; and

(V) Improve health outcomes;

(C) Coordinate a strategy for the adoption of health information technology systems using the final health information technology report and recommendations developed under chapter 261, Laws of 2005;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205 and (g) of this subsection, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To review and approve or deny the application when the governing body of a tribal government applies to transfer their employees to an insurance or self-insurance program administered under this chapter. In the event of an employee transfer pursuant to this subsection (1)(f), members of the governing body are eligible to be included in such a transfer if the members are authorized by the tribal government to participate in the insurance program being transferred from and subject to payment by the members of all costs of insurance for the members. The authority shall: (i) Establish the conditions for participation; (ii) have the sole right to reject the application; and (iii) set the premium contribution for approved groups as outlined in RCW 41.05.050. Approval of the application by the authority transfers the employees and dependents involved to the insurance, self-insurance, or health care program approved by the authority;

(g) To ensure the continued status of the employee insurance or self-insurance programs administered under this chapter as a governmental plan under section 3(32) of the employee retirement income security act of 1974, as amended, the authority shall limit the participation of employees of a county, municipal, school district, educational service district, or other political subdivision, or a tribal government, including providing for the participation of those employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities;

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(h) To establish billing procedures and collect funds from school districts in a way that minimizes the administrative burden on districts;

(i) To publish and distribute to nonparticipating school districts and educational service districts by October 1st of each year a description of health care benefit plans available through the authority and the estimated cost if school districts and educational service district employees were enrolled;

(j) To apply for, receive, and accept grants, gifts, and other payments, including property and service, from any governmental or other public or private entity or person, and make arrangements as to the use of these receipts to implement initiatives and strategies developed under this section;

(k) To issue, distribute, and administer grants that further the mission and goals of the authority;

(l) To adopt rules consistent with this chapter as described in RCW 41.05.160 including, but not limited to:

(i) Setting forth the criteria established by the board under RCW 41.05.065 for determining whether an employee is eligible for benefits;

(ii) Establishing an appeal process in accordance with chapter 34.05 RCW by which an employee may appeal an eligibility determination;

(iii) Establishing a process to assure that the eligibility determinations of an employing agency comply with the criteria under this chapter, including the imposition of penalties as may be authorized by the board;

(m)(i) To administer the medical services programs established under chapter 74.09 RCW as the designated single state agency for purposes of Title XIX of the federal social security act;

(ii) To administer the state children's health insurance program under chapter 74.09 RCW for purposes of Title XXI of the federal social security act;

(iii) To enter into agreements with the department of social and health services for administration of medical care services programs under Titles XIX and XXI of the social security act. The agreements shall establish the division of responsibilities between the authority and the department with respect to mental health, chemical dependency, and long-term care services, including services for persons with developmental disabilities. The agreements shall be revised as necessary, to comply with the final implementation plan adopted under section 117 of this act;

(iv) To adopt rules to carry out the purposes of chapter 74.09 RCW;

(v) To appoint such advisory committees or councils as may be required by any federal statute or regulation as a condition to the receipt of federal funds by the authority. The director may appoint statewide committees or councils in the following subject areas: (A) Health facilities; (B) children and youth services; (C) blind services; (D) medical and health care; (E) drug abuse and alcoholism; (F) rehabilitative services; and (G) such other subject matters as are or come within the authority's responsibilities. The statewide councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the director in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms. Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) On and after January 1, 1996, the public employees' benefits board may implement strategies to promote managed competition among employee health benefit plans. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced qualified plan within a geographical area;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans statewide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans.

**Sec. 57.** RCW 41.05.036 and 2009 c 300 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 41.05.039 through 41.05.046 unless the context clearly requires otherwise.

(1) ("~~Administrator~~") "Director" means the (~~administrator~~) director of the state health care authority under this chapter.

(2) "Exchange" means the methods or medium by which health care information may be electronically and securely exchanged among authorized providers, payors, and patients within Washington state.

(3) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005.

(4) "Health data provider" means an organization that is a primary source for health-related data for Washington residents, including but not limited to:

(a) The children's health immunizations linkages and development profile immunization registry provided by the department of health pursuant to chapter 43.70 RCW;

(b) Commercial laboratories providing medical laboratory testing results;

(c) Prescription drugs clearinghouses, such as the national patient health information network; and

(d) Diagnostic imaging centers.

(5) "Lead organization" means a private sector organization or organizations designated by the (~~administrator~~) director to lead development of processes, guidelines, and standards under chapter 300, Laws of 2009.

(6) "Payor" means public purchasers, as defined in this section, carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62 RCW, and the Washington state health insurance pool established in chapter 48.41 RCW.

(7) "Public purchaser" means the department of social and health services, the department of labor and industries, and the health care authority.

(8) "Secretary" means the secretary of the department of health.

**Sec. 58.** RCW 41.05.037 and 2007 c 259 s 15 are each amended to read as follows:

To the extent that (~~sufficient~~) funding is provided specifically for this purpose, the (~~administrator, in collaboration with the department of social and health services,~~) director shall provide all persons enrolled in health plans under this chapter and chapters 70.47 and 74.09 RCW with access to a twenty-four hour, seven day a week nurse hotline.

**Sec. 59.** RCW 41.05.140 and 2000 c 80 s 5 are each amended to read as follows:

(1) Except for property and casualty insurance, the authority may self-fund, self-insure, or enter into other methods of providing insurance coverage for insurance programs under its jurisdiction, including the basic health plan as provided in chapter 70.47 RCW.

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The authority shall contract for payment of claims or other administrative services for programs under its jurisdiction. If a program does not require the prepayment of reserves, the authority shall establish such reserves within a reasonable period of time for the payment of claims as are normally required for that type of insurance under an insured program. The authority shall endeavor to reimburse basic health plan health care providers under this section at rates similar to the average reimbursement rates offered by the statewide benchmark plan determined through the request for proposal process.

(2) Reserves established by the authority for employee and retiree benefit programs shall be held in a separate trust fund by the state treasurer and shall be known as the public employees' and retirees' insurance reserve fund. The state investment board shall act as the investor for the funds and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the public employees' and retirees' insurance reserve fund.

(3) Any savings realized as a result of a program created for employees and retirees under this section shall not be used to increase benefits unless such use is authorized by statute.

(4) Reserves established by the authority to provide insurance coverage for the basic health plan under chapter 70.47 RCW shall be held in a separate trust account in the custody of the state treasurer and shall be known as the basic health plan self-insurance reserve account. The state investment board shall act as the investor for the funds as set forth in RCW 43.33A.230 and, except as provided in RCW 43.33A.160 and 43.84.160, one hundred percent of all earnings from these investments shall accrue directly to the basic health plan self-insurance reserve account.

(5) Any program created under this section shall be subject to the examination requirements of chapter 48.03 RCW as if the program were a domestic insurer. In conducting an examination, the commissioner shall determine the adequacy of the reserves established for the program.

(6) The authority shall keep full and adequate accounts and records of the assets, obligations, transactions, and affairs of any program created under this section.

(7) The authority shall file a quarterly statement of the financial condition, transactions, and affairs of any program created under this section in a form and manner prescribed by the insurance commissioner. The statement shall contain information as required by the commissioner for the type of insurance being offered under the program. A copy of the annual statement shall be filed with the speaker of the house of representatives and the president of the senate.

(8) The provisions of this section do not apply to the administration of chapter 74.09 RCW.

**Sec. 60.** RCW 41.05.185 and 1997 c 276 s 1 are each amended to read as follows:

The legislature finds that diabetes imposes a significant health risk and tremendous financial burden on the citizens and government of the state of Washington, and that access to the medically accepted standards of care for diabetes, its treatment and supplies, and self-management training and education is crucial to prevent or delay the short and long-term complications of diabetes and its attendant costs.

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Person with diabetes" means a person diagnosed by a health care provider as having insulin using diabetes, noninsulin using diabetes, or elevated blood glucose levels induced by pregnancy; and

(b) "Health care provider" means a health care provider as defined in RCW 48.43.005.

(2) All state-purchased health care purchased or renewed after January 1, 1998, except the basic health plan described in chapter 70.47 RCW and services provided under chapter 74.09 RCW, shall provide benefits for at least the following services and supplies for persons with diabetes:

(a) For state-purchased health care that includes coverage for pharmacy services, appropriate and medically necessary equipment and supplies, as prescribed by a health care provider, that includes but is not limited to insulin, syringes, injection aids, blood glucose monitors, test strips for blood glucose monitors, visual reading and urine test strips, insulin pumps and accessories to the pumps, insulin infusion devices, prescriptive oral agents for controlling blood sugar levels, foot care appliances for prevention of complications associated with diabetes, and glucagon emergency kits; and

(b) For all state-purchased health care, outpatient self-management training and education, including medical nutrition therapy, as ordered by the health care provider. Diabetes outpatient self-management training and education may be provided only by health care providers with expertise in diabetes. Nothing in this section prevents any state agency purchasing health care according to this section from restricting patients to seeing only health care providers who have signed participating provider agreements with that state agency or an insuring entity under contract with that state agency.

(3) Coverage required under this section may be subject to customary cost-sharing provisions established for all other similar services or supplies within a policy.

(4) Health care coverage may not be reduced or eliminated due to this section.

(5) Services required under this section shall be covered when deemed medically necessary by the medical director, or his or her designee, subject to any referral and formulary requirements.

**Sec. 61.** RCW 43.20A.365 and 1997 c 430 s 2 are each amended to read as follows:

A committee or council required by federal law, within the ~~((department of social and health services))~~ health care authority, that makes policy recommendations regarding reimbursement for drugs under the requirements of federal law or regulations is subject to chapters 42.30 and 42.32 RCW.

**Sec. 62.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"--Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, disability lifeline benefits and federal aid assistance.

(2) "Department"--The department of social and health services.

(3) "County or local office"--The administrative office for one or more counties or designated service areas.

(4) ~~((("Director" or))~~ "Secretary" means the secretary of social and health services.

(5) "Disability lifeline program" means a program that provides aid and support in accordance with the conditions set out in this subsection.

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for

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incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under RCW 74.04.655 indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under RCW 43.330.175 that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging

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transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) "Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7) "Federal aid assistance"--The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(8) "Applicant"--Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"--Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Standards of assistance"--The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(11) "Resource"--Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of disability lifeline benefits shall have their eligibility based on resource limitations consistent with

the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property: PROVIDED, That:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(12) "Income"--(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(13) "Need"--The difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(14) "Authority" means the health care authority.

(15) "Director" means the director of the health care authority.

(16) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

~~((45))~~ (17) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

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**Sec. 63.** RCW 74.04.015 and 1981 1st ex.s. c 6 s 2 are each amended to read as follows:

(1) The secretary of social and health services shall be the responsible state officer for the administration ~~((of))~~ and ~~((the))~~ disbursement of all funds, goods, commodities, and services, which may be received by the state in connection with programs of public assistance or services related directly or indirectly to assistance programs, and all other matters included in the federal social security act ~~((approved August 14, 1935))~~ as amended, or any other federal act or as the same may be amended ~~((excepting those specifically required to be administered by other entities))~~ except as otherwise provided by law.

(2) The director shall be the responsible state officer for the administration and disbursement of funds that the state receives in connection with the medical services programs established under chapter 74.09 RCW, including the state children's health insurance program, Titles XIX and XXI of the social security act of 1935, as amended.

~~((He))~~ (3) The department and the authority, as appropriate, shall make such reports and render such accounting as may be required by ~~((the))~~ federal ~~((agency having authority in the premises))~~ law.

**Sec. 64.** RCW 74.04.025 and 2010 c 296 s 7 are each amended to read as follows:

(1) The department, the authority, and the office of administrative hearings shall ensure that bilingual services are provided to non-English speaking applicants and recipients. The services shall be provided to the extent necessary to assure that non-English speaking persons are not denied, or unable to obtain or maintain, services or benefits because of their inability to speak English.

(2) If the number of non-English speaking applicants or recipients sharing the same language served by any community service office client contact job classification equals or exceeds fifty percent of the average caseload of a full-time position in such classification, the department shall, through attrition, employ bilingual personnel to serve such applicants or recipients.

(3) Regardless of the applicant or recipient caseload of any community service office, each community service office shall ensure that bilingual services required to supplement the community service office staff are provided through contracts with language access providers, local agencies, or other community resources.

(4) The department shall certify, authorize, and qualify language access providers as needed to maintain an adequate pool of providers.

(5) The department shall require compliance with RCW 41.56.113(2) through its contracts with third parties.

(6) Initial client contact materials shall inform clients in all primary languages of the availability of interpretation services for non-English speaking persons. Basic informational pamphlets shall be translated into all primary languages.

(7) To the extent all written communications directed to applicants or recipients are not in the primary language of the applicant or recipient, the department and the office of administrative hearings shall include with the written communication a notice in all primary languages of applicants or recipients describing the significance of the communication and specifically how the applicants or recipients may receive assistance in understanding, and responding to if necessary, the written communication. The department shall assure that sufficient resources are available to assist applicants and recipients in a timely fashion with understanding, responding to, and complying with the requirements of all such written communications.

(8) As used in this section:

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(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before June 10, 2010, whether paid by a broker, language access agency, or the department. "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

(b) "Primary languages" includes but is not limited to Spanish, Vietnamese, Cambodian, Laotian, and Chinese.

**Sec. 65.** RCW 74.04.050 and 1981 1st ex.s. c 6 s 3 are each amended to read as follows:

(1) The department ~~((shall serve))~~ is designated as the single state agency to administer the following public assistance~~((The department is hereby empowered and authorized to cooperate in the administration of such federal laws, consistent with the public assistance laws of this state, as may be necessary to qualify for federal funds for:~~

~~— (1) Medical assistance;~~

~~— (2) Aid to dependent children;~~

~~— (3)) programs;~~

(a) Temporary assistance to needy families;

(b) Child welfare services; and

~~((4))~~ (c) Any other programs of public assistance for which provision for federal grants or funds may from time to time be made, except as otherwise provided by law.

(2) The authority is hereby designated as the single state agency to administer the medical services programs established under chapter 74.09 RCW, including the state children's health insurance program, Titles XIX and XXI of the federal social security act of 1935, as amended.

(3) The department and the authority are hereby empowered and authorized to cooperate in the administration of such federal laws, consistent with the public assistance laws of this state, as may be necessary to qualify for federal funds.

(4) The state hereby accepts and assents to all the present provisions of the federal law under which federal grants or funds, goods, commodities, and services are extended to the state for the support of programs ~~((administered by the department))~~ referenced in this section, and to such additional legislation as may subsequently be enacted as is not inconsistent with the purposes of this title, authorizing public welfare and assistance activities. The provisions of this title shall be so administered as to conform with federal requirements with respect to eligibility for the receipt of federal grants or funds.

(5) The department and the authority shall periodically make application for federal grants or funds and submit such plans, reports and data, as are required by any act of congress as a condition precedent to the receipt of federal funds for such assistance. The department and the authority shall make and enforce such rules and regulations as shall be necessary to insure compliance with the terms and conditions of such federal grants or funds.

**Sec. 66.** RCW 74.04.055 and 1991 c 126 s 2 are each amended to read as follows:

In furtherance of the policy of this state to cooperate with the federal government in the programs included in this title the secretary or director, as appropriate, shall issue such rules and regulations as may become necessary to entitle this state to participate in federal grants-in-aid, goods, commodities and services unless the same be expressly prohibited by this title. Any section or provision of this title which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal matching or other funds for the various programs of public assistance. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the receipts

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of federal funds to the state, the conflicting part of this chapter is hereby inoperative solely to the extent of the conflict with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter.

**Sec. 67.** RCW 74.04.060 and 2006 c 259 s 5 are each amended to read as follows:

(1)(a) For the protection of applicants and recipients, the department, the authority, and the county offices and their respective officers and employees are prohibited, except as hereinafter provided, from disclosing the contents of any records, files, papers and communications, except for purposes directly connected with the administration of the programs of this title. In any judicial proceeding, except such proceeding as is directly concerned with the administration of these programs, such records, files, papers and communications, and their contents, shall be deemed privileged communications and except for the right of any individual to inquire of the office whether a named individual is a recipient of welfare assistance and such person shall be entitled to an affirmative or negative answer.

(b) Upon written request of a parent who has been awarded visitation rights in an action for divorce or separation or any parent with legal custody of the child, the department shall disclose to him or her the last known address and location of his or her natural or adopted children. The secretary shall adopt rules which establish procedures for disclosing the address of the children and providing, when appropriate, for prior notice to the custodian of the children. The notice shall state that a request for disclosure has been received and will be complied with by the department unless the department receives a copy of a court order which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the other party or the child. Information supplied to a parent by the department shall be used only for purposes directly related to the enforcement of the visitation and custody provisions of the court order of separation or decree of divorce. No parent shall disclose such information to any other person except for the purpose of enforcing visitation provisions of the said order or decree.

(c) The department shall review methods to improve the protection and confidentiality of information for recipients of welfare assistance who have disclosed to the department that they are past or current victims of domestic violence or stalking.

(2) The county offices shall maintain monthly at their offices a report showing the names and addresses of all recipients in the county receiving public assistance under this title, together with the amount paid to each during the preceding month.

(3) The provisions of this section shall not apply to duly designated representatives of approved private welfare agencies, public officials, members of legislative interim committees and advisory committees when performing duties directly connected with the administration of this title, such as regulation and investigation directly connected therewith: PROVIDED, HOWEVER, That any information so obtained by such persons or groups shall be treated with such degree of confidentiality as is required by the federal social security law.

(4) It shall be unlawful, except as provided in this section, for any person, body, association, firm, corporation or other agency to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists or names for commercial or political purposes of any nature. The violation of this section shall be a gross misdemeanor.

**Sec. 68.** RCW 74.04.062 and 1997 c 58 s 1006 are each amended to read as follows:

Upon written request of a person who has been properly identified as an officer of the law or a properly identified United States immigration official the department or authority shall disclose to such officer the current address and location of a recipient of

public welfare if the officer furnishes the department or authority with such person's name and social security account number and satisfactorily demonstrates that such recipient is a fugitive, that the location or apprehension of such fugitive is within the officer's official duties, and that the request is made in the proper exercise of those duties.

When the department or authority becomes aware that a public assistance recipient is the subject of an outstanding warrant, the department or authority may contact the appropriate law enforcement agency and, if the warrant is valid, provide the law enforcement agency with the location of the recipient.

**Sec. 69.** RCW 74.04.290 and 1983 1st ex.s. c 41 s 22 are each amended to read as follows:

In carrying out any of the provisions of this title, the secretary, the director, county administrators, hearing examiners, or other duly authorized officers of the department or authority shall have power to subpoena witnesses, administer oaths, take testimony and compel the production of such papers, books, records and documents as they may deem relevant to the performance of their duties. Subpoenas issued under this power shall be under RCW 43.20A.605.

**Sec. 70.** RCW 7.68.080 and 1990 c 3 s 503 are each amended to read as follows:

The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: PROVIDED, That:

(a) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090; and

(b) In the case of alleged rape or molestation of a child the reasonable costs of a colposcope examination shall be reimbursed from the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical charges along with all related fees under this chapter shall conform to regulations promulgated by the director. The director shall set these service levels and fees at a level no lower than those established by the (~~department of social and health services~~) health care authority under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

**Sec. 71.** RCW 43.41.160 and 1986 c 303 s 11 are each amended to read as follows:

(1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the (~~office of financial management~~) health care authority a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisions;

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(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section.

**Sec. 72.** RCW 43.41.260 and 2009 c 479 s 28 are each amended to read as follows:

The health care authority~~(, and the department of social and health services)~~ and the office of financial management~~(, and the department of social and health services)~~ shall together monitor the enrollee level in the basic health plan and the medicaid caseload of children. The office of financial management shall adjust the funding levels by interagency reimbursement of funds between the basic health plan and medicaid and adjust the funding levels ~~((between))~~ for the health care authority ~~((and the medical assistance administration of the department of social and health services))~~ to maximize combined enrollment.

**Sec. 73.** RCW 43.70.670 and 2007 c 259 s 38 are each amended to read as follows:

(1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the ~~((department of social and health services))~~ health care authority as defined in RCW 74.09.010~~((8))~~ (10) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985, group health insurance policies, or individual policies.

**Sec. 74.** RCW 47.06B.020 and 2011 c 60 s 45 are each amended to read as follows:

(1) The agency council on coordinated transportation is created. The purpose of the council is to advance and improve accessibility to and coordination of special needs transportation services statewide. The council is composed of fourteen voting members and four nonvoting, legislative members.

(2) The fourteen voting members are the superintendent of public instruction or a designee, the secretary of transportation or a designee, the ~~((secretary of the department of social and health services))~~ director of the health care authority or a designee, and eleven members appointed by the governor as follows:

(a) One representative from the office of the governor;

(b) Three persons who are consumers of special needs transportation services, which must include:

(i) One person designated by the executive director of the governor's committee on disability issues and employment; and

(ii) One person who is designated by the executive director of the developmental disabilities council;

(c) One representative from the Washington association of pupil transportation;

(d) One representative from the Washington state transit association;

(e) One of the following:

(i) A representative from the community transportation association of the Northwest; or

(ii) A representative from the community action council association;

(f) One person who represents regional transportation planning organizations and metropolitan planning organizations;

(g) One representative of brokers who provide nonemergency, medically necessary trips to persons with special transportation needs under the medicaid program administered by the ~~((department of social and health services))~~ health care authority;

(h) One representative from the Washington state department of veterans affairs; and

(i) One representative of the state association of counties.

(3) The four nonvoting members are legislators as follows:

(a) Two members from the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives, including at least one member from the house transportation policy and budget committee or the house appropriations committee; and

(b) Two members from the senate, one from each of the two largest caucuses, appointed by the president of the senate, including at least one member from the senate transportation committee or the senate ways and means committee.

(4) Gubernatorial appointees of the council will serve two-year terms. Members may not receive compensation for their service on the council, but will be reimbursed for actual and necessary expenses incurred in performing their duties as members as set forth in RCW 43.03.220.

(5) The council shall vote on an annual basis to elect one of its voting members to serve as chair. The position of chair must rotate among the represented agencies, associations, and interest groups at least every two years. If the position of chair is vacated for any reason, the secretary of transportation or the secretary's designee shall serve as acting chair until the next regular meeting of the council, at which time the members will elect a chair.

(6) The council shall periodically assess its membership to ensure that there exists a balanced representation of persons with special transportation needs and providers of special transportation needs services. Recommendations for modifying the membership of the council must be included in the council's biennial report to the legislature as provided in RCW 47.06B.050.

(7) The department of transportation shall provide necessary staff support for the council.

(8) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(9) The meetings of the council must be open to the public, with the agenda published in advance, and minutes kept and made available to the public. The public notice of the meetings must indicate that accommodations for persons with disabilities will be made available upon request.

(10) All meetings of the council must be held in locations that are readily accessible to public transportation, and must be scheduled for times when public transportation is available.

(11) The council shall make an effort to include presentations by and work sessions including persons with special transportation needs.

**Sec. 75.** RCW 47.06B.060 and 2009 c 515 s 1 are each amended to read as follows:

(1) In 2007, the legislature directed the joint transportation committee to conduct a study of special needs transportation to examine and evaluate the effectiveness of special needs

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transportation in the state. A particular goal of the study was to explore opportunities to enhance coordination of special needs transportation programs to ensure that they are delivered efficiently and result in improved access and increased mobility options for their clients. It is the intent of the legislature to further consider some of the recommendations, and to implement many of these recommendations in the form of two pilot projects that will test the potential for applying these recommendations statewide in the future.

(2) The legislature is aware that the department of social and health services submitted an application in December of 2008 to the federal centers for medicare and medicaid services, seeking approval to use the medical match system, a federal funding system that has different requirements from the federal administrative match system currently used by the department. It is the intent of the legislature to advance the goals of chapter 515, Laws of 2009 and the recommendations of the study identified in subsection (1) of this section without jeopardizing the application made by the department.

(3) By August 15, 2009, the agency council on coordinated transportation shall appoint a work group for the purpose of identifying relevant federal requirements related to special needs transportation, and identifying solutions to streamline the requirements and increase efficiencies in transportation services provided for persons with special transportation needs. To advance its purpose, the work group shall work with relevant federal representatives and agencies to identify and address various challenges and barriers.

(4) Membership of the work group must include, but not be limited to, one or more representatives from:

(a) The departments of transportation, veterans affairs, health, and ~~((social and health services))~~ the health care authority;

(b) Medicaid nonemergency medical transportation brokers;

(c) Public transit agencies;

(d) Regional and metropolitan transportation planning organizations, including a representative of the regional transportation planning organization or organizations that provide staff support to the local coordinating coalition established under RCW 47.06B.070;

(e) Indian tribes;

(f) The agency council on coordinated transportation;

(g) The local coordinating coalitions established under RCW 47.06B.070; and

(h) The office of the superintendent of public instruction.

(5) The work group shall elect one or more of its members to serve as chair or co-chairs.

(6) The work group shall immediately contact representatives of the federal congressional delegation for Washington state and the relevant federal agencies and coordinating authorities including, but not limited to, the federal transit administration, the United States department of health and human services, and the interagency transportation coordinating council on access and mobility, and invite the federal representatives to work collaboratively to:

(a) Identify transportation definitions and terminology used in the various relevant state and federal programs, and establish consistent transportation definitions and terminology. For purposes of this subsection, relevant state definitions exclude terminology that requires a medical determination, including whether a trip or service is medically necessary;

(b) Identify restrictions or barriers that preclude federal, state, and local agencies from sharing client lists or other client information, and make progress towards removing any restrictions or barriers;

(c) Identify relevant state and federal performance and cost reporting systems and requirements, and work towards establishing

consistent and uniform performance and cost reporting systems and requirements; and

(d) Explore, subject to federal approval, opportunities to test cost allocation models, including the pilot projects established in RCW 47.06B.080, that:

(i) Allow for cost sharing among public paratransit and medicaid nonemergency medical trips; and

(ii) Capture the value of medicaid trips provided by public transit agencies for which they are not currently reimbursed with a funding match by federal medicaid dollars.

(7) By December 1, 2009, the work group shall submit a report to the joint transportation committee that explains the progress made towards the goals of this section and identifies any necessary legislative action that must be taken to implement all the provisions of this section. A second progress report must be submitted to the joint transportation committee by June 1, 2010, and a final report must be submitted to the joint transportation committee by December 1, 2010.

**Sec. 76.** RCW 47.06B.070 and 2009 c 515 s 9 are each amended to read as follows:

(1) A local coordinating coalition is created in each nonemergency medical transportation brokerage region, as designated by the ~~((department of social and health services))~~ health care authority, that encompasses:

(a) A single county that has a population of more than seven hundred fifty thousand but less than one million; and

(b) Five counties, and is comprised of at least one county that has a population of more than four hundred thousand.

(2) The purpose of a local coordinating coalition is to advance local efforts to coordinate and maximize efficiencies in special needs transportation programs and services, contributing to the overall objectives and goals of the agency council on coordinated transportation. The local coordinating coalition shall serve in an advisory capacity to the agency council on coordinated transportation by providing the council with a focused and ongoing assessment of the special transportation needs and services provided within its region.

(3) The composition and size of each local coordinating coalition may vary by region. Local coordinating coalition members, appointed by the chair of the agency council on coordinated transportation to two-year terms, must reflect a balanced representation of the region's providers of special needs transportation services and must include:

(a) Members of existing local coordinating coalitions, with approval by those members;

(b) One or more representatives of the public transit agency or agencies serving the region;

(c) One or more representatives of private service providers;

(d) A representative of civic or community-based service providers;

(e) A consumer of special needs transportation services;

(f) A representative of nonemergency medical transportation medicaid brokers;

(g) A representative of social and human service programs;

(h) A representative of local high school districts; and

(i) A representative from the Washington state department of veterans affairs.

(4) Each coalition shall vote on an annual basis to elect one of its members to serve as chair. The position of chair must rotate among the represented members at least every two years. If the position of chair is vacated for any reason, the member representing the regional transportation planning organization described in subsection (6) of this section shall serve as acting chair until the next regular meeting of the coalition, at which time the members will elect a chair.

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(5) Regular meetings of the local coordinating coalition may be convened at the call of the chair or by a majority of the members. Meetings must be open to the public, and held in locations that are readily accessible to public transportation.

(6) The regional transportation planning organization, as described in chapter 47.80 RCW, serving the region in which the local coordinating coalition is created shall provide necessary staff support for the local coordinating coalition. In regions served by more than one regional transportation planning organization, unless otherwise agreed to by the relevant planning organizations, the regional transportation planning organization serving the largest population within the region shall provide the necessary staff support.

**Sec. 77.** RCW 48.01.235 and 2003 c 248 s 2 are each amended to read as follows:

(1) An issuer and an employee welfare benefit plan, whether insured or self funded, as defined in the employee retirement income security act of 1974, 29 U.S.C. Sec. 1101 et seq. may not deny enrollment of a child under the health plan of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal tax return; or

(c) The child does not reside with the parent or in the issuer's, or insured or self funded employee welfare benefit plan's service area.

(2) Where a child has health coverage through an issuer, or an insured or self funded employee welfare benefit plan of a noncustodial parent, the issuer, or insured or self funded employee welfare benefit plan, shall:

(a) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(b) Permit the provider or the custodial parent to submit claims for covered services without the approval of the noncustodial parent. If the provider submits the claim, the provider will obtain the custodial parent's assignment of insurance benefits or otherwise secure the custodial parent's approval.

For purposes of this subsection the ~~((department of social and health services))~~ health care authority as the state medicaid agency under RCW 74.09.500 may reassign medical insurance rights to the provider for custodial parents whose children are eligible for services under RCW 74.09.500; and

(c) Make payments on claims submitted in accordance with (b) of this subsection directly to the custodial parent, to the provider, or to the ~~((department of social and health services))~~ health care authority as the state medicaid agency under RCW 74.09.500.

(3) Where a child does not reside in the issuer's service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer's service area.

(4) Where a parent is required by a court order to provide health coverage for a child, and the parent is eligible for family health coverage, the issuer, or insured or self funded employee welfare benefit plan, shall:

(a) Permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(b) Enroll the child under family coverage upon application of the child's other parent, ~~((department of social and health services))~~ health care authority as the state medicaid agency under RCW 74.09.500, or child support enforcement program, if the parent is enrolled but fails to make application to obtain coverage for such child; and

(c) Not disenroll, or eliminate coverage of, such child who is otherwise eligible for the coverage unless the issuer or insured or

self funded employee welfare benefit plan is provided satisfactory written evidence that:

(i) The court order is no longer in effect; or

(ii) The child is or will be enrolled in comparable health coverage through another issuer, or insured or self funded employee welfare benefit plan, which will take effect not later than the effective date of disenrollment.

(5) An issuer, or insured or self funded employee welfare benefit plan, that has been assigned the rights of an individual eligible for medical assistance under medicaid and coverage for health benefits from the issuer, or insured or self funded employee welfare benefit plan, may not impose requirements on the ~~((department of social and health services))~~ health care authority that are different from requirements applicable to an agent or assignee of any other individual so covered.

**Sec. 78.** RCW 48.43.008 and 2007 c 259 s 24 are each amended to read as follows:

When the ~~((department of social and health services))~~ health care authority determines that it is cost-effective to enroll a person eligible for medical assistance under chapter 74.09 RCW in an employer-sponsored health plan, a carrier shall permit the enrollment of the person in the health plan for which he or she is otherwise eligible without regard to any open enrollment period restrictions.

**Sec. 79.** RCW 48.43.517 and 2007 c 5 s 7 are each amended to read as follows:

When the ~~((department of social and health services))~~ health care authority has determined that it is cost-effective to enroll a child participating in a medical assistance program under chapter 74.09 RCW in an employer-sponsored health plan, the carrier shall permit the enrollment of the participant who is otherwise eligible for coverage in the health plan without regard to any open enrollment restrictions. The request for special enrollment shall be made by the ~~((department))~~ authority or participant within sixty days of the ~~((department's))~~ authority's determination that the enrollment would be cost-effective.

**Sec. 80.** RCW 69.41.030 and 2010 c 83 s 1 are each amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug

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wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the ~~((department of social and health services))~~ health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

**Sec. 81.** RCW 69.41.190 and 2009 c 575 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(b) When a substitution is made under (a) of this subsection, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a

prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. ~~((Department of social and health services))~~ Health care authority prior authorization programs must provide for responses within twenty-four hours and at least a seventy-two hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks by no more than forty-eight weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

**Sec. 82.** RCW 70.01.010 and 2011 c 27 s 3 are each amended to read as follows:

In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health ~~((and)),~~ the state board of health, and the health care authority shall adopt such rules as may become necessary to entitle this state to participate in federal funds unless expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health.

**Sec. 83.** RCW 70.47.010 and 2009 c 568 s 1 are each amended to read as follows:

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(1)(a) The legislature finds that limitations on access to health care services for enrollees in the state, such as in rural and underserved areas, are particularly challenging for the basic health plan. Statutory restrictions have reduced the options available to the ~~((administrator))~~ director to address the access needs of basic health plan enrollees. It is the intent of the legislature to authorize the ~~((administrator))~~ director to develop alternative purchasing strategies to ensure access to basic health plan enrollees in all areas of the state, including: (i) The use of differential rating for managed health care systems based on geographic differences in costs; and (ii) limited use of self-insurance in areas where adequate access cannot be assured through other options.

(b) In developing alternative purchasing strategies to address health care access needs, the ~~((administrator))~~ director shall consult with interested persons including health carriers, health care providers, and health facilities, and with other appropriate state agencies including the office of the insurance commissioner and the office of community and rural health. In pursuing such alternatives, the ~~((administrator))~~ director shall continue to give priority to prepaid managed care as the preferred method of assuring access to basic health plan enrollees followed, in priority order, by preferred providers, fee for service, and self-funding.

(2) The legislature further finds that:

(a) A significant percentage of the population of this state does not have reasonably available insurance or other coverage of the costs of necessary basic health care services;

(b) This lack of basic health care coverage is detrimental to the health of the individuals lacking coverage and to the public welfare, and results in substantial expenditures for emergency and remedial health care, often at the expense of health care providers, health care facilities, and all purchasers of health care, including the state; and

(c) The use of managed health care systems has significant potential to reduce the growth of health care costs incurred by the people of this state generally, and by low-income pregnant women, and at-risk children and adolescents who need greater access to managed health care.

(3) The purpose of this chapter is to provide or make more readily available necessary basic health care services in an appropriate setting to working persons and others who lack coverage, at a cost to these persons that does not create barriers to the utilization of necessary health care services. To that end, this chapter establishes a program to be made available to those residents not eligible for medicare who share in a portion of the cost or who pay the full cost of receiving basic health care services from a managed health care system.

(4) It is not the intent of this chapter to provide health care services for those persons who are presently covered through private employer-based health plans, nor to replace employer-based health plans. However, the legislature recognizes that cost-effective and affordable health plans may not always be available to small business employers. Further, it is the intent of the legislature to expand, wherever possible, the availability of private health care coverage and to discourage the decline of employer-based coverage.

(5)(a) It is the purpose of this chapter to acknowledge the initial success of this program that has (i) assisted thousands of families in their search for affordable health care; (ii) demonstrated that low-income, uninsured families are willing to pay for their own health care coverage to the extent of their ability to pay; and (iii) proved that local health care providers are willing to enter into a public-private partnership as a managed care system.

(b) As a consequence, the legislature intends to extend an option to enroll to certain citizens above two hundred percent of the federal poverty guidelines within the state who reside in communities where the plan is operational and who collectively or individually wish to exercise the opportunity to purchase health care coverage

through the basic health plan if the purchase is done at no cost to the state. It is also the intent of the legislature to allow employers and other financial sponsors to financially assist such individuals to purchase health care through the program so long as such purchase does not result in a lower standard of coverage for employees.

(c) The legislature intends that, to the extent of available funds, the program be available throughout Washington state to subsidized and nonsubsidized enrollees. It is also the intent of the legislature to enroll subsidized enrollees first, to the maximum extent feasible.

(d) The legislature directs that the basic health plan ~~((administrator))~~ director identify enrollees who are likely to be eligible for medical assistance and assist these individuals in applying for and receiving medical assistance. ~~((The administrator and the department of social and health services shall implement a seamless system to coordinate eligibility determinations and benefit coverage for enrollees of the basic health plan and medical assistance recipients.))~~ Enrollees receiving medical assistance are not eligible for the Washington basic health plan.

**Sec. 84.** RCW 70.47.020 and 2011 c 205 s 1 are each amended to read as follows:

As used in this chapter:

(1) ~~("Administrator" means the Washington basic health plan administrator, who also holds the position of administrator))~~ "Director" means the director of the Washington state health care authority.

(2) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(3) "Health coverage tax credit program" means the program created by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

(4) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the ~~((administrator))~~ director and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(5) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the ~~((administrator))~~ director; (c) who is accepted for enrollment by the ~~((administrator))~~ director as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; (e) who chooses to obtain basic health care coverage from a particular managed health care system; and (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

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(6) "Premium" means a periodic payment, which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

(7) "Rate" means the amount, negotiated by the ~~((administrator))~~ director with and paid to a participating managed health care system, that is based upon the enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees in the plan and in that system.

(8) "Subsidy" means the difference between the amount of periodic payment the ~~((administrator))~~ director makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(9) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

(i) Who is not eligible for medicare;

(ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the ~~((administrator))~~ director;

(iii) Who is not a full-time student who has received a temporary visa to study in the United States;

(iv) Who resides in an area of the state served by a managed health care system participating in the plan;

(v) Until March 1, 2011, whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan;

(vii) Who is not receiving medical assistance administered by the ~~((department of social and health services))~~ authority; and

(viii) After February 28, 2011, who is in the basic health transition eligibles population under 1115 medicaid demonstration project number 11-W-00254/10;

(b) An individual who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and who is a foster parent licensed under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

(c) To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, an individual, or an individual's spouse or dependent children, who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

(10) "Washington basic health plan" or "plan" means the system of enrollment and payment for basic health care services, administered by the plan ~~((administrator))~~ director through participating managed health care systems, created by this chapter.

**Sec. 85.** RCW 70.47.110 and 1991 sp.s. c 4 s 3 are each amended to read as follows:

The ~~((department of social and health services))~~ health care authority may make payments to ~~((the administrator or to))~~ participating managed health care systems on behalf of any enrollee who is a recipient of medical care under chapter 74.09 RCW, at the

maximum rate allowable for federal matching purposes under Title XIX of the social security act. Any enrollee on whose behalf the ~~((department of social and health services))~~ health care authority makes such payments may continue as an enrollee, making premium payments based on the enrollee's own income as determined under the sliding scale, after eligibility for coverage under chapter 74.09 RCW has ended, as long as the enrollee remains eligible under this chapter. Nothing in this section affects the right of any person eligible for coverage under chapter 74.09 RCW to receive the services offered to other persons under that chapter but not included in the schedule of basic health care services covered by the plan. The ~~((administrator))~~ director shall seek to determine which enrollees or prospective enrollees may be eligible for medical care under chapter 74.09 RCW and may require these individuals to complete the eligibility determination process under chapter 74.09 RCW prior to enrollment or continued participation in the plan. The ~~((administrator and the department of social and health services))~~ director shall ~~((cooperatively))~~ adopt procedures to facilitate the transition of plan enrollees and payments on their behalf between the plan and the programs established under chapter 74.09 RCW.

**Sec. 86.** RCW 70.48.130 and 1993 c 409 s 1 are each amended to read as follows:

(1) It is the intent of the legislature that all jail inmates receive appropriate and cost-effective emergency and necessary medical care. Governing units, the ~~((department of social and health services))~~ health care authority, and medical care providers shall cooperate to achieve the best rates consistent with adequate care.

(2) Payment for emergency or necessary health care shall be by the governing unit, except that the ~~((department of social and health services))~~ health care authority shall directly reimburse the provider pursuant to chapter 74.09 RCW, in accordance with the rates and benefits established by the ~~((department))~~ authority, if the confined person is eligible under the ~~((department's))~~ authority's medical care programs as authorized under chapter 74.09 RCW. After payment by the ~~((department))~~ authority, the financial responsibility for any remaining balance, including unpaid client liabilities that are a condition of eligibility or participation under chapter 74.09 RCW, shall be borne by the medical care provider and the governing unit as may be mutually agreed upon between the medical care provider and the governing unit. In the absence of mutual agreement between the medical care provider and the governing unit, the financial responsibility for any remaining balance shall be borne equally between the medical care provider and the governing unit. Total payments from all sources to providers for care rendered to confined persons eligible under chapter 74.09 RCW shall not exceed the amounts that would be paid by the ~~((department))~~ authority for similar services provided under Title XIX medicaid, unless additional resources are obtained from the confined person.

(3) As part of the screening process upon booking or preparation of an inmate into jail, general information concerning the inmate's ability to pay for medical care shall be identified, including insurance or other medical benefits or resources to which an inmate is entitled. This information shall be made available to the ~~((department))~~ authority, the governing unit, and any provider of health care services.

(4) The governing unit or provider may obtain reimbursement from the confined person for the cost of health care services not provided under chapter 74.09 RCW, including reimbursement from any insurance program or from other medical benefit programs available to the confined person. Nothing in this chapter precludes civil or criminal remedies to recover the costs of medical care provided jail inmates or paid for on behalf of inmates by the governing unit. As part of a judgment and sentence, the courts are authorized to order

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defendants to repay all or part of the medical costs incurred by the governing unit or provider during confinement.

(5) To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the ((department's)) authority's medical care programs under chapter 74.09 RCW, or for coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the governing unit may obtain reimbursement for the cost of such medical services from the unit of government whose law enforcement officers initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility.

(6) There shall be no right of reimbursement to the governing unit from units of government whose law enforcement officers initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

(7) Under no circumstance shall necessary medical services be denied or delayed because of disputes over the cost of medical care or a determination of financial responsibility for payment of the costs of medical care provided to confined persons.

(8) Nothing in this section shall limit any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided.

**Sec. 87.** RCW 70.168.040 and 2010 c 161 s 1158 are each amended to read as follows:

The emergency medical services and trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the emergency medical services and trauma care system trust account from the public safety education account or other sources as appropriated, and as collected under RCW 46.63.110(7) and 46.68.440. Disbursements shall be made by the department subject to legislative appropriation. Expenditures may be made only for the purposes of the state trauma care system under this chapter, including emergency medical services, trauma care services, rehabilitative services, and the planning and development of related services under this chapter and for reimbursement by the ((department of social and health services)) health care authority for trauma care services provided by designated trauma centers.

**Sec. 88.** RCW 70.225.040 and 2007 c 259 s 45 are each amended to read as follows:

(1) Prescription information submitted to the department shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

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(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; and

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

**NEW SECTION. Sec. 89.** The purpose of this chapter is to provide the health care authority with the powers, duties, and authority with respect to the collection of overpayments and the coordination of benefits that are currently provided to the department of social and health services in chapter 43.20B RCW. Providing the health care authority with these powers is necessary for the authority to administer medical services programs established under chapter 74.09 RCW currently administered by the department of social and health services programs but transferred to the authority under this act. The authority is authorized to collaborate with other state agencies in carrying out its duties under this chapter and, to the extent appropriate, may enter into agreements with such other agencies. Nothing in this chapter may be construed as diminishing the powers, duties, and authority granted to the department of social and health services in chapter 43.20B RCW with respect to the programs that will remain under its jurisdiction following enactment of this act.

**NEW SECTION. Sec. 90.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Assistance" means all programs administered by the authority.

(2) "Authority" means the Washington state health care authority.

(3) "Director" means the director of the Washington state health care authority.

(4) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute.

(5) "Vendor" means a person or entity that provides goods or services to or for clientele of the authority and that controls operational decisions.

**NEW SECTION. Sec. 91.** The authority is authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the authority. Whenever the authority is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the authority shall collect the reimbursement to the extent practical.

**NEW SECTION. Sec. 92.** (1) Except as otherwise provided by law, including subsection (2) of this section, there may be no collection of overpayments and other debts due the authority after the expiration of six years from the date of notice of such

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overpayment or other debt unless the authority has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended ceases to be a debt due the authority at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

(2) There may be no collection of debts due the authority after the expiration of twenty years from the date a lien is recorded pursuant to section 97 of this act.

(3) The authority, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the authority if it is no longer cost-effective to pursue. The authority shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts.

NEW SECTION. Sec. 93. The form of the lien in section 95 of this act must be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Health Care Authority, has rendered assistance to . . . . ., a person who was injured on or about the . . . . day of . . . . . in the county of . . . . . state of . . . . ., and the said authority hereby asserts a lien, to the extent provided in section 95 of this act, for the amount of such assistance, upon any sum due and owing . . . . . (name of injured person) from . . . . ., alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, HEALTH

CARE AUTHORITY

By: ..... (Title)

STATE OF WASHINGTON

} ss.

COUNTY OF

I, . . . . ., being first duly sworn, on oath state: That I am . . . . . (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

.....  
Signed and sworn to or affirmed before me this . . . . day of . . . . .

by .....  
(name of person making statement).

(Seal or stamp)

.....  
Notary Public in and for the State

of Washington

My appointment expires: .....

NEW SECTION. Sec. 94. (1) No settlement made by and between a recipient and either the tort feisor or insurer, or both,

discharges or otherwise compromises the lien created in section 95 of this act without the express written consent of the director or the director's designee. Discretion to compromise such liens rests solely with the director or the director's designee.

(2) No settlement or judgment may be entered purporting to compromise the lien created by section 95 of this act without the express written consent of the director or the director's designee.

NEW SECTION. Sec. 95. (1) To secure reimbursement of any assistance paid as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the authority is subrogated to the recipient's rights against a tort feisor or the tort feisor's insurer, or both.

(2) The authority has the right to file a lien upon any recovery by or on behalf of the recipient from such tort feisor or the tort feisor's insurer, or both, to the extent of the value of the assistance paid by the authority: PROVIDED, That such lien is not effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien becomes effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tort feisor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the authority's discretion, such alternate filing or service is necessary to secure the authority's interest. The additional lien is effective upon filing or service.

(3) The lien of the authority may be against any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tort feisor or insurer of the tort feisor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance is paid or provided by the authority.

(4) If recovery is made by the authority under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the authority must bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the authority must be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the authority, the authority has the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the authority shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The authority may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the authority in this section to secure reimbursement for assistance, including the authority's lien and subrogation rights, may be delegated to a managed health care system by contract entered into pursuant to RCW 74.09.522. A managed health care system may enforce all rights and remedies delegated to it by the authority to secure and

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recover assistance provided under a managed health care system consistent with its agreement with the authority.

**NEW SECTION. Sec. 96.** (1) An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive shall:

(a) Notify the authority at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tortfeasor or the tortfeasor's insurer, or both; and

(b) Give the authority thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness.

(2) The proceeds from any recovery made pursuant to any action or claim described in section 95 of this act that is necessary to fully satisfy the authority's lien against recovery must be placed in a trust account or in the registry of the court until the authority's lien is satisfied.

**NEW SECTION. Sec. 97.** (1) The authority shall file liens, seek adjustment, or otherwise effect recovery for assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p. The authority shall adopt a rule providing for prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) Liens may be adjusted by foreclosure in accordance with chapter 61.12 RCW.

(3) In the case of an individual who was fifty-five years of age or older when the individual received assistance, the authority shall seek adjustment or recovery from the individual's estate, and from nonprobate assets of the individual as defined by RCW 11.02.005, but only for assistance consisting of services that the authority determines to be appropriate, and related hospital and prescription drug services. Recovery from the individual's estate, including foreclosure of liens imposed under this section, must be undertaken as soon as practicable, consistent with 42 U.S.C. Sec. 1396p.

(4) The authority shall apply the assistance estate recovery law as it existed on the date that benefits were received when calculating an estate's liability to reimburse the authority for those benefits.

(5)(a) The authority shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship. The authority shall recognize an undue hardship for a surviving domestic partner whenever recovery would not have been permitted if he or she had been a surviving spouse. The authority is not authorized to pursue recovery under such circumstances.

(b) Recovery of assistance from a recipient's estate may not include property made exempt from claims by federal law or treaty, including exemption for tribal artifacts that may be held by individual Native Americans.

(6) A lien authorized under this section relates back to attach to any real property that the decedent had an ownership interest in immediately before death and is effective as of that date or date of recording, whichever is earlier.

(7) The authority may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death. Such a lien enforced under this subsection may not end and must continue as provided in this subsection until the authority's lien has been satisfied.

(a) The value of the life estate subject to the lien is the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death.

(b) The value of the joint tenancy interest subject to the lien is the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property had the recipient and the surviving joint tenants held title to the property as tenants in common on the date of the recipient's death.

(c) The authority may not enforce the lien provided by this subsection against a bona fide purchaser or encumbrancer that obtains an interest in the property after the death of the recipient and before the authority records either its lien or the request for notice of transfer or encumbrance as provided by section 116 of this act.

(d) The authority may not enforce a lien provided by this subsection against any property right that vested prior to July 1, 2005.

(8)(a) Subject to the requirements of 42 U.S.C. Sec. 1396p(a) and the conditions of this subsection (8), the authority is authorized to file a lien against the property of an individual prior to his or her death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to the lien, if:

(i) The individual is an inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities, or other medical institution; and

(ii) The authority has determined after notice and opportunity for a hearing that the individual cannot reasonably be expected to be discharged from the medical institution and to return home.

(b) If the individual is discharged from the medical facility and returns home, the authority shall dissolve the lien.

(9) The authority is authorized to adopt rules to effect recovery under this section. The authority may adopt by rule later enactments of the federal laws referenced in this section.

(10) It is the responsibility of the authority to fully disclose in advance verbally and in writing, in easy to understand language, the terms and conditions of estate recovery to all persons offered care subject to recovery of payments.

(11) In disclosing estate recovery costs to potential clients, and to family members at the consent of the client, the authority shall provide a written description of the community service options.

**NEW SECTION. Sec. 98.** (1) Overpayments of assistance become a lien against the real and personal property of the recipient from the time of filing by the authority with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(2) Debts due the state for overpayments of assistance may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action.

**NEW SECTION. Sec. 99.** (1) Any person who owes a debt to the state for an overpayment of assistance must be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice must be in the manner prescribed for the service of a summons in a civil action. The notice must include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from assistance; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from assistance or the receipt of the notice of debt, whichever is later. This does not preclude the authority from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That

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subject to federal legal requirement, deductions may not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the authority or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of assistance has the right to an adjudicative proceeding pursuant to section 53 of this act. If no application is filed, the debt is subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt is stayed pending the final adjudicative order or termination of the debtor from assistance, whichever occurs later.

**NEW SECTION. Sec. 100.** (1) After service of a notice of debt for an overpayment as provided for in section 99 of this act, stating the debt accrued, the director may issue to any person, firm, corporation, association, political subdivision, or department of the state an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the director has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver must state the amount of the debt, and must state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The director may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the authority, such property must be withheld immediately upon receipt of the order to withhold and deliver and must, after the twenty-day period, upon demand, be delivered forthwith to the director. The director shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the director a good and sufficient bond, satisfactory to the director, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money must be delivered by remittance payable to the order of the director. Delivery to the director, subject to the exemptions under RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. Sec. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the director serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the director pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

(2) The director shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address or, in the alternative, a copy of the order to withhold and deliver must be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order must be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the director's failure to serve on or mail to the debtor the copy.

**NEW SECTION. Sec. 101.** If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in section 100 of this act, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under section 100 of this act, or fails or refuses to honor an assignment of wages presented by the director, such person, firm, corporation, association, political subdivision, or department of the state is liable to the authority in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorneys' fees.

**NEW SECTION. Sec. 102.** Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of assistance received shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the director as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the director. Payment of moneys pursuant to an assignment of earnings presented to the employer by the director serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The director is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received.

**NEW SECTION. Sec. 103.** If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the authority may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate.

**NEW SECTION. Sec. 104.** When the authority provides assistance to persons who possess excess real property under RCW 74.04.005(1)(g), the authority may file a lien against or otherwise perfect its interest in such real property as a condition of granting such assistance, and the authority has the status of a secured creditor.

**NEW SECTION. Sec. 105.** (1) When the authority determines that a vendor was overpaid by the authority for either goods or services, or both, provided to authority clients, except

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nursing homes under chapter 74.46 RCW, the authority shall give written notice to the vendor. The notice must include the amount of the overpayment, the basis for the claim, and the rights of the vendor under this section.

(2) The notice may be served upon the vendor in the manner prescribed for the service of a summons in civil action or be mailed to the vendor at the last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The vendor has the right to an adjudicative proceeding governed by the administrative procedure act, chapter 34.05 RCW, and the rules of the authority. The vendor's application for an adjudicative proceeding must be in writing, state the basis for contesting the overpayment notice, and include a copy of the authority's notice. The application must be served on and received by the authority within twenty-eight days of the vendor's receipt of the notice of overpayment. The vendor must serve the authority in a manner providing proof of receipt.

(4) Where an adjudicative proceeding has been requested, the presiding or reviewing officer shall determine the amount, if any, of the overpayment received by the vendor.

(5) If the vendor fails to attend or participate in the adjudicative proceeding, upon a showing of valid service, the presiding or reviewing officer may enter an administrative order declaring the amount claimed in the notice to be assessed against the vendor and subject to collection action by the authority.

(6) Failure to make an application for an adjudicative proceeding within twenty-eight days of the date of notice results in the establishment of a final debt against the vendor in the amount asserted by the authority and that amount is subject to collection action. The authority may also charge the vendor with any costs associated with the collection of any final overpayment or debt established against the vendor.

(7) The authority may enforce a final overpayment or debt through lien and foreclosure, distraint, seizure and sale, order to withhold and deliver, or other collection action available to the authority to satisfy the debt due.

(8) Debts determined under this chapter are subject to collection action without further necessity of action by a presiding or reviewing officer. The authority may collect the debt in accordance with sections 100, 101, and 106 of this act. In addition, a vendor lien may be subject to distraint and seizure and sale in the same manner as prescribed for support liens in RCW 74.20A.130.

(9) Chapter 66, Laws of 1998 applies to overpayments for goods or services provided on or after July 1, 1998.

(10) The authority may adopt rules consistent with this section.

**NEW SECTION. Sec. 106.** (1) The authority may, at the director's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the authority, or by doing both.

(a) Any lien is effective from the date of filing for record with the county auditor of the county in which the property is located and the lien claim has preference over the claims of all unsecured creditors.

(b) The authority shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The authority may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor.

**NEW SECTION. Sec. 107.** Liens created under section 106 of this act bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the authority to enforce such lien must be timely commenced before the ten-year period expires or the lien is released. A civil action to enforce such lien is not timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules.

**NEW SECTION. Sec. 108.** Any action to enforce a vendor overpayment debt must be commenced within six years from the date of the authority's notice to the vendor.

**NEW SECTION. Sec. 109.** The remedies under sections 106 and 107 of this act are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the authority to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt.

**NEW SECTION. Sec. 110.** (1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest must not accrue when the overpayment occurred due to authority error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the authority, the interest begins accruing ninety days after the vendor notifies the authority of such overpayment.

(3) If the overpayment is discovered by the authority prior to discovery and notice by the vendor, the interest begins accruing thirty days after the date of notice by the authority to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions; and

(b) Contracts for public works, goods and services procured for the exclusive use of the authority, equipment, or travel.

**NEW SECTION. Sec. 111.** (1) To avoid a duplicate payment of benefits, a recipient of assistance from the authority is deemed to have subrogated the authority to the recipient's right to recover temporary total disability compensation due to the recipient and the recipient's dependents under Title 51 RCW, to the extent of such assistance or compensation, whichever is less. However, the amount to be repaid to the authority must bear its proportionate share of attorneys' fees and costs, if any, incurred under Title 51 RCW by the recipient or the recipient's dependents.

(2) The authority may assert and enforce a lien and notice to withhold and deliver to secure reimbursement. The authority shall identify in the lien and notice to withhold and deliver the recipient of assistance and temporary total disability compensation and the amount claimed by the authority.

**NEW SECTION. Sec. 112.** The effective date of the lien and notice to withhold and deliver provided in section 111 of this act is the day that it is received by the department of labor and industries or a self-insurer as defined in chapter 51.08 RCW. Service of the lien and notice to withhold and deliver may be made personally, by regular mail with postage prepaid, or by electronic means. A statement of lien and notice to withhold and deliver must be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than two business days after the authority mails, delivers, or transmits the lien and notice to withhold and deliver to the department of labor and industries or a self-insurer.

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**NEW SECTION. Sec. 113.** The director of labor and industries or the director's designee, or a self-insurer as defined in chapter 51.08 RCW, following receipt of the lien and notice to withhold and deliver, shall deliver to the director of the authority or the director's designee any temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver up to the amount claimed. The director of labor and industries or self-insurer shall withhold and deliver from funds currently in the director's or self-insurer's possession or from any funds that may at any time come into the director's or self-insurer's possession on account of temporary total disability compensation payable to the recipient named in the lien and notice to withhold and deliver.

**NEW SECTION. Sec. 114.** (1) A recipient feeling aggrieved by the action of the authority in recovering his or her temporary total disability compensation as provided in sections 111 through 115 of this act has the right to an adjudicative proceeding.

(2) A recipient seeking an adjudicative proceeding shall file an application with the director within twenty-eight days after the statement of lien and notice to withhold and deliver was mailed to the recipient. If the recipient files an application more than twenty-eight days after, but within one year of, the date the statement of lien and notice to withhold and deliver was mailed, the recipient is entitled to a hearing if the recipient shows good cause for the recipient's failure to file a timely application. The filing of a late application does not affect prior collection action pending the final adjudicative order. Until good cause for failure to file a timely application is decided, the authority may continue to collect under the lien and notice to withhold and deliver.

(3) The proceeding shall be governed by chapter 34.05 RCW, the administrative procedure act.

**NEW SECTION. Sec. 115.** Sections 111 through 114 of this act and this section do not apply to persons whose eligibility for benefits under Title 51 RCW is based upon an injury or illness occurring prior to July 1, 1972.

**NEW SECTION. Sec. 116.** (1) When an individual receives assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the authority may present to the county auditor for recording in the deed and mortgage records of a county a request for notice of transfer or encumbrance of the real property. The authority shall adopt a rule providing prior notice and hearing rights to the record title holder or purchaser under a land sale contract.

(2) The authority shall present to the county auditor for recording a termination of request for notice of transfer or encumbrance when, in the judgment of the authority, it is no longer necessary or appropriate for the authority to monitor transfers or encumbrances related to the real property.

(3) The authority shall adopt by rule a form for the request for notice of transfer or encumbrance and the termination of request for notice of transfer or encumbrance that, at a minimum:

(a) Contains the name of the assistance recipient and a case identifier or other appropriate information that links the individual who is the holder of record title to real property or the purchaser under a land sale contract to the individual's assistance records;

(b) Contains the legal description of the real property;

(c) Contains a mailing address for the authority to receive the notice of transfer or encumbrance; and

(d) Complies with the requirements for recording in RCW 36.18.010 for those forms intended to be recorded.

(4) The authority shall pay the recording fee required by the county clerk under RCW 36.18.010.

(5) The request for notice of transfer or encumbrance described in this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in the real property.

**NEW SECTION. Sec. 117.** (1) By December 10, 2011, the department of social and health services and the health care authority shall provide a preliminary report, and by December 1, 2012, provide a final implementation plan, to the governor and the legislature with recommendations regarding the role of the health care authority in the state's purchasing of mental health treatment, substance abuse treatment, and long-term care services, including services for those with developmental disabilities.

(2) The reports shall:

(a) Consider options for effectively coordinating the purchase and delivery of care for people who need long-term care, developmental disabilities, mental health, or chemical dependency services. Options considered may include, but are not limited to, transitioning purchase of these services from the department of social and health services to the health care authority, and strategies for the agencies to collaborate seamlessly while purchasing services separately; and

(b) Address the following components:

(i) Incentives to improve prevention efforts;

(ii) Service delivery approaches, including models for care management and care coordination and benefit design;

(iii) Rules to assure that those requiring long-term care services and supports receive that care in the least restrictive setting appropriate to their needs;

(iv) Systems to measure cost savings;

(v) Mechanisms to measure health outcomes and consumer satisfaction;

(vi) The designation of a single point of entry for financial and functional eligibility determinations for long-term care services; and

(vii) Process for collaboration with local governments.

(3) In developing these recommendations, the agencies shall:

(a) Consult with tribal governments and with interested stakeholders, including consumers, health care and other service providers, health insurance carriers, and local governments; and

(b) Cooperate with the joint select committee on health reform implementation established in House Concurrent Resolution No. 4404 and any of its advisory committees. The agencies shall strongly consider the guidance and input received from these forums in the development of its recommendations.

(4) The agencies shall submit a progress report to the governor and the legislature by November 15, 2013, that provides details on the agencies' progress on purchasing coordination to date.

**Sec. 118.** RCW 74.09A.005 and 2007 c 179 s 1 are each amended to read as follows:

The legislature finds that:

(1) Simplification in the administration of payment of health benefits is important for the state, providers, and health insurers;

(2) The state, providers, and health insurers should take advantage of all opportunities to streamline operations through automation and the use of common computer standards;

(3) It is in the best interests of the state, providers, and health insurers to identify all third parties that are obligated to cover the cost of health care coverage of joint beneficiaries; and

(4) Health insurers, as a condition of doing business in Washington, must increase their effort to share information with the ~~((department))~~ authority and accept the ~~((department's))~~ authority's timely claims consistent with 42 U.S.C. 1396a(a)(25).

Therefore, the legislature declares that to improve the coordination of benefits between the ~~((department of social and health services))~~ health care authority and health insurers to ensure that medical insurance benefits are properly utilized, a transfer of information between the ~~((department))~~ authority and health insurers should be instituted, and the process for submitting requests for information and claims should be simplified.

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**Sec. 119.** RCW 74.09A.010 and 2007 c 179 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) ("~~Department~~") "Authority" means the (~~(department of social and health services)~~) Washington state health care authority.

(2) "Health insurance coverage" includes any policy, contract, or agreement under which health care items or services are provided, arranged, reimbursed, or paid for by a health insurer.

(3) "Health insurer" means any party that is, by statute, policy, contract, or agreement, legally responsible for payment of a claim for a health care item or service, including, but not limited to, a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, an employer or union self-insured plan, any private insurer, a group health plan, a service benefit plan, a managed care organization, a pharmacy benefit manager, and a third party administrator.

(4) "Computerized" means online or batch processing with standardized format via magnetic tape output.

(5) "Joint beneficiary" is an individual who has health insurance coverage and is a recipient of public assistance benefits under chapter 74.09 RCW.

**Sec. 120.** RCW 74.09A.020 and 2007 c 179 s 3 are each amended to read as follows:

(1) The (~~(department)~~) authority shall provide routine and periodic computerized information to health insurers regarding client eligibility and coverage information. Health insurers shall use this information to identify joint beneficiaries. Identification of joint beneficiaries shall be transmitted to the (~~(department)~~) authority. The (~~(department)~~) authority shall use this information to improve accuracy and currency of health insurance coverage and promote improved coordination of benefits.

(2) To the maximum extent possible, necessary data elements and a compatible database shall be developed by affected health insurers and the (~~(department)~~) authority. The (~~(department)~~) authority shall establish a representative group of health insurers and state agency representatives to develop necessary technical and file specifications to promote a standardized database. The database shall include elements essential to the (~~(department)~~) authority and its population's health insurance coverage information.

(3) If the state and health insurers enter into other agreements regarding the use of common computer standards, the database identified in this section shall be replaced by the new common computer standards.

(4) The information provided will be of sufficient detail to promote reliable and accurate benefit coordination and identification of individuals who are also eligible for (~~(department)~~) authority programs.

(5) The frequency of updates will be mutually agreed to by each health insurer and the (~~(department)~~) authority based on frequency of change and operational limitations. In no event shall the computerized data be provided less than semiannually.

(6) The health insurers and the (~~(department)~~) authority shall safeguard and properly use the information to protect records as provided by law, including but not limited to chapters 42.48, 74.09, 74.04, 70.02, and 42.56 RCW, and 42 U.S.C. Sec. 1396a and 42 C.F.R. Sec. 43 et seq. The purpose of this exchange of information is to improve coordination and administration of benefits and ensure that medical insurance benefits are properly utilized.

(7) The (~~(department)~~) authority shall target implementation of this section to those health insurers with the highest probability of joint beneficiaries.

**Sec. 121.** RCW 74.09A.030 and 2007 c 179 s 4 are each amended to read as follows:

Health insurers, as a condition of doing business in Washington, must:

(1) Provide, with respect to individuals who are eligible for, or are provided, medical assistance under chapter 74.09 RCW, upon the request of the (~~(department)~~) authority, information to determine during what period the individual or their spouses or their dependants may be, or may have been, covered by a health insurer and the nature of coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan, in a manner prescribed by the (~~(department)~~) authority;

(2) Accept the (~~(department's)~~) authority's right to recovery and the assignment to the (~~(department)~~) authority of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under chapter 74.09 RCW;

(3) Respond to any inquiry by the (~~(department)~~) authority regarding a claim for payment for any health care item or service that is submitted not later than three years after the date of the provision of such health care item or service;

(4) Agree not to deny a claim submitted by the (~~(department)~~) authority solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if:

(a) The claim is submitted by the (~~(department)~~) authority within the three-year period beginning on the date the item or service was furnished; and

(b) Any action by the (~~(department)~~) authority to enforce its rights with respect to such claim is commenced within six years of the (~~(department's)~~) authority's submission of such claim; and

(5) Agree that the prevailing party in any legal action to enforce this section receives reasonable attorneys' fees as well as related collection fees and costs incurred in the enforcement of this section.

**NEW SECTION. Sec. 122.** The following acts or parts of acts are each repealed:

(1) RCW 74.09.085 (Contracts--Performance measures--Financial incentives) and 2005 c 446 s 3;

(2) RCW 74.09.110 (Administrative personnel--Professional consultants and screeners) and 1979 c 141 s 339 & 1959 c 26 s 74.09.110;

(3) RCW 74.09.5221 (Medical assistance--Federal standards--Waivers--Application) and 1997 c 231 s 112;

(4) RCW 74.09.5227 (Implementation date--Payments for services provided by rural hospitals) and 2001 2nd sp.s. c 2 s 3;

(5) RCW 74.09.755 (AIDS--Community-based care--Federal social security act waiver) and 1989 c 427 s 12;

(6) RCW 43.20A.860 (Requirement to seek federal waivers and state law changes to medical assistance program) and 1995 c 265 s 26; and

(7) RCW 74.04.270 (Audit of accounts--Uniform accounting system) and 1979 c 141 s 304 & 1959 c 26 s 74.04.270.

**Sec. 123.** RCW 74.09.015 and 2007 c 259 s 16 are each amended to read as follows:

To the extent that sufficient funding is provided specifically for this purpose, the (~~(department, in collaboration with the health care)~~) authority(~~(s)~~) shall provide all persons receiving services under this chapter with access to a twenty-four hour, seven day a week nurse hotline. The (~~(health care)~~) authority (~~(and the department of social and health services)~~) shall determine the most appropriate way to provide the nurse hotline under RCW 41.05.037 and this section, which may include use of the 211 system established in chapter 43.211 RCW.

**NEW SECTION. Sec. 124.** A new section is added to chapter 43.20A RCW to read as follows:

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The secretary shall enter into agreements with the director of the health care authority, in his or her capacity as the director of the designated single state agency to administer medical services programs under Titles XIX and XXI of the social security act, to establish the division of responsibilities between the agencies with respect to mental health, chemical dependency, and long-term care services, including services for people with developmental disabilities. Except to the extent expressly authorized in the omnibus operating budget or other legislative act and where necessary to improve coordination of care for individual clients, nothing in this section or in section 117 of this act shall be construed as authorizing the secretary or the director to transfer funds appropriated to one agency or program in the omnibus operating budget to another agency or program.

**NEW SECTION. Sec. 125.** (1) All powers, duties, and functions of the department of social and health services pertaining to the medical assistance program and the medicaid purchasing administration are transferred to the health care authority to the extent necessary to carry out the purposes of this act. All references to the secretary or the department of social and health services in the Revised Code of Washington shall be construed to mean the director or the health care authority when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the health care authority. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services in carrying out the powers, functions, and duties transferred shall be made available to the health care authority. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the health care authority.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the health care authority.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the medicaid purchasing administration at the department of social and health services are transferred to the jurisdiction of the health care authority. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the health care authority to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of social and health services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the health care authority. All existing contracts and obligations shall remain in full force and shall be performed by the health care authority.

(5) The transfer of the powers, duties, functions, and personnel of the department of social and health services shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies

affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) A nonsupervisory medicaid purchasing unit bargaining unit is created at the health care authority. All nonsupervisory civil service employees of the medicaid purchasing administration at the department of social and health services assigned to the health care authority under this section whose positions are within the existing bargaining unit description at the department of social and health services shall become a part of the nonsupervisory medicaid purchasing unit bargaining unit at the health care authority under the provisions of chapter 41.80 RCW. The exclusive bargaining representative of the existing bargaining unit at the department of social and health services is certified as the exclusive bargaining representative of the nonsupervisory medicaid purchasing unit bargaining unit at the health care authority without the necessity of an election.

(8) A supervisory medicaid purchasing unit bargaining unit is created at the health care authority. All supervisory civil service employees of the medicaid purchasing administration at the department of social and health services assigned to the health care authority under this section whose positions are within the existing bargaining unit description at the department of social and health services shall become a part of the supervisory medicaid purchasing unit bargaining unit at the health care authority under the provisions of chapter 41.80 RCW. The exclusive bargaining representative of the existing bargaining unit at the department of social and health services is certified as the exclusive bargaining representative of the supervisory medicaid purchasing unit bargaining unit at the health care authority without the necessity of an election.

(9) The bargaining units of employees created under this section are appropriate units under the provisions of chapter 41.80 RCW. However, nothing contained in this section shall be construed to alter the authority of the public employment relations commission under the provisions of chapter 41.80 RCW to amend or modify the bargaining units.

(10) Positions from the department of social and health services central administration are transferred to the jurisdiction of the health care authority. Employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the health care authority to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(11) All classified employees of the department of social and health services central administration assigned to the health care authority under subsection (10) of this section whose positions are within an existing bargaining unit description at the health care authority shall become a part of the existing bargaining unit at the health care authority and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 126.** The code reviser shall note wherever "administrator" is used or referred to in the Revised Code of Washington as the head of the health care authority that the title of the agency head has been changed to "director." The code reviser shall prepare legislation for the 2012 regular session that changes all statutory references to "administrator" of the health care authority to "director" of the health care authority.

**NEW SECTION. Sec. 127.** RCW 43.20A.365 is recodified as a section in chapter 74.09 RCW.

**NEW SECTION. Sec. 128.** Sections 89 through 116 of this act constitute a new chapter in Title 41 RCW, to be codified as chapter 41.05A RCW.

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**NEW SECTION. Sec. 129.** Sections 74 through 76 of this act expire June 30, 2012.

**NEW SECTION. Sec. 130.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 131.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

## MOTION

Senator Delvin moved that the following amendment by Senators Delvin and Regala to the committee striking amendment be adopted:

On page 64, line 3 after "Sec. 60." Strike all language down through and including line 11 on page 65.

Re-number sections accordingly and correct all internal references.

Senators Delvin and Regala spoke in favor of adoption of the amendment to the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Delvin and Regala on page 64, line 3 to the committee striking amendment to Second Engrossed Second Substitute House Bill No. 1738.

The motion by Senator Delvin carried and the amendment to the committee striking amendment was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Engrossed Second Substitute House Bill No. 1738.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title amendment, after "authority;" strike the remainder of the title and insert "amending RCW 74.09.037, 74.09.050, 74.09.055, 74.09.075, 74.09.080, 74.09.120, 74.09.160, 74.09.180, 74.09.185, 74.09.190, 74.09.200, 74.09.210, 74.09.240, 74.09.260, 74.09.280, 74.09.290, 74.09.300, 74.09.470, 74.09.480, 74.09.490, 74.09.500, 74.09.510, 74.09.515, 74.09.520, 74.09.521, 74.09.522, 74.09.5225, 74.09.530, 74.09.540, 74.09.555, 74.09.565, 74.09.575, 74.09.585, 74.09.595, 74.09.655, 74.09.658, 74.09.659, 74.09.700, 74.09.710, 74.09.715, 74.09.720, 74.09.725, 74.09.730, 74.09.770, 74.09.790, 74.09.800, 74.09.810, 74.09.820, 41.05.011, 41.05.015, 41.05.021, 41.05.036, 41.05.037, 41.05.140, 41.05.185, 43.20A.365, 74.04.005, 74.04.015, 74.04.025, 74.04.050, 74.04.055, 74.04.060, 74.04.062, 74.04.290, 7.68.080, 43.41.160, 43.41.260, 43.70.670, 47.06B.020, 47.06B.060, 47.06B.070, 48.01.235, 48.43.008, 48.43.517, 69.41.030, 69.41.190, 70.01.010, 70.47.010, 70.47.020, 70.47.110, 70.48.130, 70.168.040, 70.225.040, 74.09A.005, 74.09A.010, 74.09A.020, 74.09A.030, and 74.09.015; reenacting and amending RCW 74.09.010, 74.09.035, and 74.09.522; adding new sections to chapter 74.09 RCW; adding a new section to chapter 43.20A RCW; adding a new chapter to Title 41 RCW; creating new sections; recodifying RCW 43.20A.365; repealing RCW 74.09.085,

74.09.110, 74.09.5221, 74.09.5227, 74.09.755, 43.20A.860, and 74.04.270; providing an effective date; providing an expiration date; and declaring an emergency."

## MOTION

On motion of Senator Keiser, the rules were suspended, Second Engrossed Second Substitute House Bill No. 1738 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Second Substitute House Bill No. 1738 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1738 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Absent: Senator Zarelli

Excused: Senators Becker, Eide, McAuliffe and Shin

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1738 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

## SECOND READING

HOUSE BILL NO. 2070, by Representative Seaquist

Determining average salary for the pension purposes of state and local government employees as certified by their employer.

The measure was read the second time.

## MOTION

On motion of Senator Kilmer, the rules were suspended, House Bill No. 2070 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Schoesler spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 2070.

## ROLL CALL

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The Secretary called the roll on the final passage of House Bill No. 2070 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 4; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Benton, Brown, Carrell, Chase, Conway, Delvin, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom and White

Voting nay: Senators Ericksen, Hill, Pflug and Stevens

Excused: Senators Becker, Eide, McAuliffe, Shin and Zarelli

HOUSE BILL NO. 2070, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SENATE BILL NO. 5935, by Senator Hargrove

Addressing adoption support payments for hard to place children.

## MOTIONS

On motion of Senator Hargrove, Substitute Senate Bill No. 5935 was substituted for Senate Bill No. 5935 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hargrove, the rules were suspended, Substitute Senate Bill No. 5935 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5935.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5935 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 2; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Benton, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Voting nay: Senators Haugen and Nelson

Excused: Senators Becker, Eide, McAuliffe, Shin and Zarelli

SUBSTITUTE SENATE BILL NO. 5935, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator White, Senator Kastama was excused.

## SECOND READING

SENATE JOINT MEMORIAL NO. 8009, by Senators Regala and Nelson

Requesting respectfully for adoption of the federal main street fairness act.

The measure was read the second time.

## MOTION

On motion of Senator Regala, the rules were suspended, Senate Joint Memorial No. 8009 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senator Regala spoke in favor of passage of the memorial.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8009.

## ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8009 and the memorial passed the Senate by the following vote: Yeas, 32; Nays, 12; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Delvin, Ericksen, Hill, Holmquist Newbry, Honeyford, King, Roach, Sheldon and Stevens

Excused: Senators Becker, Eide, Kastama, McAuliffe and Shin

SENATE JOINT MEMORIAL NO. 8009, having received the constitutional majority, was declared passed.

## MOTION

At 3:07 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Tuesday, May 10, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**FIFTEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Tuesday, May 10, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Sheldon, Shin and Swecker.

The Sergeant at Arms Color Guard consisting of Senate staff Peg Amandes and Kevin Black, presented the Colors. Senator Haugen offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 9, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1795,

ENGROSSED HOUSE BILL 2069.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 9, 2011

MR. PRESIDENT:

The House has passed:

HOUSE BILL 1131,

SECOND SUBSTITUTE HOUSE BILL 1132.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5955 by Senators Kohl-Welles, Delvin, Keiser, Pflug, Regala, Brown, Prentice, Murray, Tom and Kline

AN ACT Relating to medical use of cannabis; amending RCW 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.---, 69.51A.---, 69.51A.050, 69.51A.---, 69.51A.---, 82.08.0281, and 82.12.0275; adding new sections to chapter 69.51A RCW; adding a new section to chapter 42.56 RCW; and repealing RCW 69.51A.---.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

At 10:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:22 p.m. by President Owen.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE CONCURRENT RESOLUTION 4405.

MOTION

On motion of Senator Ericksen, Senators Benton and Swecker were excused.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

HB 1131 by Representative Haigh

AN ACT Relating to student achievement fund allocations; reenacting and amending RCW 28A.505.220; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

2SHB 1132 by House Committee on Ways & Means (originally sponsored by Representative Haigh)

AN ACT Relating to reducing compensation for educational and academic employees; amending RCW 28A.400.205, 28B.50.465, 28B.50.468, 28A.405.415, and 28A.415.020; reenacting and amending RCW 28A.415.023; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

E2SHB 1795 by House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Seaquist, Haler, Reykdal, Rolfes, Probst, Morris, Sells, Pedersen, Jacks, Hudgins, Maxwell and Frockt)

AN ACT Relating to the higher education opportunity act; amending RCW 28B.15.031, 28B.15.067, 28B.15.0681, 28B.15.068, 28B.76.270, 28B.92.060, 28A.600.310, 39.29.011, 43.19.1906, 43.88.160, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; amending 2010 c 3 ss 602, 603, and 604 (uncodified); amending 2010 1st sp.s. c 37 s 901 (uncodified); amending 2010 c 1 s 8 (uncodified); adding new sections to chapter 28B.15 RCW; adding a new

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section to chapter 28B.10 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28B.76 RCW; adding a new section to chapter 44.28 RCW; creating new sections; repealing RCW 28B.10.920, 28B.10.921, and 28B.10.922; providing expiration dates; and declaring an emergency.

EHB 2069 by Representative Cody

AN ACT Relating to increasing the sum available to the state from the hospital safety net assessment fund by reducing hospital payments; amending RCW 74.60.020 and 74.60.090; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Engrossed Second Substitute House Bill No. 1795 which without objection, was placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 9, 2011

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596 with the following amendment(s): 5596-S2.E AMH CODY H2780.3

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that mounting budget pressures combined with growth in enrollment and constraints in the medicaid program have forced open discussion throughout the country and in our state concerning complete withdrawal from the medicaid program. The legislature recognizes that a better and more sustainable way forward would involve new state flexibility for managing its medicaid program built on the success of the basic health plan and Washington's transitional bridge waiver, where elements of consumer participation and choice, benefit design flexibility, and payment flexibility have helped keep costs low. The legislature further finds that either a centers for medicare and medicaid services' innovation center project or a section 1115 demonstration project, or both, with capped eligibility group per capita payments would allow the state to operate as a laboratory of innovation for bending the cost curve, preserving the safety net, and improving the management of care for low-income populations.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) By October 1, 2011, the department shall submit a request to the centers for medicare and medicaid services' innovation center and, if necessary, a request under section 1115 of the social security act, to implement a medicaid and state children's health insurance program demonstration project. The demonstration project shall be

designed to achieve the broadest federal financial participation and, to the extent permitted under federal law, shall authorize:

(a) Establishment of base-year, eligibility group per capita payments, with maximum flexibility provided to the state for managing the health care trend and provisions for shared savings if per capita expenditures are below the negotiated rates. The capped eligibility group per capita payments shall: (i) Be based on targeted per capita costs for the full duration of the demonstration period; (ii) include due consideration and flexibility for unforeseen events, changes in the delivery of health care, and changes in federal or state law; and (iii) take into account the effect of the federal patient protection and affordable care act on federal resources devoted to medicaid and state children's health insurance programs. Federal payments for each eligibility group shall be based on the product of the negotiated per capita payments for the eligibility group multiplied by the actual caseload for the eligibility group;

(b) Coverage of benefits determined to be essential health benefits under section 1302(b) of the federal patient protection and affordable care act, 42 U.S.C. 18022(b), with coverage of benefits in addition to the essential health benefits as appropriate for distinct categories of enrollees such as children, pregnant women, individuals with disabilities, and elderly adults.

(c) Limited, reasonable, and enforceable cost sharing and premiums to encourage informed consumer behavior and appropriate utilization of health services, while ensuring that access to evidence-based, preventative and primary care is not hindered;

(d) Streamlined eligibility determinations;

(e) Innovative reimbursement methods such as bundled, global, and risk-bearing payment arrangements, that promote effective purchasing, efficient use of health services, and support health homes, accountable care organizations, and other innovations intended to contain costs, improve health, and incent smart consumer decision making;

(f) Clients to voluntarily enroll in the insurance exchange, and broadened enrollment in employer-sponsored insurance when available and deemed cost-effective for the state, with authority to require clients to remain enrolled in their chosen plan for the calendar year;

(g) An expedited process of forty-five days or less in which the centers for medicare and medicaid services must respond to any state request for changes to the demonstration project once it is implemented to ensure that the state has the necessary flexibility to manage within its eligibility group per capita payment caps; and

(h) The development of an alternative payment methodology for federally qualified health centers and rural health clinics that enables capitated or global payment of enhanced payments.

(2) The department shall provide status reports to the joint legislative select committee on health reform implementation as requested by the committee.

(3) The department shall provide multiple opportunities for stakeholders and the general public to review and comment on the request as it developed.

(4) The department shall identify changes to state law necessary to ensure successful and timely implementation of the demonstration project."

Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Parlette moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5596.

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Senators Parlette and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Parlette that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5596.

The motion by Senator Parlette carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5596 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5596, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5596, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 2; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Stevens, Tom, White and Zarelli

Absent: Senators Sheldon and Shin

Excused: Senators Benton and Swecker

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator White, Senators Sheldon and Shin were excused.

#### MESSAGE FROM THE HOUSE

May 9, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5927 with the following amendment(s): 5927-S.E AMH WAYS H2773.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that:

(a) There is an increasing level of dispute and uncertainty regarding the amount of payment nonparticipating providers may receive for health care services provided to enrollees of state purchased health care programs designed to serve low-income individuals and families, such as basic health and the medicaid managed care programs;

(b) The dispute has resulted in litigation, including a recent Washington superior court ruling that determined nonparticipating providers were entitled to receive billed charges from a managed health care system for services provided to medicaid and basic health plan enrollees. The decision would allow a nonparticipating provider to demand and receive payment in an amount exceeding the payment managed health care system network providers receive for the same services. Similar provider lawsuits have now been filed in other jurisdictions in the state;

(c) In the biennial operating budget, the legislature has previously indicated its intent that payment to nonparticipating providers for services provided to medicaid managed care enrollees should be limited to amounts paid to medicaid fee-for-service providers. The duration of these provisions is limited to the period during which the operating budget is in effect. A more permanent resolution of these issues is needed; and

(d) Continued failure to resolve this dispute will have adverse impacts on state purchased health care programs serving low-income enrollees, including: (i) Diminished ability for the state to negotiate cost-effective contracts with managed health care systems; (ii) a potential for significant reduction in the willingness of providers to participate in managed health care system provider networks; (iii) a reduction in providers participating in the managed health care systems; and (iv) increased exposure for program enrollees to balance billing practices by nonparticipating providers. Ultimately, fewer eligible people will get the care they need as state purchased health care programs will operate with less efficiency and reduced access to cost-effective and quality health care coverage for program enrollees.

(2) It is the intent of the legislature to create a legislative solution that reduces the cost borne by the state to provide public health care coverage to low-income enrollees in managed health care systems, protects enrollees and state purchased health care programs from balance billing by nonparticipating providers, provides appropriate payment to health care providers for services provided to enrollees of state purchased health care programs, and limits the risk for managed health care systems that contract with the state programs.

**Sec. 2.** RCW 74.09.522 and 1997 c 59 s 15 and 1997 c 34 s 1 are each reenacted and amended to read as follows:

(1) For the purposes of this section(§):

(a) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under ((RCW 74.09.520)) this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(b) "Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their scope of practice, that does not have a written contract to participate in a managed health care system's provider network, but provides health care services to enrollees of programs authorized under this chapter whose health care services are provided by the managed health care system.

(2) The department of social and health services shall enter into agreements with managed health care systems to provide health care services to recipients of temporary assistance for needy families under the following conditions:

(a) Agreements shall be made for at least thirty thousand recipients statewide;

(b) Agreements in at least one county shall include enrollment of all recipients of temporary assistance for needy families;

(c) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act, recipients shall have a choice of systems in which to enroll and shall have the right to terminate their enrollment in a system: PROVIDED, That the department may limit recipient termination of enrollment without cause to the first month of a period of enrollment, which period shall not exceed

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twelve months: AND PROVIDED FURTHER, That the department shall not restrict a recipient's right to terminate enrollment in a system for good cause as established by the department by rule;

(d) To the extent that this provision is consistent with section 1903(m) of Title XIX of the federal social security act, participating managed health care systems shall not enroll a disproportionate number of medical assistance recipients within the total numbers of persons served by the managed health care systems, except as authorized by the department under federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e) In negotiating with managed health care systems the department shall adopt a uniform procedure to negotiate and enter into contractual arrangements, including standards regarding the quality of services to be provided; and financial integrity of the responding system;

(f) The department shall seek waivers from federal requirements as necessary to implement this chapter;

(g) The department shall, wherever possible, enter into prepaid capitation contracts that include inpatient care. However, if this is not possible or feasible, the department may enter into prepaid capitation contracts that do not include inpatient care;

(h) The department shall define those circumstances under which a managed health care system is responsible for out-of-plan services and assure that recipients shall not be charged for such services; and

(i) Nothing in this section prevents the department from entering into similar agreements for other groups of people eligible to receive services under this chapter.

(3) The department shall ensure that publicly supported community health centers and providers in rural areas, who show serious intent and apparent capability to participate as managed health care systems are seriously considered as contractors. The department shall coordinate its managed care activities with activities under chapter 70.47 RCW.

(4) The department shall work jointly with the state of Oregon and other states in this geographical region in order to develop recommendations to be presented to the appropriate federal agencies and the United States congress for improving health care of the poor, while controlling related costs.

(5) The legislature finds that competition in the managed health care marketplace is enhanced, in the long term, by the existence of a large number of managed health care system options for medicaid clients. In a managed care delivery system, whose goal is to focus on prevention, primary care, and improved enrollee health status, continuity in care relationships is of substantial importance, and disruption to clients and health care providers should be minimized. To help ensure these goals are met, the following principles shall guide the department in its healthy options managed health care purchasing efforts:

(a) All managed health care systems should have an opportunity to contract with the department to the extent that minimum contracting requirements defined by the department are met, at payment rates that enable the department to operate as far below appropriated spending levels as possible, consistent with the principles established in this section.

(b) Managed health care systems should compete for the award of contracts and assignment of medicaid beneficiaries who do not voluntarily select a contracting system, based upon:

(i) Demonstrated commitment to or experience in serving low-income populations;

(ii) Quality of services provided to enrollees;

(iii) Accessibility, including appropriate utilization, of services offered to enrollees;

(iv) Demonstrated capability to perform contracted services, including ability to supply an adequate provider network;

(v) Payment rates; and

(vi) The ability to meet other specifically defined contract requirements established by the department, including consideration of past and current performance and participation in other state or federal health programs as a contractor.

(c) Consideration should be given to using multiple year contracting periods.

(d) Quality, accessibility, and demonstrated commitment to serving low-income populations shall be given significant weight in the contracting, evaluation, and assignment process.

(e) All contractors that are regulated health carriers must meet state minimum net worth requirements as defined in applicable state laws. The department shall adopt rules establishing the minimum net worth requirements for contractors that are not regulated health carriers. This subsection does not limit the authority of the department to take action under a contract upon finding that a contractor's financial status seriously jeopardizes the contractor's ability to meet its contract obligations.

(f) Procedures for resolution of disputes between the department and contract bidders or the department and contracting carriers related to the award of, or failure to award, a managed care contract must be clearly set out in the procurement document. In designing such procedures, the department shall give strong consideration to the negotiation and dispute resolution processes used by the Washington state health care authority in its managed health care contracting activities.

(6) The department may apply the principles set forth in subsection (5) of this section to its managed health care purchasing efforts on behalf of clients receiving supplemental security income benefits to the extent appropriate.

(7) A managed health care system shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the lowest amount paid for that service under the managed health care system's contracts with similar providers in the state.

(8) For services covered under this chapter to medical assistance or medical care services enrollees and provided on or after the effective date of this section, nonparticipating providers must accept as payment in full the amount paid by the managed health care system under subsection (7) of this section in addition to any deductible, coinsurance, or copayment that is due from the enrollee for the service provided. An enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed health care system contract to provide services under this section.

(9) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the department, including hospital-based physician services. The department will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed health care system to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the department will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(10) Subsections (7) through (9) of this section expire July 1, 2016.

**Sec. 3.** RCW 70.47.020 and 2011 c 205 s 1 are each reenacted and amended to read as follows:

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As used in this chapter:

(1) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(2) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(3) "Health coverage tax credit program" means the program created by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

(4) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100~~((7))~~ (9).

(5) "Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity, acting within their authorized scope of practice or licensure, that does not have a written contract to participate in a managed health care system's provider network, but provides services to plan enrollees who receive coverage through the managed health care system.

~~(6)~~ (6) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; (e) who chooses to obtain basic health care coverage from a particular managed health care system; and (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

~~((6))~~ (7) "Premium" means a periodic payment, which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

~~((7))~~ (8) "Rate" means the amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees in the plan and in that system.

~~((8))~~ (9) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

~~((9))~~ (10) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

(i) Who is not eligible for medicare;

(ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator;

(iii) Who is not a full-time student who has received a temporary visa to study in the United States;

(iv) Who resides in an area of the state served by a managed health care system participating in the plan;

(v) Until March 1, 2011, whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services;

(vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan;

(vii) Who is not receiving medical assistance administered by the department of social and health services; and

(viii) After February 28, 2011, who is in the basic health transition eligibles population under 1115 medicaid demonstration project number 11-W-00254/10;

(b) An individual who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and who is a foster parent licensed under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

(c) To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, an individual, or an individual's spouse or dependent children, who meets the requirements in (a)(i) through (iv), (vi), and (vii) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

~~((10))~~ (11) "Washington basic health plan" or "plan" means the system of enrollment and payment for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

**Sec. 4.** RCW 70.47.100 and 2009 c 568 s 5 are each amended to read as follows:

(1) A managed health care system participating in the plan shall do so by contract with the administrator and shall provide, directly or by contract with other health care providers, covered basic health care services to each enrollee covered by its contract with the administrator as long as payments from the administrator on behalf of the enrollee are current. A participating managed health care system may offer, without additional cost, health care benefits or services not included in the schedule of covered services under the plan. A participating managed health care system shall not give preference in enrollment to enrollees who accept such additional health care benefits or services. Managed health care systems participating in the plan shall not discriminate against any potential or current enrollee based upon health status, sex, race, ethnicity, or religion. The administrator may receive and act upon complaints from enrollees regarding failure to provide covered services or efforts to obtain payment, other than authorized copayments, for covered services directly from enrollees, but nothing in this chapter empowers the administrator to impose any sanctions under Title 18 RCW or any other professional or facility licensing statute.

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(2) A managed health care system shall pay a nonparticipating provider that provides a service covered under this chapter to the system's enrollee no more than the lowest amount paid for that service under the managed health care system's contracts with similar providers in the state.

(3) Pursuant to federal managed care access standards, 42 C.F.R. Sec. 438, managed health care systems must maintain a network of appropriate providers that is supported by written agreements sufficient to provide adequate access to all services covered under the contract with the authority, including hospital-based physician services. The authority will monitor and periodically report on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each managed health care system to ensure that managed health care systems are meeting network adequacy requirements. No later than January 1st of each year, the authority will review and report its findings to the appropriate policy and fiscal committees of the legislature for the preceding state fiscal year.

(4) The plan shall allow, at least annually, an opportunity for enrollees to transfer their enrollments among participating managed health care systems serving their respective areas. The administrator shall establish a period of at least twenty days in a given year when this opportunity is afforded enrollees, and in those areas served by more than one participating managed health care system the administrator shall endeavor to establish a uniform period for such opportunity. The plan shall allow enrollees to transfer their enrollment to another participating managed health care system at any time upon a showing of good cause for the transfer.

~~((3))~~ (5) Prior to negotiating with any managed health care system, the administrator shall determine, on an actuarially sound basis, the reasonable cost of providing the schedule of basic health care services, expressed in terms of upper and lower limits, and recognizing variations in the cost of providing the services through the various systems and in different areas of the state.

~~((4))~~ (6) In negotiating with managed health care systems for participation in the plan, the administrator shall adopt a uniform procedure that includes at least the following:

(a) The administrator shall issue a request for proposals, including standards regarding the quality of services to be provided; financial integrity of the responding systems; and responsiveness to the unmet health care needs of the local communities or populations that may be served;

(b) The administrator shall then review responsive proposals and may negotiate with respondents to the extent necessary to refine any proposals;

(c) The administrator may then select one or more systems to provide the covered services within a local area; and

(d) The administrator may adopt a policy that gives preference to respondents, such as nonprofit community health clinics, that have a history of providing quality health care services to low-income persons.

~~((5))~~ (7) The administrator may contract with a managed health care system to provide covered basic health care services to subsidized enrollees, nonsubsidized enrollees, health coverage tax credit eligible enrollees, or any combination thereof.

~~((6))~~ (8) The administrator may establish procedures and policies to further negotiate and contract with managed health care systems following completion of the request for proposal process in subsection ~~((4))~~ (6) of this section, upon a determination by the administrator that it is necessary to provide access, as defined in the request for proposal documents, to covered basic health care services for enrollees.

~~((7))~~ (9) The administrator may implement a self-funded or self-insured method of providing insurance coverage to subsidized

enrollees, as provided under RCW 41.05.140. Prior to implementing a self-funded or self-insured method, the administrator shall ensure that funding available in the basic health plan self-insurance reserve account is sufficient for the self-funded or self-insured risk assumed, or expected to be assumed, by the administrator. If implementing a self-funded or self-insured method, the administrator may request funds to be moved from the basic health plan trust account or the basic health plan subscription account to the basic health plan self-insurance reserve account established in RCW 41.05.140.

(10) Subsections (2) and (3) of this section expire July 1, 2016.

NEW SECTION. Sec. 5. A new section is added to chapter 70.47 RCW to read as follows:

(1) For services provided to plan enrollees on or after the effective date of this section, nonparticipating providers must accept as payment in full the amount paid by the managed health care system under RCW 70.47.100(2) in addition to any deductible, coinsurance, or copayment that is due from the enrollee under the terms and conditions set forth in the managed health care system contract with the administrator. A plan enrollee is not liable to any nonparticipating provider for covered services, except for amounts due for any deductible, coinsurance, or copayment under the terms and conditions set forth in the managed health care system contract with the administrator.

(2) This section expires July 1, 2016.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5927.

Senator Keiser spoke in favor of the motion.

Senator Becker spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5927.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5927 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5927, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5927, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Tom, White and Zarelli

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Voting nay: Senators Baumgartner, Becker, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, King, Litzow, Parlette and Stevens

Excused: Senators Benton, Sheldon, Shin and Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5927, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1795, by House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Seaquist, Haler, Reykdal, Rolfes, Probst, Morris, Sells, Pedersen, Jacks, Hudgins, Maxwell and Frockt)

Enacting the higher education opportunity act.

The measure was read the second time.

#### MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Second Substitute House Bill No. 1795 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Hill, Hargrove, Hobbs, Brown, Zarelli, Kohl-Welles and Kilmer spoke in favor of passage of the bill.

Senators Kastama, Pflug, Roach and Baumgartner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1795.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1795 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Ericksen, Holmquist Newbry, Honeyford, Kastama, King, Pflug, Roach, Schoesler and Stevens

Excused: Senators Benton, Sheldon, Shin and Swecker

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1795, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1277, by House Committee on Ways & Means (originally sponsored by Representative Cody)

Concerning oversight of licensed or certified long-term care settings for vulnerable adults.

The measure was read the second time.

#### MOTION

Senator Baxter moved that the following amendment by Senator Baxter be adopted:

On page 11, line 30, after "imposed" insert "and licensing fees"

On page 11, line 36, after "homes" insert ". and licensing and oversight of adult family homes"

On page 21, beginning on line 7, after "fee." strike all material through "clients." on line 15 and insert "The license fee shall be set at two hundred fifty dollars per year for each home. A two thousand dollar processing fee shall also be charged each home when it is initially licensed."

Senator Baxter spoke in favor of adoption of the amendment.

Senators Keiser and Zarelli spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Baxter on page 11, line 30 to Engrossed Substitute House Bill No. 1277.

The motion by Senator Baxter failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1277 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1277.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1277 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 12; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Brown, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Ericksen, Fain, Hill, Holmquist Newbry, King, Litzow, Parlette, Roach and Stevens

Excused: Senators Benton, Sheldon, Shin and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1277, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SENATE BILL NO. 5581, by Senators Keiser, Parlette, Hargrove, Shin, Conway and Kline

Creating a nursing home safety net assessment.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5581 was substituted for Senate Bill No. 5581 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Parlette be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.431 and 2010 1st sp.s. c 34 s 3 are each amended to read as follows:

(1) Nursing facility medicaid payment rate allocations shall be facility-specific and shall have ~~(seven)~~ six components: Direct care, therapy care, support services, operations, property, and financing allowance ~~(and variable return)~~. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) Component rate allocations in therapy care and support services for all facilities shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for essential community providers shall be based upon a minimum facility occupancy of ~~(eighty-five)~~ eighty-seven percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for small nonessential community providers shall be based upon a minimum facility occupancy of ~~(ninety)~~ ninety-two percent of licensed beds, regardless of how many beds are set up or in use. Component rate allocations in operations, property, and financing allowance for large nonessential community providers shall be based upon a minimum facility occupancy of ~~(ninety-two)~~ ninety-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, the component rate allocation in direct care shall be based upon actual facility occupancy. The median cost limits used to set component rate allocations shall be based on the applicable minimum occupancy percentage. In determining each facility's therapy care component rate allocation under RCW 74.46.511, the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted therapy costs per adjusted resident day. In determining each facility's support services component rate allocation under RCW 74.46.515(3), the department shall apply the applicable minimum facility occupancy adjustment before creating the array of facilities' adjusted support services costs per adjusted resident day. In determining each facility's operations component rate allocation under RCW 74.46.521(3), the department shall apply the minimum facility occupancy adjustment before creating the array of facilities' adjusted general operations costs per adjusted resident day.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

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(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Effective July 1, 2009, the direct care component rate allocation shall be rebased, ~~((using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period.))~~ so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2012))~~ 2013. Beginning July 1, ~~((2012))~~ 2013, the direct care component rate allocation shall be rebased biennially during every ~~((even-numbered))~~ odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2010))~~ 2011 is used for July 1, ~~((2012))~~ 2013, through June 30, ~~((2014))~~ 2015, and so forth.

(b) Direct care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the direct care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the direct care component rate allocation established in accordance with this chapter.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Effective July 1, 2009, the therapy care component rate allocation shall be cost rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2012))~~ 2013. Beginning July 1, ~~((2012))~~ 2013, the therapy care component rate allocation shall be rebased biennially during every ~~((even-numbered))~~ odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2010))~~ 2011 is used for July 1, ~~((2012))~~ 2013, through June 30, ~~((2014))~~ 2015, and so forth.

(b) Therapy care component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the therapy care component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the therapy care component rate allocation established in accordance with this chapter.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Effective July 1, 2009, the support services component rate allocation shall be cost rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2012))~~ 2013. Beginning July 1, ~~((2012))~~ 2013, the support services component rate allocation shall be rebased biennially during every ~~((even-numbered))~~ odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2010))~~ 2011 is used for July 1, ~~((2012))~~ 2013, through June 30, ~~((2014))~~ 2015, and so forth.

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(b) Support services component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the support services component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the support services component rate allocation established in accordance with this chapter.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Effective July 1, 2009, the operations component rate allocation shall be cost rebased, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, ~~((2012))~~ 2013. Beginning July 1, ~~((2012))~~ 2013, the operations care component rate allocation shall be rebased biennially during every ~~((even-numbered))~~ odd-numbered year thereafter using adjusted cost report data from two years prior to the rebase period, so adjusted cost report data for calendar year ~~((2010))~~ 2011 is used for July 1, ~~((2012))~~ 2013, through June 30, ~~((2014))~~ 2015, and so forth.

(b) Operations component rate allocations established in accordance with this chapter shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. The economic trends and conditions factor or factors defined in the biennial appropriations act shall not be compounded with the economic trends and conditions factor or factors defined in any other biennial appropriations acts before applying it to the operations component rate allocation established in accordance with this chapter. When no economic trends and conditions factor or factors for either fiscal year are defined in a biennial appropriations act, no economic trends and conditions factor or factors defined in any earlier biennial appropriations act shall be applied solely or compounded to the operations component rate allocation established in accordance with this chapter.

(8) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(9) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed by this chapter, including but not limited to: Inflation adjustments for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(10) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

(11) Effective July 1, 2010, there shall be no rate adjustment for facilities with banked beds. For purposes of calculating minimum

occupancy, licensed beds include any beds banked under chapter 70.38 RCW.

(12) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

**Sec. 2.** RCW 74.46.435 and 2010 1st sp.s. c 34 s 5 are each amended to read as follows:

(1) The property component rate allocation for each facility shall be determined by dividing the sum of the reported allowable prior period actual depreciation, subject to department rule, adjusted for any capitalized additions or replacements approved by the department, and the retained savings from such cost center, by the greater of a facility's total resident days in the prior period or resident days as calculated on ~~((eighty-five))~~ eighty-seven percent facility occupancy for essential community providers, ~~((ninety))~~ ninety-two percent occupancy for small nonessential community providers, or ~~((ninety-two))~~ ninety-five percent facility occupancy for large nonessential community providers. If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the property component rate shall be adjusted to anticipated resident day level.

(2) A nursing facility's property component rate allocation shall be rebased annually, effective July 1st, in accordance with this section and this chapter.

(3) When a certificate of need for a new facility is requested, the department, in reaching its decision, shall take into consideration per-bed land and building construction costs for the facility which shall not exceed a maximum to be established by the secretary.

(4) The property component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 3.** RCW 74.46.437 and 2001 1st sp.s. c 8 s 8 are each amended to read as follows:

(1) ~~((Beginning July 1, 1999,))~~ The department shall establish for each medicaid nursing facility a financing allowance component rate allocation. The financing allowance component rate shall be rebased annually, effective July 1st, in accordance with the provisions of this section and this chapter.

(2) ~~((Effective July 1, 2001,))~~ The financing allowance ~~((shall be))~~ is determined by multiplying the net invested funds of each facility by ~~((+10))~~ .04, and dividing by the greater of a nursing facility's total resident days from the most recent cost report period or resident days calculated on ~~((eighty-five))~~ eighty-seven percent facility occupancy~~((— Effective July 1, 2002, the financing allowance component rate allocation for all facilities, other than essential community providers, shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy. However, assets acquired on or after May 17, 1999, shall be grouped in a separate financing allowance calculation that shall be multiplied by .085. The financing allowance factor of .085 shall not be applied to the net invested funds pertaining to new construction or major renovations receiving certificate of need approval or an exemption from certificate of need requirements under chapter 70.38 RCW, or to working drawings that have been submitted to the department of health for construction review approval, prior to May 17, 1999))~~ for essential community providers, ninety-two percent facility occupancy for small nonessential community providers, or ninety-five percent occupancy for large nonessential community

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providers. If a capitalized addition, renovation, replacement, or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the prior period total resident days used in computing the financing allowance shall be adjusted to the greater of the anticipated resident day level or ~~((eighty-five))~~ eighty-seven percent of the new licensed bed capacity for essential community providers, ninety-two percent facility occupancy for small nonessential community providers, or ninety-five percent occupancy for large nonessential community providers. ~~((Effective July 1, 2002, for all facilities, other than essential community providers, the total resident days used to compute the financing allowance after a capitalized addition, renovation, replacement, or retirement of an asset shall be set by using the greater of a facility's total resident days from the most recent cost report period or resident days calculated at ninety percent facility occupancy.))~~

(3) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in ~~((RCW 74.46.330, 74.46.350, 74.46.360, 74.46.370, and 74.46.380))~~ department rule, including owned and leased assets, shall be utilized, except that the capitalized cost of land upon which the facility is located and such other contiguous land which is reasonable and necessary for use in the regular course of providing resident care ~~((shall))~~ must also be included. Subject to provisions and limitations contained in this chapter, for land purchased by owners or lessors before July 18, 1984, capitalized cost of land ~~((shall be))~~ is the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased after July 17, 1984, capitalized cost ~~((shall be))~~ is that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable to provide necessary information to determine net invested funds, the secretary ~~((shall have))~~ has the authority to determine an amount for net invested funds based on an appraisal conducted according to ~~((RCW 74.46.360(1))~~ department rule.

(4) ~~((Effective July 1, 2001, for the purpose of calculating a nursing facility's financing allowance component rate, if a contractor has elected to bank licensed beds prior to May 25, 2001, or elects to convert banked beds to active service at any time, under chapter 70.38 RCW, the department shall use the facility's new licensed bed capacity to recalculate minimum occupancy for rate setting and revise the financing allowance component rate, as needed, effective as of the date the beds are banked or converted to active service. However, in no case shall the department use less than eighty-five percent occupancy of the facility's licensed bed capacity after banking or conversion. Effective July 1, 2002, in no case, other than for essential community providers, shall the department use less than ninety percent occupancy of the facility's licensed bed capacity after conversion.))~~

~~((5))~~ The financing allowance rate allocation calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 4.** RCW 74.46.485 and 2010 1st sp.s. c 34 s 9 are each amended to read as follows:

(1) The department shall:

(a) Employ the resource utilization group III case mix classification methodology. The department shall use the forty-four group index maximizing model for the resource utilization group III grouper version 5.10, but the department may revise or update the classification methodology to reflect advances or refinements in resident assessment or classification, subject to federal requirements. The department may adjust the case mix index for any of the lowest ten resource utilization group categories

beginning with PA1 through PE2 to any case mix index that aids in achieving the purpose and intent of RCW 74.39A.007 and cost-efficient care; and

(b) Implement minimum data set 3.0 under the authority of this section and RCW 74.46.431(3). The department must notify nursing home contractors twenty-eight days in advance the date of implementation of the minimum data set 3.0. In the notification, the department must identify for all semiannual rate settings following the date of minimum data set 3.0 implementation a previously established semiannual case mix adjustment established for the semiannual rate settings that will be used for semiannual case mix calculations in direct care until minimum data set 3.0 is fully implemented. ~~((After the department has fully implemented minimum data set 3.0, it must adjust any semiannual rate setting in which it used the previously established case mix adjustment using the new minimum data set 3.0 data.))~~

(2) A default case mix group shall be established for cases in which the resident dies or is discharged for any purpose prior to completion of the resident's initial assessment. The default case mix group and case mix weight for these cases shall be designated by the department.

(3) A default case mix group may also be established for cases in which there is an untimely assessment for the resident. The default case mix group and case mix weight for these cases shall be designated by the department.

**Sec. 5.** RCW 74.46.496 and 2010 1st sp.s. c 34 s 10 are each amended to read as follows:

(1) Each case mix classification group shall be assigned a case mix weight. The case mix weight for each resident of a nursing facility for each calendar quarter or six-month period during a calendar year shall be based on data from resident assessment instruments completed for the resident and weighted by the number of days the resident was in each case mix classification group. Days shall be counted as provided in this section.

(2) The case mix weights shall be based on the average minutes per registered nurse, licensed practical nurse, and certified nurse aide, for each case mix group, and using the United States department of health and human services ~~((1995))~~ nursing facility staff time measurement study ~~((stemming from its multistate nursing home case mix and quality demonstration project)).~~ Those minutes shall be weighted by statewide ratios of registered nurse to certified nurse aide, and licensed practical nurse to certified nurse aide, wages, including salaries and benefits, which shall be based on ~~((1995))~~ cost report data for this state.

(3) The case mix weights shall be determined as follows:

(a) Set the certified nurse aide wage weight at 1.000 and calculate wage weights for registered nurse and licensed practical nurse average wages by dividing the certified nurse aide average wage into the registered nurse average wage and licensed practical nurse average wage;

(b) Calculate the total weighted minutes for each case mix group in the resource utilization group ~~((III))~~ classification system by multiplying the wage weight for each worker classification by the average number of minutes that classification of worker spends caring for a resident in that resource utilization group ~~((III))~~ classification group, and summing the products;

(c) Assign ~~((a))~~ the lowest case mix weight ~~((of 1.000))~~ to the resource utilization group ~~((III classification group))~~ with the lowest total weighted minutes and calculate case mix weights by dividing the lowest group's total weighted minutes into each group's total weighted minutes and rounding weight calculations to the third decimal place.

(4) The case mix weights in this state may be revised if the United States department of health and human services updates its nursing facility staff time measurement studies. The case mix

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weights shall be revised, but only when direct care component rates are cost-rebased as provided in subsection (5) of this section, to be effective on the July 1st effective date of each cost-rebased direct care component rate. However, the department may revise case mix weights more frequently if, and only if, significant variances in wage ratios occur among direct care staff in the different caregiver classifications identified in this section.

(5) Case mix weights shall be revised when direct care component rates are cost-rebased as provided in RCW 74.46.431(4).

**Sec. 6.** RCW 74.46.501 and 2010 1st sp.s. c 34 s 11 are each amended to read as follows:

(1) From individual case mix weights for the applicable quarter, the department shall determine two average case mix indexes for each medicaid nursing facility, one for all residents in the facility, known as the facility average case mix index, and one for medicaid residents, known as the medicaid average case mix index.

(2)(a) In calculating a facility's two average case mix indexes for each quarter, the department shall include all residents or medicaid residents, as applicable, who were physically in the facility during the quarter in question based on the resident assessment instrument completed by the facility and the requirements and limitations for the instrument's completion and transmission (January 1st through March 31st, April 1st through June 30th, July 1st through September 30th, or October 1st through December 31st).

(b) The facility average case mix index shall exclude all default cases as defined in this chapter. However, the medicaid average case mix index shall include all default cases.

(3) Both the facility average and the medicaid average case mix indexes shall be determined by multiplying the case mix weight of each resident, or each medicaid resident, as applicable, by the number of days, as defined in this section and as applicable, the resident was at each particular case mix classification or group, and then averaging.

(4) In determining the number of days a resident is classified into a particular case mix group, the department shall determine a start date for calculating case mix grouping periods as specified by rule.

(5) The cutoff date for the department to use resident assessment data, for the purposes of calculating both the facility average and the medicaid average case mix indexes, and for establishing and updating a facility's direct care component rate, shall be one month and one day after the end of the quarter for which the resident assessment data applies.

(6)(a) Although the facility average and the medicaid average case mix indexes shall both be calculated quarterly, the cost-rebasing period facility average case mix index will be used throughout the applicable cost-rebasing period in combination with cost report data as specified by RCW 74.46.431 and 74.46.506, to establish a facility's allowable cost per case mix unit. To allow for the transition to minimum data set 3.0 and implementation of resource utilization group IV for July 1, 2011, through June 30, 2013, the department shall calculate rates using the medicaid average case mix scores effective for January 1, 2011, rates adjusted under RCW 74.46.485(1)(a), and the scores shall be increased each six months during the transition period by one-half of one percent. The July 1, 2013, direct care cost per case mix unit shall be calculated by utilizing 2011 direct care costs, patient days, and 2011 facility average case mix indexes based on the minimum data set 3.0 resource utilization group IV grouper 57. A facility's medicaid average case mix index shall be used to update a nursing facility's direct care component rate semiannually.

(b) The facility average case mix index used to establish each nursing facility's direct care component rate shall be based on an average of calendar quarters of the facility's average case mix

indexes from the four calendar quarters occurring during the cost report period used to rebase the direct care component rate allocations as specified in RCW 74.46.431.

(c) The medicaid average case mix index used to update or recalibrate a nursing facility's direct care component rate semiannually shall be from the calendar six-month period commencing nine months prior to the effective date of the semiannual rate. For example, July 1, 2010, through December 31, 2010, direct care component rates shall utilize case mix averages from the October 1, 2009, through March 31, 2010, calendar quarters, and so forth.

**Sec. 7.** RCW 74.46.506 and 2010 1st sp.s. c 34 s 12 are each amended to read as follows:

(1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) The department shall determine and update semiannually for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each six-month period. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be for rate periods as specified in RCW 74.46.431(4)(a).

(5) The department shall rebase each nursing facility's direct care component rate allocation as described in RCW 74.46.431, adjust its direct care component rate allocation for economic trends and conditions as described in RCW 74.46.431, and update its medicaid average case mix index as described in RCW 74.46.496 and 74.46.501, consistent with the following:

(a) Adjust total direct care costs reported by each nursing facility for the applicable cost report period specified in RCW 74.46.431(4)(a) to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, to derive the facility's allowable direct care cost per resident day;

(c) Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by RCW 74.46.501(6)(b) to derive the facility's allowable direct care cost per case mix unit;

(d) Divide nursing facilities into at least two and, if applicable, three peer groups: Those located in nonurban counties; those located in high labor-cost counties, if any; and those located in other urban counties;

(e) Array separately the allowable direct care cost per case mix unit for all facilities in nonurban counties; for all facilities in high labor-cost counties, if applicable; and for all facilities in other urban

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counties, and determine the median allowable direct care cost per case mix unit for each peer group;

(f) Determine each facility's semiannual direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is greater than one hundred (~~(twelve)~~) ten percent of the peer group median established under (e) of this subsection shall be assigned a cost per case mix unit equal to one hundred (~~(twelve)~~) ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable six-month period specified in RCW 74.46.501(6)(c);

(ii) Any facility whose allowable cost per case mix unit is less than or equal to one hundred (~~(twelve)~~) ten percent of the peer group median established under (e) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable six-month period specified in RCW 74.46.501(6)(c).

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) Costs related to payments resulting from increases in direct care component rates, granted under authority of RCW 74.46.508 for a facility's exceptional care residents, shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care costs shall be for rate setting, settlement, and other purposes deemed appropriate by the department.

**Sec. 8.** RCW 74.46.515 and 2010 1st sp.s. c 34 s 15 are each amended to read as follows:

(1) The support services component rate allocation corresponds to the provision of food, food preparation, dietary, housekeeping, and laundry services for one resident for one day.

(2) The department shall determine each medicaid nursing facility's support services component rate allocation using cost report data specified by RCW 74.46.431(6).

(3) To determine each facility's support services component rate allocation, the department shall:

(a) Array facilities' adjusted support services costs per adjusted resident day, as determined by dividing each facility's total allowable support services costs by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy provided by RCW 74.46.431(2), for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties, and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's support services component rate at the lower of the facility's per resident day adjusted support services costs from the applicable cost report period or the adjusted median per resident day support services cost for that facility's peer group, either urban counties or nonurban counties, plus (~~(ten)~~) eight percent; and

(c) Adjust each facility's support services component rate for economic trends and conditions as provided in RCW 74.46.431(6).

(4) The support services component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**Sec. 9.** RCW 74.46.521 and 2010 1st sp.s. c 34 s 16 are each amended to read as follows:

(1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other

supplies and services, exclusive of direct care, therapy care, support services, property, financing allowance, and variable return.

(2) The department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by RCW 74.46.431(7)(a). Operations component rates for essential community providers shall be based upon a minimum occupancy of (~~(eighty-five)~~) eighty-seven percent of licensed beds. Operations component rates for small nonessential community providers shall be based upon a minimum occupancy of (~~(ninety)~~) ninety-two percent of licensed beds. Operations component rates for large nonessential community providers shall be based upon a minimum occupancy of (~~(ninety-two)~~) ninety-five percent of licensed beds.

(3) For all calculations and adjustments in this subsection, the department shall use the greater of the facility's actual occupancy or an (~~(imputed)~~) occupancy equal to (~~(eighty-five)~~) eighty-seven percent for essential community providers, (~~(ninety)~~) ninety-two percent for small nonessential community providers, or (~~(ninety-two)~~) ninety-five percent for large nonessential community providers. To determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day, as determined by dividing each facility's total allowable operations cost by its adjusted resident days for the same report period for facilities located within urban counties and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of:

(i) The facility's per resident day adjusted operations costs from the applicable cost report period adjusted if necessary for minimum occupancy; or

(ii) The adjusted median per resident day general operations cost for that facility's peer group, urban counties or nonurban counties; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in RCW 74.46.431(7)(b).

(4) The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

**NEW SECTION. Sec. 10.** A new section is added to chapter 74.46 RCW to read as follows:

(1) The department shall establish a skilled nursing facility safety net assessment medicaid share pass through or rate add-on to reimburse the medicaid share of the skilled nursing facility safety net assessment as a medicaid allowable cost consistent with section 15 of this act. This add-on shall not be considered an allowable cost for future year cost rebasing.

(2) As of the effective date of this section, supplemental payments to reimburse medicaid expenditures, including an amount to reimburse the medicaid share of the skilled nursing facility safety net assessment, not to exceed the annual medicare upper payment limit, must be provided for all years when the skilled nursing facility safety net assessment is levied, consistent with section 15 of this act. These supplemental payments, at a minimum, must be sufficient to reimburse the medicaid share of the assessment for those paying the assessment. The part of these supplemental payments that reimburses the medicaid share of the assessment are not subject to the reconciliation and settlement process provided in RCW 74.46.022(6).

**NEW SECTION. Sec. 11.** (1) For fiscal years 2012 and 2013 and subject to appropriation, the department of social and health services shall do a comparative analysis of the facility-based payment rates calculated on July 1, 2011, using the payment methodology defined in chapter 74.46 RCW as modified by

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sections 1 through 9 of this act, to the facility-based payment rates in effect June 30, 2010. If the facility-based payment rate calculated on July 1, 2011, is smaller than the facility-based payment rate on June 30, 2011, the difference shall be provided to the individual nursing facilities as an add-on payment per medicaid resident day.

(2) During the comparative analysis performed in subsection (1) of this section, if it is found that the direct care rate for any facility calculated under sections 1 through 9 of this act is greater than the direct care rate in effect on June 30, 2010, then the facility shall receive a ten percent direct care rate add-on to compensate that facility for taking on more acute clients than they have in the past.

(3) The rate add-ons provided in subsection (2) of this section are subject to the reconciliation and settlement process provided in RCW 74.46.022(6).

**NEW SECTION. Sec. 12. PURPOSE, FINDINGS, AND INTENT.** (1) It is the intent of the legislature to encourage maximization of financial resources eligible and available for medicaid services by establishing the skilled nursing facility safety net trust fund to receive skilled nursing facility safety net assessments to use in securing federal matching funds under federally prescribed programs available through the state medicaid plan.

(2) The purpose of this chapter is to provide for a safety net assessment on certain Washington skilled nursing facilities, which will be used solely to support payments to skilled nursing facilities for medicaid services.

(3) The legislature finds that:

(a) Washington skilled nursing facilities have proposed a skilled nursing facility safety net assessment to generate additional state and federal funding for the medicaid program, which will be used in part to restore recent reductions in skilled nursing facility reimbursement rates and provide for an increase in medicaid reimbursement rates; and

(b) The skilled nursing facility safety net assessment and skilled nursing facility safety net trust fund created in this chapter allows the state to generate additional federal financial participation for the medicaid program and provides for increased reimbursement to skilled nursing facilities.

(4) In adopting this chapter, it is the intent of the legislature:

(a) To impose a skilled nursing facility safety net assessment to be used solely for the purposes specified in this chapter;

(b) That funds generated by the assessment, including matching federal financial participation, shall not be used for purposes other than as specified in this chapter;

(c) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the reimbursement rates and other payments authorized by this chapter, including payments under section 15 of this act; and

(d) To condition the assessment and use of the resulting funds on receiving federal approval for receipt of additional federal financial participation.

**NEW SECTION. Sec. 13. DEFINITIONS.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certain high volume medicaid nursing facilities" means the fewest number of facilities necessary with the highest number of medicaid days or total patient days annually to meet the statistical redistribution test at 42 C.F.R. Sec. 433.68(e)(2).

(2) "Continuing care retirement community" means a facility that provides a continuum of services by one operational entity or related organization providing independent living services, or boarding home or assisted living services under chapter 18.20 RCW, and skilled nursing services under chapter 18.51 RCW in a single contiguous campus. The number of licensed nursing home beds must be sixty percent or less of the total number of beds

available in the entire continuing care retirement community. For purposes of this subsection "contiguous" means land adjoining or touching other property held by the same or related organization including land divided by a public road.

(3) "Deductions from revenue" means reductions from gross revenue resulting from an inability to collect payment of charges. Such reductions include bad debt, contractual adjustments, policy discounts and adjustments, and other such revenue deductions.

(4) "Department" means the department of social and health services.

(5) "Fund" means the skilled nursing facility safety net trust fund.

(6) "Hospital based" means a nursing facility that is physically part of, or contiguous to, a hospital. For purposes of this subsection "contiguous" has the same meaning as in subsection (2) of this section.

(7) "Medicare patient day" means a patient day for medicare beneficiaries on a medicare part A stay, medicare hospice stay, and a patient day for persons who have opted for managed care coverage using their medicare benefit.

(8) "Medicare upper payment limit" means the limitation established by federal regulations, 42 C.F.R. Sec. 447.272, that disallows federal matching funds when state medicaid agencies pay certain classes of nursing facilities an aggregate amount for services that would exceed the amount that would be paid for the same services furnished by that class of nursing facilities under medicare payment principles.

(9) "Net resident service revenue" means gross revenue from services to nursing facility residents less deductions from revenue. Net resident service revenue does not include other operating revenue or nonoperating revenue.

(10) "Nonexempt nursing facility" means a nursing facility that is not exempt from the skilled nursing facility safety net assessment.

(11) "Nonoperating revenue" means income from activities not relating directly to the day-to-day operations of an organization. Nonoperating revenue includes such items as gains on disposal of a facility's assets, dividends, and interest from security investments, gifts, grants, and endowments.

(12) "Nursing facility," "facility," or "skilled nursing facility" has the same meaning as "nursing home" as defined in RCW 18.51.010.

(13) "Other operating revenue" means income from nonresident care services to residents, as well as sales and activities to persons other than residents. It is derived in the course of operating the facility such as providing personal laundry service for residents or from other sources such as meals provided to persons other than residents, personal telephones, gift shops, and vending machines.

(14) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor, as defined under chapter 74.46 RCW.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor, as defined under chapter 74.46 RCW and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(15) "Resident day" means a calendar day of care provided to a nursing facility resident, excluding medicare patient days. Resident days include the day of admission and exclude the day of discharge. An admission and discharge on the same day count as one day of care. Resident days include nursing facility hospice days and exclude bedhold days for all residents.

**NEW SECTION. Sec. 14. SKILLED NURSING FACILITY SAFETY NET ASSESSMENT FUND.** (1) There is

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established in the state treasury the skilled nursing facility safety net trust fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the department on audit or otherwise shall be returned to the fund.

(2) The skilled nursing facility safety net trust fund must be a separate and continuing fund, and no money in the fund reverts to the state general fund at any time. All assessments, interest, and penalties collected by the department under sections 15, 16, and 20 of this act shall be deposited into the fund.

(3) Any money received under sections 15, 16, and 20 of this act must be deposited in the state treasury for credit to the skilled nursing facility safety net trust fund, and must be expended, to the extent authorized by federal law, to obtain federal financial participation in the medicaid program and to maintain and enhance nursing facility rates in a manner set forth in subsection (4) of this section.

(4) Disbursements from the fund may be made only as follows:

(a) As an immediate pass-through or rate add-on to reimburse the medicaid share of the skilled nursing facility safety net assessment as a medicaid allowable cost;

(b) To make medicaid payments for nursing facility services in accordance with chapter 74.46 RCW and pursuant to this chapter;

(c) To refund erroneous or excessive payments made by skilled nursing facilities pursuant to this chapter;

(d) To administer the provisions of this chapter the department may expend an amount not to exceed one-half of one percent of the money received from the assessment, and must not exceed the amount authorized for expenditure by the legislature for administrative expenses in a fiscal year;

(e) To repay the federal government for any excess payments made to skilled nursing facilities from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations and all appeals have been exhausted. In such a case, the department may require skilled nursing facilities receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a skilled nursing facility is unable to refund payments, the state shall either develop a payment plan or deduct moneys from future medicaid payments, or both; and

(f) To increase nursing facility payments to fund covered services to medicaid beneficiaries within medicare upper limits.

(5) Any positive balance in the fund at the end of a fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year in accordance with section 16(1)(c)(i) of this act.

(6) Upon termination of the assessment, any amounts remaining in the fund shall be refunded to skilled nursing facilities, pro rata according to the amount paid by the facility, subject to limitations of federal law.

**NEW SECTION. Sec. 15. ASSESSMENTS.** (1) In accordance with the redistribution method set forth in 42 C.F.R. Sec. 433.68(e)(1) and (2), the department shall seek a waiver of the broad-based and uniform provider assessment requirements of federal law to exclude certain nursing facilities from the skilled nursing facility safety net assessment and to permit certain high volume medicaid nursing facilities or facilities with a high number of total annual resident days to pay the skilled nursing facility safety net assessment at a lesser amount per nonmedicare patient day.

(2) The skilled nursing facility safety net assessment shall, at no time, be greater than the maximum percentage of the nursing facility

industry reported net patient service revenues allowed under federal law or regulation.

(3) All skilled nursing facility safety net assessments collected pursuant to this section by the department shall be transmitted to the state treasurer who shall credit all such amounts to the skilled nursing facility safety net trust fund.

**NEW SECTION. Sec. 16. ADMINISTRATION AND COLLECTION.** (1) The department, in cooperation with the office of financial management, shall develop rules for determining the amount to be assessed to individual skilled nursing facilities, notifying individual skilled nursing facilities of the assessed amount, and collecting the amounts due. Such rule making shall specifically include provision for:

(a) Payment of the skilled nursing facility safety net assessment;

(b) Interest on delinquent assessments;

(c) Adjustment of the assessment amounts as follows:

(i) The assessment amounts under section 15 of this act may be adjusted as follows:

(A) If sufficient other appropriated funds for skilled nursing facilities, are available to support the nursing facility reimbursement rates as authorized in the biennial appropriations act and other uses and payments permitted by sections 14 and 15 of this act without utilizing the full assessment authorized under section 15 of this act, the department shall reduce the amount of the assessment to the minimum level necessary to support those reimbursement rates and other uses and payments.

(B) So long as none of the conditions set forth in section 18(2) of this act have occurred, if the department's forecasts indicate that the assessment amounts under section 15 of this act, together with all other appropriated funds, are not sufficient to support the skilled nursing facility reimbursement rates authorized in the biennial appropriations act and other uses and payments authorized under sections 14 and 15 of this act, the department shall increase the assessment rates to the amount necessary to support those reimbursement rates and other payments to the maximum amount allowable under federal law.

(C) Any positive balance remaining in the fund at the end of the fiscal year shall be applied to reduce the assessment amount for the subsequent fiscal year.

(ii) Beginning July 1, 2012, any adjustment to the assessment amounts pursuant to this subsection, and the data supporting such adjustment, including but not limited to relevant data listed in subsection (2) of this section, must be submitted to the Washington health care association, and aging services of Washington, for review and comment at least sixty calendar days prior to implementation of such adjusted assessment amounts. Any review and comment provided by the Washington health care association, and aging services of Washington, shall not limit the ability of either association or its members to challenge an adjustment or other action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department shall provide the following data to the office of financial management, the chair of the fiscal committee of the senate and the house of representatives, the Washington health care association, and aging services of Washington:

(a) The fund balance; and

(b) The amount of assessment paid by each skilled nursing facility.

(3) Assessments shall be assessed from the effective date of this section.

**NEW SECTION. Sec. 17. EXCEPTIONS.** (1) Subject to subsection (4) of this section the department shall exempt the following nursing facility providers from the skilled nursing facility

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safety net assessment subject to federal approval under 42 C.F.R. Sec. 433.68(e)(2):

- (a) Continuing care retirement communities;
- (b) Nursing facilities with thirty-five or fewer licensed beds;
- (c) State, tribal, and county operated nursing facilities; and
- (d) Any nursing facility operated by a public hospital district and nursing facilities that are hospital-based.

(2) The department shall lower the skilled nursing facility safety net assessment for either certain high volume medicaid nursing facilities or certain facilities with high resident volumes to meet the redistributive tests of 42 C.F.R. Sec. 433.68(e)(2).

(3) The department shall lower the skilled nursing facility safety net assessment for any skilled nursing facility with a licensed bed capacity in excess of two hundred three beds to the same level described in subsection (2) of this section.

(4) To the extent necessary to obtain federal approval under 42 C.F.R. Sec. 433.68(e)(2), the exemptions prescribed in subsections (1), (2), and (3) of this section may be amended by the department.

(5) The per resident day assessment rate shall be the same amount for each affected facility except as prescribed in subsections (1), (2), and (3) of this section.

(6) The department shall notify the nursing facility operators of any skilled nursing facilities that would be exempted from the skilled nursing facility safety net assessment pursuant to the waiver request submitted to the United States department of health and human services under this section.

**NEW SECTION. Sec. 18. CONDITIONS.** (1) If the centers for medicare and medicaid services fail to approve any state plan amendments or waiver requests that are necessary in order to implement the applicable sections of this chapter then the assessment authorized in section 16 of this act shall cease to be imposed.

(2) Nothing in subsection (1) of this section prohibits the department from working cooperatively with the centers for medicare and medicaid services to secure approval of any needed state plan amendments or waiver requests. As provided in sections 15 and 17 of this act, the department shall adjust any submitted state plan amendments or waiver requests as necessary to achieve approval.

(3) If this chapter does not take effect or ceases to be imposed, any moneys remaining in the fund shall be refunded to skilled nursing facilities in proportion to the amounts paid by such facilities.

**NEW SECTION. Sec. 19. ASSESSMENT PART OF OPERATING OVERHEAD.** The incidence and burden of assessments imposed under this chapter shall be on skilled nursing facilities and the expense associated with the assessments shall constitute a part of the operating overhead of the facilities. Skilled nursing facilities shall not itemize the safety net assessment on billings to residents or third-party payers.

**NEW SECTION. Sec. 20. ENFORCEMENT.** If a nursing facility fails to make timely payment of the safety net assessment, the department may seek a remedy provided by law, including, but not limited to:

- (1) Withholding any medical assistance reimbursement payments until such time as the assessment amount is recovered;
- (2) Suspension or revocation of the nursing facility license; or
- (3) Imposition of a civil fine up to one thousand dollars per day for each delinquent payment, not to exceed the amount of the assessment.

**NEW SECTION. Sec. 21. QUALITY INCENTIVE PAYMENTS.** (1) The department and the department of health, in consultation with the Washington state health care association, and aging services of Washington, shall design a system of skilled nursing facility quality incentive payments. The design of the system shall be submitted to the relevant policy and fiscal

committees of the legislature by December 15, 2011. The system shall be based upon the following principles:

(a) Evidence-based treatment and processes shall be used to improve health care outcomes for skilled nursing facility residents;

(b) Effective purchasing strategies to improve the quality of health care services should involve the use of common quality improvement measures, while recognizing that some measures may not be appropriate for application to facilities with high bariatric, behaviorally challenged, or rehabilitation populations;

(c) Quality measures chosen for the system should be consistent with the standards that have been developed by national quality improvement organizations, such as the national quality forum, the federal centers for medicare and medicaid services, or the federal agency for healthcare research and quality. New reporting burdens to skilled nursing facilities should be minimized by giving priority to measures skilled nursing facilities that are currently required to report to governmental agencies, such as the nursing home compare measures collected by the federal centers for medicare and medicaid services;

(d) Benchmarks for each quality improvement measure should be set at levels that are feasible for skilled nursing facilities to achieve, yet represent real improvements in quality and performance for a majority of skilled nursing facilities in Washington state; and

(e) Skilled nursing facilities performance and incentive payments should be designed in a manner such that all facilities in Washington are able to receive the incentive payments if performance is at or above the benchmark score set in the system established under this section.

(2) Pursuant to an appropriation by the legislature, for state fiscal year 2013 and each fiscal year thereafter, assessments may be increased to support an additional one percent increase in skilled nursing facility reimbursement rates for facilities that meet the quality incentive benchmarks established under this section.

**Sec. 22.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

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(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board

commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 23.** RCW 74.46.433 (Variable return component rate allocation) and 2010 1st sp.s. c 34 s 4, 2006 c 258 s 3, 2001 1st sp.s. c 8 s 6, & 1999 c 353 s 9 are each repealed.

**NEW SECTION. Sec. 24.** Except as provided in section 18 of this act, if any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 25.** Sections 12 through 21 and 24 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 26.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senators Keiser and Parlette spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Parlette to Substitute Senate Bill No. 5581.

The motion by Senator Keiser carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "nursing homes; amending RCW 74.46.431, 74.46.435, 74.46.437, 74.46.485, 74.46.496, 74.46.501, 74.46.506, 74.46.515, and 74.46.521; reenacting and amending RCW 43.84.092; adding a new section to chapter 74.46 RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 74.46.433; prescribing penalties; providing an effective date; and declaring an emergency."

POINT OF ORDER

Senator Holmquist Newbry: "I believe that this bill may require a super majority vote under Initiative 1053 and I have some arguments to offer."

REPLY BY THE PRESIDENT

President Owen: "Senator Holmquist Newbry, the President believes you're a little premature on your challenge. We are not on third reading yet."

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5581 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

POINT OF ORDER

Senator Holmquist Newbry: "I believe that this bill may require a super-majority voter under Initiative 1053 and I have some arguments to offer. Thank you Mr. President. In your previous rulings, you have talked about the main distinction between taxes and fees. In order to be a fee there must be a very close nexus between those paying the fee and the purpose for which that fee is to be used. If those paying the charge are not in the group that benefits from the charge the charge would appear to be a more general tax. Under this bill, nursing homes will pay an assessment on each bed: private-pay and Medicaid. Nursing homes will receive a financial benefit but only for the Medicaid beds. Most nursing homes have a mix of private-pay and Medicaid beds and would therefore receive at least a partial financial benefit in exchange for the payment for the fee. However, if a nursing home is an entirely private-pay facility and does not qualify for exemption the facility would pay a fee on all beds but under the terms of this bill could never be a part of the group receiving a benefit. There's no other purpose for this bill or other benefit provided other than the redistribution of funds. I submit to you that this scenario would constitute a tax on a private-paid facility and therefore the bill is more accurately characterized as imposing a tax rather than a fee under Initiative 1053. This would require a super majority vote, I ask you to rule. Thank you Mr. President."

Senator Murray spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5581 was deferred and the bill held its place on the third reading calendar.

At 1:39 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, May 11, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SIXTEENTH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Wednesday, May 11, 2011

The Senate was called to order at 10:00 a.m. by Senator Fraser. The Secretary called the roll and that all Senators were present with the exception of Senators Benton, Holmquist Newbry, Keiser, Pflug, Sheldon and Shin.

The Sergeant at Arms Color Guard consisting Senate staff Jim Troyer and Judy Rogers-LaVigne, presented the Colors. Senator Hargrove offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 10, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL 1248,

ENGROSSED SUBSTITUTE HOUSE BILL 2065.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5956 by Senators Harper, Pflug and Kline

AN ACT Relating to the prohibited practices of collection agencies; reenacting and amending RCW 19.16.250; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Business & Financial Services.

SB 5957 by Senators Keiser, Delvin, Kohl-Welles, Kline and Tom

AN ACT Relating to moving marijuana to Schedule II under the uniform controlled substances act; and amending RCW 69.50.204 and 69.50.206.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the

committees as designated with the exception of Senate Bill No. 5956 which was placed on the second reading calendar under suspension of the rules.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 1248 by Representatives Hunter and Darneille

AN ACT Relating to authorizing emergency rule making when necessary to implement fiscal reductions; and amending RCW 34.05.350; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 2065 by House Committee on Ways & Means (originally sponsored by Representative Hunt)

AN ACT Relating to allocation of funding for students enrolled in alternative learning experiences; amending RCW 28A.150.262, 28A.250.005, 28A.250.010, 28A.250.020, 28A.250.030, 28A.250.060, 28A.150.260, 28A.150.100, and 28A.250.050; adding a new section to chapter 28A.150 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Supplemental Introduction and First Reading report were referred to the committees as designated.

MOTION

At 10:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:31 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5956, by Senators Harper and Pflug

Concerning the prohibited practices of collection agencies.

The measure was read the second time.

MOTION

On motion of Senator Harper, the rules were suspended, Senate Bill No. 5956 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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Senator Harper spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Ericksen, Senators Becker, Benton, Holmquist Newbry and Pflug were excused.

#### MOTION

On motion of Senator White, Senators Keiser, Sheldon and Shin were excused.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5956.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5956 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Becker, Benton, Holmquist Newbry, Keiser, Pflug, Sheldon and Shin

SENATE BILL NO. 5956, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5596,

ENGROSSED SUBSTITUTE SENATE BILL 5927.

#### MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Holmquist Newbry as to the application of Initiative 1053 to Engrossed Substitute Senate Bill 5581, the President finds and rules as follows:

Procedural challenges to revenue bills have been relatively common since the enactment of Initiative 601, followed by Initiatives 960 and 1053. These challenges often have a significant impact on revenue legislation, as the result of each challenge determines the number of votes necessary for a matter to pass. The President has attempted to approach these challenges in a consistent manner, and strongly believes that consistency provides guidance to members and legislative staff in drafting legislation that increases revenue. Certainly, some of the challenges have been easier to decide than others. In this particular instance, excellent arguments have been made to support both sides of the ultimate question – whether this assessment is a tax or a fee – and the President believes that this is one of the more difficult decisions he has been called upon to make.

Substitute Senate Bill 5581 addresses the collection of revenue referred to as a 'safety net assessment.' The bill does two separate things: it reduces the Medicaid rates paid to nursing homes for the care of Medicaid eligible patients, and it collects an assessment to supplement those reduced rates. This challenge focuses on the collection and distribution of the assessment, arguing that it constitutes a tax under I-1053.

Generally, the bill imposes an obligation on licensed nursing homes to pay an assessment based on the number of beds in each facility, but only for those beds occupied by private pay and Medicaid patients. After federal funds are received and added to the assessments, those amounts are used to pay for the care of Medicaid patients in licensed nursing homes. The bill carefully excludes certain nursing homes from the obligation to pay the assessment, such as continuing care facilities, publicly-owned facilities, hospitals, and smaller nursing homes. However, to the extent that those facilities may have Medicaid patients, they will benefit from the increased rates provided by the assessments. For almost all individual nursing facilities, the amount paid and the benefit received will vary from one another, and these variances are likely to be significant.

Past rulings by the President have recognized that a measure may be appropriately described as a fee if there is a sufficient nexus between those paying the fee or tax, and the purpose for which the revenue is used. Several additional elements contribute to this analysis, such as the common elements linking members of the group obligated to pay, whether the amounts are paid into an account with limited purposes, and the specific purpose or purposes for which the revenue may be used.

The latter two elements – paying the funds into a limited account, and limiting the purpose for which the funds may be used – weigh in favor of this measure being considered a fee.

Admittedly, there is not a perfect symmetry between the individual institutions that may pay the assessment and those that receive the benefit of the increased Medicaid rates. The precise amounts paid will vary between nursing homes, and the Medicaid rate payments will also vary, because the mix of beds – private-pay and Medicaid – will be different for each institution and will also change over time for each individual institution.

But even though individual circumstances may vary, the President cannot ignore that the nursing home industry provides a broad range of vital services for Washington citizens, particularly elderly citizens. These services are paid for through private resources, Medicare, and Medicaid. Most nursing homes – although not all of them – have a mix of all three. Accordingly, the President views this bill as imposing an assessment on the licensed nursing home industry, and returning that assessment to the industry in the form of increased Medicaid rates. Neither I-1053 nor the President's prior rulings have required that a fee fall equally on individual payors, nor that its benefits be the same for each recipient. Simply put, 'there must be a reasonable connection between the fee, those paying it, and the purpose on which its proceeds may be spent.' April 4, 2007, Senate Journal, pages 1204-05).

For these reasons, the President believes this measure will take only a simple majority vote on final passage, and Senator Holmquist Newbry's point is not well-taken."

#### THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5581, by Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Parlette, Hargrove, Shin, Conway and Kline).

Creating a nursing home safety net assessment.

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The bill was read on Third Reading.

Senators Keiser, Murray, Parlette and Brown spoke in favor of passage of the bill.

Senators Ericksen, Roach and Haugen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5581.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5581 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 17; Absent, 0; Excused, 5.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Hobbs, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Tom and White

Voting nay: Senators Baumgartner, Baxter, Carrell, Ericksen, Fain, Haugen, Hewitt, Hill, Kastama, Litzow, McAuliffe, Pflug, Ranker, Roach, Stevens, Swecker and Zarelli

Excused: Senators Becker, Benton, Holmquist Newbry, Sheldon and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5581, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5581 was immediately transmitted to the House of Representatives.

MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

REPORTS OF STANDING COMMITTEES

May 11, 2011

SB 5873 Prime Sponsor, Senator Prentice: Concerning the sales and use tax exemption for qualifying businesses of eligible server equipment. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Hatfield; Hewitt; Honeyford; Keiser; Pflug; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Kastama and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Regala.

Passed to Committee on Rules for second reading.

May 11, 2011

E2SHB 1965 Prime Sponsor, Committee on Ways & Means: Concerning adverse childhood experiences. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

May 11, 2011

EHB 2069 Prime Sponsor, Representative Cody: Concerning hospital payments. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

At 2:05 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, May 12, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

SEVENTEENTH DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, May 12, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Becker, Benton, Holmquist Newbry, McAuliffe, Murray, Shin and Stevens.

The Sergeant at Arms Color Guard consisting of Senate staff Noah Ullman and Karen Wickstrom, presented the Colors. Senator Kilmer offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

May 11, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

ANNE E. HALEY, appointed April 22, 2011, for the term ending June 30, 2012, as Member of the Transportation Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Transportation.

MOTION

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

At 10:14 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:49 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5222, by Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kastama, Delvin, Eide,

Honeyford, Hargrove, Haugen, Prentice, Hobbs, Shin and Chase).

Increasing the flexibility for industrial development district levies for public port districts.

The bill was read on Third Reading.

Senator Kastama spoke in favor of passage of the bill. Senator Schoesler spoke against passage of the bill.

MOTION

On motion of Senator Ericksen, Senators Becker, Benton, Holmquist Newbry and Stevens were excused.

MOTION

On motion of Senator White, Senators McAuliffe, Murray and Shin were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5222.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5222 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 7; Absent, 2; Excused, 7.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Ericksen, Parlette, Pflug, Roach and Schoesler

Absent: Senators Baumgartner and Kohl-Welles

Excused: Senators Becker, Benton, Holmquist Newbry, McAuliffe, Murray, Shin and Stevens

SUBSTITUTE SENATE BILL NO. 5222, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

MOTION

On motion of Senator Eide, Senator Kohl-Welles was excused.

SECOND READING

SENATE BILL NO. 5873, by Senators Prentice, Parlette, Hewitt, Murray, Harper, Holmquist Newbry, Chase, Zarelli, Hobbs, King, Fain, Honeyford, Tom, Kilmer and McAuliffe

Concerning the sales and use tax exemption for qualifying businesses of eligible server equipment.

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The measure was read the second time.

## MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Rockefeller be adopted:

On page 5, line 20, strike "2016" and insert "2014"

On page 6, line 12, strike "2023" and insert "2021"

On page 7, line 16, strike "2023" and insert "2021"

On page 8, line 15, strike "2023" and insert "2021"

Re-number the remaining sections consecutively and correct any internal references accordingly

Senators Kastama and Prentice spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Rockefeller on page 5, line 20 to Senate Bill No. 5873.

The motion by Senator Kastama carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Senate Bill No. 5873 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Kastama and Holmquist Newbry spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5873.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5873 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 1; Absent, 0; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, Morton, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senator Hargrove

Excused: Senators Becker, Benton, Kohl-Welles, McAuliffe, Murray, Shin and Stevens

ENGROSSED SENATE BILL NO. 5873, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5222 and Engrossed Senate Bill No. 5873 were immediately transmitted to the House of Representatives.

## MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

## THIRD READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Ranker and Shin).

Concerning the administration and distribution of Washington state ferry system revenue. Revised for 1st Substitute: Providing funding and cost saving measures for the Washington state ferry system.

The bill was read on Third Reading.

## MOTION

On motion of Senator Haugen, the rules were suspended and Engrossed Substitute Senate Bill No. 5742 was returned to second reading for the purpose of amendment.

## SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, by Senate Committee on Transportation (originally sponsored by Senators Haugen, Ranker and Shin)

Concerning the administration and distribution of Washington state ferry system revenue. Revised for 1st Substitute: Providing funding and cost saving measures for the Washington state ferry system.

The measure was read the second time.

## MOTION

Senator Haugen moved that the following striking amendment by Senators Haugen and King be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.530 and 1979 c 27 s 4 are each amended to read as follows:

~~((There is hereby created in the motor vehicle fund))~~ (1) The Puget Sound ferry operations account ((to the credit of which shall be deposited all moneys directed by law to be deposited therein. All moneys deposited in this account shall be expended pursuant to appropriations only for reimbursement of the motor vehicle fund for any state moneys, other than insurance proceeds, expended therefrom for alternate transportation services instituted as a result of the destruction of the Hood Canal bridge, and)) is created in the motor vehicle fund.

(2) The following funds must be deposited into the account:

(a) All moneys directed by law;

(b) All revenues generated from ferry fares; and

(c) All revenues generated from commercial advertising, concessions, parking, and leases as allowed under RCW 47.60.140.

(3) Moneys in the account may be spent only after appropriation.

(4) Expenditures from the account may be used only for the maintenance, administration, and operation of the ((Washington state ferries including the Hood Canal bridge, supplementing as required the revenues available from the)) Washington state ferry system.

**NEW SECTION. Sec. 2.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The capital vessel replacement account is created in the motor vehicle fund. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) must be deposited into the account. Moneys in the account may be spent only after

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appropriation. Expenditures from the account may be used only for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer may not transfer any moneys from the capital vessel replacement account except to the transportation 2003 account (nickel account) for debt service on bonds issued for the construction of a 144-car class ferry vessel.

**Sec. 3.** RCW 47.60.315 and 2007 c 512 s 6 are each amended to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) By September 1st of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

(6) The commission may not raise fares until the fare rules contain pricing policies developed under RCW 47.60.290, or September 1, 2009, whichever is later.

(7) The commission shall impose a vessel replacement surcharge of twenty-five cents on every one-way and round-trip ferry fare sold, including multiride and monthly pass fares. This surcharge must be clearly indicated to ferry passengers and drivers and, if possible, on the fare media itself.

**Sec. 4.** RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013.

**Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased

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banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle

account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 7.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, working conditions, and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same

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monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall not bargain over the rights of management as identified in RCW 41.80.040.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**NEW SECTION. Sec. 8.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2013, all captains of Washington state ferry vessels are part of Washington state ferries management.

(2) The captain, also known as the master of a vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

(a) Ensuring the safe navigation of the vessel and its crew and passengers;

(b) Following all applicable federal, state, and agency policies and regulations;

(c) Supervising crew in performance, operations, training, security, and environmental protection; and

(d) Overseeing all aspects of vessel operations.

(3) Effective July 1, 2013, the public employment relations commission shall sever from the masters, mates, and pilots bargaining unit all captains. In anticipation of the captains' severance from the masters, mates, and pilots bargaining unit, the public employment relations commission shall conduct an election by August 31, 2011, to determine representation of the captains. A union seeking to represent captains does not have to demonstrate a showing of interest to be included on the ballot. If a majority of the captains in the masters, mates, and pilots bargaining unit indicate by vote that they desire to be included in a newly formed captains-only bargaining unit, the public employment relations commission shall certify a captains-only bargaining unit, to be effective July 1, 2013. Notwithstanding the results of the election, captains shall remain a part of the masters, mates, and pilots bargaining unit through June 30, 2013.

(4) If a new captains-only bargaining unit is created, the employer and the exclusive bargaining representative for the captains-only bargaining unit must negotiate a collective bargaining agreement exclusive to the captains-only bargaining unit.

(5) For negotiations covering the 2013-2015 biennium, the employer and the exclusive bargaining representative of the captains-only bargaining unit must negotiate agreements that are consistent with this section.

(6) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining

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agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

**NEW SECTION. Sec. 9.** A new section is added to chapter 47.64 RCW to read as follows:

For the purposes of this section and sections 10 through 15 of this act:

(1) "Management" means an employee at the Washington state ferries who is part of Washington management services, is exempt, or is a captain.

(2) "Performance measure" means measurable standards to be used by the department to evaluate the sufficiency of the services being provided to ferry riders.

(3) "Performance report" means a report that summarizes ferry system performance using the performance measures identified in sections 10 and 11 of this act.

(4) "Performance target" means the desired outcome of a performance measure.

**NEW SECTION. Sec. 10.** A new section is added to chapter 47.64 RCW to read as follows:

Performance targets must be established by an ad hoc committee with members from and designated by the office of the governor, which must include at least one member from labor. The committee may not consist of more than eleven members. By July 1, 2011, the committee shall present performance targets to the representatives of the legislative transportation committees and the joint transportation committee for review of the performance measures listed under this section. The committee may also develop performance measures in addition to the following:

(1) Safety performance as measured by passenger injuries per one million passenger miles and by injuries per ten thousand revenue service hours that are recordable by standards of the federal occupational safety and health administration and related to standard operating procedures;

(2) Service effectiveness measures including, but not limited to, passenger satisfaction of interactions with ferry employees, cleanliness and comfort of vessels and terminals, and satisfactory response to requests for assistance. Passenger satisfaction must be measured by an evaluation that is created by a contracted market research company and conducted by the Washington state transportation commission as part of the ferry riders' opinion group survey. The Washington state transportation commission shall, to the extent possible, integrate the passenger satisfaction evaluation into the ferry user data survey described in RCW 47.60.286;

(3) Cost-containment measures including, but not limited to, operating cost per passenger mile, operating cost per revenue service mile, discretionary overtime as a percentage of straight time, and gallons of fuel consumed per revenue service mile; and

(4) Maintenance and capital program effectiveness measures including, but not limited to: Project delivery rate as measured by the number of projects completed on time and within the omnibus transportation appropriations act; vessel and terminal design and engineering costs as measured by a percentage of the total capital program, including measurement of the ongoing operating and maintenance costs; and total vessel out-of-service time.

**NEW SECTION. Sec. 11.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Beginning on October 1, 2011, the department shall report on peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions. On-time is defined as within ten minutes of the scheduled time.

Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and

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Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measure in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site. The statistics must include reasons for any delays over five minutes and any delays over ten minutes from the scheduled time.

(3) The department may not eliminate any ferry route without prior legislative approval.

**NEW SECTION. Sec. 12.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The office of financial management shall complete a government management and accountability performance report that provides a baseline assessment of current performance on the performance measures identified in sections 10 and 11 of this act using final 2009-2011 data. This report must be presented to the legislature by November 1, 2011, through the attainment report required in RCW 47.01.071(5) and 47.04.280.

(2) By October 1, 2012, and each year thereafter, the office of financial management shall complete a performance report for the prior fiscal year. This report must be reviewed by the joint transportation committee, and the findings of the report must be incorporated into the governor's proposed biennial transportation budget. The office of financial management shall transmit a copy of the accepted performance report to the legislature with the governor's biennial transportation budget.

(3) Management shall lead implementation of the performance measures in sections 10 and 11 of this act.

**NEW SECTION. Sec. 13.** A new section is added to chapter 47.64 RCW to read as follows:

If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 10 and 11 of this act by June 30, 2013, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the performance targets in sections 10 and 11 of this act within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

**NEW SECTION. Sec. 14.** A new section is added to chapter 47.64 RCW to read as follows:

(1) If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 10 and 11 of this act by June 30, 2013, the department must:

(a) Solicit a fixed cost bid for meeting the performance measures in sections 10 and 11 of this act, which must include a request for information or a request for qualifications to identify qualifications necessary and costs associated with privatizing the management functions of the Washington state ferries; and

(b) Present the results of the request for information or request for qualifications to the transportation committees of the legislature and the governor.

(2) In consultation with the governor's office, the transportation committees of the legislature shall utilize the information provided in subsection (1) of this section to determine whether or not to competitively contract out the management functions of the Washington state ferry system the following biennium.

(3) If the governor and the transportation committees of the legislature opt to competitively contract out the management functions of the Washington state ferry system in the following

biennium, the contract must be a fixed cost contract that requires the private management services firm to meet or exceed the performance target for eighty percent of the performance measures under sections 10 and 11 of this act. Based on these performance measures, the contract must provide for incentive or retained payment arrangements as a means of ensuring satisfactory performance of the contract and improved performance of the ferry system over time.

(4) The contract must include a requirement that the firm retain existing and future collective bargaining agreements as negotiated between the state and the employees' labor representatives. The private management services firm may rehire Washington management services employees or exempt employees at the Washington state ferries.

(5) The contract must be for a two-year period. If the private management services firm meets or exceeds the performance measures under sections 10 and 11 of this act, the contract is renewable for an additional two years for a maximum of ten years. After ten years, the department shall implement an invitation for bid process.

(6) Consistent with RCW 41.06.142(3), the contract is not subject to requirements for agencies purchasing services that have been customarily and historically provided by state employees.

**NEW SECTION. Sec. 15.** A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in sections 10 and 11 of this act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 41.58 RCW to read as follows:

(1) There is created the marine employees' commission within the public employment relations commission. The governor shall appoint the marine employees' commission with the consent of the senate. The marine employees' commission shall consist of three members: One member to be appointed from labor; one member from industry; and one member from the public who has significant knowledge of maritime affairs. The public member is chair of the marine employees' commission. Any member of the marine employees' commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Marine employees' commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the marine employees' commission. Members of the marine employees' commission must be compensated in accordance with RCW 43.03.250 and must receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission under RCW 47.01.061.

(2) The rules of procedure adopted by the public employment relations commission under chapter 34.05 RCW apply to state ferry system employees, except that the marine employees' commission shall act in place of the public employment relations commission for appeals of unfair labor practice complaints, questions concerning representation, and unit clarifications.

(3) In addition to subsection (2) of this section, the marine employees' commission shall perform the duties as provided in RCW 47.64.280.

(4) This section expires June 30, 2013.

**Sec. 17.** RCW 41.58.050 and 1975 1st ex.s. c 296 s 7 are each amended to read as follows:

The ((board)) commission shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter.

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**Sec. 18.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of this chapter and chapter 47.64 RCW shall govern. However, if a conflict exists between this chapter and chapter 47.64 RCW, this chapter shall govern.

**Sec. 19.** RCW 47.64.130 and 2010 c 8 s 10021 are each amended to read as follows:

(1) It is an unfair labor practice for the employer or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. However, subject to rules made by the public employment relations commission pursuant to RCW ((47.64.280)) 41.58.050, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160. However, nothing prohibits the employer from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization;

(d) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter. However, this subsection does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer.

(3) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

**Sec. 20.** RCW 47.64.280 and 2010 c 283 s 14 are each amended to read as follows:

~~(1) (There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or~~

~~she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.~~

~~(2)) The marine employees' commission, created in section 16 of this act, shall ((- (a)) adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150 ((- (b) provide for impasse mediation as required in RCW 47.64.210; and (c) perform those duties required in RCW 47.64.300.~~

~~(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.~~

~~(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.~~

~~(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.~~

~~(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter).~~

(2) All unfair labor practice complaints, questions concerning representation, and unit clarifications must be filed with the public employment relations commission and processed in accordance with the commission's rules adopted under chapter 34.05 RCW, except that the marine employees' commission shall act in place of the public employment relations commission for appeals.

(3) This section expires June 30, 2013.

**Sec. 21.** RCW 47.64.300 and 2007 c 160 s 4 are each amended to read as follows:

(1) If an agreement has not been reached following a reasonable period of negotiations and, when applicable, mediation, upon the recommendation of the assigned mediator that the parties remain at impasse or, with respect to biennial bargaining, in compliance with the interest arbitration agreement under RCW 47.64.170(6)(a), all impasse items shall be submitted to arbitration under this section. The issues for arbitration shall be limited to the issues certified by the ((commission)) executive director.

(2) The parties may agree to submit the dispute to a single arbitrator, whose authority and duties shall be the same as those of an arbitration panel. If the parties cannot agree on the arbitrator within five working days, the selection shall be made under subsection (3) of this section, except with respect to biennial bargaining described under RCW 47.64.170(6). The full costs of

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arbitration under this section shall be shared equally by the parties to the dispute.

(3) Within seven days following the issuance of the determination of the ~~((commission))~~ executive director, each party shall, absent an agreement to the contrary, name one person to serve as its arbitrator on the arbitration panel. Except with respect to biennial bargaining described under RCW 47.64.170(6), the two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, either party may apply to the federal mediation and conciliation service, or, with the consent of the parties, the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(4) In consultation with the parties, the arbitrator or arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. The parties shall exchange final positions in writing, with copies to the arbitrator or arbitration panel, with respect to every issue to be arbitrated, on a date mutually agreed upon, but in no event later than ten working days before the date set for hearing. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(5) The neutral chair shall consult with the other members of the arbitration panel, if a panel has been created. Within thirty days following the conclusion of the hearing, or sooner as the October 1st deadline set forth in RCW 47.64.170 (6)(c) and (7) necessitates, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination is final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious.

**Sec. 22.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this

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chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~(y) ((All employees of the marine employees' commission; —(z)))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ (z) The manager of the energy facility site evaluation council;

~~((bb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((cc))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional

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exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) ~~(and (y))~~ and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 23.** (1) Consistent with section 16 of this act, the marine employees' commission's powers, duties, and functions are transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture,

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office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**Sec. 24.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Executive director" means the executive director of the commission.

~~((6))~~ (6) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

~~((7))~~ (7) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

~~((8))~~ (8) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

~~((9))~~ (9) "Office of financial management" means the office as created in RCW 43.41.050.

~~((10))~~ (10) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from

the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 25.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees'))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

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(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**NEW SECTION. Sec. 26.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders; however, a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

**NEW SECTION. Sec. 27.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The commission shall determine all questions pertaining to representation and shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections. The commission shall adopt rules that provide for at least the following:

- (a) Secret balloting;
- (b) Consulting with employee organizations;
- (c) Access to lists of employees, job classification, work locations, and home mailing addresses;
- (d) Absentee voting;
- (e) Procedures for the greatest possible participation in voting;
- (f) Campaigning on the employer's property during working hours; and
- (g) Election observers.

(2) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit.

(3) The certified exclusive bargaining representative is responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

(a) Fewer than twelve months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days and no less than ninety calendar days before the expiration of the contract.

**NEW SECTION. Sec. 28.** The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.150 (Grievance procedures) and 1983 c 15 s 6.

**NEW SECTION. Sec. 29.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 30.** Sections 1 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 31.** Sections 16 through 25 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011.

**NEW SECTION. Sec. 32.** Sections 26 through 28 of this act take effect July 1, 2013."

Senator Haugen spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Haugen and King to Engrossed Substitute Senate Bill No. 5742.

The motion by Senator Haugen carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "the Washington state ferry system; amending RCW 47.60.530, 47.60.315, 82.08.0255, 82.12.0256, 47.64.120, 41.58.050, 41.58.060, 47.64.130, 47.64.280, 47.64.300, and 47.64.011; reenacting and amending RCW 43.84.092, 41.06.070, and 47.64.090; adding a new section to chapter 47.60 RCW; adding new sections to chapter 47.64 RCW; adding a new section to chapter 41.58 RCW; creating a new section; repealing RCW 47.64.080 and 47.64.150; providing effective dates; providing expiration dates; and declaring an emergency."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Second Engrossed Substitute Senate Bill No. 5742 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

#### POINT OF INQUIRY

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Senator King: "Would Senator Haugen yield to a question? Senator Haugen, does anything in this bill preclude the ferries' management from implementing part time shifts as an alternative to any proposed service reductions?"

Senator Haugen: "No Senator. As a right of management nothing in this bill precludes ferry management from implementing part time shifts as an alternative service reductions."

Senators King, Rockefeller, Ranker and Nelson spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5742.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5742 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 10; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Brown, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Kilmer, King, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Chase, Conway, Ericksen, Holmquist Newbry, Keiser, Kline, Kohl-Welles and Roach

Excused: Senators Becker, Benton, McAuliffe, Shin and Stevens

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Second Engrossed Substitute Senate Bill No. 5742 was immediately transmitted to the House of Representatives.

#### MOTION

At 12:28 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:33 p.m. by President Owen.

#### MOTION

At 1:33 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, May 13, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**EIGHTEENTH DAY**

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**NOON SESSION**

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Senate Chamber, Olympia, Friday, May 13, 2011

The Senate was called to order at 10:00 a.m. by President Owen. No roll call was taken.

**MOTION**

On motion of Senator Fraser, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

On motion of Senator Fraser, the Senate advanced to the fifth order of business.

**INTRODUCTION AND FIRST READING**

ESB 5958 by Senators White, Kohl-Welles and Keiser

AN ACT Relating to providing local government funding of tourism promotion, workforce housing, art and heritage programs, and community development; amending RCW 82.14.049, 82.14.360, 36.38.010, 36.100.220, and 67.28.180; and adding a new section to chapter 67.28 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

**MOTION**

On motion of Senator Fraser, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

**MOTION**

At 10:02 a.m., on motion of Senator Fraser, the Senate adjourned until 10:00 a.m. Monday, May 16, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY FIRST DAY

MORNING SESSION

BARBARA BAKER, Chief Clerk

Senate Chamber, Olympia, Monday, May 16, 2011

MESSAGE FROM THE HOUSE

May 13, 2011

The Senate was called to order at 10:00 a.m. by the President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Eide, Kline, Kohl-Welles, Murray, Roach, Sheldon, Shin and Swecker.

The Sergeant at Arms Color Guard consisting of Senator Joe Fain and Senator Andy Hill, presented the Colors. Senator Fraser offered the prayer.

The President assumed the chair.

MOTION

On motion of Senator Rockefeller, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Rockefeller, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS

April 13, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LEE NEWGENT, appointed April 13, 2011, for the term ending June 30, 2013, as Member of the Work Force Training and Education Coordinating Board.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

MOTION

On motion of Senator Rockefeller, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

MOTION

On motion of Senator Rockefeller, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 13, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL 2082,  
ENGROSSED SUBSTITUTE HOUSE BILL 2115.  
and the same are herewith transmitted.

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1224,

ENGROSSED SUBSTITUTE HOUSE BILL 1354,

ENGROSSED SUBSTITUTE HOUSE BILL 1449,

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 1701,

HOUSE BILL 2111.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Rockefeller, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

2ESHB 1224 by House Committee on Ways & Means (originally sponsored by Representatives Green, Dammeier, Cody, Appleton, Darneille, Harris and Roberts)

AN ACT Relating to a business and occupation tax deduction for amounts received with respect to mental health services; amending RCW 82.04.4297 and 82.04.431; adding a new section to chapter 82.04 RCW; creating a new section; and providing an expiration date.

Referred to Committee on Ways & Means.

ESHB 1354 by House Committee on Ways & Means (originally sponsored by Representatives Hunt, Haigh, Hunter and Darneille)

AN ACT Relating to apportionments to educational service districts and school districts for the 2010-11 school year; amending RCW 28A.510.250; and declaring an emergency.

Referred to Committee on Ways & Means.

ESHB 1449 by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hunter, Haigh, Anderson, Maxwell, Sullivan and Dammeier)

AN ACT Relating to establishing a processing fee for educator certificates and subsequent actions; adding a new section to chapter 28A.410 RCW; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

2ESHB 1701 by House Committee on Labor & Workforce Development (originally sponsored by Representatives Ormsby, Green, Sells, Kenney, Van De Wege, Hasegawa, Hudgins,

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Moeller, Miloscia, Sullivan, Upthegrove, Pettigrew, Seaquist, Hunter and Frockt)

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MOTION

AN ACT Relating to the underground economy by addressing the loss in state revenue through misclassification of workers as independent contractors in the construction industry; amending 2009 c 432 s 13 (uncodified); adding new sections to chapter 18.27 RCW; creating a new section; and prescribing penalties.

Referred to Committee on Labor, Commerce & Consumer Protection.

ESHB 2082 by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Goodman, Dickerson, Roberts, Pettigrew, Appleton, Ryu, Fitzgibbon, Finn, Orwall, Ormsby, Ladenburg, Kenney and Moscoco)

AN ACT Relating to reforming the disability lifeline program through essential needs and housing support for persons not likely to meet federal supplemental security income disability standards, continued aid and support for other disability lifeline recipients, and modification of the disability lifeline medical care services needed to receive federal funding; amending RCW 74.09.035, 74.04.005, 74.09.510, 74.50.055, 70.96A.530, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.225, 74.04.230, 74.04.266, 74.04.620, 74.04.652, 74.04.655, 74.04.657, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.08A.440, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 43.330.175, 74.04.120, and 74.04.810; providing effective dates; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2111 by Representatives Maxwell, Anderson, Sullivan, Dammeier, Orwall, Lytton, Frockt, Probst, Finn, Moscoco, Seaquist, Sells, Goodman, Reykdal, Hunt, Wilcox, Dahlquist, Fagan, Haigh, Santos, Pettigrew, Carlyle, Van De Wege, Moeller, Ladenburg, McCoy, Jinkins, Billig, Pedersen, Fitzgibbon, Wylie and Kenney

AN ACT Relating to implementing selected recommendations from the 2011 report of the quality education council; amending RCW 28A.150.260, 28A.657.050, 28A.165.015, 28A.165.015, 28A.165.025, 28A.320.190, 28A.180.090, 28A.185.020, 28A.185.030, 28C.18.162, 28A.660.042, 28A.660.050, 28A.660.040, and 28A.400.201; adding new sections to chapter 28A.655 RCW; adding a new section to chapter 28A.230 RCW; adding a new section to chapter 28A.185 RCW; creating new sections; providing an effective date; and providing an expiration date.

Referred to Committee on Ways & Means.

ESHB 2115 by House Committee on Education (originally sponsored by Representatives Haigh and Dammeier)

AN ACT Relating to legislative review of performance standards for the statewide student assessment; amending RCW 28A.305.130; and declaring an emergency.

On motion of Senator Rockefeller, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exception of Second Engrossed Substitute House Bill No. 1701 which was held at the desk and Second Engrossed Substitute House Bill No. 1224 and Engrossed Substitute House Bill No. 2115 which were placed on the second reading calendar under suspension of the rules.

MOTION

At 10:28 a.m., on motion of Senator Rockefeller, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:58 a.m. by President Owen.

MOTION

On motion of Senator Rockefeller, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 10, 2011

MR. PRESIDENT:

The House passed SECOND ENGROSSED SENATE BILL NO. 5773 with the following amendment(s): 5773.E2 AMH LIIA PRIN 360; 5773.E2 AMH CODY PRIN 356

On page 6, line 9, after "(6)" insert "(a)"

On page 6, after line 14, insert the following:

"(b) By November 30, 2015, and each year thereafter, the authority shall submit a report to the relevant legislative policy and fiscal committees that includes the following:

(i) Public employee benefits board health plan cost and service utilization trends for the previous three years, in total and for each health plan offered to employees;

(ii) For each health plan offered to employees, the number and percentage of employees and dependents enrolled in the plan, and the age and gender demographics of enrollees in each plan;

(iii) Any impact of enrollment in alternatives to the most comprehensive plan, including the high deductible health plan with a health savings account, upon the cost of health benefits for those employees who have chosen to remain enrolled in the most comprehensive plan."

On page 8, beginning on line 19, strike all of sections 2 and 3 and insert the following:

"**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The Washington state health care authority shall develop a plan to incorporate direct patient-provider primary care practices as provided in chapter 48.150 RCW into one or more of the choices of health benefit programs made available to participants in the public employees' benefits board system beginning no later than the open enrollment period beginning November 1, 2012.

(2) The plan will be developed in consultation with the board and interested parties, will identify statutory barriers to implementation, and will include proposed legislation to address those barriers and implement the plan. The plan will be submitted to the board and to the House and Senate health care committees by December 1, 2011."

Renumber the remaining sections and correct the title. and the same are herewith transmitted.

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BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5773.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5773.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Second Engrossed Senate Bill No. 5773 by voice vote.

MOTION

On motion of Senator White, Senators Eide, Kohl-Welles and Shin were excused.

MOTION

On motion of Senator Ericksen, Senators Roach and Swecker were excused.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5773, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5773, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 9; Absent, 3; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Delvin, Ericksen, Fain, Hargrove, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Litzow, McAuliffe, Morton, Parlette, Pflug, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Stevens, Tom and Zarelli

Voting nay: Senators Chase, Conway, Fraser, Harper, Hatfield, Keiser, Nelson, Prentice and White

Absent: Senators Kline, Murray and Sheldon

Excused: Senators Eide, Kohl-Welles, Roach, Shin and Swecker

SECOND ENGROSSED SENATE BILL NO. 5773, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

May 13, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5921 with the following amendment(s): 5921-S.E AMH ENGR H2797.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that stable and sustainable employment is the key goal of the WorkFirst and temporary assistance for needy families programs. Achieving stable and sustainable employment is a developmental process that takes time, effort, and engagement. In times of fiscal challenge,

temporary assistance for needy families and WorkFirst resources must be invested in program elements that produce the best results for low-income families and the state of Washington.

The legislature further finds that the core tenets that are the foundation of Washington state's WorkFirst program are: (1) Achieving stable and successful employment; (2) recognizing the critical role that participants play in their children's development, healthy growth, and promotion of family stability; (3) developing strategies founded on the principle that WorkFirst is a transitional, not long-term, program to assist families on the pathway to self-sufficiency while holding them accountable; and (4) leveraging resources outside the funding for temporary assistance for needy families is crucial to achieving WorkFirst goals. It is the intent of the legislature, using evidence-based and research-based practices, to develop a road map to self-sufficiency for WorkFirst participants and temporary assistance for needy families recipients.

The legislature further finds that parents are responsible for the support of their children and that they have up to sixty months of receipt of temporary assistance for needy families benefits, absent any applicable hardship extension, to achieve stable and sustainable employment or find other means to support their family. It is the intent of the legislature to apply a sixty-month time limit to the temporary assistance for needy families program, including households in which a parent is in the home and ineligible for temporary assistance for needy families. The legislature intends that hardship extensions be applied to families subject to time limits.

**Sec. 2.** RCW 74.08A.260 and 2009 c 85 s 2 are each amended to read as follows:

(1) Each recipient shall be assessed after determination of program eligibility and before referral to job search. Assessments shall be based upon factors that are critical to obtaining employment, including but not limited to education, availability of child care, history of family violence, history of substance abuse, and other factors that affect the ability to obtain employment. Assessments may be performed by the department or by a contracted entity. The assessment shall be based on a uniform, consistent, transferable format that will be accepted by all agencies and organizations serving the recipient.

(2) Based on the assessment, an individual responsibility plan shall be prepared that: (a) Sets forth an employment goal and a plan for maximizing the recipient's success at meeting the employment goal; (b) considers WorkFirst educational and training programs from which the recipient could benefit; (c) contains the obligation of the recipient to participate in the program by complying with the plan; (d) moves the recipient into full-time WorkFirst activities as quickly as possible; and (e) describes the services available to the recipient either during or after WorkFirst to enable the recipient to obtain and keep employment and to advance in the workplace and increase the recipient's wage earning potential over time.

~~((2))~~ (3) Recipients who are not engaged in work and work activities, and do not qualify for a good cause exemption under RCW 74.08A.270, shall engage in self-directed service as provided in RCW 74.08A.330.

~~((3))~~ (4) If a recipient refuses to engage in work and work activities required by the department, the family's grant shall be reduced by the recipient's share, and may, if the department determines it appropriate, be terminated.

~~((4))~~ (5) The department may waive the penalties required under subsection ~~((3))~~ (4) of this section, subject to a finding that the recipient refused to engage in work for good cause provided in RCW 74.08A.270.

((5) In implementing this section, the department shall assign the highest priority to the most employable clients, including adults in two-parent families and parents in single-parent families that

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include older preschool or school-age children to be engaged in work activities.)

(6) In consultation with the recipient, the department or contractor shall place the recipient into a work activity that is available in the local area where the recipient resides.

(7) Assessments conducted under this section shall include a consideration of the potential benefit to the recipient of engaging in financial literacy activities. The department shall consider the options for financial literacy activities available in the community, including information and resources available through the financial ~~(literacy)~~ education public-private partnership created under RCW 28A.300.450. The department may authorize up to ten hours of financial literacy activities as a core activity or an optional activity under WorkFirst.

(8)(a) From July 1, 2011, through June 30, 2012, subsections (2) through (6) of this section are suspended for a recipient who is a parent or other relative personally providing care for one child under the age of two years, or two or more children under the age of six years. This suspension applies to both one and two parent families. However, both parents in a two-parent family cannot use the suspension during the same month. Beginning July 1, 2012, the department shall phase in the work activity requirements that were suspended, beginning with those recipients closest to reaching the sixty-month limit of receiving temporary assistance for needy families under RCW 74.08A.010(1). The phase in shall be accomplished so that a fairly equal number of recipients required to participate in work activities are returned to those activities each month until the total number required to participate is participating by June 30, 2013. Nothing in this subsection shall prevent a recipient from participating in the WorkFirst program on a voluntary basis. Recipients who participate in the WorkFirst program on a voluntary basis shall be provided an option to participate in the program on a part-time basis, consisting of sixteen or fewer hours of activities per week. Recipients also may participate voluntarily on a full-time basis.

(b)(i) The period of suspension of work activities under this subsection provides an opportunity for the legislative and executive branches to oversee redesign of the WorkFirst program. To realize this opportunity, both during the period of suspension and following reinstatement of work activity requirements as redesign is being implemented, a legislative-executive WorkFirst oversight task force is established, with members as provided in this subsection (8)(b).

(ii) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(iii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(iv) The governor shall appoint members representing the department of social and health services, the department of early learning, the department of commerce, the employment security department, the office of financial management, and the state board for community and technical colleges.

(v) The task force shall choose cochaurs, one from among the legislative members and one from among the executive branch members. The legislative members shall convene the initial meeting of the task force.

(c) The task force shall:

(i) Oversee the partner agencies' implementation of the redesign of the WorkFirst program and operation of the temporary assistance for needy families program to ensure that the programs are achieving desired outcomes for their clients;

(ii) Determine evidence-based outcome measures for the WorkFirst program, including measures related to equitably serving the needs of historically underrepresented populations, such as English language learners, immigrants, refugees, and other diverse

communities;

(iii) Develop accountability measures for WorkFirst recipients and the state agencies responsible for their progress toward self-sufficiency;

(iv) Make recommendations to the governor and the legislature regarding:

(A) Policies to improve the effectiveness of the WorkFirst program over time;

(B) Early identification of those recipients most likely to experience long stays on the program and strategies to improve their ability to achieve progress toward self-sufficiency; and

(C) Necessary changes to the program, including taking into account federal changes to the temporary assistance for needy families program.

(d) The partner agencies must provide the task force with regular reports on:

(i) The partner agencies' progress toward meeting the outcome and performance measures established under (c) of this subsection;

(ii) Caseload trends and program expenditures, and the impact of those trends and expenditures on client services, including services to historically underrepresented populations; and

(iii) The characteristics of families who have been unsuccessful on the program and have lost their benefits either through sanction or the sixty-month time limit.

(e) Staff support for the task force must be provided by senate committee services, the house of representatives office of program research, and the state agency members of the task force.

(f) The task force shall meet on a quarterly basis beginning September 2011, or as determined necessary by the task force cochaurs.

(g) During its tenure, the state agency members of the task force shall respond in a timely manner to data requests from the cochaurs.

**Sec. 3.** RCW 74.08A.290 and 1997 c 58 s 316 are each amended to read as follows:

(1) ~~(It is the intent of the legislature that)~~ On or before July 1, 2012, the department ((is authorized to)) shall engage in competitive contracting using performance-based contracts to provide all WorkFirst work activities ((authorized in chapter 58, Laws of 1997, including the job search component authorized in section 312 of this act)).

(2) The department ~~((may))~~ shall use competitive performance-based contracting to select ~~((which vendors will participate))~~ the public or private vendors to provide work activity services in the WorkFirst program. WorkFirst work activity services provided by partner agencies also shall be pursuant to performance-based contracts. Performance-based contracts shall be awarded based on factors that include but are not limited to the criteria listed in RCW 74.08A.410, past performance of the contractor, demonstrated ability to perform the contract effectively, financial strength of the contractor, and merits of the proposal for services submitted by the contractor. Contracts shall be made without regard to whether the contractor is a public or private entity.

(3) The department ~~((may))~~ shall contract for an evaluation of the competitive contracting practices and outcomes to be performed by ~~((an independent entity with expertise in government privatization and competitive strategies))~~ the Washington state institute for public policy. The evaluation shall include ~~((quarterly))~~ annual progress reports to the appropriate policy and fiscal committees of the legislature and to the governor, starting ((at the first quarter after the effective date of the first competitive contract and ending two years after the effective date of the first competitive contract)) June 30, 2012.

(4) The department shall work with the legislative-executive WorkFirst oversight task force established under RCW 74.08A.260 to develop appropriate outcomes by which the contractor's

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performance will be measured. The outcomes shall be developed no later than November 30, 2011.

(5) The department shall seek independent assistance in developing contracting strategies to implement this section. Assistance may include but is not limited to development of contract language, design of requests for proposal, developing full cost information on government services, evaluation of bids, and providing for equal competition between private and public entities.

**NEW SECTION. Sec. 4.** A new section is added to chapter 74.12 RCW to read as follows:

The department shall adopt rules, effective November 1, 2011, establishing income eligibility for temporary assistance for needy families benefits for a child, other than a foster child, who lives with a caregiver other than his or her parents. The department shall establish a sliding scale benefit standard for a child when the income of the child's caregiver is above two hundred percent but below three hundred percent of the federal poverty level based on family size. A caregiver with an income above three hundred percent of the federal poverty level shall not be eligible for temporary assistance for needy families benefits for a child, not a foster child, who is residing with that caregiver.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.08A RCW to read as follows:

In determining the income eligibility of an applicant or recipient for temporary assistance for needy families or WorkFirst, the department shall not count the federal supplemental security income received by a household member.

**Sec. 6.** RCW 74.08A.010 and 2004 c 54 s 4 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.

(4) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of ~~((community, trade, and economic development))~~ commerce, or the crime victims' compensation program of the department of labor and industries.

~~((4)) (5) The department may exempt a recipient and the recipient's family from the application of subsection (1) of this section by reason of hardship or if the recipient meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193. ((The number of recipients and their families exempted from subsection (1) of this section for a fiscal year shall not exceed twenty percent of the average monthly number of recipients and their families to which assistance is provided under the temporary assistance for needy families program.~~

~~(5)) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.~~

~~(6) The department shall not exempt a recipient and his or her~~

family from the application of subsection (1) or (3) of this section until after the recipient has received fifty-two months of assistance under this chapter.

~~((6)) (7) Beginning on October 31, 2005, the department shall provide transitional food stamp assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's food stamp certification until the end of the transition period.~~

**Sec. 7.** RCW 74.08.025 and 2005 c 174 s 2 are each amended to read as follows:

(1) Public assistance may be awarded to any applicant:

(a) Who is in need and otherwise meets the eligibility requirements of department assistance programs; and

(b) Who has not made a voluntary assignment of property or cash for the purpose of qualifying for an assistance grant; and

(c) Who is not an inmate of a public institution except as a patient in a medical institution or except as an inmate in a public institution who could qualify for federal aid assistance: **PROVIDED**, That the assistance paid by the department to recipients in nursing homes, or receiving nursing home care, may cover the cost of clothing and incidentals and general maintenance exclusive of medical care and health services. The department may pay a grant to cover the cost of clothing and personal incidentals in public or private medical institutions and institutions for tuberculosis. The department shall allow recipients in nursing homes to retain, in addition to the grant to cover the cost of clothing and incidentals, wages received for work as a part of a training or rehabilitative program designed to prepare the recipient for less restrictive placement to the extent permitted under Title XIX of the federal social security act.

(2) Any person otherwise qualified for temporary assistance for needy families under this title who has resided in the state of Washington for fewer than twelve consecutive months immediately preceding application for assistance is limited to the benefit level in the state in which the person resided immediately before Washington, using the eligibility rules and other definitions established under this chapter, that was obtainable on the date of application in Washington state, if the benefit level of the prior state is lower than the level provided to similarly situated applicants in Washington state. The benefit level under this subsection shall be in effect for the first twelve months a recipient is on temporary assistance for needy families in Washington state.

(3) Any person otherwise qualified for temporary assistance for needy families who is assessed through the state alcohol and substance abuse program as drug or alcohol-dependent and requiring treatment to become employable shall be required by the department to participate in a drug or alcohol treatment program as a condition of benefit receipt.

(4) The department may implement a permanent disqualification for adults who have been terminated due to WorkFirst noncompliance sanction three or more times since March 1, 2007. A household that includes an adult who has been permanently disqualified from receiving temporary assistance for needy families shall be ineligible for further temporary assistance for needy families assistance.

(5) Pursuant to 21 U.S.C. 862a(d)(1), the department shall exempt individuals from the eligibility restrictions of 21 U.S.C. 862a(a)(1) and (2) to ensure eligibility for temporary assistance for needy families benefits and federal food assistance.

**Sec. 8.** RCW 74.08A.250 and 2009 c 353 s 6 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter, "work activity" means:

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(1) Unsubsidized paid employment in the private or public sector;

(2) Subsidized paid employment in the private or public sector, including employment through the state or federal work-study program for a period not to exceed twenty-four months;

(3) Work experience, including:

(a) An internship or practicum, that is paid or unpaid and is required to complete a course of vocational training or to obtain a license or certificate in a high-demand occupation, as determined by the employment security department. No internship or practicum shall exceed twelve months; or

(b) Work associated with the refurbishing of publicly assisted housing, if sufficient paid employment is not available;

(4) On-the-job training;

(5) Job search and job readiness assistance;

(6) Community service programs, including a recipient's voluntary service at a child care or preschool facility licensed under chapter 43.215 RCW or an elementary school in which his or her child is enrolled;

(7) Vocational educational training, not to exceed twelve months with respect to any individual;

(8) Job skills training directly related to employment;

(9) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a GED;

(10) Satisfactory attendance at secondary school or in a course of study leading to a GED, in the case of a recipient who has not completed secondary school or received such a certificate;

(11) The provision of child care services to an individual who is participating in a community service program;

(12) Internships, that shall be paid or unpaid work experience performed by an intern in a business, industry, or government or nongovernmental agency setting;

(13) Practicums, which include any educational program in which a student is working under the close supervision of a professional in an agency, clinic, or other professional practice setting for purposes of advancing their skills and knowledge;

(14) Services required by the recipient under RCW 74.08.025(3) and 74.08A.010(~~(3)~~) (4) to become employable; (~~and~~)

(15) Financial literacy activities designed to be effective in assisting a recipient in becoming self-sufficient and financially stable; and

(16) Parent education services or programs that support development of appropriate parenting skills, life skills, and employment-related competencies.

**Sec. 9.** RCW 74.20.040 and 2007 c 143 s 5 are each amended to read as follows:

(1) Whenever the department receives an application for public assistance on behalf of a child, or the department receives an application for subsidized child care services or working connections child care services, the department or the department of early learning shall take appropriate action under the provisions of this chapter, chapter 74.20A RCW, or other appropriate statutes of this state to establish or enforce support obligations against the parent or other persons owing a duty to pay support moneys.

(2) The secretary may accept a request for support enforcement services on behalf of persons who are not recipients of public assistance and may take appropriate action to establish or enforce support obligations against the parent or other persons owing a duty to pay moneys. Requests accepted under this subsection may be conditioned upon the payment of a fee as required by subsection (6) of this section or through regulation issued by the secretary. The secretary may establish by regulation, reasonable standards and qualifications for support enforcement services under this subsection.

(3) The secretary may accept requests for support enforcement services from child support enforcement agencies in other states operating child support programs under Title IV-D of the social security act or from foreign countries, and may take appropriate action to establish and enforce support obligations, or to enforce subpoenas, information requests, orders for genetic testing, and collection actions issued by the other agency against the parent or other person owing a duty to pay support moneys, the parent or other person's employer, or any other person or entity properly subject to child support collection or information-gathering processes. The request shall contain and be accompanied by such information and documentation as the secretary may by rule require, and be signed by an authorized representative of the agency. The secretary may adopt rules setting forth the duration and nature of services provided under this subsection.

(4) The department may take action to establish, enforce, and collect a support obligation, including performing related services, under this chapter and chapter 74.20A RCW, or through the attorney general or prosecuting attorney for action under chapter 26.09, 26.18, 26.20, 26.21A, or 26.26 RCW or other appropriate statutes or the common law of this state.

(5) Whenever a support order is filed with the Washington state support registry under chapter 26.23 RCW, the department may take appropriate action under the provisions of this chapter, chapter 26.23 or 74.20A RCW, or other appropriate law of this state to establish or enforce the support obligations contained in that order against the responsible parent or other persons owing a duty to pay support moneys.

(6) The secretary, in the case of an individual who has never received assistance under a state program funded under part A and for whom the state has collected at least five hundred dollars of support, shall impose an annual fee of twenty-five dollars for each case in which services are furnished, which shall be retained by the state from support collected on behalf of the individual, but not from the first five hundred dollars of support. The secretary may, on showing of necessity, waive or defer any such fee or cost.

(7) Fees, due and owing, may be retained from support payments directly or collected as delinquent support moneys utilizing any of the remedies in chapter 74.20 RCW, chapter 74.20A RCW, chapter 26.21A RCW, or any other remedy at law or equity available to the department or any agencies with whom it has a cooperative or contractual arrangement to establish, enforce, or collect support moneys or support obligations.

(8) The secretary may waive the fee, or any portion thereof, as a part of a compromise of disputed claims or may grant partial or total charge off of said fee if the secretary finds there are no available, practical, or lawful means by which said fee may be collected or to facilitate payment of the amount of delinquent support moneys or fees owed.

(9) The secretary shall adopt rules conforming to federal laws, including but not limited to complying with section 7310 of the federal deficit reduction act of 2005, 42 U.S.C. Sec. 654, and rules and regulations required to be observed in maintaining the state child support enforcement program required under Title IV-D of the federal social security act. The adoption of these rules shall be calculated to promote the cost-effective use of the agency's resources and not otherwise cause the agency to divert its resources from its essential functions.

**Sec. 10.** RCW 74.20.330 and 2007 c 143 s 6 are each amended to read as follows:

(1) Whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, each applicant or recipient is deemed to have made

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assignment to the department of any rights to a support obligation from any other person the applicant or recipient may have in his or her own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving public assistance, including any unpaid support obligation or support debt which has accrued at the time the assignment is made.

(2) Payment of public assistance under a state-funded program, or a program funded under Title IV-A, IV-E, or XIX of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996 shall:

(a) Operate as an assignment by operation of law; and

(b) Constitute an authorization to the department to provide the assistance recipient with support enforcement services.

(3) Payment for subsidized child care services or working connections child care services shall constitute an authorization to the department to provide the recipient of the subsidy with support enforcement services. The department is authorized to collect, but not retain, child support payments under this subsection.

(4) Effective October 1, 2008, whenever public assistance is paid under a state program funded under Title IV-A of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996, and the federal deficit reduction act of 2005, a member of the family is deemed to have made an assignment to the state any right the family member may have, or on behalf of the family member receiving such assistance, to support from any other person, not exceeding the total amount of assistance paid to the family, which accrues during the period that the family receives assistance under the program.

**Sec. 11.** RCW 43.215.135 and 2010 c 273 s 2 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote continuity of care for children.

(2) As a condition of receiving a child care subsidy or a working connections child care subsidy, the applicant or recipient must seek child support enforcement services from the department of social and health services, division of child support, unless the department finds that the applicant or recipient has good cause not to cooperate.

(3) Except as provided in subsection (4) of this section, an applicant or recipient of a child care subsidy or a working connections child care subsidy is eligible to receive that subsidy for six months before having to recertify his or her income eligibility. The six-month certification provision applies only if enrollments in the child care subsidy or working connections child care program are capped.

(4) Beginning in fiscal year 2011, for families with children enrolled in an early childhood education and assistance program, a head start program, or an early head start program, authorizations for the working connections child care subsidy shall be effective for twelve months unless a change in circumstances necessitates reauthorization sooner than twelve months.

~~((3))~~ (5) The department, in consultation with the department of social and health services, shall report to the legislature by September 1, 2011, with:

(a) An analysis of the impact of the twelve-month authorization period on the stability of child care, program costs, and administrative savings; and

(b) Recommendations for expanding the application of the twelve-month authorization period to additional populations of children in care.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.215 RCW to read as follows:

The department and the department of social and health services, in consultation with interested individuals and organizations, shall jointly:

(1) Identify different options to track subsidized child care attendance, including methods using a land line or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommended method to the legislature no later than December 31, 2011. Each department's recommendations must include implementation issues to be addressed and a proposed implementation timeline, and should assume a January 2013 implementation date for the attendance tracking system. The legislature shall review the recommendations and authorize implementation. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

(2) Conduct an assessment of the current subsidized child care eligibility determination system and develop recommendations to improve the accuracy, efficiency, and responsiveness of the system, including consideration of the most appropriate entity or entities to make eligibility determinations. The results of the assessment shall be reported to the legislature no later than December 31, 2011.

**NEW SECTION. Sec. 13.** (1) The department of social and health services, in consultation with its electronic benefits card contractor and interested persons and organizations, shall develop strategies to increase opportunities for public assistance recipients to maintain bank accounts, with a goal of increasing recipient financial literacy and financial management skills and minimizing recipient costs association with automatic teller machine transaction fees. A report and recommendations shall be submitted to the relevant policy and fiscal committees of the legislature by December 1, 2011.

(2) The department of social and health services shall, in contracting with electronic benefit card providers, require that any surcharge or transaction fee charged by the provider be disclosed to electronic benefit card clients at the point in which the surcharge or transaction fee occurs.

**Sec. 14.** RCW 74.08.580 and 2002 c 252 s 1 are each amended to read as follows:

(1) Any person receiving public assistance is prohibited from using electronic benefit cards or cash obtained with electronic benefit cards:

(a) For the purpose of participating in any of the activities authorized under chapter 9.46 RCW;

(b) For the purpose of parimutuel wagering authorized under chapter 67.16 RCW; ~~((e))~~

(c) To purchase lottery tickets or shares authorized under chapter 67.70 RCW;

(d) For the purpose of participating in or purchasing any activities located in a tattoo, body piercing, or body art shop licensed under chapter 18.300 RCW;

(e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco products as defined in RCW 82.26.010;

(f) To purchase any items regulated under Title 66 RCW; or

(g) For the purpose of purchasing or participating in any activities in any location listed in subsection (2) of this section.

(2) On or before January 1, 2012, the businesses listed in this subsection must disable the ability of ATM and point-of-sale machines located on their business premises to accept the electronic benefit card. The following businesses are required to comply with this mandate:

(a) Taverns licensed under RCW 66.24.330;

(b) Beer/wine specialty stores licensed under RCW 66.24.371;

(c) Nightclubs licensed under RCW 66.24.600;

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- (d) Contract liquor stores defined under RCW 66.04.010;
- (e) Bail bond agencies regulated under chapter 18.185 RCW;
- (f) Gambling establishments licensed under chapter 9.46 RCW;
- (g) Tattoo, body piercing, or body art shops regulated under chapter 18.300 RCW;
- (h) Adult entertainment venues with performances that contain erotic material where minors under the age of eighteen are prohibited under RCW 9.68A.150; and
- (i) Any establishments where persons under the age of eighteen are not permitted.

(3) The department must notify the licensing authority of any business listed in subsection (2) of this section that such business has continued to allow the use of the electronic benefit card in violation of subsection (2) of this section.

(4) Only the recipient, an eligible member of the household, or the recipient's authorized representative may use an electronic benefit card or the benefit and such use shall only be for the respective benefit program purposes. The recipient shall not sell, or attempt to sell, exchange, or donate an electronic benefit card or any benefits to any other person or entity.

(5) The first violation of subsection (1) or (4) of this section by a recipient constitutes a class 4 civil infraction under RCW 7.80.120. Second and subsequent violations of subsection (1) or (4) of this section constitute a class 3 civil infraction under RCW 7.80.120.

(a) The department shall notify, in writing, all recipients of electronic benefit cards that any violation of subsection (1) or (4) of this section could result in legal proceedings and forfeiture of all cash public assistance.

(b) Whenever the department receives notice that a person has violated subsection (1) or (4) of this section, the department shall notify the person in writing that the violation could result in legal proceedings and forfeiture of all cash public assistance.

(c) The department shall assign a protective payee to the person receiving public assistance who violates subsection (1) or (4) of this section two or more times.

**NEW SECTION. Sec. 15.** A new section is added to chapter 66.24 RCW to read as follows:

The board shall immediately suspend the license of a business that has been issued a license under RCW 66.24.330, 66.24.371, or 66.24.600 if the board receives information that the business has not complied with RCW 74.08.580(2). If the licensee has remained otherwise eligible to be licensed, the board may reinstate the suspended license when the business has complied with RCW 74.08.580(2).

**Sec. 16.** RCW 66.16.041 and 2005 c 151 s 6 are each amended to read as follows:

(1) The state liquor control board shall accept bank credit card and debit cards for purchases in state liquor stores, under such rules as the board may adopt. The board shall authorize contract liquor stores appointed under RCW 66.08.050 to accept bank credit cards and debit cards for liquor purchases under this title, under such rules as the board may adopt.

(2) If a contract liquor store chooses to use credit or debit cards for liquor purchases, the board shall provide equipment and installation and maintenance of the equipment necessary to implement the use of credit and debit cards. Any equipment provided by the board to a contract liquor store for this purpose may be used only for the purchase of liquor.

(3) It is the board's responsibility to ensure that the equipment used by the contract liquor stores to accept debit or credit cards for liquor purchases complies with the requirements of RCW 74.08.580(2) with regard to point-of-sale machines.

(4) It is the contract liquor store's responsibility to comply with the requirements of RCW 74.08.580(2) pertaining to the use of electronic benefit transfer cards in ATM machines located on the

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contract liquor store premises. The board shall immediately suspend the contract it has with the contract liquor store if it receives information that the store has not complied with RCW 74.08.580(2). The board may reinstate the suspended contract when the contract liquor store has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 17.** A new section is added to chapter 18.300 RCW to read as follows:

The department of licensing shall immediately suspend any license under this chapter if the department receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has remained otherwise eligible to be licensed, the department may reinstate the suspended license when the holder has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 18.** A new section is added to chapter 18.185 RCW to read as follows:

The director shall immediately suspend any license issued under this chapter if the director receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has otherwise remained eligible to be licensed, the director may reinstate the suspended license when the holder has complied with RCW 74.08.580(2).

**Sec. 19.** RCW 9.46.410 and 2002 c 252 s 2 are each amended to read as follows:

(1) Any licensee authorized under this chapter is prohibited from allowing the use of public assistance electronic benefit cards for the purpose of participating in any of the activities authorized under this chapter.

(2) Any licensee authorized under this chapter shall report to the department of social and health services any known violations of RCW 74.08.580.

(3) Any licensee authorized under this chapter is required to comply with RCW 74.08.580(2). If the licensee fails to comply with RCW 74.08.580(2), its license shall be immediately suspended until it complies with RCW 74.08.580(2). If the licensee remains otherwise eligible to be licensed, the commission may reinstate the license once the licensee has complied with RCW 74.08.580(2).

**NEW SECTION. Sec. 20.** The legislature finds that eliminating waste, fraud, and abuse of public assistance benefits should be a priority of the department of social and health services, and this can best be reflected in a newly organized, accountable, and proactive fraud unit directly under the secretary's authority with the resources necessary to combat fraud and to ensure the confidence of the public in the critical social safety net programs it funds.

**NEW SECTION. Sec. 21.** A new section is added to chapter 74.04 RCW to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abuse" means any intentional use of public assistance benefits that constitutes a violation of any state statute or regulation relating to the use of public assistance benefits. This definition excludes medicaid and other medical programs as defined in chapter 74.09 RCW, and fraud and abuse committed by medical providers and recipients of medicaid and other medical program services.

(2) "Disclosable information" means public information that (a) is not exempt from disclosure under chapter 42.56 RCW; and (b) does not pertain to an ongoing investigation.

(3) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself or some other person.

(4) "Office" means the office of fraud and accountability.

(5) "Public assistance" or "public assistance programs" means public aid to persons in need including assistance grants, food assistance, work relief, disability lifeline benefits, temporary assistance for needy families, and, for purposes of this section,

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working connections child care subsidies. This definition excludes medicaid and other medical programs as defined in chapter 74.09 RCW, and fraud and abuse committed by medical providers and recipients of medicaid and other medical program services.

**Sec. 22.** RCW 74.04.012 and 2008 c 74 s 3 are each amended to read as follows:

(1) There is established (~~a unit~~) an office of fraud and accountability within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared to be unlawful in the public assistance programs administered by the department. The secretary will employ qualified supervisory, legal, and investigative personnel for the program. Program staff must be qualified by training and experience.

(2) The director of the office of fraud and accountability is the head of the office and is selected by the secretary and must demonstrate suitable capacity and experience in law enforcement management, public administration, and criminal investigations. The director of the office of fraud and accountability shall:

(a) Report directly to the secretary; and

(b) Ensure that each citizen complaint, employee complaint, law enforcement complaint, and agency referral is assessed and, when risk of fraud or abuse is present, is fully investigated, and is referred for prosecution or recovery when there is substantial evidence of wrongdoing.

(3) The office shall:

(a) Conduct independent and objective investigations into allegations of fraud and abuse, make appropriate referral to law enforcement when there is substantial evidence of criminal activity, and recover overpayment whenever possible and to the greatest possible degree;

(b) Recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, and to mitigate the risk for fraud and abuse and assure that public assistance benefits are being used for their statutorily stated goals;

(c) Analyze cost-effective, best practice alternatives to the current cash benefit delivery system consistent with federal law to ensure that benefits are being used for their intended purposes; and

(d) Use best practices to determine appropriate utilization and deployment of investigative resources, ensure that resources are deployed in a balanced and effective manner, and use all available methods to gather evidence necessary for proper investigation and successful prosecution.

(4) By December 31, 2011, the office shall report to the legislature on the development of the office, identification of any barriers to meeting the stated goals of the office, and recommendations for improvements to the system and laws related to the prevention, detection, and prosecution of fraud and abuse in public assistance programs.

**Sec. 23.** RCW 43.20A.605 and 2009 c 549 s 5078 are each amended to read as follows:

(1) The secretary or a designee shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him or her together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2).

(4) When a judicially approved subpoena is required by law, the secretary or designee may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its

issuance. The application may be made in the county where the subpoenaed person resides or is found, or in the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(5) When an application under subsection (4) of this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. When a judicially approved subpoena is required by law, an order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(6) The secretary or designee may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

**NEW SECTION. Sec. 24.** A new section is added to chapter 74.04 RCW to read as follows:

(1) In carrying out the provisions of this chapter, the office of fraud and accountability shall have prompt access to all individuals, records, electronic data, reports, audits, reviews, documents, and other materials available to the department of revenue, department of labor and industries, department of early learning, employment security department, department of licensing, and any other government entity that can be used to help facilitate investigations of fraud or abuse as determined necessary by the director of the office of fraud and accountability.

(2) Information gathered by the department, the office, or the fraud ombudsman shall be safeguarded and remain confidential as required by applicable state or federal law. Whenever information or assistance requested under subsection (1) of this section is, in the judgment of the director, unreasonably refused or not provided, the director of the office of fraud and accountability must report the circumstances to the secretary immediately.

**Sec. 25.** RCW 49.60.210 and 1992 c 118 s 4 are each amended to read as follows:

(1) It is an unfair practice for any employer, employment agency, labor union, or other person to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden by this chapter, or because he or she has filed a charge, testified, or assisted in any proceeding under this chapter.

(2) It is an unfair practice for a government agency or government manager or supervisor to retaliate against a whistleblower as defined in chapter 42.40 RCW.

(3) It is an unfair practice for any employer, employment agency, labor union, government agency, government manager, or government supervisor to discharge, expel, discriminate, or otherwise retaliate against an individual assisting with an office of fraud and accountability investigation under RCW 74.04.012, unless the individual has willfully disregarded the truth in providing information to the office.

**NEW SECTION. Sec. 26.** A new section is added to chapter 43.09 RCW to read as follows:

(1) The auditor shall appoint a fraud ombudsman to audit the work of the office of fraud and accountability within the department

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of social and health services. The ombudsman shall review the fraud investigative work done by the office including cases filed with local prosecuting authorities. The ombudsman also shall have authority to investigate citizen complaints made to the auditor's office regarding fraud and abuse investigations conducted by, or declined to be conducted by, the office of fraud and accountability. The department of social and health services shall provide the ombudsman with access to any relevant records it has in its possession related to a fraud or abuse investigation as determined by the fraud ombudsman, including access to electronic benefit transfer card transaction data.

(2) The fraud ombudsman shall have access to persons within the office of fraud and accountability for purposes of interviews and evaluation.

(3) The fraud ombudsman must submit a report summarizing its auditing activities of the office of fraud and accountability to the appropriate committees of the legislature by November 30, 2012, and biennially thereafter. The office of fraud and accountability shall assist the ombudsman to the fullest extent practicable in producing this report. The report shall contain only information consistent with the requirements of chapter 42.56 RCW and any other applicable state or federal laws, including:

(a) A description of significant fraud or abuse, and of vulnerabilities or deficiencies relating to the prevention and detection of fraud or abuse in public assistance programs, discovered as a result of investigations completed during the reporting period;

(b) Recommendations for improving the activities of the office of fraud and accountability with respect to the vulnerabilities or deficiencies identified under (a) of this subsection;

(c) An identification of each significant recommendation described in the previous reports on which corrective action has, or has not, been completed;

(d) The response from the office of fraud and accountability to any of the report findings, recommendations, or information provided in the report;

(e) A summary of matters referred to prosecuting authorities during the reporting period and the charges filed and convictions entered during the reporting period that have resulted from referrals by the office of fraud and accountability; and

(f) A description of the ease of access allowed by the office of fraud and accountability to all necessary data and personnel for purposes of conducting the audit.

(4) Information gathered by department staff, the office of fraud and accountability, and the fraud ombudsman shall be safeguarded and remain confidential as required by applicable state and federal law.

**NEW SECTION. Sec. 27.** A new section is added to chapter 43.20A RCW to read as follows:

No later than January 1, 2012, the department shall establish an employee incentive program pilot for those employees who work directly with participants in the WorkFirst program. The pilot shall provide for eight hours of paid annual leave per year, in addition to the annual leave the employee normally accrues, for those employees who assist participants in meeting certain outcomes to be established by the department. The outcomes established must be of significance for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to unsubsidized employment. The department shall report to the legislature by January 1, 2013, on the implementation of the pilot project, including how many employees received paid annual leave, what outcomes were achieved, and the savings associated with the achievement of the outcomes.

**NEW SECTION. Sec. 28.** Except for section 6 of this act, this act is necessary for the immediate preservation of the public

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peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011.

**NEW SECTION. Sec. 29.** Section 6 of this act takes effect September 1, 2011."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5921.

Senators Regala and Carrell spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5921.

MOTION

On motion of Senator White, Senator Murray was excused.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5921 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5921, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5921, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Tom, White and Zarelli

Excused: Senators Eide, Kohl-Welles, Roach, Shin and Swecker

ENGROSSED SUBSTITUTE SENATE BILL NO. 5921, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 12:11 p.m., on motion of Senator Rockefeller, the Senate adjourned until 10:00 a.m. Tuesday, May 17, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SECOND DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, May 17, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Roach, Sheldon and Zarelli.

The Sergeant at Arms Color Guard consisting of Senator Steve Hobbs and Senator Curtis King, presented the Colors. Mark Boyd, Director of Youth Ministries, United Churches of Olympia offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide and without objection, Senate Rule 45, part 11, was suspended to dispense with the requirement that committee reports be on the secretary's desk for one hour prior to convening of the session to allow measures on the Standing Committee Report to be immediately considered.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

May 16, 2011

SB 5931 Prime Sponsor, Senator Baumgartner: Reorganizing and streamlining central service functions, powers, and duties of state government. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5931 be substituted therefor, and the substitute bill do pass. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Pflug; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Keiser; Pridemore; Regala and Rockefeller.

Passed to Committee on Rules for second reading.

May 16, 2011

EHB 1248 Prime Sponsor, Representative Hunter: Authorizing emergency rule making when necessary to implement fiscal reductions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Fraser; Hatfield; Hewitt; Holmquist Newbry; Honeyford;

Kastama; Keiser; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5959 by Senators Tom and Zarelli

AN ACT Relating to K-12 educator employment, including compensation and building assignment; amending RCW 28A.400.201; adding new sections to chapter 28A.405 RCW; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

SIGNED BY THE PRESIDENT

The President signed:  
SECOND ENGROSSED SENATE BILL 5773,  
ENGROSSED SUBSTITUTE SENATE BILL 5921.

PERSONAL PRIVILEGE

Senator Eide: "Well, thank you Mr. President. Well, ladies and gentlemen of the Senate, my husband Mark and I have hit a milestone in our life this last weekend. Our daughter Joanna graduated from law school. We are very, very proud of her needless to say, even more so of course her mom and dad were bawling during the ceremony but she is one of three in her whole class of one hundred eight that received, this means a whole lot to me and I'm sharing something that's going on in my life, thank you. My daughter graduated from law school this weekend. We're extremely proud of her. She did this on her own. My husband had me with the whip, go, go and she did this on her own. She was one of only three in her whole class, there was a hundred eight in her law school class, that received a double emphasis. One in Natural Resources and Environment Law and the other one in Native American Law. She received an award for her pro bono that she had done which was only a few of them so her wore a cord around her neck. Now there's a day that you stand

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up there and you think you're so darned proud you don't know how to stand it but I wanted to share it with because we've been blessed. Brought the grandparents, brought our son, Matt and it was glorious day. Thank you for letting me share."

PERSONAL PRIVILEGE

Senator Pflug: "Thank you Mr. President. I would like to congratulate the lady and I'm just also let her know that I know exactly how you feel because on Sunday we celebrated my daughter-in-laws' graduation from law school as well and it's just, it is an incredible feeling to see these kids doing so well and of course for me inspiring too. Obviously it can be done. So I told her that maybe next year we could start our own firm, you know 'Pflug and Pflug' or 'Pflug & Daughter' and she would inform me it would be Pflug & Mother.' So, anyway, thank you and congratulations."

PERSONAL PRIVILEGE

Senator Shin: "Thank you sir. Good morning to you all. I want to apologize for my absence last week from this chamber. I was invited by the both the Russian government and there were seven American Missionaries, about ten Korean Missionaries in East of Russia. I got off at Vladivostok, about six hour drive to the western part of Russia. They have agreed to lease two hundred thousand acres of virgin land, soil to farm and maybe plant green grass and some food stuff and they would market it all over the world and this would be for the people that are poor. On that two hundred thousand acres of land they raise soy beans, wheat and corn and they would distribute to the poor people and also in Africa, South America. It was an honor for me to be invited and do some mediation between Russian government and those missionaries. It's already successful, ready to plow the fields and they will start to harvest to help the poor people around the world and it was an honor to be there and come back last night. Thank you Mr. President."

PERSONAL PRIVILEGE

Senator Murray: "Thank you Mr. President. I don't do point of personal privilege so this is a first for me. But you'll remember a few years ago that we've had the privilege of having the Irish Attorney General visit us and speak to us in this chamber. Today for the first time in the history of the Irish Republic the Queen of England is visiting on a state visit. Another important step in the peace process that so tore that island apart. That's the end of my point of personal privilege."

REMARKS BY THE PRESIDENT

President Owen: "Long live the Queen."

MOTION

On motion of Senator Ericksen, Senators Benton, Parlette, Roach and Zarelli were excused.

MESSAGE FROM THE HOUSE

May 13, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5289 with the following amendment(s): 5289 AMH WAYS H2822.1

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Strike everything after the enacting clause and insert the following:

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax due under this chapter, there may be deducted from the measure of tax all amounts received by:

(a) A nonprofit property management company from the owner of property for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions;

(b) A property management company from a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions; or

(c) A property management company from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority for gross wages, benefits, and payroll taxes paid to, or for, personnel performing on-site functions.

(2) A person claiming the deduction under this section must file a complete annual report with the department under RCW 82.32.534.

(3) The definitions in this subsection apply to this section.

(a) "Personnel performing on-site functions" means a person who meets all of the following conditions:

(i) The person works at the owner's property or centrally performs on-site functions for the property;

(ii) The person's duties include leasing property units, maintaining the property, preparing tenant income certification paperwork or other compliance documents required to lease the unit, collecting rents, recording rents, or performing similar activities; and

(iii) The property management company, for whom the personnel performing on-site functions works, operates under a written property management agreement.

(b) "Nonprofit property management company" means a property management company that:

(i) Is exempt from the tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010, but only when such organization is providing property management services for low-income housing that has qualified for the property tax exemption under RCW 84.36.560; or

(ii) Is a public corporation established under RCW 35.21.730.

(c) "Housing authority" means a housing authority created pursuant to chapter 35.82 RCW.

(4) This section expires July 1, 2016.

NEW SECTION. **Sec. 2.** RCW 82.04.394 (Exemptions--Amounts received by property management company for on-site personnel) and 2010 1st sp.s. c 23 s 1202, 2010 c 106 s 209, & 1998 c 338 s 2 are each repealed.

NEW SECTION. **Sec. 3.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5289 and ask the House to recede therefrom.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate refuse to concur in

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the House amendment(s) to Senate Bill No. 5289 and ask the House to recede therefrom.

The motion by Senator Murray carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5289 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator White, Senator Sheldon was excused.

MESSAGE FROM THE HOUSE

May 13, 2011

MR. PRESIDENT:

The House passed SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742 with the following amendment(s): 5742-S.E2 AMH ARMS H2839.2

Beginning on page 9, line 34, strike all of section 8 and insert the following:

**"NEW SECTION. Sec. 8.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2013, a captain of a Washington state ferry vessel, also known as the master of the vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

- (a) Ensuring the safe navigation of the vessel and its crew and passengers;
- (b) Following all applicable federal, state, and agency policies and regulations;
- (c) Supervising crew in performance, operations, training, security, and environmental protection;
- (d) Overseeing all aspects of vessel operations; and
- (e) Conforming with and ensuring that the vessel also conforms with the performance expectations set forth by the department.

(2) Effective July 1, 2013, the office of financial management, the marine employees' commission, and the exclusive bargaining representative of the captains shall meet and determine a methodology for separating the captains from other licensed deck officers currently represented by the masters, mates, and pilots bargaining unit. This process must provide for the continuation of both bargaining units by the masters, mates, and pilots bargaining unit as well as a formal recognition by the state that the terms and conditions of the current licensed deck officer collective bargaining agreement must carry forward for both bargaining units and must serve as the bases for future negotiations with these bargaining units. The separation of these bargaining units must be completed by July 1, 2013.

(3) If a new captains-only bargaining unit is created, the employer and the exclusive bargaining representative for the captains-only bargaining unit must negotiate a collective bargaining agreement exclusive to the captains-only bargaining unit. The collective bargaining agreement for the captains must include a negotiated provision that outlines the objectives and measurable performance expectations for the captains.

(4) For negotiations covering the 2013-2015 biennium, the employer and the exclusive bargaining representative of the captains-only bargaining unit must negotiate agreements that are consistent with this section.

(5) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

On page 11, beginning on line 6, after "services" strike all material through "captain" on line 7 and insert "or is exempt"

Beginning on page 11, line 16, strike all of section 10 and insert the following:

**"NEW SECTION. Sec. 10.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Performance targets for the Washington state ferries must be established by an ad hoc committee with members from and designated by the office of the governor, which must include at least one representative from labor, by October 1, 2013. The ad hoc committee shall solicit input from the joint transportation committee. Performance targets must be reviewed and reestablished by an ad hoc committee with members from and designated by the office of the governor every six years.

(2) The ad hoc committee must consider the following performance measures to set performance targets:

- (a) Safety performance as measured by passenger and employee injuries;
- (b) On-time performance by route, excluding delays that are authorized or are outside of the control of the department;
- (c) Customer satisfaction, which may include customer surveys;
- (d) Fuel consumption; and
- (e) Terminal and vessel operating costs, not including fuel.

(3) By October 1st of each year, the department shall complete a report to assess whether the performance targets have been met for the prior fiscal year. This performance report must be reviewed by the office of financial management. Biennially, the office of financial management must integrate the performance report into the report prepared by the office of financial management pursuant to RCW 47.04.280 regarding progress towards achieving Washington state's transportation system policy goals.

(4) If the department does not meet the performance targets, it must develop an action plan to meet the performance targets within a set time frame and submit this plan to the office of financial management within thirty days of the performance report. The action plan must identify the cause and conditions that lead to nonperformance and must include recommendations to improve performance. Recommendations may include remedies that would require additional funds or legislative action. The office of financial management must also provide the action plan to the transportation committees of the legislature."

On page 13, beginning on line 1, strike all of section 12. Renumber the remaining sections consecutively and correct any internal references accordingly. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Haugen moved that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate refuse to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742 and request conference thereon.

The motion by Senator Haugen carried and the Senate refused to concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 5742 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Second Engrossed Substitute Senate Bill No. 5742

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and the House amendment(s) thereto: Senators Haugen, King and Prentice.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

ENGROSSED SENATE BILL NO. 5638, by Senators Keiser, Fain, Prentice and Shin.

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies. (REVISED FOR ENGROSSED: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies while protecting other levies from prorationing.)

The bill was read on Third Reading.

MOTION

On motion of Senator Pflug, the rules were suspended and Engrossed Senate Bill No. 5638 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SENATE BILL NO. 5638, by Senators Keiser, Fain, Prentice and Shin

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies. (REVISED FOR ENGROSSED: Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies while protecting other levies from prorationing.)

The measure was read the second time.

MOTION

Senator Pflug moved that the following striking amendment by Senators Keiser, Fain and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 84.52.010 and 2009 c 551 s 7 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes ~~((shall))~~ must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, ~~((shall))~~ must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county ~~((shall))~~

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must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor ~~((shall))~~ must recompute and establish a consolidated levy in the following manner:

~~((+))~~ (a) The full certified rates of tax levy for state, county, county road district, and city or town purposes ~~((shall))~~ must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy ~~((shall))~~ takes precedence over all other levies and ~~((shall))~~ may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies ~~((shall))~~ must be reduced as follows:

~~((+))~~ (i) The portion of the levy by a metropolitan park district that has a population of less than one hundred fifty thousand and is located in a county with a population of one million five hundred thousand or more that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((+))~~ (iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((+))~~ (iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((+))~~ (v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((+))~~ (vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district with a population of one hundred fifty thousand or more that is protected under RCW 84.52.120 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((+))~~ (vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy

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imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, ~~((shall))~~ must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated; and

~~((viii))~~ (viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated.

~~((b))~~ (b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property ~~((shall))~~ must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

~~((i))~~ (i) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((ii))~~ (ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((iii))~~ (iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((iv))~~ (iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((v))~~ (v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) ~~((shall))~~ must be reduced on a pro rata basis or eliminated; and

~~((vi))~~ (vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, ~~((shall))~~ must be reduced on a pro rata basis or eliminated.

**Sec. 2.** RCW 84.52.010 and 2011 c ... (EHB 1969) s 1 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated and fixed by the county assessors of the

respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, 84.52.140, and the protected portion of the levy under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are coextensive with a county, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) The portion of the levy by a metropolitan park district that has a population of less than one hundred fifty thousand and is located in a county with a population of one million five hundred thousand or more that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the protected portion of the levy imposed under RCW 86.15.160 by a flood control zone district in a county with a population of seven hundred seventy-five thousand or more that is coextensive with a county must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((iii))~~ (iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((iv))~~ (iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((v))~~ (v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((vi))~~ (vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((vii))~~ (vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district with a population of one hundred fifty

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thousand or more that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((vii))~~ (viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

~~((viii))~~ (ix) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 must be reduced on a pro rata basis or eliminated;

(ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts ~~((that have a population of seven hundred seventy five thousand or more))~~ other than the portion of a levy protected under RCW 84.52.--- (section 4 of this act) must be reduced on a pro rata basis or eliminated;

(iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

(iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

(v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

(vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

**Sec. 3.** RCW 84.52.120 and 1995 c 99 s 1 are each amended to read as follows:

A metropolitan park district with a population of one hundred fifty thousand or more, or any metropolitan park district located in a county with a population of one million five hundred thousand or more, may submit a ballot proposition to voters of the district authorizing the protection of the district's tax levy from prorationing

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under RCW 84.52.010~~((2))~~ (3)(b) by imposing all or any portion of the district's twenty-five cent per thousand dollars of assessed valuation tax levy outside of the five dollar and ninety cent per thousand dollar of assessed valuation limitation established under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010~~((2)(c))~~ (3)(b)(iii), for taxes imposed in any year on or before the first day of January six years after the ballot proposition is approved. A simple majority vote of voters voting on the proposition is required for approval.

**Sec. 4.** RCW 84.52.--- and 2011 c ... (EHB 1969) s 3 are each amended to read as follows:

A flood control zone district in a county with a population of seven hundred seventy-five thousand or more that is coextensive with a county may protect the levy under RCW 86.15.160(1) from prorationing under RCW 84.52.010(3)(b)(ii) by imposing up to a total of twenty-five cents per thousand dollars of assessed value of the tax levy authorized under RCW 86.15.160 outside of the five dollars and ninety cents per thousand dollars of assessed value limitation under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010(3)(b)(ii).

NEW SECTION. **Sec. 5.** This act applies to taxes levied for collection in 2012 through 2017.

NEW SECTION. **Sec. 6.** (1) Section 1 of this act takes effect if section 1, chapter . . . (EHB 1969), Laws of 2011 is not enacted into law.

(2) Section 2 of this act takes effect if section 1, chapter . . . (EHB 1969), Laws of 2011 is enacted into law.

NEW SECTION. **Sec. 7.** This act expires January 1, 2018."

Senator Pflug spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser, Fain and Pflug to Engrossed Senate Bill No. 5638.

The motion by Senator Pflug carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "exemption of" strike the remainder of the title and insert "certain taxing districts; amending RCW 84.52.010, 84.52.010, 84.52.120, and 84.52.---; creating a new section; providing contingent effective dates; and providing an expiration date."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Second Engrossed Senate Bill No. 5638 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5638.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5638 and the bill passed the Senate by the following vote: Yeas, 38; Nays, 7; Absent, 0; Excused, 4.

Voting yea: Senators Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline,

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Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Holmquist Newbry and Stevens

Excused: Senators Benton, Roach, Sheldon and Zarelli

SECOND ENGROSSED SENATE BILL NO. 5638, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Second Engrossed Senate Bill No. 5638 was immediately transmitted to the House of Representatives.

#### MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Jinkins, Frockt and Kenney)

Concerning adverse childhood experiences.

The measure was read the second time.

#### MOTION

Senator Regala moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that adverse childhood experiences are a powerful common determinant of a child's ability to be successful at school and, as an adult, to be successful at work, to avoid behavioral and chronic physical health conditions, and to build healthy relationships. The purpose of this chapter is, through a new or existing public-private partnership and in collaboration with community leadership, and state agency representatives, to identify the primary causes of adverse childhood experiences in communities and to mobilize broad public and private support to prevent harm to young children. A reduction in adverse childhood experiences is sought through a focused effort to identify and utilize innovative strategies based on evidence-based and research-based approaches and practices to prevent adverse experiences in early childhood and reduce the accumulated harm of adverse experiences throughout childhood.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(2) "Department" means the department of social and health services.

(3) "Evidence-based" has the same meaning as in RCW 43.215.146.

(4) "Research-based" has the same meaning as in RCW 43.215.146.

(5) "Secretary" means the secretary of social and health services.

**NEW SECTION. Sec. 3.** (1) The nongovernmental private-public partnership described in section 1 of this act shall focus on preventing and reducing the prevalence of adverse childhood experiences and their enduring effects. The private-public partnership shall support the interests of selected community-based organizations around this common goal. It is recognized that many community public health and safety networks across the state have knowledge and expertise regarding reduction of adverse childhood experiences and will provide leadership on this initiative in their communities. In addition, a broad range of community coalitions involved with early learning and other early childhood initiatives have coalesced in many communities. The intent of the private-public partnership is to coordinate and assemble the strongest components of these networks and coalitions to respond to the initiative of reducing and preventing adverse childhood experiences while providing the flexibility for communities to devise their own strategies and approaches to achieve prevention and reduction.

(2) The secretary of the department of social and health services and the director of the department of early learning shall convene a planning group to refine the purposes, goals, and structure of the private-public partnership. Membership of the planning group must be broad and shall include, but is not limited to, stakeholders in the following areas: Early learning, community public health and safety networks, organizations that work to prevent and address child abuse and neglect, tribes, public agency representatives, philanthropic organizations, and organizations focused on community mobilization. The planning group shall develop a work plan for the private-public partnership, which must be submitted to the legislature no later than December 15, 2011.

(3) The private-public partnership shall establish criteria for distributing funds to community organizations based upon research and data with demonstrated effectiveness in preventing and reducing adverse childhood experiences. When establishing criteria to distribute funds, the private-public partnership shall give consideration to community public health and safety networks that have a history of providing training and services related to adverse childhood experiences. The method for distributing funds must be based upon data indicating areas of need and the use of evidence-based and research-based strategies to address those needs.

(4) In addition to other powers granted to the secretary, the secretary may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Provide funding to the private-public partnerships; and

(c) Accept gifts, grants, or other funds for the purposes of this chapter.

**Sec. 4.** RCW 13.40.462 and 2006 c 304 s 2 are each amended to read as follows:

(1) The department of social and health services juvenile rehabilitation administration shall establish a reinvesting in youth program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime, subject to the availability of amounts appropriated for this specific purpose.

(2) Effective July 1, 2007, any county or group of counties may apply for participation in the reinvesting in youth program.

(3) Counties that participate in the reinvesting in youth program shall have a portion of their costs of serving youth through the research-based intervention service models paid for with moneys from the reinvesting in youth account established pursuant to RCW 13.40.466.

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(4) The department of social and health services juvenile rehabilitation administration shall review county applications for funding through the reinvesting in youth program and shall select the counties that will be awarded grants with funds appropriated to implement this program. The department, in consultation with the Washington state institute for public policy, shall develop guidelines to determine which counties will be awarded funding in accordance with the reinvesting in youth program. At a minimum, counties must meet the following criteria in order to participate in the reinvesting in youth program:

(a) Counties must match state moneys awarded for research-based early intervention services with nonstate resources that are at least proportional to the expected local government share of state and local government cost avoidance that would result from the implementation of such services;

(b) Counties must demonstrate that state funds allocated pursuant to this section are used only for the intervention service models authorized pursuant to RCW 13.40.464;

(c) Counties must participate fully in the state quality assurance program established in RCW 13.40.468 to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans shall be grounds for termination of state funding; and

(d) Counties that submit joint applications must submit for approval by the department of social and health services juvenile rehabilitation administration multicounty plans for efficient program delivery.

((5) The department of social and health services juvenile rehabilitation administration shall convene a technical advisory committee comprised of representatives from the house of representatives, the senate, the governor's office of financial management, the department of social and health services juvenile rehabilitation administration, the family policy council, the juvenile court administrator's association, and the Washington association of counties to assist in the implementation of chapter 304, Laws of 2006.))

**Sec. 5.** RCW 43.121.100 and 2011 c 171 s 9 are each amended to read as follows:

~~((The council may accept))~~ Contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under chapter 46.18 RCW (~~All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature~~), shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the ~~((council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050))~~ director of the department of early learning beginning July 1, 2012. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

**Sec. 6.** RCW 43.215.146 and 2007 c 466 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW ((43.121.170 through)) 43.215.145, 43.215.147, and 43.121.185 unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous

populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

**Sec. 7.** RCW 43.215.147 and 2008 c 152 s 6 are each amended to read as follows:

(1) Within available funds, the ~~((council for children and families))~~ department shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. In order to maximize opportunities to obtain matching funds from private entities, general funds intended to support home visiting funding shall be appropriated to the home visiting services account established in RCW 43.215.130.

(2) The ~~((council for children and families shall develop a plan))~~ department shall work with the department of social and health services, the department of health (~~the department of early learning, and the family policy council~~), the private-public partnership created in RCW 43.215.070, and key partners and stakeholders to develop a plan to coordinate or consolidate home visitation services for children and families ~~((and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the plan))~~ to the extent practicable.

**Sec. 8.** RCW 43.70.555 and 1998 c 245 s 77 are each amended to read as follows:

The department ~~((in consultation with the family policy council created in chapter 70.190 RCW))~~ shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550.

**NEW SECTION. Sec. 9.** (1) Beginning July 1, 2011, the council for children and families and the department of early learning shall develop a plan for transitioning the work of the council for children and families, including public awareness campaigns, to the department of early learning. The council for children and families and the department of early learning shall, as appropriate, participate in the development of the private-public partnership in order to streamline efforts around the prevention of child abuse and neglect and avoid duplication of effort.

(2) The executive director of the council for children and families and the director of the department of early learning shall consult with the stakeholder group convened in section 3(2) of this act to develop strategies to maximize Washington's leverage and match of federal child abuse and neglect prevention moneys.

**Sec. 10.** RCW 74.14A.060 and 2000 c 219 s 2 are each amended to read as follows:

Within available funds, the secretary of the department of social and health services shall ~~((charge appropriated funds to))~~ support blended funding projects for youth ~~((subject to any current or future~~

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~~waiver the department receives to the requirements of IV E funding~~). To be eligible for blended funding a child must be eligible for services designed to address a behavioral, mental, emotional, or substance abuse issue from the department of social and health services and require services from more than one categorical service delivery system. Before any blended funding project is established by the secretary, any entity or person proposing the project shall seek input from the public health and safety network or networks established in the catchment area of the project. The network or networks shall submit recommendations on the blended funding project to the ~~((family policy council)) private-public partnership described in section 1 of this act~~. The ~~((family policy council)) private-public partnership~~ shall advise the secretary whether to approve the proposed blended funding project. The network shall review the proposed blended funding project pursuant to its authority to examine the decategorization of program funds under RCW 70.190.110, within the current appropriation level. The department shall document the number of children who participate in blended funding projects, the total blended funding amounts per child, the amount charged to each appropriation by program, and services provided to each child through each blended funding project and report this information to the appropriate committees of the legislature by December 1st of each year, beginning in December 1, 2000.

**Sec. 11.** RCW 70.190.040 and 1993 c 336 s 901 are each amended to read as follows:

(1) The legislature finds that helping children to arrive at school ready to learn is an important part of improving student learning.

(2) To the extent funds are appropriated, the ~~((family policy council))~~ superintendent of public instruction shall award grants to community-based consortiums that submit comprehensive plans that include strategies to improve readiness to learn.

**NEW SECTION. Sec. 12.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 43.121.010 (Legislative declaration, intent) and 1982 c 4 s 1;

(2) RCW 43.121.015 (Definitions) and 2008 c 152 s 8, 1988 c 278 s 4, & 1987 c 351 s 2;

(3) RCW 43.121.020 (Council established--Members, chairperson-- Appointment, qualifications, terms, vacancies) and 2008 c 152 s 7, 2007 c 144 s 1, 1996 c 10 s 1, 1994 c 48 s 1, 1989 c 304 s 4, 1987 c 351 s 3, 1984 c 261 s 1, & 1982 c 4 s 2;

(4) RCW 43.121.030 (Compensation and travel expenses of members) and 1984 c 287 s 87 & 1982 c 4 s 3;

(5) RCW 43.121.040 (Executive director, salary--Staff) and 1982 c 4 s 4;

(6) RCW 43.121.050 (Council powers and duties--Generally--Rules) and 1988 c 278 s 5, 1987 c 351 s 4, & 1982 c 4 s 5;

(7) RCW 43.121.060 (Contracts for services--Scope of programs-- Funding) and 1982 c 4 s 6;

(8) RCW 43.121.070 (Contracts for services--Factors in awarding) and 1982 c 4 s 7;

(9) RCW 43.121.080 (Contracts for services--Partial funding by administering organization, what constitutes) and 1982 c 4 s 8;

(10) RCW 43.121.110 (Parenting skills--Legislative findings) and 1988 c 278 s 1;

(11) RCW 43.121.120 (Community-based early parenting skills programs--Funding) and 1988 c 278 s 2;

(12) RCW 43.121.130 (Decreased state funding of parenting skills programs--Evaluation) and 1998 c 245 s 48 & 1988 c 278 s 3;

(13) RCW 43.121.140 (Shaken baby syndrome--Outreach campaign) and 1993 c 107 s 2;

(14) RCW 43.121.150 (Juvenile crime--Legislative findings) and 1997 c 338 s 56;

(15) RCW 43.121.160 (Postpartum depression--Public information and communication outreach campaign) and 2005 c 347 s 2;

(16) RCW 43.121.185 (Children's trust of Washington renamed) and 2008 c 152 s 5 & 2007 c 466 s 4; and

(17) RCW 43.121.910 (Severability--1982 c 4) and 1982 c 4 s 15.

**NEW SECTION. Sec. 13.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 70.190.005 (Purpose) and 1994 sp.s. c 7 s 301 & 1992 c 198 s 1;

(2) RCW 70.190.010 (Definitions) and 2009 c 565 s 52, 2009 c 479 s 58, 1996 c 132 s 2, 1995 c 399 s 200, & 1992 c 198 s 3;

(3) RCW 70.190.020 (Consolidate efforts of existing entities) and 1994 sp.s. c 7 s 315 & 1992 c 198 s 4;

(4) RCW 70.190.100 (Duties of council) and 2009 c 479 s 59, 1998 c 245 s 123, & 1994 sp.s. c 7 s 307;

(5) RCW 70.190.110 (Program review) and 1998 c 245 s 124 & 1994 sp.s. c 7 s 308;

(6) RCW 70.190.120 (Interagency agreement) and 1994 sp.s. c 7 s 309;

(7) RCW 70.190.130 (Comprehensive plan--Approval process--Network expenditures--Penalty for noncompliance with chapter) and 1998 c 314 s 13, 1996 c 132 s 8, & 1994 sp.s. c 7 s 310;

(8) RCW 70.190.150 (Federal restrictions on funds transfers, waivers) and 1994 sp.s. c 7 s 312; and

(9) RCW 70.190.920 (Effective date--1992 c 198) and 1992 c 198 s 21.

**NEW SECTION. Sec. 14.** RCW 74.14C.050 (Implementation and evaluation plan) and 1995 c 311 s 9 & 1992 c 214 s 6 are each repealed.

**NEW SECTION. Sec. 15.** RCW 70.190.040 is recodified as a section in chapter 28A.300 RCW.

**NEW SECTION. Sec. 16.** Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW."

On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 13.40.462, 43.121.100, 43.215.146, 43.215.147, 43.70.555, 74.14A.060, and 70.190.040; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 70 RCW; creating a new section; recodifying RCW 70.190.040; repealing RCW 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.185, 43.121.910, 70.190.005, 70.190.010, 70.190.020, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.920, and 74.14C.050; and providing effective dates."

The President declared the question before the Senate to be the motion by Senator Regala to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1965.

The motion by Senator Regala carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Regala moved that the following striking amendment by Senator Regala be adopted:

Strike everything after the enacting clause and insert the following:

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**"NEW SECTION. Sec. 1.** The legislature finds that adverse childhood experiences are a powerful common determinant of a child's ability to be successful at school and, as an adult, to be successful at work, to avoid behavioral and chronic physical health conditions, and to build healthy relationships. The purpose of this chapter is to identify the primary causes of adverse childhood experiences in communities and to mobilize broad public and private support to prevent harm to young children and reduce the accumulated harm of adverse experiences throughout childhood. A focused effort is needed to 1) identify and promote the use of innovative strategies based on evidence-based and research-based approaches and practices; and 2) align public and private policies and funding with approaches and strategies which have demonstrated effectiveness.

The legislature recognizes that many community public health and safety networks across the state have knowledge and expertise regarding the reduction of adverse childhood experiences and can provide leadership on this initiative in their communities. In addition, a broad range of community coalitions involved with early learning, child abuse prevention, and community mobilization have coalesced in many communities. The adverse childhood experiences initiative should coordinate and assemble the strongest components of these networks and coalitions to effectively respond to the challenge of reducing and preventing adverse childhood experiences while providing flexibility for communities to design responses that are appropriate for their community.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adverse Childhood experiences" means the following indicators of severe childhood stressors and family dysfunction that, when experienced in the first eighteen years of life and taken together, are proven by public health research to be powerful determinants of physical, mental, social, and behavioral health across the lifespan: child physical abuse; child sexual abuse; child emotional abuse; child emotional or physical neglect; alcohol or other substance abuse in the home; mental illness, depression or suicidal behaviors in the home; incarceration of a family member; witnessing intimate partner violence; and parental divorce or separation. Adverse childhood experiences have been demonstrated to affect the development of the brain and other major body systems.

(2) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(3) "Department" means the department of social and health services.

(4) "Director" means the director of the department of early learning.

(5) "Evidence-based" has the same meaning as in RCW 43.215.146.

(6) "Research-based" has the same meaning as in RCW 43.215.146.

(7) "Secretary" means the secretary of social and health services.

**NEW SECTION. Sec. 3.** (1) (a) The secretary of the department of social and health services and the director of the department of early learning shall actively participate in the development of a nongovernmental private-public initiative focused on coordinating government and philanthropic organizations' investments in the positive development of children and preventing and mitigating the effects of adverse childhood experiences. The secretary and director shall convene a planning group to work with interested private partners to: (i) develop a process by which the goals identified in section 1 of this chapter shall be met and(ii)

develop recommendations for inclusive and diverse governance to advance the adverse childhood experiences initiative.

(b) The secretary and director shall select no more than twelve to fifteen persons as members of the planning group. The members selected must represent a diversity of interests including: Early learning coalitions, community public health and safety networks, organizations that work to prevent and address child abuse and neglect, tribes, representatives of public agency agencies involved with interventions in or prevention of adverse childhood experiences, philanthropic organizations, and organizations focused on community mobilization.

(c) The secretary and director shall co-chair the planning group meetings and shall convene the first meeting.

(2) The planning group shall submit a report on its progress and recommendations to the appropriate legislative committees no later than December 15, 2011.

(3) In addition to other powers granted to the secretary, the secretary may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Provide funding to communities or any governance entity that is created as a result of the partnership; ; and

(c) Accept gifts, grants, or other funds for the purposes of this chapter.

**Sec. 4.** RCW 13.40.462 and 2006 c 304 s 2 are each amended to read as follows:

(1) The department of social and health services juvenile rehabilitation administration shall establish a reinvesting in youth program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime, subject to the availability of amounts appropriated for this specific purpose.

(2) Effective July 1, 2007, any county or group of counties may apply for participation in the reinvesting in youth program.

(3) Counties that participate in the reinvesting in youth program shall have a portion of their costs of serving youth through the research-based intervention service models paid for with moneys from the reinvesting in youth account established pursuant to RCW 13.40.466.

(4) The department of social and health services juvenile rehabilitation administration shall review county applications for funding through the reinvesting in youth program and shall select the counties that will be awarded grants with funds appropriated to implement this program. The department, in consultation with the Washington state institute for public policy, shall develop guidelines to determine which counties will be awarded funding in accordance with the reinvesting in youth program. At a minimum, counties must meet the following criteria in order to participate in the reinvesting in youth program:

(a) Counties must match state moneys awarded for research-based early intervention services with nonstate resources that are at least proportional to the expected local government share of state and local government cost avoidance that would result from the implementation of such services;

(b) Counties must demonstrate that state funds allocated pursuant to this section are used only for the intervention service models authorized pursuant to RCW 13.40.464;

(c) Counties must participate fully in the state quality assurance program established in RCW 13.40.468 to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans shall be grounds for termination of state funding; and

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(d) Counties that submit joint applications must submit for approval by the department of social and health services juvenile rehabilitation administration multicounty plans for efficient program delivery.

((5) The department of social and health services juvenile rehabilitation administration shall convene a technical advisory committee comprised of representatives from the house of representatives, the senate, the governor's office of financial management, the department of social and health services juvenile rehabilitation administration, the family policy council, the juvenile court administrator's association, and the Washington association of counties to assist in the implementation of chapter 304, Laws of 2006.)

**Sec. 5.** RCW 43.121.100 and 2011 c 171 s 9 are each amended to read as follows:

~~((The council may accept))~~ Contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under chapter 46.18 RCW ~~((All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature))~~, shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be authorized by the ~~((council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050))~~ director of the department of early learning beginning July 1, 2012. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

**Sec. 6.** RCW 43.215.146 and 2007 c 466 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW ((43.121.170 through)) 43.215.145, 43.215.147, and 43.121.185 unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

**Sec. 7.** RCW 43.215.147 and 2008 c 152 s 6 are each amended to read as follows:

(1) Within available funds, the ~~((council for children and families))~~ department shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. In order to maximize opportunities to obtain matching funds from private entities, general funds intended to support home visiting funding shall be appropriated to the home visiting services account established in RCW 43.215.130.

(2) The ~~((council for children and families shall develop a plan))~~ department shall work with the department of social and health services, the department of health ~~((the department of early~~

~~learning, and the family policy council)), the private-public partnership created in RCW 43.215.070, and key partners and stakeholders to develop a plan~~ to coordinate or consolidate home visitation services for children and families ~~((and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the plan))~~ to the extent practicable.

**Sec. 8.** RCW 43.70.555 and 1998 c 245 s 77 are each amended to read as follows:

The department ~~((in consultation with the family policy council created in chapter 70.190 RCW))~~ shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550.

**NEW SECTION. Sec. 9.** (1) Beginning July 1, 2011, the council for children and families and the department of early learning shall develop a plan for transitioning the work of the council for children and families, including public awareness campaigns, to the department of early learning. The council for children and families and the department of early learning shall participate in the development of the private-public initiative in order to streamline efforts around the prevention of child abuse and neglect and avoid duplication of effort.

(2) The executive director of the council for children and families and the director of the department of early learning shall consult with the planning group convened in section 3 of this act to develop strategies to maximize Washington's leverage and match of federal child abuse and neglect prevention moneys.

(3) No later than January 1, 2012, the council for children and families and the department of early learning shall report to the appropriate committees of the legislature on its transition plan.

**Sec. 10.** RCW 74.14A.060 and 2000 c 219 s 2 are each amended to read as follows:

Within available funds, the secretary of the department of social and health services shall ((charge appropriated funds to)) support blended funding projects for youth ((subject to any current or future waiver the department receives to the requirements of IV-E funding)). To be eligible for blended funding a child must be eligible for services designed to address a behavioral, mental, emotional, or substance abuse issue from the department of social and health services and require services from more than one categorical service delivery system. Before any blended funding project is established by the secretary, any entity or person proposing the project shall seek input from the public health and safety network or networks established in the catchment area of the project. The network or networks shall submit recommendations on the blended funding project to the ~~((family policy council))~~ private-public initiative described in section 3 of this act. The ~~((family policy council))~~ private-public initiative shall advise the secretary whether to approve the proposed blended funding project. The network shall review the proposed blended funding project pursuant to its authority to examine the decategorization of program funds under RCW 70.190.110, within the current appropriation level. The department shall document the number of children who participate in blended funding projects, the total blended funding amounts per child, the amount charged to each appropriation by program, and services provided to each child through each blended funding project and report this information to the appropriate

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committees of the legislature by December 1st of each year, beginning in December 1, 2000.

**Sec. 11.** RCW 70.190.040 and 1993 c 336 s 901 are each amended to read as follows:

(1) The legislature finds that helping children to arrive at school ready to learn is an important part of improving student learning.

(2) To the extent funds are appropriated, the ~~((family policy council))~~ superintendent of public instruction shall award grants to community-based consortiums that submit comprehensive plans that include strategies to improve readiness to learn.

**NEW SECTION. Sec. 12.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 43.121.010 (Legislative declaration, intent) and 1982 c 4 s 1;

(2) RCW 43.121.015 (Definitions) and 2008 c 152 s 8, 1988 c 278 s 4, & 1987 c 351 s 2;

(3) RCW 43.121.020 (Council established--Members, chairperson--Appointment, qualifications, terms, vacancies) and 2008 c 152 s 7, 2007 c 144 s 1, 1996 c 10 s 1, 1994 c 48 s 1, 1989 c 304 s 4, 1987 c 351 s 3, 1984 c 261 s 1, & 1982 c 4 s 2;

(4) RCW 43.121.030 (Compensation and travel expenses of members) and 1984 c 287 s 87 & 1982 c 4 s 3;

(5) RCW 43.121.040 (Executive director, salary--Staff) and 1982 c 4 s 4;

(6) RCW 43.121.050 (Council powers and duties--Generally--Rules) and 1988 c 278 s 5, 1987 c 351 s 4, & 1982 c 4 s 5;

(7) RCW 43.121.060 (Contracts for services--Scope of programs--Funding) and 1982 c 4 s 6;

(8) RCW 43.121.070 (Contracts for services--Factors in awarding) and 1982 c 4 s 7;

(9) RCW 43.121.080 (Contracts for services--Partial funding by administering organization, what constitutes) and 1982 c 4 s 8;

(10) RCW 43.121.110 (Parenting skills--Legislative findings) and 1988 c 278 s 1;

(11) RCW 43.121.120 (Community-based early parenting skills programs--Funding) and 1988 c 278 s 2;

(12) RCW 43.121.130 (Decreased state funding of parenting skills programs--Evaluation) and 1998 c 245 s 48 & 1988 c 278 s 3;

(13) RCW 43.121.140 (Shaken baby syndrome--Outreach campaign) and 1993 c 107 s 2;

(14) RCW 43.121.150 (Juvenile crime--Legislative findings) and 1997 c 338 s 56;

(15) RCW 43.121.160 (Postpartum depression--Public information and communication outreach campaign) and 2005 c 347 s 2;

(16) RCW 43.121.185 (Children's trust of Washington renamed) and 2008 c 152 s 5 & 2007 c 466 s 4; and

(17) RCW 43.121.910 (Severability--1982 c 4) and 1982 c 4 s 15.

**NEW SECTION. Sec. 13.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 70.190.005 (Purpose) and 1994 sp.s. c 7 s 301 & 1992 c 198 s 1;

(2) RCW 70.190.010 (Definitions) and 2009 c 565 s 52, 2009 c 479 s 58, 1996 c 132 s 2, 1995 c 399 s 200, & 1992 c 198 s 3;

(3) RCW 70.190.020 (Consolidate efforts of existing entities) and 1994 sp.s. c 7 s 315 & 1992 c 198 s 4;

(4) RCW 70.190.100 (Duties of council) and 2009 c 479 s 59, 1998 c 245 s 123, & 1994 sp.s. c 7 s 307;

(5) RCW 70.190.110 (Program review) and 1998 c 245 s 124 & 1994 sp.s. c 7 s 308;

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(6) RCW 70.190.120 (Interagency agreement) and 1994 sp.s. c 7 s 309;

(7) RCW 70.190.130 (Comprehensive plan--Approval process--Network expenditures--Penalty for noncompliance with chapter) and 1998 c 314 s 13, 1996 c 132 s 8, & 1994 sp.s. c 7 s 310;

(8) RCW 70.190.150 (Federal restrictions on funds transfers, waivers) and 1994 sp.s. c 7 s 312; and

(9) RCW 70.190.920 (Effective date--1992 c 198) and 1992 c 198 s 21.

**NEW SECTION. Sec. 14.** RCW 74.14C.050 (Implementation and evaluation plan) and 1995 c 311 s 9 & 1992 c 214 s 6 are each repealed.

**NEW SECTION. Sec. 15.** RCW 70.190.040 is recodified as a section in chapter 28A.300 RCW.

**NEW SECTION. Sec. 16.** Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW."

Correct the title.

Senator Regala spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Regala to Engrossed Second Substitute House Bill No. 1965.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Second Substitute House Bill No. 1965 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1965 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1965 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 8; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Ericksen, Fain, Holmquist Newbry, Honeyford, Morton and Stevens

Excused: Senators Benton, Roach and Sheldon

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:40 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:57 a.m. by President Owen.

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SECOND READING

ENGROSSED HOUSE BILL NO. 1248, by Representatives Hunter and Darneille

Authorizing emergency rule making when necessary to implement fiscal reductions.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed House Bill No. 1248 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1248.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1248 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton and Roach

ENGROSSED HOUSE BILL NO. 1248, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5912, by Senators Keiser, Pflug, Kohl-Welles and Kline

Expanding family planning services to two hundred fifty percent of the federal poverty level.

MOTIONS

On motion of Senator Keiser, Substitute Senate Bill No. 5912 was substituted for Senate Bill No. 5912 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Keiser, the rules were suspended, Substitute Senate Bill No. 5912 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5912.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5912 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon, Shin, Tom and White

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Ericksen, Hargrove, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Parlette, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Benton and Roach

SUBSTITUTE SENATE BILL NO. 5912, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5542, by Senators Delvin, Prentice, Honeyford, Hatfield, Schoesler, Hobbs and Hewitt

Establishing special license endorsements for cigar lounges and retail tobacconist shops.

MOTION

On motion of Senator Delvin, Substitute Senate Bill No. 5542 was substituted for Senate Bill No. 5542 and the substitute bill was placed on the second reading and read the second time.

PARLIAMENTARY INQUIRY

Senator Tom: "Question for clarification. I thought we had a striker amendment, 434 that was to be considered first? It's in the packet."

REPLY BY THE PRESIDENT

President Owen: "Senator Tom, the procedure is to perfect and then to strike unless this amendment is meant for the striker but I believe it's for the substitute."

MOTION

Senator Tom moved that the following amendment by Senators Tom, Nelson and White be adopted:

On page 1, line 11, after "fee of" strike "seventeen thousand five hundred" and insert "forty thousand"

On page 1, line 13, after "fee of" strike "six" and insert "ten"

On page 1, line 15, after "section." insert "All fees must be paid in full within the first month of each fiscal year."

On page 6, beginning on line 4, after "exceed" strike "one hundred" and insert "fifty"

On page 6, line 6, after "exceed" strike "five hundred" and insert "two hundred"

Senator Tom spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom, Nelson and White on page 1, line 11 to Substitute Senate Bill No. 5542.

The motion by Senator Tom failed and the amendment was not adopted by voice vote.

## MOTION

Senator Keiser moved that the following amendment by Senators Keiser, Nelson and Tom be adopted:

On page 2, beginning on line 1, after "(a)" strike all material through ""physically" on line 5 and insert "(i) Is an establishment or part of an establishment specifically designated for the smoking of cigars, purchased on the premises or elsewhere, which is physically separated from any areas where smoking is prohibited under state law.

(ii) For the purposes of this subsection:

(A) "Cigar" has the same meaning as provided in RCW 82.26.010; and

(B) "Physically"

On page 2, line 8, after "cigarettes" insert "or hookah or pipe tobacco"

On page 3, line 36, after "cigarettes" insert "or hookah or pipe tobacco"

Senator Keiser spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Keiser, Nelson and Tom on page 2, line 1 to Substitute Senate Bill No. 5542.

The motion by Senator Keiser failed and the amendment was not adopted by voice vote.

## MOTION

Senator White moved that the following amendment by Senator White and others be adopted:

On page 3, beginning on line 14, strike all of subsection (3)(g)

Reletter the remaining subsection consecutively and correct any internal references accordingly.

On page 3, line 24, after "subsection." insert "The signage must contain the following provision in bold-faced type: "WARNING: Cigar smoking causes lung cancer, heart disease, and other diseases and cancers. Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a safe alternative to cigarette smoking.""

On page 5, beginning on line 4, strike all of subsection (4)(g)

Reletter the remaining subsection consecutively and correct any internal references accordingly.

On page 5, line 14, after "subsection." insert "The signage must contain the following provision in bold-faced type: "WARNING: Cigar smoking causes lung cancer, heart disease, and other diseases and cancers. Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a safe alternative to cigarette smoking.""

On page 5, beginning on line 15, strike all of subsection (5). Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senator White spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White and others on page 3, line 14 to Substitute Senate Bill No. 5542.

The motion by Senator White failed and the amendment was not adopted by voice vote.

## MOTION

Senator Nelson moved that the following amendment by Senator Nelson and others be adopted:

On page 6, after line 13, insert the following:

"(11) A person granted a special endorsement to operate a cigar lounge under this section must deposit twenty percent of the net receipts of the business into a health insurance fund to provide comprehensive health care for each employee while employed and for ten years following employment. The insurance policy for employees must provide coverage to treat the following conditions: Asthma, bronchitis, cancer, and any other disease or ailment that is associated with tobacco smoke. Further, the insurance policy must include preventive, minor, and major medical care."

Senator Nelson spoke in favor of adoption of the amendment.

Senators Delvin and Baxter spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson and others on page 6, after line 13 to Substitute Senate Bill No. 5542.

The motion by Senator Nelson failed and the amendment was not adopted by voice vote.

## MOTION

Senator White moved that the following amendment by Senator White and others be adopted:

On page 6, beginning on line 22, after "into the" strike all material through "43.79.480" on line 23 and insert "general fund"

Senator White spoke in favor of adoption of the amendment.

Senator Delvin spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White and others on page 6, line 22 to Engrossed Substitute Senate Bill No. 5542.

The motion by Senator White failed and the amendment was not adopted by voice vote.

## MOTION

Senator Tom moved that the following amendment by Senators Tom and White be adopted:

On page 7, after line 3, strike all of section 4 and insert the following:

NEW SECTION. Sec. 4. The joint legislative audit and review committee, in consultation with the department of health, must conduct a study on the long-term health care costs associated with the provisions of this act. The joint legislative audit and review committee and the department of health must report the findings of the study required under this section to the appropriate committees of the legislature by January 1, 2012.

NEW SECTION. Sec. 5. Sections 1 through 3 of this act take effect January 1, 2012, if it is reported in the study required under section 4 of this act that the net present value of the long-term health care costs are less than the fee revenue generated by the provisions of this act.

NEW SECTION. Sec. 6. The joint legislative audit and review committee must provide written notice of the effective date of sections 1 through 3 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department."

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On page 1, line 3 of the title, after "82.26 RCW;" strike the remainder of the title and insert "creating new sections; and providing a contingent effective date."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Tom, the amendment by Senators Tom and White on page 7, line 3 to Substitute Senate Bill No. 5542 was withdrawn.

#### MOTION

Senator Haugen moved that the following amendment by Senator Haugen and others be adopted:

On page 7, beginning on line 4, strike all of section 4

Senators Haugen and Delvin spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Haugen and others on page 7, line 4 to Senate Bill No. 5542.

The motion by Senator Haugen carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "70.160.060;" strike the remainder of the title and insert "and adding new sections to chapter 82.26 RCW."

#### MOTION

Senator Tom moved that the following striking amendment by Senators Tom and White be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 82.26 RCW to read as follows:

(1) A person holding a tobacco products retailer's license issued under this chapter may apply through the master license system under chapter 19.02 RCW for a special endorsement as a cigar lounge or retail tobacconist shop subject to the requirements of this section.

(2) A fee of forty thousand dollars must accompany each special license endorsement application under subsection (3) of this section and a fee of ten thousand dollars must accompany each special license endorsement application under subsection (4) of this section. All fees must be paid in full within the first month of each fiscal year.

(3) The board must issue an endorsement as a cigar lounge to a business that meets the requirements of subsections (1) and (2) of this section and that has submitted an affidavit to the board certifying that it:

(a)(i) Is an establishment or part of an establishment specifically designated for the smoking of cigars, purchased on the premises or elsewhere, which is physically separated from any areas where smoking is prohibited under state law.

(ii) For the purposes of this subsection:

(A) "Cigar" has the same meaning as provided in RCW 82.26.010; and

(B) "Physically separated" means an area that is enclosed on all sides by solid, impermeable walls or windows extending from the floor to ceiling with self-closing doors;

(b) Will not allow cigarettes or hookah or pipe tobacco to be smoked in the area designated in (a) of this subsection;

(c) Holds a valid spirits, beer, and wine license in good standing from the board;

(d) Has a valid uniform business identifier number and, if it is an established business with reportable gross receipts, has paid all applicable state business and occupation taxes in the year prior to application for endorsement;

(e) In the year immediately preceding initial application or renewal, derived at least twenty-five thousand dollars of the business' annual gross income from the combination of the sale of tobacco products, tobacco products related paraphernalia, and the rental of on-site humidior space. In the case where this is the first endorsement application, the applicant may use any year prior to the initial application to meet the requirements of this subsection or must show proof that it has purchased, at wholesale, at least twelve thousand five hundred dollars in tobacco products and tobacco products related paraphernalia;

(f) Has obtained a signed letter, on appropriate letterhead, from a heating, ventilation, and air-conditioning, and refrigeration contractor holding a valid registration with the department of labor and industries pursuant to chapter 18.27 RCW, which certifies that the ventilation and exhaust system for the area designated in (a) of this subsection:

(i) Is separate and distinct from the location's general heating, ventilation, and air-conditioning system;

(ii) Has an air flow, as calculated in cubic feet per minute, that will provide for at least thirteen or more air changes within the space served by the ventilation and exhaust system;

(iii) Uses the correct quantity of filters recommended by the manufacturer of the ventilation and exhaust system and that those filters have a minimum efficiency rating value of 14 or higher. For the purposes of this subsection, "minimum efficiency rating value" means the air-cleaning performance rating value as expressed in American society of heating, refrigerating, and air-conditioning engineers standard 52.2-2007; and

(iv) Uses a loose-fill, rechargeable-type sorbent material positioned across the airflow in such a configuration that gaseous contaminants will have a residence time of one-tenth of one second or more within the sorbent material. For the purposes of this section, "residence time" must be calculated consistent with the recommendations outlined in Chapter 45 of the 2007 American society of heating, refrigerating, and air-conditioning engineers handbook - HVAC applications entitled "Control of Gaseous Indoor Air Contaminants"; and

(g) Will post signage indicating that environmental tobacco smoke may be present in the establishment or part of the establishment. This signage must be in the form and manner provided by the board and must be placed in a conspicuous location at each entry to the area designated in (a) of this subsection. The signage must contain the following provision in bold-faced type: "WARNING: Cigar smoking causes lung cancer, heart disease, and other diseases and cancers. Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a safe alternative to cigarette smoking."

(4) The board must issue an endorsement as a retail tobacconist shop to a business that meets the requirements of subsections (1) and (2) of this section and that has submitted an affidavit to the board certifying that it:

(a) Is an establishment whose primary purpose is the sale of tobacco products and tobacco product related paraphernalia and that is physically separated from any adjacent location where smoking is prohibited under state law. For the purposes of this subsection, "physically separated" means an area that is enclosed on all sides by

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solid, impermeable walls or windows extending from the floor to ceiling with self-closing doors;

(b) Will not allow cigarettes or hookah or pipe tobacco to be smoked in the area designated in (a) of this subsection;

(c) Will prohibit entry into the area designated in subsection (4)(a) of this section to any person under the age of eighteen;

(d) Has a valid uniform business identifier number and, if an established business with reportable gross receipts, has paid all applicable state business and occupation taxes in the year prior to application for endorsement;

(e) In the year immediately preceding initial application or renewal, derived at least seventy-five percent of the business' annual gross income from the combination of the sale of tobacco products and tobacco product related paraphernalia. In the case where this is the first endorsement application, the applicant may use any year prior to the initial application to meet the requirements of this subsection or must show proof that it has purchased, at wholesale, at least twenty-five thousand dollars in tobacco products and tobacco products related paraphernalia;

(f) Has obtained a signed letter, on appropriate letterhead, from a heating, ventilation, and air-conditioning, and refrigeration contractor holding a valid registration with the department of labor and industries pursuant to chapter 18.27 RCW, which certifies that the ventilation and exhaust system for the area designated in (a) of this subsection:

(i) Is separate and distinct from the location's general heating, ventilation, and air-conditioning system;

(ii) Has an airflow, as calculated in cubic feet per minute, that provides for at least thirteen or more air changes within the space served by the ventilation and exhaust system; and

(iii) Uses the correct quantity of filters recommended by the manufacturer of the ventilation and exhaust system and that those filters have a minimum efficiency rating value of fourteen or higher. For the purposes of this subsection, "minimum efficiency rating value" means the air-cleaning performance rating value as expressed in American society of heating, refrigerating, and air-conditioning engineers standard 52.2-2007; and

(iv) Uses a loose-fill, rechargeable-type sorbent material positioned across the airflow in such a configuration that gaseous contaminants will have a residence time of one-tenth of one second or more within the sorbent material. For the purposes of this section, "residence time" must be calculated consistent with the recommendations outlined in Chapter 45 of the 2007 American society of heating, refrigerating, and air-conditioning engineers handbook - HVAC applications entitled "Control of Gaseous Indoor Air Contaminants"; and

(g) Will post signage indicating that environmental tobacco smoke may be present in the establishment or part of the establishment. This signage must be in the form and manner provided by the board and must be placed in a conspicuous location at each entry to the area designated in (a) of this subsection. The signage must contain the following provision in bold-faced type: "WARNING: Cigar smoking causes lung cancer, heart disease, and other diseases and cancers. Cigars contain nicotine, tar, and carcinogens. Cigar smoking is not a safe alternative to cigarette smoking."

(5) The affidavits required under this section must be submitted in a form and manner as prescribed by the board to effectively administer the provisions of this chapter.

(6) The board may request additional documentation or information from an applicant in order to verify that the business meets the requirements of this section. The applicant must comply with requests from the department under this subsection or the board may withhold issuance of an endorsement.

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(7) Endorsements granted under this section are effective for the same period as provided in the tobacco products retailer's license granted to the applicant under this chapter. However, the affidavit required under this section must be completed and verified each year by the board and the appropriate fee paid in full before any endorsement to a tobacco retailer license is issued or renewed.

(8) Endorsement decisions by the board must be made no later than twenty-one business days following the submittal of a completed affidavit together with the appropriate fee. Rejections of an application for an endorsement under this section may be appealed under the same process provided for other licenses issued by the board.

(9) At no point during any calendar year may the board allow the total number of cigar lounge endorsements in the state to exceed fifty or the total number of retail tobacco shop endorsements in the state to exceed two hundred. The board must administer the distribution of cigar lounge or retail tobacco shop endorsements and must ensure that the collective number of cigar lounge or retail tobacco shop endorsements located within all counties with a population of over five hundred thousand never exceed one-half of the endorsements allowed under this subsection for each endorsement respectively. Renewing applicants must be given priority over new applicants for endorsements under these limitations.

(10) The liquor control board has sole enforcement authority regarding the designated areas that receive an endorsement under this section.

NEW SECTION. Sec. 2. A new section is added to chapter 82.26 RCW to read as follows:

(1) Up to five percent of the fees collected under section 1 of this act must be deposited into the liquor revolving fund created in RCW 66.08.170, to be used to cover the administrative costs of implementing and enforcing the endorsements created in section 1 of this act.

(2) The remaining funds collected under section 1 of this act must be deposited into the general fund solely for appropriation for tobacco usage prevention and treatment programs.

Sec. 3. RCW 70.160.060 and 1995 c 369 s 60 are each amended to read as follows:

(1) This chapter is not intended to:

(a) Regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance, or regulation;

(b) Regulate use or smoking of tobacco products, as that term is defined under chapter 82.26 RCW, in a public place or place of employment that holds a valid endorsement to their tobacco products retailer's license under section 1 of this act.

(2) The liquor control board has sole enforcement authority regarding the designated areas that receive an endorsement under section 1 of this act.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "shops;" strike the remainder of the title and insert "amending RCW 70.160.060; adding new sections to chapter 82.26 RCW; and declaring an emergency."

WITHDRAWAL OF AMENDMENT

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On motion of Senator Tom, the striking amendment by Senators Tom and White to Engrossed Substitute Senate Bill No. 5542 was withdrawn.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5542.

#### MOTION

On motion of Senator Delvin, the rules were suspended, Engrossed Substitute Senate Bill No. 5542 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5542 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 21; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Eide, Ericksen, Fain, Harper, Hatfield, Hewitt, Hobbs, Honeyford, King, Kohl-Welles, Litzow, Parlette, Pflug, Prentice, Pridemore, Ranker, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Fraser, Hargrove, Haugen, Hill, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, McAuliffe, Morton, Murray, Nelson, Regala, Rockefeller, Shin, Tom and White

Excused: Senators Benton and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5542, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PARLIAMENTARY INQUIRY

Senator Tom: "I'm asking the President to rule on the number of votes required to enact this bill. I believe that this bill requires a two-thirds vote under Initiative 1053 as codified in RCW 43.135.035 and have additional remarks that I would like to offer."

Senator Delvin spoke against the point of parliamentary inquiry.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5542 was deferred and the bill held its place on the third reading calendar.

#### SECOND READING

SENATE BILL NO. 5931, by Senators Baumgartner and Zarelli

Reorganizing and streamlining central service functions, powers, and duties of state government.

#### MOTION

On motion of Senator Pridemore, Substitute Senate Bill No. 5931 was substituted for Senate Bill No. 5931 and the substitute bill was placed on the second reading and read the second time.

#### RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Tom as to the application of Initiative 1053 to Engrossed Substitute Senate Bill 5542, the President finds and rules as follows:

The bill before us imposes fees that are to be used for essentially two purposes: first, a smaller portion of the proceeds is used to administer the program; and second, the larger portion of the proceeds is directed to the Tobacco Prevention and Control Account, to be used for tobacco usage prevention and treatment programs.

There is no doubt that the use of proceeds for administrative purposes is properly characterized as a fee. The remaining question is whether there is a sufficient connection between those paying the fee and portion of the proceeds used for tobacco usage prevention and treatment. The President believes there is a sufficient nexus. While Senator Tom is correct that those seeking to use tobacco products may have no immediate interest in prevention or treatment programs, it is possible that they may utilize these programs at a later date. Moreover, it is proper to view the fee collected as being used to mitigate potential harmful effects which may result from the act contemplated. In either case, there is a clear connection between those paying and the purpose for which the fee may be used.

For these reasons, the President believes this measure will take only a simple majority vote on final passage, and Senator Tom's point is not well-taken."

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5542 which had been deferred earlier in the day.

Senators Delvin, Kline and Pridemore spoke in favor of passage of the bill.

Senators Tom, Nelson, Kline, McAuliffe and Haugen spoke against passage of the bill.

#### MOTION

Senator Baumgartner moved that the following amendment by Senator Baumgartner and others be adopted:

On page 4, beginning on line 10, strike all of section 104 and insert the following:

"NEW SECTION. **Sec. 104.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The executive powers and management of the department shall be administered as described in this section.

(2) The executive head and appointing authority of the department is the director. The director is appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is paid a salary fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(3) The director may employ staff members, who are exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The director may delegate any power or duty vested in him or her by this act or other law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

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(4) The internal affairs of the department are under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create the administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(5) At the beginning of each fiscal biennium, the office of financial management shall conduct a review of the programs and services that are performed by the department to determine whether the program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. In conducting this review, the office of financial management shall:

(a) Examine the existing activities currently being performed by the department, including but not limited to an examination of services for their performance, staffing, capital requirements, and mission. Programs may be broken down into discrete services or activities or reviewed as a whole; and

(b) Examine the activities to determine which specific services are available in the marketplace and what potential for efficiency gains or savings exist.

(6) The office of financial management shall select at least six activities or services that have been determined as an activity that may be provided by the private sector at an effective and cost-efficient manner, including for the 2011-2013 fiscal biennium the bulk printing services. Priority for selection shall be given to agency activities or services that are significant, ongoing functions. For each of the selected activities, the department of enterprise services shall use a request for information, request for proposal, or other procurement process to determine if a contract for the activity would result in the activity being provided at a reduced cost and with greater efficiency. The department of enterprise services may contract with one or more vendors to provide the service as a result of the procurement process.

(7) If the office of financial management determines via the procurement process that the activity cannot be provided by the private sector at a reduced cost and greater efficiency, the department of enterprise services may cancel the procurement without entering into a contract and shall promptly notify the legislative fiscal committees of such a decision.

(8) The office of financial management shall prepare a biennial report summarizing the results of the examination of the agency's programs and services. In addition to the programs and services examined and the result of the examination, the report shall provide information on any procurement process that does not result in a contract for the services. During each regular legislative session held in odd-numbered years, the legislative fiscal committees shall hold a public hearing on the report and the department's activities under subsections (5) through (7) of this section.

(9) The joint legislative and audit review committee shall conduct an audit of the implementation of subsections (5) through (7) of this section, and report to the legislature by January 1, 2018, on the results of the audit."

On page 78, line 37, after "The" strike "requirements" and insert:

"~~((requirements))~~ processes set forth in subsections (1), (4), and (5)"

On page 78, line 37, after "to" insert ":(a)"

On page 79, line 1, after "74.13.031(5)" strike all material through "agency" on line 3 and insert ":",  
the acquisition of printing services by a state agency;

the department of enterprise services; and  
the consolidated technology services agency"  
Senator Baumgartner spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Baumgartner and others on page 4, line 10 to Substitute Senate Bill No. 5931.

The motion by Senator Baumgartner carried and the amendment was adopted by voice vote.

#### MOTION

Senator Fraser moved that the following amendment by Senators Fraser and Pridemore be adopted:

Beginning on page 232, after line 4, strike all material through page 244, line 38

On page 259, beginning on line 20, after "(cc)" strike all material through "(dd)" on line 23

On page 259, beginning on line 25, strike "including those employees represented by an exclusive bargaining representative" and insert "excluding those employees determined by the office of financial management that will remain represented by an exclusive bargaining representative"

Beginning on page 262, line 13, strike all of section 910

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 263, beginning on line 29, strike all of section 912

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators Fraser, Pridemore and Conway spoke in favor of adoption of the amendment.

Senators Hargrove and Baumgartner spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Fraser and Pridemore on page 232, after line 4 to Substitute Senate Bill No. 5931.

The motion by Senator Fraser failed and the amendment was not adopted by a rising vote.

#### MOTION

On motion of Senator Pridemore, the rules were suspended, Engrossed Substitute Senate Bill No. 5931 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Baumgartner and Kastama spoke in favor of passage of the bill.

Senators Pridemore and Murray spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5931.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5931 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Carrell, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

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Voting nay: Senators Brown, Chase, Conway, Fraser, Harper, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller and White

Excused: Senators Benton and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5931, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:31 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, May 18, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, May 18, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner, Baxter, Benton, Conway, Honeyford, Kline, Pflug and Roach.

The Sergeant at Arms Color Guard consisting of Senator Steve Litzow and daughter Elizabeth Litzow, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

May 17, 2011

SB 5958 Prime Sponsor, Senator White: Providing local government funding of tourism promotion, workforce housing, art and heritage programs, and community development. Reported by Committee on Government Operations, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Pridemore, Chair; Prentice, Vice Chair; Chase and Nelson.

Passed to Committee on Rules for second reading.

May 16, 2011

E2SHB 1371 Prime Sponsor, Committee on Ways & Means: Addressing boards and commissions. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Baxter; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Hatfield and Holmquist Newbry.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pridemore.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 17, 2011

MR. PRESIDENT: The House has passed SUBSTITUTE HOUSE BILL NO. 2088. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 17, 2011

MR. PRESIDENT: The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5581. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 17, 2011

MR. PRESIDENT: The House grants the request for a conference on SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742. The Speaker has appointed the following members as Conferees: Representatives Clibborn, Hargrove, Reykdal and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5960 by Senators Keiser, Pflug and Kline

AN ACT Relating to medicaid fraud; amending RCW 74.09.210, 74.09.230, and 43.43.830; reenacting and amending RCW 9A.04.080; adding new sections to chapter 74.09 RCW; adding a new chapter to Title 74 RCW; prescribing penalties; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

PERSONAL PRIVILEGE

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Senator Fraser: "Thank you Mr. President. Today is a major anniversary of an extraordinary event in the state of Washington. The initial major explosion of Mt. St. Helens and I think it occurred on May 18, 1980 and so by my calculations that was thirty-one years ago and I think everybody who was in or possibly near the state of Washington including, say northern Oregon, remembers what they were doing and where they were when they learned about the explosion. Some people, I understand, heard the boom as far north as Port Townsend. Other people of course saw the ash. Other people had massive experiences with ash. I recall hearing that Ritzville was severely inundated with ash. I recall that in Spokane the street lights went on. It was as dark as night with ash and in terms of the legislature I recall that suddenly, even though the legislature wasn't in session in May, there was suddenly a lot of interim committee work because the committees concerned with natural resources, were concerned about natural resource impact, committees dealing with business impact, committees dealing with labor impact, employment security was asked for all the data on job and business impacts, public safety impacts, clean up impacts, transportation of course was a major concern with the highways covered with ash and the cleanup and local government expenses. So, it was a major historic event for the state. The legislature did move quickly to understand what was going on and make appropriate recommendations. So, it's a day to remember."

PERSONAL PRIVILEGE

Senator Schoesler: "I could probably go on longer than the body or TVW wants to listen to having lived in Ritzville, the epicenter of ash fall. When the lights came on in the streets in the afternoon. The ash falling and literally thousands of people taking refuge there off the freeway because their cars simply didn't run with the filters plugged with Mt. St. Helens. But early in the morning the interesting thing was my wife was getting ready for church in the basement of our house and she heard a thud as I did. She thought I was reverting back to my childhood and jumping off the furniture in the living room. I drove out to our farm and at mid-day a neighbor stopped me and he said, 'Mark, this is the worst thunderstorm I've ever seen.' It was that black in the West. The animals, how smart they were. Our horses literally were freaking out about a storm they'd never seen before. And as we went through that night of darkness that started early in the day, we woke to a deep fall of ash, much like a winter snow. I left my home that morning, first thought was check my cattle and I had never heard the world as silent. People talk about the silence after a nuclear winter or other terrible events. Deathly silent. Very few tracks. No cars moving. The strangest of my life and probably the strangest summer of my life as we struggled to clean a community of ash, get our crops back in shape, figure out how we would go through a harvest with ash. An event that shaped our lives in that part of the world forever. You still can find a little bit of Mt. St. Helens along the roads there. And many of you know about my former career of the combine demolition derby in Lind and to advertise the combine demolition derby in Lind the sign on 395 says, 'Drop in, Mt. St. Helens did.' Thank you."

PERSONAL PRIVILEGE

Senator Carrell: "This event that occurred in 1980 was really a wakeup call that I think that we are continuing to learn about. The fact that there are natural disasters that we are powerless to do much about and there are actually three of them that recently we have become aware of. The first of those was 1980 and the fact we have this very violent type of volcano that is

Mt. St. Helens. It is a type that you find all over the world particularly on the Pacific Rim and we have a number of them in the state of Washington which could do very similar things, other than Rainier, which is old of volcano to do that sort of thing but nevertheless. Well, you don't expect to have a grandpa doing you know violent acts. It's just, it's more likely to collapse and that would cause mud flows and so on. But the other two things are tsunami and if you go along the ocean you will see the ghost trees which are about three hundred years ago were killed cedar trees and spruce trees that were killed in the last big major tsunamis we had. We know down to the day when it occurred because records in Japan where they had tsunamis there too but it washed for miles inland down the Grays Harbor area. I'm sure Senator Hargrove appreciates all the new soil that he has in his district from that. But the other, the great earthquakes that they trigger. We got Japan and other places, Indonesia, to look at some examples why we really need in this state to be prepared for major type of catastrophes that are coming. It isn't maybe. It's a certainty. And the last one was about three hundred years ago and it happened about every three hundred years. Not at good sign, but anyway, you know I think that St. Helens was the first of those things. It was a wakeup call that isn't something in far off lands. It could happen right here in our backyards and we need to be ready for it. Thank you Mr. President."

PERSONAL PRIVILEGE

Senator Fain: "I just wanted to send my appreciation to the colleagues for talking about St. Helens this morning as the only member of this body that was not yet alive. I appreciate hearing about it."

PERSONAL PRIVILEGE

Senator Hobbs: "Well, I'm not here to talk about Mt. St. Helens, I was ten years old. I was watching Saturday morning cartoons, I don't remember that much about it but when I'm here, what I'm speaking about because I know that my wife is watching right now, Pamela, I just want to say congratulations, you received your Masters in Occupational Therapy at UPS over the weekend and I know it was very hard for you, basically being a married single mother because I'm always away. You followed me for about, well, over ten years in the active Army and you took care of the kids and you watched the home and I am so proud of you were able to do your own path finding. I had no problem watching the kids while you were at school and I realize how hard it is to be Mr. Mom so I appreciate that and what I'm really happy about is that an Occupational Therapist will actually make more than State Legislator so that is something that I am very happy about. Thank you very much Pam and congratulations. I love you."

PERSONAL PRIVILEGE

Senator Stevens: "Well, I would like to add my congratulations to Mrs. Hobbs. I am certain that she has a great burden to bear and now she has added to her intelligence I am sure and will be a better wife and mother and certainly a better wife of a Senator. But mostly I want to talk about Mt. St. Helens. I can remember that morning very vividly. We heard the loud boom. We lived in Arlington and I said to my husband, 'That was Mt. St. Helens' and he said 'Nah, couldn't possibly be' and I said 'Oh yeah, I think it was' and so we had that little discussion and as these events happen in history we all remember where we were when and of course that is one. Just last fall we had a visit with

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my husband's cousin who at that time was the head of FEMA and handled all of the FEMA responsibilities in regard to Mt. St. Helens and he remembers vividly some of the activities that he went through. He remembers the negotiations with our then-Governor Dixie Lee Ray and how difficult it was for a federal agency to come in and deal with the governor who, you know, there's always that turf battle and what they went through in that whole process and he remembers it very, very vividly even though he is in his 80s. But at the same time we all remember and I am very sorry for Senator Fain he was too young to remember but hopefully we can give him this little bit of history that will give him a reminder of what he missed. So, thank you Mr. President."

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 5581.

MOTION

At 10:22 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 12:07 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5114, by Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Streamlining competency evaluation and competency restoration procedures.

The bill was read on Third Reading.

Senator Hargrove spoke in favor of passage of the bill.  
Senator Carrell spoke against passage of the bill.

MOTION

On motion of Senator Ericksen, Senators Baumgartner, Baxter, Benton, Honeyford and Roach were excused.

MOTION

On motion of Senator White, Senator Conway was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5114.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5114 and the bill passed the Senate by the following vote: Yeas, 37; Nays, 4; Absent, 2; Excused, 6.

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Voting yea: Senators Brown, Chase, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Becker, Carrell, Ericksen and Parlette

Absent: Senators Kline and Pflug

Excused: Senators Baumgartner, Baxter, Benton, Conway, Honeyford and Roach

SUBSTITUTE SENATE BILL NO. 5114, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2115, by House Committee on Education (originally sponsored by Representatives Haigh and Dammeier)

Concerning legislative review of performance standards for the statewide student assessment.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2115 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Litzow spoke in favor of passage of the bill.

MOTION

On motion of Senator White, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2115.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2115 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Becker, Brown, Carrell, Chase, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner, Baxter, Benton, Conway, Honeyford, Kline, Pflug and Roach

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 2115, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5114 was immediately transmitted to the House of Representatives.

#### SECOND READING

SENATE BILL NO. 5587, by Senators Schoesler, Sheldon, Zarelli, King, Tom, Delvin, Honeyford and Hewitt

Terminating the low-income property tax deferral program. Revised for 1st Substitute: Expiring an underutilized deferral program in the department of revenue under chapter 84.37 RCW.

#### MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 5587 was substituted for Senate Bill No. 5587 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 5587 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Carrell spoke in favor of passage of the bill.

Senator Fraser spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5587.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5587 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 17; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Carrell, Delvin, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Kastama, King, Litzow, Morton, Parlette, Pridemore, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Brown, Chase, Eide, Fraser, Harper, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Sheldon and White

Excused: Senators Baumgartner, Baxter, Benton, Conway, Honeyford, Pflug and Roach

SUBSTITUTE SENATE BILL NO. 5587, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 12:27 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Thursday, May 19, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY FOURTH DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, May 19, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner, Benton and Roach.

The Sergeant at Arms Color Guard consisting of Senate staff Stephen Malmstrom and Nick Bowman, presented the Colors. Senate Shin offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

May 18, 2011

SB 5459 Prime Sponsor, Senator Kline: Regarding transition services for people with developmental disabilities. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5459 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Zarelli; Brown; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Honeyford and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baxter; Conway and Schoesler.

Passed to Committee on Rules for second reading.

May 18, 2011

SB 5669 Prime Sponsor, Senator Ranker: Regarding the consolidation of certain natural resources agencies and programs. Reported by Committee on Ways & Means

MAJORITY recommendation: That Second Substitute Senate Bill No. 5669 be substituted therefor, and the second substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baxter; Brown; Conway; Fraser; Hewitt; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Parlette; Hatfield and Honeyford.

Passed to Committee on Rules for second reading.

May 18, 2011

SB 5891 Prime Sponsor, Senator Murray: Relating to criminal justice. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5891 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Zarelli; Brown; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Parlette; Baxter; Conway; Hewitt; Honeyford and Schoesler.

Passed to Committee on Rules for second reading.

May 18, 2011

SB 5942 Prime Sponsor, Senator Hewitt: Warehousing and distribution of spirits, including the lease and modernization of the state's spirits warehousing and distribution facilities and related operations. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5942 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baxter; Brown; Conway; Hatfield; Hewitt; Honeyford; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senators Fraser; Kastama; Pridemore and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Parlette.

Passed to Committee on Rules for second reading.

May 18, 2011

SB 5960 Prime Sponsor, Senator Keiser: Concerning medicaid fraud. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5960 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Honeyford.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette; Baxter; Hatfield and Hewitt.

Passed to Committee on Rules for second reading.

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ESHB 1354 Prime Sponsor, Committee on Ways & Means: Changing the apportionment schedule to educational service districts and school districts for the 2010-11 school year. Reported by Committee on Ways & Means

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

MOTION

At 10:08 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:39 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5459, by Senators Kline, Keiser, Regala and McAuliffe

Regarding transition services for people with developmental disabilities. Revised for 2nd Substitute: Regarding services for people with developmental disabilities.

MOTION

On motion of Senator Hargrove, Second Substitute Senate Bill No. 5459 was substituted for Senate Bill No. 5459 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Chase moved that the following amendment by Senator Chase be adopted:

On page 13, after line 19, insert the following:

"NEW SECTION. Sec. 13. The department of social and health services must submit to the legislature by December 2011, a detailed accounting of people on the state waiting list for services provided to persons with developmental disabilities. The report must provide specific categories of individuals considered on a waiting list, including those under the age of eighteen years, those currently living in settings outside of the family home, and any other detail that provides a clear explanation to the legislature of specific numbers of people currently eligible for services and not receiving them."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Chase spoke in favor of adoption of the amendment.

Senators Hargrove and King spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 13, after line 19 to Second Substitute Senate Bill No. 5459.

The motion by Senator Chase failed and the amendment was not adopted by voice vote.

MOTION

Senator Chase moved that the following amendment by Senator Chase be adopted:

MOTION

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Baxter.

Passed to Committee on Rules for second reading.

May 18, 2011

ESHB 1449 Prime Sponsor, Committee on Education Appropriations & Oversight: Establishing a processing fee for educator certificates. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Brown; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 2088 by House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie and Rivers)

AN ACT Relating to creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 28B RCW; and declaring an emergency.

Referred to Committee on Ways & Means.

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On page 13, after line 19, insert the following:

**"NEW SECTION. Sec. 13.** A new section is added to chapter 71A.20 RCW to read as follows:

(1) The department shall keep all residential habilitation centers open until there are sufficient community options and support services and appropriate safety precautions and supports available to serve the clients who currently resident in these residential habilitation centers. The department is directed to admit those individuals who are at "immediate risk" or in need of "immediate stabilization".

(2) Any fiscal assumptions related to moving people from residential habilitation centers to the community must factor in adequate funding to provide oversight in a fractured system that is as good or better than the current oversight achieved in the institutional settings in the state. The assumptions must take into account protection needed for very vulnerable individuals in small isolated settings around the state, not just for the relatively few years that aging individuals reside in them. The oversight needed in community settings for people with developmental disabilities must be for the lifespan of individuals, which means decades."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Chase, Carrell and Honeyford spoke in favor of adoption of the amendment.

Senators Kline, Hargrove and King spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Chase on page 13, after line 19 to Second Substitute Senate Bill No. 5459.

The motion by Senator Chase failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute Senate Bill No. 5459 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Kline, Prentice, King and Keiser spoke in favor of passage of the bill.

Senators Chase, Carrell, Rockefeller and Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5459.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5459 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 11; Absent, 3; Excused, 0.

Voting yea: Senators Becker, Brown, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Carrell, Chase, Ericksen, Honeyford, Kilmer, Nelson, Pridmore, Rockefeller, Schoesler and Sheldon

Absent: Senators Baumgartner, Benton and Roach

SECOND SUBSTITUTE SENATE BILL NO. 5459, having received the constitutional majority, was declared passed. There

being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5891, by Senator Murray

Relating to criminal justice. Revised for 1st Substitute: Addressing criminal justice cost savings.

#### MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 5891 was substituted for Senate Bill No. 5891 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and Carrell be adopted:

Beginning on page 3, line 36, after "(4)" strike all material through "(5)" on page 4, line 3

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 5, beginning on line 13, after "(2)" strike all material through "(3)" on line 27

On page 46, line 19, after "chapter" strike "9.94A" and insert "43.88C"

On page 57, beginning on line 36, after "to" strike all material through "sentencing" on line 37 and insert "sex offender management"

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove and Carrell on page 3, line 36 to Substitute Senate Bill No. 5891.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 8 of the title, after "adding" strike "a new section" and insert "new sections"

#### MOTION

On motion of Senator Eide, Senators Baumgartner, Benton and Roach were excused.

#### MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove, Regala and Carrell be adopted:

On page 30, line 10, after "after" strike "July" and insert "October"

On page 30, line 15, after "before" strike "July" and insert "October"

Beginning on page 55, line 31, strike all of sections 36 and 37 and insert the following:

"**Sec. 36.** RCW 9.94A.860 and 2001 2nd sp.s. c 12 s 311 are each amended to read as follows:

(1) The sentencing guidelines commission is hereby created, located within the office of financial management. Except as

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provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing. The commission may meet, as necessary, to accomplish these purposes within funds appropriated.

(2) The commission consists of twenty voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, or his or her designee, subject to confirmation by the senate.

~~((2))~~ (3) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) The chair of the indeterminate sentence review board, as an ex officio member;

(d) The head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

(e) Two prosecuting attorneys;

(f) Two attorneys with particular expertise in defense work;

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

(i) Four members of the public who are not prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime or a crime victims' advocate;

(j) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

(k) One person who is an elected official of a city government;

(l) One person who is an administrator of juvenile court services.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the association of superior court judges in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, and of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services.

~~((3))~~ (4)(a) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed.

(b) The governor shall stagger the terms of the members appointed under subsection ~~((2))~~ (3)(j), (k), and (l) of this section by appointing one of them for a term of one year, one for a term of two years, and one for a term of three years.

~~((4))~~ (5) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

~~((5))~~ (6) The members of the commission ~~((shall))~~ may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members ~~((shall))~~ may be reimbursed by their respective houses as provided under RCW 44.04.120. Except for the reimbursement of travel expenses, members shall not be compensated ((in accordance with RCW 43.03.250)).

**Sec. 37.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to read as follows:

(1) Within funds appropriated for this purpose, the sentencing guidelines commission shall establish and maintain a sex offender policy board.

(2)(a) The board shall serve to advise the governor and the legislature as necessary on issues relating to sex offender management.

(b) At such times as the governor or a legislative committee of jurisdiction may request, the sex offender policy board may be convened to:

(i) Undertake projects to assist policymakers in making informed judgments about issues relating to sex offender policy; and

(ii) Conduct case reviews of sex offense incidents to understand performance of Washington's sex offender prevention and response systems.

(3) The sex offender policy board shall consist of thirteen voting members. Unless the member is specifically named in this section, the following organizations shall designate a person to sit on the board. The voting membership shall consist of the following:

(a) A representative of the Washington association of sheriffs and police chiefs;

(b) A representative of the Washington association of prosecuting attorneys;

(c) A representative of the Washington association of criminal defense lawyers;

(d) The chair of the indeterminate sentence review board or his or her designee;

(e) A representative of the Washington association for the treatment of sex abusers;

(f) The secretary of the department of corrections or his or her designee;

(g) A representative of the Washington state superior court judge's association;

(h) The assistant secretary of the juvenile rehabilitation administration or his or her designee;

(i) The office of crime victims advocacy in the department of ~~((community, trade, and economic development))~~ commerce;

(j) A representative of the Washington state association of counties;

(k) A representative of the association of Washington cities;

(l) A representative of the Washington association of sexual assault programs; and

(m) The director of the special commitment center or his or her designee.

~~((2) The person so named in subsection (1) of this section has the authority to make decisions on behalf of the organization he or she represents.~~

~~(3) The nonvoting membership shall consist of the following:~~

~~(a) Two members of the sentencing guidelines commission chosen by the chair of the commission; and~~

~~(b) A representative of the criminal justice division in the attorney general's office.)~~

(4) The board shall choose its chair by majority vote from among its voting membership. The chair's term shall be two years.

~~(5) ((The chair of the sentencing guidelines commission shall convene the first meeting.~~

~~(6)) As appropriate, the board shall consult with the criminal~~

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justice division in the attorney general's office and the Washington institute for public policy ((shall act as an advisor to the board)).

(6) Members of the board shall receive no compensation but may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060."

Senator Hargrove spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hargrove, Regala and Carrell on page 30, line 10 to Engrossed Substitute Senate Bill No. 5891.

The motion by Senator Hargrove carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 5891 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove and Carrell spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5891.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5891 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 17; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Carrell, Chase, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Honeyford, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Rockefeller, Schoesler, Shin, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Conway, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore and Sheldon

Excused: Senators Baumgartner, Benton and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 5891 and Second Substitute Senate Bill No. 5459 were immediately transmitted to the House of Representatives.

#### SECOND READING

SENATE BILL NO. 5539, by Senators Kohl-Welles, Prentice, White, Kilmer, Brown and McAuliffe

Concerning Washington's motion picture competitiveness.

#### MOTION

On motion of Senator Kohl-Welles, Second Substitute Senate Bill No. 5539 was substituted for Senate Bill No. 5539 and the second substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove be adopted:

On page 5, after line 6, insert the following:

"(9) Funding assistance may only be provided to productions that employ at least seventy-five percent of the labor force with Washington state residents."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senators Hargrove and Kohl-Welles spoke in favor of adoption of the amendment.

Senators Carrell and Sheldon spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove on page 5, after line 6 to Second Substitute Senate Bill No. 5539.

The motion by Senator Hargrove failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Second Substitute Senate Bill No. 5539 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Brown, Carrell, Ranker and Sheldon spoke in favor of passage of the bill.

Senators Kastama and Tom spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5539.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5539 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 16; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Ericksen, Fain, Fraser, Harper, Hatfield, Hewitt, Hobbs, Holmquist Newbry, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Prentice, Ranker, Sheldon, Shin, Stevens and Swecker

Voting nay: Senators Eide, Hargrove, Haugen, Hill, Honeyford, Kastama, Nelson, Parlette, Pflug, Pridemore, Regala, Rockefeller, Schoesler, Tom, White and Zarelli

Excused: Senators Baumgartner, Benton and Roach

SECOND SUBSTITUTE SENATE BILL NO. 5539, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Second Substitute Senate Bill No. 5539 was immediately transmitted to the House of Representatives.

#### SECOND READING

SENATE BILL NO. 5669, by Senators Ranker, Swecker, Regala, Rockefeller, Nelson, White, Pflug and Shin

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Regarding the consolidation of certain natural resources agencies and programs. Revised for 2nd Substitute: Regarding the consolidation of natural resources agencies and programs.

MOTION

On motion of Senator Ranker, Second Substitute Senate Bill No. 5669 was substituted for Senate Bill No. 5669 and the second substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hatfield moved that the following amendment by Senator Hatfield be adopted:

On page 2, beginning on line 1, after "department of", strike "agriculture, the department of"

On page 2, line 21, after "recreation commission,", strike "the director of the department of agriculture,"

WITHDRAWAL OF AMENDMENT

On motion of Senator Hatfield, the amendment by Senator Hatfield on page 2, line 1 to Second Substitute Senate Bill No. 5669 was withdrawn.

MOTION

Senator Ranker moved that the following amendment by Senators Ranker, Parlette, Schoesler and Zarelli be adopted:

On page 2, line 10, after "maximize the", strike "collocation" and insert "colocation"

On page 2, beginning on line 7, after "(a)", strike "Consolidate administrative regions into no more than four per agency;

(b)"

On page 2, after line 35, insert:

**"NEW SECTION. Sec. 102.** (1) The departments of fish and wildlife and natural resources shall each consolidate their administrative regions to no more than four per agency if so directed by legislation enacted prior to July 1, 2012.

(2) The departments of fish and wildlife and natural resources shall each: (a) Develop options for and a plan to consolidate their administrative regions to no more than four per agency; (b) analyze the costs and benefits of administrative regional consolidation, including impacts on budget, efficiency, and agency operations; and (c) provide the plan and analysis required under this section, along with other relevant legislative and budget recommendations, to the appropriate committees of the legislature and the office of financial management by September 1, 2011."

On page 3, beginning on line 8, strike sections 103 through 105.

Renumber sections and subsections accordingly and correct any internal references.

Senator Ranker spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Ranker, Parlette, Schoesler and Zarelli on page 2, line 10 to Second Substitute Senate Bill No. 5669.

The motion by Senator Ranker carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Ranker, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5669 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Ranker, Schoesler, Parlette spoke in favor of passage of the bill.

Senator Morton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5669.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5669 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hill, Hobbs, Kastama, Keiser, Kilmer, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Fain, Hatfield, Haugen, Hewitt, Holmquist Newbry, Honeyford, King, Kline, Morton, Pflug, Pridemore, Sheldon, Shin and Stevens

Excused: Senators Baumgartner, Benton and Roach

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5669, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Second Substitute Senate Bill No. 5669 was immediately transmitted to the House of Representatives.

SECOND READING

SENATE BILL NO. 5960, by Senators Keiser, Pflug and Kline

Concerning medicaid fraud.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5960 was substituted for Senate Bill No. 5960 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Becker moved that the following amendment by Senator Becker be adopted.

On page 12, line 14, after "of any" strike "qui tam relator or other"

On page 12, beginning on line 34, strike all material through "act." on line 37

Beginning on page 14, line 15, strike all of sections 12, 13, 14, and 15

Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 19, line 31, after "Sec. 17." strike all material through "(5)" on page 20, line 10

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On page 20, line 16, after "section 11" strike "or 12(1)"

On page 20, line 18, after "section 11" strike "or 12"

On page 20, line 28, after "section 11" strike "or 12"

Beginning on page 20, line 29, strike all material through "action." on page 21, line 3

Beginning on page 21 strike all of section 19

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senator Becker spoke in favor of adoption of the amendment.

Senators Pflug and Kastama spoke against adoption of the amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker on page 12, line 14 to Substitute Senate Bill No. 5960.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Becker and the amendment was not adopted by the following vote: Yeas, 21; Nays, 25; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Fain, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Litzow, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and White

Excused: Senators Baumgartner, Benton and Roach

#### MOTION

Senator Hobbs moved that the following amendment by Senators Hobbs, Keiser and Becker be adopted:

On page 14, after line 5, insert the following:

"(3) For the purposes of determining whether an insurer has a duty to provide a defense or indemnification for an insured and if coverage may be denied if the terms of the policy exclude coverage for intentional acts, a violation of subsection (1) of this section is an intentional act.

Senator Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Hobbs, Keiser and Becker on page 14, after line 5 to Substitute Senate Bill No. 5960.

The motion by Senator Hobbs carried and the amendment was adopted by voice vote.

#### MOTION

Senator Becker moved that the following amendment by Senator Becker be adopted:

On page 14, beginning on line 29, after "(3)" strike all material through "dismiss." on line 31 and insert "After the sixty-day period for review has passed, the court may dismiss the qui tam action if it determines that it is more likely than not that the action being brought is clearly frivolous or vexatious, or is being brought primarily for the purposes of harassment or the relator has failed to state with particularity circumstances constituting fraud. If the court does not dismiss the claim immediately after the sixty-day period, the court must forward the

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complaint to the defendant and allow the defendant thirty days to provide an answer. If the defendant provides an answer, the court has an additional fifteen days from the date of receipt of the answer to make its determination under this subsection. The attorney general must be given notice and an opportunity to participate in the hearing on the motion to dismiss."

Senator Becker spoke in favor of adoption of the amendment. Senator Hargrove spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Becker on page 14, line 29 to Substitute Senate Bill No. 5960.

The motion by Senator Becker failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5960 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Pflug and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5960.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5960 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 5; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Shin, Swecker, Tom, White and Zarelli

Voting nay: Senators Delvin, Ericksen, Honeyford, King and Stevens

Excused: Senators Baumgartner, Benton and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 5960, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5958, by Senators White, Kohl-Welles and Keiser

Providing local government funding of tourism promotion, workforce housing, art and heritage programs, and community development.

The measure was read the second time.

#### MOTION

Senator Tom moved that the following amendment by Senator Tom be adopted:

On page 2, line 35, after "2015." insert "a county may not impose the tax authorized under this section after December 31st,

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2011 unless the tax has been approved by a majority of the voters of the county."

On page 3, line 9, after "2015." insert "a county may not impose the tax authorized under this section after December 31st, 2011 unless the tax has been approved by a majority of the voters of the county."

On page 6, after line 28, insert the following:

"(5) No monies may be spent from the fund created in subsection (1) of this section until the county is authorized to do so by approval by a majority of the voters of the county."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Tom spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 2, line 35 to Senate Bill No. 5958.

The motion by Senator Tom carried and the amendment was adopted by voice vote.

#### MOTION

Senator White moved that the following amendment by Senator White be adopted:

On page 11, line 5, strike "2021" and insert "2035"

On page 11, line 8, beginning with ", and" strike everything through page 11, line 10, "funds"Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator White spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator White on page 11, line 5 to Senate Bill No. 5958.

The motion by Senator White carried and the amendment was adopted by voice vote.

#### MOTION FOR IMMEDIATE RECONSIDERATION

Having voted on the prevailing side and on motion of Senator Tom, the vote by which the amendment by Senator Tom, on page 2, line 35 to Senate Bill No. 5958 passed the Senate earlier in the day was immediately considered.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Tom, the amendment by Senator Tom on page 2, line 35 to Senate Bill No. 5958 was withdrawn.

#### MOTION

Senator Tom moved that the following amendment by Senator Tom be adopted:

On page 2, line 35, after "2015." insert "However, a county may not impose the tax authorized under this subsection after December 31st, 2011 unless the tax has been approved by a majority of the voters in the county voting at the next general election following the effective date of this act."

On page 3, line 9, after "2015." insert "However, a county may not impose the tax authorized under this subsection after December 31st, 2011 unless the tax has been approved by a majority of the voters in the county voting at the next general election following the effective date of this act."

On page 6, after line 28, insert the following:

"(5) No monies may be spent from the fund created in subsection (1) of this section until the county is authorized to do so

by approval of a majority of the voters in the county voting at the next general election following the effective date of this act. The ballot propositions required under this subsection and in RCW 82.14.360(1) and (2), may be combined into a single ballot measure."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Tom spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 2, line 35 to Senate Bill No. 5958.

The motion by Senator Tom carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator White, the rules were suspended, Engrossed Senate Bill No. 5958 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White and Murray spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

Senator Carrell spoke against passage of the bill.

#### POINT OF ORDER

Senator Keiser: "Mr. President, I believe that the good gentleman is impugning the motives of the proponents of this legislation."

#### REMARKS BY THE PRESIDENT

President Owen: "Senator Carrell, the President believes that you're stepping very close to that and remind the members that your debate is to be on the subject not about other members."

Senators Carrell and Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5958.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5958 and the bill failed to pass the Senate by the following vote: Yeas, 24; Nays, 22; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Chase, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Shin, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Fain, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Morton, Parlette, Pflug, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Baumgartner, Benton and Roach

ENGROSSED SENATE BILL NO. 5958, having failed to receive the constitutional majority, was declared lost.

#### MOTION

At 4:15 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, May 20, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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## TWENTY FIFTH DAY

## MORNING SESSION

Senate Chamber, Olympia, Friday, May 20, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Brown, Hill, Keiser, Pflug, Roach, Shin and Zarelli.

The Sergeant at Arms Color Guard consisting of Lieutenant Governor's Staff, Juliette Schindler Kelly and K. D. Chapman-See, presented the Colors. Senator Hargrove offered the prayer.

## MOTION

On motion of Senator Ericksen, Senators Baumgartner, Benton, Pflug, Roach and Zarelli were excused.

## MOTION

On motion of Senator Eide, Senators Keiser and Shin were excused.

## MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## MOTION

On motion of Senator Ericksen, Senators Carrell and Parlette were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Litzow moved that Gubernatorial Appointment No. 9145, William Chapman, as Chair of the Recreation and Conservation Funding Board, be confirmed.

Senator Litzow spoke in favor of the motion.

## MOTION

On motion of Senator Ericksen, Senators Hill and Holmquist Newbry were excused.

## APPOINTMENT OF WILLIAM CHAPMAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9145, William Chapman as Chair of the Recreation and Conservation Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9145, William Chapman as

Chair of the Recreation and Conservation Funding Board and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 1; Excused, 8.

Voting yea: Senators Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Absent: Senator Brown

Excused: Senators Baumgartner, Benton, Hill, Keiser, Pflug, Roach, Shin and Zarelli

Gubernatorial Appointment No. 9145, William Chapman, having received the constitutional majority was declared confirmed as Chair of the Recreation and Conservation Funding Board.

## MOTION

On motion of Senator Eide, Senator Brown was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Kohl-Welles moved that Gubernatorial Appointment No. 9114, David Threedy, as Chair of the Board of Industrial Insurance Appeals, be confirmed.

Senator Kohl-Welles spoke in favor of the motion.

## APPOINTMENT OF DAVID THREEDY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9114, David Threedy as Chair of the Board of Industrial Insurance Appeals.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9114, David Threedy as Chair of the Board of Industrial Insurance Appeals and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Baxter, Becker, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Excused: Senators Baumgartner, Benton, Brown, Pflug, Roach, Shin and Zarelli

Gubernatorial Appointment No. 9114, David Threedy, having received the constitutional majority was declared confirmed as Chair of the Board of Industrial Insurance Appeals.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1371, by House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunt)

Addressing boards and commissions.

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The measure was read the second time.

### MOTION

Senator Murray moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

#### **"PART I - AGENCY SPECIFIC PROVISIONS Eastern State Hospital Board and Western State Hospital Board**

**Sec. 1.** RCW 72.23.025 and 2006 c 333 s 204 are each amended to read as follows:

(1) It is the intent of the legislature to improve the quality of service at state hospitals, eliminate overcrowding, and more specifically define the role of the state hospitals. The legislature intends that eastern and western state hospitals shall become clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. To this end, the legislature intends that funds appropriated for mental health programs, including funds for regional support networks and the state hospitals be used for persons with primary diagnosis of mental disorder. The legislature finds that establishment of ~~((the eastern state hospital board, the western state hospital board, and))~~ institutes for the study and treatment of mental disorders at both eastern state hospital and western state hospital will be instrumental in implementing the legislative intent.

~~(2)((a) The eastern state hospital board and the western state hospital board are each established. Members of the boards shall be appointed by the governor with the consent of the senate. Each board shall include:~~

- ~~(i) The director of the institute for the study and treatment of mental disorders established at the hospital;~~
- ~~(ii) One family member of a current or recent hospital resident;~~
- ~~(iii) One consumer of services;~~
- ~~(iv) One community mental health service provider;~~
- ~~(v) Two citizens with no financial or professional interest in mental health services;~~
- ~~(vi) One representative of the regional support network in which the hospital is located;~~
- ~~(vii) One representative from the staff who is a physician;~~
- ~~(viii) One representative from the nursing staff;~~
- ~~(ix) One representative from the other professional staff;~~
- ~~(x) One representative from the nonprofessional staff; and~~
- ~~(xi) One representative of a minority community.~~

~~(b) At least one representative listed in (a)(viii), (ix), or (x) of this subsection shall be a union member.~~

~~(c) Members shall serve four year terms. Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and shall receive compensation as provided in RCW 43.03.240.~~

~~(3) The boards established under this section shall:~~

- ~~(a) Monitor the operation and activities of the hospital;~~
- ~~(b) Review and advise on the hospital budget;~~
- ~~(c) Make recommendations to the governor and the legislature for improving the quality of service provided by the hospital;~~
- ~~(d) Monitor and review the activities of the hospital in implementing the intent of the legislature set forth in this section; and~~

~~(e) Consult with the secretary regarding persons the secretary may select as the superintendent of the hospital whenever a vacancy occurs.~~

~~(4))~~ (a) There is established at eastern state hospital and western state hospital, institutes for the study and treatment of mental disorders. The institutes shall be operated by joint operating agreements between state colleges and universities and the department of social and health services. The institutes are intended to conduct training, research, and clinical program development activities that will directly benefit ~~((mentally ill))~~ persons with mental illness who are receiving treatment in Washington state by performing the following activities:

(i) Promote recruitment and retention of highly qualified professionals at the state hospitals and community mental health programs;

(ii) Improve clinical care by exploring new, innovative, and scientifically based treatment models for persons presenting particularly difficult and complicated clinical syndromes;

(iii) Provide expanded training opportunities for existing staff at the state hospitals and community mental health programs;

(iv) Promote bilateral understanding of treatment orientation, possibilities, and challenges between state hospital professionals and community mental health professionals.

(b) To accomplish these purposes the institutes may, within funds appropriated for this purpose:

(i) Enter joint operating agreements with state universities or other institutions of higher education to accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational therapy, nursing, and other relevant professions at the state hospitals and community mental health programs;

(ii) Design and implement clinical research projects to improve the quality and effectiveness of state hospital services and operations;

(iii) Enter into agreements with community mental health service providers to accomplish the exchange of professional staff between the state hospitals and community mental health service providers;

(iv) Establish a student loan forgiveness and conditional scholarship program to retain qualified professionals at the state hospitals and community mental health providers when the secretary has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institutes may enter into agreements with the department or the state hospitals which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section.

(d) The institutes are authorized to seek and accept public or private gifts, grants, contracts, or donations to accomplish their purposes under this section.

#### **Firearms Range Advisory Committee**

NEW SECTION. **Sec. 2.** RCW 79A.25.220 (Firearms range advisory committee) and 2007 c 241 s 55, 1993 sp.s. c 2 s 71, & 1990 c 195 s 3 are each repealed.

#### **Home Care Quality Authority**

NEW SECTION. **Sec. 3.** The following acts or parts of acts are each repealed:

(1) RCW 70.127.041 (Home care quality authority not subject to regulation) and 2002 c 3 s 13;

(2) RCW 74.39A.230 (Authority created) and 2002 c 3 s 2; and  
(3) RCW 74.39A.280 (Powers) and 2002 c 3 s 7.

NEW SECTION. **Sec. 4.** RCW 74.39A.290 is decodified.

**Sec. 5.** RCW 74.39A.095 and 2009 c 580 s 8 are each amended to read as follows:

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(1) In carrying out case management responsibilities established under RCW 74.39A.090 for consumers who are receiving services under the medicaid personal care, community options programs entry system or chore services program through an individual provider, each area agency on aging shall provide oversight of the care being provided to consumers receiving services under this section to the extent of available funding. Case management responsibilities incorporate this oversight, and include, but are not limited to:

(a) Verification that any individual provider (~~(who has not been referred to a consumer by the authority)~~) has met any training requirements established by the department;

(b) Verification of a sample of worker time sheets;

(c) Monitoring the consumer's plan of care to verify that it adequately meets the needs of the consumer, through activities such as home visits, telephone contacts, and responses to information received by the area agency on aging indicating that a consumer may be experiencing problems relating to his or her home care;

(d) Reassessing and reauthorizing services;

(e) Monitoring of individual provider performance(~~(—If, in the course of its case management activities, the area agency on aging identifies concerns regarding the care being provided by an individual provider who was referred by the authority, the area agency on aging must notify the authority regarding its concerns)~~); and

(f) Conducting criminal background checks or verifying that criminal background checks have been conducted for any individual provider (~~(who has not been referred to a consumer by the authority)~~). Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

(2) The area agency on aging case manager shall work with each consumer to develop a plan of care under this section that identifies and ensures coordination of health and long-term care services that meet the consumer's needs. In developing the plan, they shall utilize, and modify as needed, any comprehensive community service plan developed by the department as provided in RCW 74.39A.040. The plan of care shall include, at a minimum:

(a) The name and telephone number of the consumer's area agency on aging case manager, and a statement as to how the case manager can be contacted about any concerns related to the consumer's well-being or the adequacy of care provided;

(b) The name and telephone numbers of the consumer's primary health care provider, and other health or long-term care providers with whom the consumer has frequent contacts;

(c) A clear description of the roles and responsibilities of the area agency on aging case manager and the consumer receiving services under this section;

(d) The duties and tasks to be performed by the area agency on aging case manager and the consumer receiving services under this section;

(e) The type of in-home services authorized, and the number of hours of services to be provided;

(f) The terms of compensation of the individual provider;

(g) A statement by the individual provider that he or she has the ability and willingness to carry out his or her responsibilities relative to the plan of care; and

(h)(i) Except as provided in (h)(ii) of this subsection, a clear statement indicating that a consumer receiving services under this section has the right to waive any of the case management services offered by the area agency on aging under this section, and a clear indication of whether the consumer has, in fact, waived any of these services.

(ii) The consumer's right to waive case management services does not include the right to waive reassessment or reauthorization

of services, or verification that services are being provided in accordance with the plan of care.

(3) Each area agency on aging shall retain a record of each waiver of services included in a plan of care under this section.

(4) Each consumer has the right to direct and participate in the development of their plan of care to the maximum practicable extent of their abilities and desires, and to be provided with the time and support necessary to facilitate that participation.

(5) A copy of the plan of care must be distributed to the consumer's primary care provider, individual provider, and other relevant providers with whom the consumer has frequent contact, as authorized by the consumer.

(6) The consumer's plan of care shall be an attachment to the contract between the department, or their designee, and the individual provider.

(7) If the department or area agency on aging case manager finds that an individual provider's inadequate performance or inability to deliver quality care is jeopardizing the health, safety, or well-being of a consumer receiving service under this section, the department or the area agency on aging may take action to terminate the contract between the department and the individual provider. If the department or the area agency on aging has a reasonable, good faith belief that the health, safety, or well-being of a consumer is in imminent jeopardy, the department or area agency on aging may summarily suspend the contract pending a fair hearing. The consumer may request a fair hearing to contest the planned action of the case manager, as provided in chapter 34.05 RCW. (~~(When the department or area agency on aging terminates or summarily suspends a contract under this subsection, it must provide oral and written notice of the action taken to the authority.)~~) The department may by rule adopt guidelines for implementing this subsection.

(8) The department or area agency on aging may reject a request by a consumer receiving services under this section to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the family member or other person will be unable to appropriately meet the care needs of the consumer. The consumer may request a fair hearing to contest the decision of the case manager, as provided in chapter 34.05 RCW. The department may by rule adopt guidelines for implementing this subsection.

**Sec. 6.** RCW 74.39A.220 and 2002 c 3 s 1 are each amended to read as follows:

The people of the state of Washington find as follows:

(1) Thousands of Washington seniors and persons with disabilities live independently in their own homes, which they prefer and is less costly than institutional care such as nursing homes.

(2) Many Washington seniors and persons with disabilities currently receive long-term in-home care services from individual providers hired directly by them under the medicaid personal care, community options programs entry system, or chore services program.

(3) Quality long-term in-home care services allow Washington seniors, persons with disabilities, and their families the choice of allowing seniors and persons with disabilities to remain in their homes, rather than forcing them into institutional care such as nursing homes. Long-term in-home care services are also less costly, saving Washington taxpayers significant amounts through lower reimbursement rates.

~~((4) The quality of long term in home care services in Washington would benefit from improved regulation, higher standards, better accountability, and improved access to such services. The quality of long term in home care services would further be improved by a well trained, stable individual provider workforce earning reasonable wages and benefits.~~

~~(5) Washington seniors and persons with disabilities would~~

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benefit from the establishment of an authority that has the power and duty to regulate and improve the quality of long-term in-home care services.

~~(6) The authority should ensure that the quality of long-term in-home care services provided by individual providers is improved through better regulation, higher standards, increased accountability, and the enhanced ability to obtain services. The authority should also encourage stability in the individual provider workforce through collective bargaining and by providing training opportunities.)~~

**Sec. 7.** RCW 74.39A.240 and 2002 c 3 s 3 are each amended to read as follows:

The definitions in this section apply throughout RCW 74.39A.030 and 74.39A.095 and 74.39A.220 through 74.39A.300, and 41.56.026(~~(, 70.127.041, and 74.09.740)~~) unless the context clearly requires otherwise.

(1) ~~("Authority" means the home care quality authority.~~

~~(2) "Board" means the board created under RCW 74.39A.230.~~

~~(3)) "Consumer" means a person to whom an individual provider provides any such services.~~

~~((4)) (2) "Department" means the department of social and health services.~~

~~(3) "Individual provider" means a person, including a personal aide, who has contracted with the department to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.~~

**Sec. 8.** RCW 74.39A.250 and 2002 c 3 s 4 are each amended to read as follows:

~~(1) (The authority must carry out the following duties:~~

~~(a) Establish qualifications and reasonable standards for accountability for and investigate the background of individual providers and prospective individual providers, except in cases where, after the department has sought approval of any appropriate amendments or waivers under RCW 74.09.740, federal law or regulation requires that such qualifications and standards for accountability be established by another entity in order to preserve eligibility for federal funding. Qualifications established must include compliance with the minimum requirements for training and satisfactory criminal background checks as provided in RCW 74.39A.050 and confirmation that the individual provider or prospective individual provider is not currently listed on any long-term care abuse and neglect registry used by the department at the time of the investigation;~~

~~(b) Undertake recruiting activities to identify and recruit individual providers and prospective individual providers;~~

~~(c) Provide training opportunities, either directly or through contract, for individual providers, prospective individual providers, consumers, and prospective consumers;~~

~~((d)) The department shall provide assistance to consumers and prospective consumers in finding individual providers and prospective individual providers through the establishment of a referral registry of individual providers and prospective individual providers. Before placing an individual provider or prospective individual provider on the referral registry, the ((authority)) department shall determine that:~~

~~((#)) (a) The individual provider or prospective individual provider has met the minimum requirements for training set forth in RCW 74.39A.050;~~

~~((##)) (b) The individual provider or prospective individual provider has satisfactorily undergone a criminal background check conducted within the prior twelve months; and~~

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~~((###)) (c) The individual provider or prospective individual provider is not listed on any long-term care abuse and neglect registry used by the department((;~~

~~(e) Remove);~~

~~(2) The department shall remove from the referral registry any individual provider or prospective individual provider ((the authority determines)) that does not ((#)) meet the qualifications set forth in (((d) of this)) subsection (1) of this section or to have committed misfeasance or malfeasance in the performance of his or her duties as an individual provider. The individual provider or prospective individual provider, or the consumer to which the individual provider is providing services, may request a fair hearing to contest the removal from the referral registry, as provided in chapter 34.05 RCW((;~~

~~((#)) (3) The department shall provide routine, emergency, and respite referrals of individual providers and prospective individual providers to consumers and prospective consumers who are authorized to receive long-term in-home care services through an individual provider((;~~

~~((#))~~

~~(4) The department shall give preference in the recruiting, training, referral, and employment of individual providers and prospective individual providers to recipients of public assistance or other low-income persons who would qualify for public assistance in the absence of such employment((; and~~

~~(h) Cooperate with the department, area agencies on aging, and other federal, state, and local agencies to provide the services described and set forth in this section. If, in the course of carrying out its duties, the authority identifies concerns regarding the services being provided by an individual provider, the authority must notify the relevant area agency or department case manager regarding such concerns.~~

~~(2) In determining how best to carry out its duties, the authority must identify existing individual provider recruitment, training, and referral resources made available to consumers by other state and local public, private, and nonprofit agencies. The authority may coordinate with the agencies to provide a local presence for the authority and to provide consumers greater access to individual provider recruitment, training, and referral resources in a cost-effective manner. Using requests for proposals or similar processes, the authority may contract with the agencies to provide recruitment, training, and referral services if the authority determines the agencies can provide the services according to reasonable standards of performance determined by the authority. The authority must provide an opportunity for consumer participation in the determination of the standards)).~~

**Sec. 9.** RCW 74.39A.260 and 2009 c 580 s 9 are each amended to read as follows:

The department must perform criminal background checks for individual providers and prospective individual providers ((and ensure that the authority has ready access to any long-term care abuse and neglect registry used by the department)). Individual providers who are hired after January 1, 2012, are subject to background checks under RCW 74.39A.055.

**Sec. 10.** RCW 74.39A.270 and 2007 c 361 s 7 and 2007 c 278 s 3 are each reenacted and amended to read as follows:

(1) Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer, as defined in chapter 41.56 RCW, of individual providers, who, solely for the purposes of collective bargaining, are public employees as defined in chapter 41.56 RCW. To accommodate the role of the state as payor for the community-based services provided under this chapter and to ensure coordination with state employee collective bargaining under chapter 41.80 RCW and the coordination necessary to implement

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RCW 74.39A.300, the public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW. The governor or governor's designee shall periodically consult with the authority during the collective bargaining process to allow the authority to communicate issues relating to the long-term in-home care services received by consumers. ~~((The governor or the governor's designee shall consult the authority on all issues for which the exclusive bargaining representative requests to engage in collective bargaining under subsections (6) and (7) of this section.))~~ The ~~((authority))~~ department shall ~~((work with))~~ solicit input from the developmental disabilities council, the governor's committee on disability issues and employment, the state council on aging, and other consumer advocacy organizations to obtain informed input from consumers on their interests, including impacts on consumer choice, for all issues proposed for collective bargaining under subsections (5) and (6) ~~((and (7)))~~ of this section.

(2) Chapter 41.56 RCW governs the collective bargaining relationship between the governor and individual providers, except as otherwise expressly provided in this chapter and except as follows:

(a) The only unit appropriate for the purpose of collective bargaining under RCW 41.56.060 is a statewide unit of all individual providers;

(b) The showing of interest required to request an election under RCW 41.56.060 is ten percent of the unit, and any intervener seeking to appear on the ballot must make the same showing of interest;

(c) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

(i) With respect to commencement of negotiations between the governor and the bargaining representative of individual providers, negotiations shall be commenced by May 1st of any year prior to the year in which an existing collective bargaining agreement expires; and

(ii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and fringe benefit provisions of the arbitrated collective bargaining agreement, is not binding on the authority or the state;

(d) Individual providers do not have the right to strike; and

(e) Individual providers who are related to, or family members of, consumers or prospective consumers are not, for that reason, exempt from this chapter or chapter 41.56 RCW.

(3) Individual providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state, its political subdivisions, or an area agency on aging for any purpose. Chapter 41.56 RCW applies only to the governance of the collective bargaining relationship between the employer and individual providers as provided in subsections (1) and (2) of this section.

(4) Consumers and prospective consumers retain the right to select, hire, supervise the work of, and terminate any individual provider providing services to them. Consumers may elect to receive long-term in-home care services from individual providers who are not referred to them by the authority.

~~((In implementing and administering this chapter, neither the authority nor any of its contractors may reduce or increase the hours of service for any consumer below or above the amount determined to be necessary under any assessment prepared by the department or an area agency on aging.~~

~~((6))~~ Except as expressly limited in this section and RCW 74.39A.300, the wages, hours, and working conditions of individual providers are determined solely through collective bargaining as provided in this chapter. No agency or department of the state may

establish policies or rules governing the wages or hours of individual providers. However, this subsection does not modify:

(a) The department's authority to establish a plan of care for each consumer or its core responsibility to manage long-term in-home care services under this chapter, including determination of the level of care that each consumer is eligible to receive. However, at the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over how the department's core responsibility affects hours of work for individual providers. This subsection shall not be interpreted to require collective bargaining over an individual consumer's plan of care;

(b) The department's authority to terminate its contracts with individual providers who are not adequately meeting the needs of a particular consumer, or to deny a contract under RCW 74.39A.095(8);

(c) The consumer's right to assign hours to one or more individual providers selected by the consumer within the maximum hours determined by his or her plan of care;

(d) The consumer's right to select, hire, terminate, supervise the work of, and determine the conditions of employment for each individual provider providing services to the consumer under this chapter;

(e) The department's obligation to comply with the federal medicaid statute and regulations and the terms of any community-based waiver granted by the federal department of health and human services and to ensure federal financial participation in the provision of the services; and

(f) The legislature's right to make programmatic modifications to the delivery of state services under this title, including standards of eligibility of consumers and individual providers participating in the programs under this title, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection ~~((6))~~ (5)(f).

~~((7))~~ (6) At the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over employer contributions to the training partnership for the costs of: (a) Meeting all training and peer mentoring required under this chapter; and (b) other training intended to promote the career development of individual providers.

~~((8(a)))~~ (7) The state, the department, ~~((the authority,))~~ the area agencies on aging, or their contractors under this chapter may not be held vicariously or jointly liable for the action or inaction of any individual provider or prospective individual provider, whether or not that individual provider or prospective individual provider was included on the ~~((authority's))~~ referral registry or referred to a consumer or prospective consumer. The existence of a collective bargaining agreement, the placement of an individual provider on the referral registry, or the development or approval of a plan of care for a consumer who chooses to use the services of an individual provider and the provision of case management services to that consumer, by the department or an area agency on aging, does not constitute a special relationship with the consumer.

~~((b))~~ ~~The members of the board are immune from any liability resulting from implementation of this chapter.~~

~~((9))~~ (8) Nothing in this section affects the state's responsibility with respect to unemployment insurance for individual providers. However, individual providers are not to be considered, as a result of the state assuming this responsibility, employees of the state.

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**Sec. 11.** RCW 41.56.030 and 2010 c 296 s 3 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Adult family home provider" means a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(2) "Bargaining representative" means any lawful organization which has as one of its primary purposes the representation of employees in their employment relations with employers.

(3) "Child care subsidy" means a payment from the state through a child care subsidy program established pursuant to RCW 74.12.340 or 74.08A.340, 45 C.F.R. Sec. 98.1 through 98.17, or any successor program.

(4) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive bargaining representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to grievance procedures and collective negotiations on personnel matters, including wages, hours and working conditions, which may be peculiar to an appropriate bargaining unit of such public employer, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

(5) "Commission" means the public employment relations commission.

(6) "Executive director" means the executive director of the commission.

(7) "Family child care provider" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) receives child care subsidies; and (c) is either licensed by the state under RCW 74.15.030 or is exempt from licensing under chapter 74.15 RCW.

~~(8) ("Home care quality authority" means the authority under chapter 74.39A RCW.~~

~~(9))~~ "Individual provider" means an individual provider as defined in RCW 74.39A.240(4) who, solely for the purposes of collective bargaining, is a public employee as provided in RCW 74.39A.270.

~~((10))~~ (9) "Institution of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

~~((11))~~ (10)(a) "Language access provider" means any independent contractor who provides spoken language interpreter services for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before June 10, 2010, whether paid by a broker, language access agency, or the department.

(b) "Language access provider" does not mean an owner, manager, or employee of a broker or a language access agency.

~~((12))~~ (11) "Public employee" means any employee of a public employer except any person (a) elected by popular vote, or (b) appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (c) whose duties as deputy, administrative assistant or secretary necessarily imply a confidential relationship to (i) the executive head or body of the applicable bargaining unit, or (ii) any person elected by popular vote, or (iii) any person appointed to office pursuant to statute, ordinance or resolution for a specified term of office as a member of a

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multimember board, commission, or committee, whether appointed by the executive head or body of the public employer, or (d) who is a court commissioner or a court magistrate of superior court, district court, or a department of a district court organized under chapter 3.46 RCW, or (e) who is a personal assistant to a district court judge, superior court judge, or court commissioner. For the purpose of (e) of this subsection, no more than one assistant for each judge or commissioner may be excluded from a bargaining unit.

~~((13))~~ (12) "Public employer" means any officer, board, commission, council, or other person or body acting on behalf of any public body governed by this chapter, or any subdivision of such public body. For the purposes of this section, the public employer of district court or superior court employees for wage-related matters is the respective county legislative authority, or person or body acting on behalf of the legislative authority, and the public employer for nonwage-related matters is the judge or judge's designee of the respective district court or superior court.

~~((14))~~ (13) "Uniformed personnel" means: (a) Law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of ten thousand or more; (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(9), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates; (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more; (d) security forces established under RCW 43.52.520; (e) firefighters as that term is defined in RCW 41.26.030; (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other firefighting duties; (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

**Sec. 12.** RCW 43.105.340 and 2008 c 151 s 2 are each amended to read as follows:

(1) The department shall coordinate among state agencies to develop a consumer protection web site. The web site shall serve as a one-stop web site for consumer information. At a minimum, the web site must provide links to information on:

(a) Insurance information provided by the office of the insurance commissioner, including information on how to file consumer complaints against insurance companies, how to look up authorized insurers, and how to learn more about health insurance benefits;

(b) Child care information provided by the department of early learning, including how to select a child care provider, how child care providers are rated, and information about product recalls;

(c) Financial information provided by the department of financial institutions, including consumer information on financial fraud, investing, credit, and enforcement actions;

(d) Health care information provided by the department of health, including health care provider listings and quality assurance information;

(e) Home care information provided by the ~~(home care quality authority)~~ department, including information to assist consumers in finding an in-home provider;

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(f) Licensing information provided by the department of licensing, including information regarding business, vehicle, and professional licensing; and

(g) Other information available on existing state agency web sites that could be a helpful resource for consumers.

(2) By July 1, 2008, state agencies shall report to the department on whether they maintain resources for consumers that could be made available through the consumer protection web site.

(3) By September 1, 2008, the department shall make the consumer protection web site available to the public.

(4) After September 1, 2008, the department, in coordination with other state agencies, shall develop a plan on how to build upon the consumer protection web site to create a consumer protection portal. The plan must also include an examination of the feasibility of developing a toll-free information line to support the consumer protection portal. The plan must be submitted to the governor and the appropriate committees of the legislature by December 1, 2008.

**Horse Racing Commission--Reducing Commission Members**

**Sec. 13.** RCW 67.16.012 and 1998 c 345 s 4 are each amended to read as follows:

There is hereby created the Washington horse racing commission, to consist of ~~((five))~~ three commissioners, appointed by the governor and confirmed by the senate. The commissioners shall be citizens, residents, and qualified electors of the state of Washington, one of whom shall be a breeder of race horses and shall be of at least one year's standing. The terms of the members shall be six years. Each member shall hold office until his or her successor is appointed and qualified. Vacancies in the office of commissioner shall be filled by appointment to be made by the governor for the unexpired term. Any commissioner may be removed at any time at the pleasure of the governor. Before entering upon the duties of his or her office, each commissioner shall enter into a surety company bond, to be approved by the governor and attorney general, payable to the state of Washington, in the penal sum of five thousand dollars, conditioned upon the faithful performance of his or her duties and the correct accounting and payment of all sums received and coming within his or her control under this chapter, and in addition thereto each commissioner shall take and subscribe to an oath of office of the same form as that prescribed by law for elective state officers.

**Migratory Waterfowl Art Committee**

NEW SECTION. **Sec. 14.** RCW 77.12.680 (Migratory waterfowl art committee--Membership--Terms--Vacancies--Chairman--Review of expenditures--Compensation) and 1987 c 506 s 54 & 1985 c 243 s 5 are each repealed.

**Sec. 15.** RCW 77.12.670 and 2002 c 283 s 2 are each amended to read as follows:

(1) ~~((The))~~ Beginning July 1, 2011, the department, after soliciting recommendations from the public, shall select the design for the migratory bird stamp ~~((to be produced by the department shall use the design as provided by the migratory waterfowl art committee)).~~

(2) All revenue derived from the sale of migratory bird license validations or stamps by the department to any person hunting waterfowl or to any stamp collector shall be deposited in the state wildlife ~~((fund))~~ account and shall be used only for that portion of the cost of printing and production of the stamps for migratory waterfowl hunters as determined by subsection (4) of this section, and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection,

and propagation of migratory waterfowl in the state. Migratory bird license validation and stamp funds may not be used on lands controlled by private hunting clubs or on private lands that charge a fee for public access. Migratory bird license validation and stamp funds may be used for migratory waterfowl projects on private land where public hunting is provided by written permission or on areas established by the department as waterfowl hunting closures.

(3) All revenue derived from the sale of the license validation and stamp by the department to persons hunting solely nonwaterfowl migratory birds shall be deposited in the state wildlife ~~((fund))~~ account and shall be used only for that portion of the cost of printing and production of the stamps for nonwaterfowl migratory bird hunters as determined by subsection (4) of this section, and for those nonwaterfowl migratory bird projects specified by the director for the acquisition and development of nonwaterfowl migratory bird habitat in the state and for the enhancement, protection, and propagation of nonwaterfowl migratory birds in the state.

(4) With regard to the revenue from license validation and stamp sales that is not the result of sales to stamp collectors, the department shall determine the proportion of migratory waterfowl hunters and solely nonwaterfowl migratory bird hunters by using the yearly migratory bird hunter harvest information program survey results or, in the event that these results are not available, other similar survey results. A two-year average of the most recent survey results shall be used to determine the proportion of the revenue attributed to migratory waterfowl hunters and the proportion attributed to solely nonwaterfowl migratory bird hunters for each fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000, ninety-six percent of the stamp revenue shall be attributed to migratory waterfowl hunters and four percent of the stamp revenue shall be attributed to solely nonwaterfowl migratory game hunters.

(5) Acquisition shall include but not be limited to the acceptance of gifts of real estate or any interest therein or the rental, lease, or purchase of real estate or any interest therein. If the department acquires any fee interest, leasehold, or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, ensure that the deed or other instrument creating the interest allows such access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to ensure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission, but may not charge a fee for access.

(6) The department may produce migratory bird stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the ~~((migratory waterfowl art committee for sale to the))~~ public.

**Sec. 16.** RCW 77.12.690 and 2009 c 333 s 38 are each amended to read as follows:

(1) The ~~((migratory waterfowl art committee))~~ director is responsible for the selection of the annual migratory bird stamp design ~~((and shall provide the design to the department. If the committee does not perform this duty within the time frame necessary to achieve proper and timely distribution of the stamps to license dealers, the director shall initiate the art work selection for that year)).~~ The ~~((committee))~~ department shall create collector art prints and related artwork, utilizing the same design ~~((as provided to the department)).~~ The administration, sale, distribution, and other matters relating to the prints and sales of stamps with prints and

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related artwork shall be the responsibility of the ~~((migratory waterfowl art committee))~~ department.

(2) The total amount brought in from the sale of prints and related artwork shall be deposited in the state wildlife account created in RCW 77.12.170. The costs of producing and marketing of prints and related artwork ~~((including administrative expenses mutually agreed upon by the committee and the director,))~~ shall be paid out of the total amount brought in from sales of those same items. Net funds derived from the sale of prints and related artwork shall be used by the director to contract with one or more appropriate individuals or nonprofit organizations for the development of waterfowl propagation projects within Washington which specifically provide waterfowl for the Pacific flyway. The department shall not contract with any individual or organization that obtains compensation for allowing waterfowl hunting except if the individual or organization does not permit hunting for compensation on the subject property.

~~((The migratory waterfowl art committee shall have an annual audit of its finances conducted by the state auditor and shall furnish a copy of the audit to the commission.))~~

**Sec. 17.** RCW 77.08.045 and 1998 c 191 s 31 are each amended to read as follows:

As used in this title or rules adopted pursuant to this title:

(1) "Migratory waterfowl" means members of the family Anatidae, including brants, ducks, geese, and swans;

(2) "Migratory bird" means migratory waterfowl and coots, snipe, doves, and band-tailed pigeon;

(3) "Migratory bird stamp" means the stamp that is required by RCW 77.32.350 to be in the possession of all persons to hunt migratory birds; and

(4) "Prints and artwork" means replicas of the original stamp design that are sold to the general public. Prints and artwork are not to be construed to be the migratory bird stamp that is required by RCW 77.32.350. Artwork may be any facsimile of the original stamp design, including color renditions, metal duplications, or any other kind of design ~~((and~~

~~((5) "Migratory waterfowl art committee" means the committee created by RCW 77.12.680. The committee's primary function is to select the annual migratory bird stamp design)).~~

**Performance Agreement Committee**

NEW SECTION. **Sec. 18.** RCW 28B.10.922 (Performance agreements--State committee--Development of final proposals--Implementation--Updates) and 2008 c 160 s 4 are each repealed.

**Salmon Stamp Selection Committee**

NEW SECTION. **Sec. 19.** RCW 77.12.856 (Salmon stamp selection committee--Creation) and 1999 c 342 s 5 are each repealed.

**Sec. 20.** RCW 77.12.850 and 1999 c 342 s 2 are each amended to read as follows:

The definitions in this section apply throughout RCW 77.12.850 through 77.12.860 unless the context clearly requires otherwise.

(1) "Salmon" means all species of the genus Oncorhynchus, except those classified as game fish in this title, and includes:

| Scientific Name          | Common Name    |
|--------------------------|----------------|
| Oncorhynchus tshawytscha | Chinook salmon |

|                        |                |
|------------------------|----------------|
| Oncorhynchus kisutch   | Coho salmon    |
| Oncorhynchus keta      | Chum salmon    |
| Oncorhynchus gorbuscha | Pink salmon    |
| Oncorhynchus nerka     | Sockeye salmon |

|                |
|----------------|
| Coho salmon    |
| Chum salmon    |
| Pink salmon    |
| Sockeye salmon |

(2) "Department" means the department of fish and wildlife.

(3) ~~((("Committee" means the salmon stamp selection committee created in RCW 77.12.856.~~

(4)) "Stamp" means the stamp created under the Washington salmon stamp program and the Washington junior salmon stamp program, created in RCW 77.12.850 through 77.12.860.

**State Advisory Board of Plumbers**

**Sec. 21.** RCW 18.106.110 and 2006 c 185 s 4 are each amended to read as follows:

(1) There is created a state advisory board of plumbers, to be composed of seven members appointed by the ~~((governor))~~ director. Two members shall be journeyman plumbers, one member shall be a specialty plumber, three members shall be persons conducting a plumbing business, at least one of which shall be primarily engaged in a specialty plumbing business, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of one journeyman plumber expires July 1, 1995; the term of the second journeyman plumber expires July 1, 2000; the term of the specialty plumber expires July 1, 2008; the term of one person conducting a plumbing business expires July 1, 1996; the term of the second person conducting a plumbing business expires July 1, 2000; the term of the third person conducting a plumbing business expires July 1, 2007; and the term of the public member expires July 1, 1997. Thereafter, upon the expiration of said terms, the ~~((governor))~~ director shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the ~~((governor))~~ director shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to this chapter.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board.

**Sec. 22.** RCW 49.04.010 and 2001 c 204 s 1 are each amended to read as follows:

(1) The director of labor and industries shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations, respectively. The terms of office of the members of the apprenticeship council first appointed by the director of labor and industries shall be as follows: One representative each of employers and employees shall be appointed for one year, two years, and three years, respectively. Thereafter, each member shall be appointed for a term of three years. The ~~((governor))~~ director of labor and industries shall also appoint a public member to the apprenticeship council for a three-year term. ~~((The appointment of the public member is subject to confirmation by the senate.))~~ Each member shall hold office until a successor is appointed and has qualified and any vacancy shall be filled by appointment for the unexpired portion of

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the term. A designated representative from each of the following: The workforce training and education coordinating board, state board for community and technical colleges, employment security department, and United States department of labor, apprenticeship, training, employer, and labor services, shall be ex officio members of the apprenticeship council. Ex officio members shall have no vote. Each member of the council, not otherwise compensated by public moneys, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 and shall be compensated in accordance with RCW 43.03.240.

(2) The apprenticeship council is authorized to approve apprenticeship programs, and establish apprenticeship program standards as rules, including requirements for apprentice-related and supplemental instruction, coordination of instruction with job experiences, and instructor qualifications. The council shall consider recommendations from the state board for community and technical colleges on matters of apprentice-related and supplemental instruction, coordination of instruction with job experiences, and instructor qualifications. The rules for apprenticeship instructor qualifications shall either be by reference or reasonably similar to the applicable requirements established by or pursuant to chapter 28B.50 RCW. The council is further authorized to issue such rules as may be necessary to carry out the intent and purposes of this chapter, including a procedure to resolve an impasse should a tie vote of the council occur, and perform such other duties as are hereinafter imposed.

(3) Not less than once a year the apprenticeship council shall make a report to the director of labor and industries of its activities and findings which shall be available to the public.

**Sec. 23.** RCW 36.93.051 and 1991 c 363 s 93 are each amended to read as follows:

The boundary review board in each county with a population of one million or more shall consist of eleven members chosen as follows:

- (1) ~~((Three persons shall be appointed by the governor; (2) Three))~~ Four persons shall be appointed by the county appointing authority;
- ~~((3) Three))~~ (2) Four persons shall be appointed by the mayors of the cities and towns located within the county; and
- ~~((4) Two))~~ (3) Three persons shall be appointed by the board from nominees of special districts in the county.

The governor shall designate one initial appointee to serve a term of two years, and two initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one initial appointee to serve a term of one year, and two initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The county appointing authority shall designate one of its initial appointees to serve a term of two years, and two of its initial appointees to serve terms of four years, if the appointments are made in an odd-numbered year, or one of its initial appointees to serve a term of one year, and two of its initial appointees to serve terms of three years, if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of February in the year the appointment was made.

The mayors making the initial city and town appointments shall designate two of their initial appointees to serve terms of two years, and one of their initial appointees to serve a term of four years, if the appointments are made in an odd-numbered year, or two of their initial appointees to serve terms of one year, and one of their initial appointees to serve a term of three years, if the appointments are made in an even-numbered year, with the length of the term being

calculated from the first day of February in the year the appointment was made.

The board shall make two initial appointments from the nominees of special districts, with one appointee serving a term of four years and one initial appointee serving a term of two years, if the appointments are made in an odd-numbered year, or one initial appointee serving a term of three years and one initial appointee serving a term of one year if the appointments are made in an even-numbered year, with the length of the term being calculated from the first day of March in the year in which the appointment is made.

After the initial appointments, all appointees shall serve four-year terms.

No appointee may be an official or employee of the county or a governmental unit in the county, or a consultant or advisor on a contractual or regular retained basis of the county, any governmental unit in the county, or any agency or association thereof.

### Commission on Pesticide Registration

**Sec. 24.** RCW 15.92.090 and 1999 c 247 s 1 are each amended to read as follows:

(1) A commission on pesticide registration is established. The commission shall be composed of twelve voting members appointed by the ~~((governor))~~ director as follows:

(a) Eight members from the following segments of the state's agricultural industry as nominated by a statewide private agricultural association or agricultural commodity commission formed under Title 15 RCW: (i) The tree fruit industry; (ii) hop growers; (iii) potato growers; (iv) wheat growers; (v) vegetable and seed growers; (vi) berry growers; (vii) wine grape growers; and (viii) the nursery and landscape industry. Although members are appointed from various segments of the agriculture industry, they are appointed to represent and advance the interests of the industry as a whole.

(b) One member from each of the following: (i) Forest protection industry; (ii) food processors; (iii) agricultural chemical industry; and (iv) professional pesticide applicators. One member shall be appointed for each such segment of the industry and shall be nominated by a statewide, private association of that segment of the industry. The representative of the agricultural chemical industry shall be involved in the manufacture of agricultural crop protection products.

The following shall be ex officio, nonvoting members of the commission: The coordinator of the interregional project number four at Washington State University; the director of the department of ecology or the director's designee; the director of the department of agriculture or the director's designee; the director of the department of labor and industries or the director's designee; and the secretary of the department of health or the secretary's designee.

(2) Each voting member of the commission shall serve a term of three years. ~~((However, the first appointments in the first year shall be made by the governor for one, two, and three year terms so that, in subsequent years, approximately one third of the voting members shall be appointed each year. The governor shall assign the initial one, two, and three year terms to members by lot.))~~ A vacancy shall be filled by appointment for the unexpired term in the same manner provided for an appointment to the full term. No member of the commission may be removed by the ~~((governor))~~ director during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office. Each member of the commission shall receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 for attending meetings of the commission and for performing special duties, in the

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way of official commission business, specifically assigned to the person by the commission. The voting members of the commission serve without compensation from the state other than such travel expenses.

(3) ~~(Nominations for the initial appointments to the commission under subsection (1) of this section shall be submitted by September 1, 1995. The governor shall make initial appointments to the commission by October 15, 1995.~~

(4)) The commission shall elect a chair from among its voting members each calendar year. After its original organizational meeting, the commission shall meet at the call of the chair. A majority of the voting members of the commission constitutes a quorum and an official action of the commission may be taken by a majority vote of the quorum.

#### Community Economic Revitalization Board

**Sec. 25.** RCW 43.160.030 and 2008 c 327 s 3 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the ~~((governor))~~ director of commerce: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the ~~((governor))~~ director of commerce. The members of the board shall elect one of their members to serve as vice-chair. The director of ~~((community, trade, and economic development))~~ commerce, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the ~~((governor))~~ director of commerce shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the ~~((governor))~~ director of commerce, under chapter 34.05 RCW.

(6) A member appointed by the ~~((governor))~~ director of commerce may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the ~~((governor))~~ director of commerce.

(7) A majority of members currently appointed constitutes a quorum.

#### Commute Trip Reduction Board

**Sec. 26.** RCW 70.94.537 and 2006 c 329 s 7 are each amended to read as follows:

(1) A sixteen member state commute trip reduction board is established as follows:

(a) The secretary of ~~((the department of))~~ transportation or the secretary's designee who shall serve as chair;

(b) One representative from the office of ~~((the governor or the governor's designee))~~ financial management;

(c) The director or the director's designee of one of the following agencies, to be determined by the ~~((governor))~~ secretary of transportation:

(i) Department of general administration;

(ii) Department of ecology;

(iii) Department of ~~((community, trade, and economic development))~~ commerce;

(d) Three representatives from cities and towns or counties appointed by the ~~((governor))~~ secretary of transportation for staggered four-year terms from a list recommended by the association of Washington cities or the Washington state association of counties;

(e) Two representatives from transit agencies appointed by the ~~((governor))~~ secretary of transportation for staggered four-year terms from a list recommended by the Washington state transit association;

(f) Two representatives from participating regional transportation planning organizations appointed by the ~~((governor))~~ secretary of transportation for staggered four-year terms;

(g) Four representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed by the ~~((governor))~~ secretary of transportation for staggered four-year terms; and

(h) Two citizens appointed by the ~~((governor))~~ secretary of transportation for staggered four-year terms.

Members of the commute trip reduction board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the ~~((governor))~~ secretary of transportation shall be compensated in accordance with RCW 43.03.220. The board has all powers necessary to carry out its duties as prescribed by this chapter.

(2) By March 1, 2007, the department of transportation shall establish rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The rules are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the board determines to be relevant. The rules shall include:

(a) Guidance criteria for growth and transportation efficiency centers;

(b) Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

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(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070;

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The

board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by chapter 329, Laws of 2006 in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) The board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, 2009, and every two years thereafter. In assessing the costs and benefits, the board shall consider the costs of not having implemented commute trip reduction plans and programs with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW. The board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter.

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

**Sec. 27.** RCW 38.52.040 and 1995 c 269 s 1202 are each amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the (~~governor~~) adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The council members shall elect a chairman from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99-499, the emergency planning and community right-to-know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative

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rules governing the coordination of hazardous materials policy. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

#### **Emergency Medical Services and Trauma Care Steering Committee**

**Sec. 28.** RCW 70.168.020 and 2000 c 93 s 20 are each amended to read as follows:

(1) There is hereby created an emergency medical services and trauma care steering committee composed of representatives of individuals knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, emergency medical technicians, paramedics, ambulance services, a member of the emergency medical services licensing and certification advisory committee, local government officials, state officials, consumers, and persons affiliated professionally with health science schools. The ((governor)) secretary shall appoint members of the steering committee. Members shall be appointed for a period of three years. The department shall provide administrative support to the committee. All appointive members of the committee, in the performance of their duties, may be entitled to receive travel expenses as provided in RCW 43.03.050 and 43.03.060. The ((governor)) secretary may remove members from the committee who have three unexcused absences from committee meetings. The ((governor)) secretary shall fill any vacancies of the committee in a timely manner. The terms of those members representing the same field shall not expire at the same time.

The committee shall elect a chair and a vice-chair whose terms of office shall be for one year each. The chair shall be ineligible for reelection after serving four consecutive terms.

The committee shall meet on call by the ((governor)) the secretary((;)) or the chair.

(2) The emergency medical services and trauma care steering committee shall:

(a) Advise the department regarding emergency medical services and trauma care needs throughout the state.

(b) Review the regional emergency medical services and trauma care plans and recommend changes to the department before the department adopts the plans.

(c) Review proposed departmental rules for emergency medical services and trauma care.

(d) Recommend modifications in rules regarding emergency medical services and trauma care.

#### **Horse Racing Compact Committee**

**Sec. 29.** RCW 67.17.050 and 2001 c 18 s 6 are each amended to read as follows:

(1) There is created an interstate governmental entity to be known as the "compact committee" which shall be comprised of one official from the racing commission or its equivalent in each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the party state he or she represents. Under the laws of his or her party state, each official shall have the assistance of his or her state's racing commission or the equivalent thereof in considering issues related to licensing of participants in live racing and in fulfilling his or her responsibilities as the representative from his or her state to the compact committee. If an official is unable to perform any duty in connection with the powers and duties of the compact committee, the racing commission or equivalent thereof from his or her state shall designate another of its members as an alternate who shall serve in his or her place and represent the party

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state as its official on the compact committee until that racing commission or equivalent thereof determines that the original representative official is able once again to perform his or her duties as that party state's representative official on the compact committee. The designation of an alternate shall be communicated by the affected state's racing commission or equivalent thereof to the compact committee as the committee's bylaws may provide.

(2) The ((governor)) horse racing commission shall appoint the official to represent the state of Washington on the compact committee for a term of four years. No official may serve more than three consecutive terms. A vacancy shall be filled by the ((governor)) horse racing commission for the unexpired term.

#### **Productivity Board**

**Sec. 30.** RCW 41.60.015 and 2000 c 139 s 1 are each amended to read as follows:

(1) There is hereby created the productivity board, which may also be known as the employee involvement and recognition board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;

(c) The director of financial management or the director's designee;

(d) The director of general administration or the director's designee;

(e) Three persons with experience in administering incentives such as those used by industry, with the ((governor)) lieutenant governor, secretary of state, and speaker of the house of representatives each appointing one person. The ((governor's)) secretary of state's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees; and

(f) Two persons representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to chapter 28B.16 RCW, both appointed by the ((governor); and

~~(g) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.)~~ secretary of state.

Members under subsection (2)(e) and (f) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)(e) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

#### **State Council on Aging**

**Sec. 31.** RCW 43.20A.685 and 1981 c 151 s 2 are each amended to read as follows:

~~(1) ((The initial members of the council shall be appointed by the governor to staggered terms such that approximately one third of the members serve terms of one year, one third serve terms of two years, and one third serve terms of three years. Thereafter,))~~

Members of the council shall be appointed ((by the governor)) to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. Each area agency on

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~~aging advisory council shall appoint one member ((shall be appointed)) from ((each)) its state-designated planning and service area ((from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations)).~~ The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition, the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old.

**Washington State Horse Park Commission**

**Sec. 32.** RCW 79A.30.030 and 2000 c 11 s 85 are each amended to read as follows:

(1) A nonprofit corporation may be formed under the nonprofit corporation provisions of chapter 24.03 RCW to carry out the purposes of this chapter. Except as provided in RCW 79A.30.040, the corporation shall have all the powers and be subject to the same restrictions as are permitted or prescribed to nonprofit corporations and shall exercise those powers only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The nonprofit corporation shall be known as the Washington state horse park authority. The articles of incorporation shall provide that it is the responsibility of the authority to develop, promote, operate, manage, and maintain the Washington state horse park. The articles of incorporation shall provide for appointment of directors and other conduct of business consistent with the requirements of this chapter.

(2)(a) The articles of incorporation shall provide for a seven-member board of directors for the authority, all appointed by the ~~((governor))~~ commission. Board members shall serve three-year terms, except that two of the original appointees shall serve one-year terms, and two of the original appointees shall serve two-year terms. A board member may serve consecutive terms.

(b) The articles of incorporation shall provide that the ~~((governor))~~ commission appoint board members as follows:

(i) One board member shall represent the interests of the commission ~~((-- In making this appointment, the governor shall solicit recommendations from the commission))~~;

(ii) One board member shall represent the interests of the county in which the park is located. In making this appointment, the ~~((governor))~~ commission shall solicit recommendations from the county legislative authority; and

(iii) Five board members shall represent the geographic and sports discipline diversity of equestrian interests in the state, and at least one of these members shall have business experience relevant to the organization of horse shows or operation of a horse show facility. In making these appointments, the ~~((governor))~~ commission shall solicit recommendations from a variety of active horse-related organizations in the state.

(3) The articles of incorporation shall include a policy that provides for the preferential use of a specific area of the horse park facilities at nominal cost for horse groups associated with youth groups and ~~((the disabled))~~ individuals with disabilities.

(4) The ~~((governor))~~ commission shall make appointments to fill board vacancies for positions authorized under subsection (2) of this section, upon additional solicitation of recommendations from the board of directors.

(5) The board of directors shall perform their duties in the best interests of the authority, consistent with the standards applicable to directors of nonprofit corporations under RCW 24.03.127.

**Educational Opportunity Gap Oversight and Accountability Committee**

**Sec. 33.** RCW 28A.300.136 and 2010 c 235 s 901 are each amended to read as follows:

(1) An ~~((achievement))~~ educational opportunity gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The ~~((achievement))~~ educational opportunity gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

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(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochair of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the ~~((achievement))~~ educational opportunity gap oversight and accountability committee to close the achievement gap.

#### Capitol Campus Design Advisory Committee

**Sec. 34.** RCW 43.34.080 and 1990 c 93 s 1 are each amended to read as follows:

(1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the ~~((governor))~~ director of general administration:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The ~~((governor))~~ director of general administration shall appoint the chair and vice chair and shall ~~((instruct the director of general administration to))~~ provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

- (a) The process of solicitation and selection of appropriate professional design services including design-build proposals;
- (b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

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(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

#### Correctional Industries Board

**Sec. 35.** RCW 72.09.070 and 2004 c 167 s 1 are each amended to read as follows:

~~((4))~~ There is created a correctional industries ~~((board of directors))~~ advisory committee which shall have the composition provided in RCW 72.09.080. The advisory committee shall make recommendations to the secretary regarding the implementation of RCW 72.09.100.

~~((2))~~ ~~Consistent with general department of corrections policies and procedures pertaining to the general administration of correctional facilities, the board shall establish and implement policy for correctional industries programs designed to:~~

~~—(a) Offer inmates meaningful employment, work experience, and training in vocations that are specifically designed to reduce recidivism and thereby enhance public safety by providing opportunities for legitimate means of livelihood upon their release from custody;~~

~~—(b) Provide industries which will reduce the tax burden of corrections and save taxpayers money through production of goods and services for sale and use;~~

~~—(c) Operate correctional work programs in an effective and efficient manner which are as similar as possible to those provided by the private sector;~~

~~—(d) Encourage the development of and provide for selection of, contracting for, and supervision of work programs with participating private enterprise firms;~~

~~—(e) Develop and select correctional industries work programs that do not unfairly compete with Washington businesses;~~

~~—(f) Invest available funds in correctional industries enterprises and meaningful work programs that minimize the impact on in-state jobs and businesses.~~

~~—(3) The board of directors shall at least annually review the work performance of the director of correctional industries division with the secretary.~~

~~—(4) The director of correctional industries division shall review and evaluate the productivity, funding, and appropriateness of all correctional work programs and report on their effectiveness to the board and to the secretary.~~

~~—(5) The board of directors shall have the authority to identify and establish trade advisory or apprenticeship committees to advise them on correctional industries work programs. The secretary shall appoint the members of the committees.~~

~~—Where a labor management trade advisory and apprenticeship committee has already been established by the department pursuant to RCW 72.62.050 the existing committee shall also advise the board of directors.~~

~~—(6) The board shall develop a strategic yearly marketing plan that shall be consistent with and work towards achieving the goals established in the six year phased expansion of class I and class II correctional industries established in RCW 72.09.111. This marketing plan shall be presented to the appropriate committees of~~

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the legislature by January 17 of each calendar year until the goals set forth in RCW 72.09.111 are achieved.)

**Sec. 36.** RCW 72.09.090 and 1989 c 185 s 6 are each amended to read as follows:

The correctional industries account is established in the state treasury. The department of corrections shall deposit in the account all moneys collected and all profits that accrue from the industrial and agricultural operations of the department and any moneys appropriated to the account. Moneys in the account may be spent only for expenses arising in the correctional industries operations.

The division's net profits from correctional industries' sales and contracts shall be reinvested, without appropriation, in the expansion and improvement of correctional industries. However, the ~~((board of directors))~~ secretary shall annually recommend that some portion of the profits from correctional industries be returned to the state general fund.

The ~~((board and))~~ secretary shall request appropriations or increased appropriations whenever it appears that additional money is needed to provide for the establishment and operation of a comprehensive correctional industries program.

**Sec. 37.** RCW 72.09.100 and 2005 c 346 s 1 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. It is also the intent of the legislature to ensure that the ~~((correctional industries board of directors))~~ department, in developing and selecting correctional industries work programs, does not encourage the development of, or provide for selection of or contracting for, or the significant expansion of, any new or existing class I correctional industries work programs that unfairly compete with Washington businesses. The legislature intends that the requirements relating to fair competition in the correctional industries work programs be liberally construed by the ~~((correctional industries board of directors))~~ department to protect Washington businesses from unfair competition. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES.

(a) The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

(b) The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers.

(c) The ~~((correctional industries board of directors))~~ department shall review these proposed industries, including any potential new class I industries work program or the significant expansion of an existing class I industries work program, before the department contracts to provide such products or services. The review shall include the analysis required under RCW 72.09.115 to determine if the proposed correctional industries work program will compete with any Washington business. An agreement for a new class I correctional industries work program, or an agreement for a significant expansion of an existing class I correctional industries work program, that unfairly competes with any Washington business is prohibited.

(d) The department ~~((of corrections))~~ shall supply appropriate security and custody services without charge to the participating firms.

(e) Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

(f) An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) CLASS II: TAX REDUCTION INDUSTRIES.

(a) Industries in this class shall be state-owned and operated enterprises designed primarily to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations.

(b)(i) The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit.

(ii) The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to the following:

(A) Public agencies;

(B) Nonprofit organizations;

(C) Private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization;

(D) An employee and immediate family members of an employee of the department ~~((of corrections))~~; and

(E) A person under the supervision of the department ~~((of corrections))~~ and his or her immediate family members.

(iii) The ~~((correctional industries board of directors))~~ department shall authorize the type and quantity of items that may be purchased and sold under (b)(ii)(D) and (E) of this subsection.

(iv) It is prohibited to purchase any item purchased under (b)(ii)(D) and (E) of this subsection for the purpose of resale.

(v) Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons.

(c)(i) Class II correctional industries products and services shall be reviewed by the ~~((correctional industries board of directors))~~ department before offering such products and services for sale to private contractors.

(ii) The ~~((board of directors))~~ secretary shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

(d) Security and custody services shall be provided without charge by the department ~~((of corrections))~~.

(e) Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

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(f) ~~((Subject to approval of the correctional industries board,))~~ Provisions of RCW 41.06.142 shall not apply to contracts with Washington state businesses entered into by the department ~~((of corrections))~~ through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES.

(a) Industries in this class shall be operated by the department ~~((of corrections))~~. They shall be designed and managed to accomplish the following objectives:

(i) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(ii) Whenever possible, to provide forty hours of work or work training per week.

(iii) Whenever possible, to offset tax and other public support costs.

(b) Class III correctional industries shall be reviewed by the ~~((correctional industries board of directors))~~ department to set policy for work crews. The department shall ~~((present to the board of directors))~~ prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. ~~((The board of directors may review any class III program at its discretion.))~~

(c) Supervising, management, and custody staff shall be employees of the department.

(d) All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

(e) Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES.

(a) Industries in this class shall be operated by the department ~~((of corrections))~~. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

(b) Class IV correctional industries shall be reviewed by the ~~((correctional industries board of directors))~~ department to set policy for work crews. The department shall ~~((present to the board of directors))~~ prepare quarterly detail statements showing where work crews worked, what correctional industry class, and the hours worked. ~~((The board of directors may review any class IV program at its discretion.))~~ Class IV correctional industries operated in work camps established pursuant to RCW 72.64.050 are exempt from the requirements of this subsection (4)(b).

(c) Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department ~~((of corrections))~~. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

(d) The department ~~((of corrections))~~ shall reimburse participating units of local government for liability and workers compensation insurance costs.

(e) Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY RESTITUTION PROGRAMS.

(a) Programs in this class shall be subject to supervision by the department ~~((of corrections))~~. The purpose of this class of industries is to enable an inmate, placed on community supervision,

to work off all or part of a community restitution order as ordered by the sentencing court.

(b) Employment shall be in a community restitution program operated by the state, local units of government, or a nonprofit agency.

(c) To the extent that funds are specifically made available for such purposes, the department ~~((of corrections))~~ shall reimburse nonprofit agencies for workers compensation insurance costs.

**Sec. 38.** RCW 72.09.015 and 2010 c 181 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(5) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(6) "County" means a county or combination of counties.

(7) "Department" means the department of corrections.

(8) "Earned early release" means earned release as authorized by RCW 9.94A.728.

(9) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(10) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

(11) "Good conduct" means compliance with department rules and policies.

(12) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

(13) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

(14) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

(15) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to

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prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(16) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

(17) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(18) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

- (a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;
- (b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or
- (c) Guide an offender from one location to another.

(19) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(20) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

(21) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(23) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

- (a) Physical restraint; or
- (b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(24) "Secretary" means the secretary of corrections or his or her designee.

(25) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

(26) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

(27) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the

correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(28) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the ~~((correctional industries board))~~ department of corrections shall review and quantify any expenses unique to operating a for-profit business inside a prison.

(29) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(30) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

(31) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

**Sec. 39.** RCW 72.62.020 and 1989 c 185 s 12 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

The term "vocational education" means a planned series of learning experiences, the specific objective of which is to prepare individuals for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but shall not mean programs the primary characteristic of which is repetitive work for the purpose of production, including the correctional industries program. Nothing in this section shall be construed to prohibit the ~~((correctional industries board of directors))~~ department of corrections from identifying and establishing trade advisory or apprenticeship committees to advise them on correctional industries work programs.

**Sec. 40.** RCW 72.09.080 and 1993 sp.s. c 20 s 4 are each amended to read as follows:

(1) The correctional industries ~~((board of directors))~~ advisory committee shall consist of nine voting members, appointed by the ~~((governor))~~ secretary. Each member shall serve a three-year staggered term. ~~((Initially, the governor shall appoint three members to one year terms, three members to two year terms, and three members to three year terms.))~~ The speaker of the house of representatives and the president of the senate shall each appoint one member from each of the two largest caucuses in their respective houses. The legislators so appointed shall be nonvoting members and shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first. The nine members appointed by the ~~((governor))~~ secretary shall include three representatives from labor, three representatives from business representing cross-sections of industries and all sizes of employers, and three members from the general public.

(2) The ~~((board of directors))~~ committee shall elect a chair and such other officers as it deems appropriate from among the voting members.

(3) The voting members of the ~~((board of directors))~~ committee shall serve with compensation pursuant to RCW 43.03.240 and shall be reimbursed by the department for travel expenses and per diem under RCW 43.03.050 and 43.03.060, as now or hereafter amended. Legislative members shall be reimbursed under RCW 44.04.120, as now or hereafter amended.

(4) The secretary shall provide such staff services, facilities, and equipment as the board shall require to carry out its duties.

**Hanford Area Economic Investment Fund Committee**

**Sec. 41.** RCW 43.31.425 and 1998 c 76 s 2 are each amended to read as follows:

The Hanford area economic investment fund advisory committee is hereby established to advise the director of the department of commerce.

(1) The committee shall have eleven members. The ~~((governor))~~ director of the department of commerce shall appoint the members, in consultation with Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the ~~((governor))~~ director of the department of commerce shall serve a term of three years ~~(except that of the members first appointed, four shall serve two year terms and four shall serve one year terms)~~. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the ~~((governor))~~ director of the department of commerce for cause.

(3) The ~~((governor))~~ director of the department of commerce shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others.

**Sec. 42.** RCW 43.31.422 and 2004 c 77 s 1 are each amended to read as follows:

The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used for reasonable assistant attorney general costs in support of the committee or pursuant to the decisions of the committee created in RCW 43.31.425 for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or nonprofit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. The director of ~~((community, trade, and economic development))~~ commerce or the director's designee shall authorize disbursements from the fund ~~((after an affirmative vote of at least six members))~~ with the advice of the committee created in RCW 43.31.425 ~~((on any decisions reached by the committee created in RCW 43.31.425))~~. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature

intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities.

### **Home Inspector Advisory Licensing Board**

**Sec. 43.** RCW 18.280.040 and 2008 c 119 s 4 are each amended to read as follows:

(1) The state home inspector advisory licensing board is created. The board consists of seven members appointed by the ~~((governor))~~ director, who shall advise the director concerning the administration of this chapter. Of the appointments to this board, six must be actively engaged as home inspectors immediately prior to their appointment to the board, and one must be currently teaching in a home inspector education program. Insofar as possible, the composition of the appointed home inspector members of the board must be generally representative of the geographic distribution of home inspectors licensed under this chapter. No more than two board members may be members of a particular national home inspector association or organization.

(2) A home inspector must have the following qualifications to be appointed to the board:

(a) Actively engaged as a home inspector in the state of Washington for five years;

(b) Licensed as a home inspector under this chapter, except for initial appointments; and

(c) Performed a minimum of five hundred home inspections in the state of Washington.

(3) Members of the board are appointed for three-year terms. Terms must be staggered so that not more than two appointments are scheduled to be made in any calendar year. Members hold office until the expiration of the terms for which they were appointed. The ~~((governor))~~ director may remove a board member for just cause. The ~~((governor))~~ director may appoint a new member to fill a vacancy on the board for the remainder of the unexpired term. All board members are limited to two consecutive terms.

(4) Each board member is entitled to compensation for each day spent conducting official business and to reimbursement for travel expenses in accordance with RCW 43.03.240, 43.03.050, and 43.03.060.

### **Real Estate Appraiser Commission**

**Sec. 44.** RCW 18.140.230 and 2005 c 339 s 19 are each amended to read as follows:

There is established the real estate appraiser commission of the state of Washington, consisting of seven members who shall act to give advice to the director.

(1) The seven commission members shall be appointed by the ~~((governor))~~ director in the following manner: For a term of six years each, with the exception of the first appointees who shall be the incumbent members of the predecessor real estate appraiser advisory committee to serve for the duration of their current terms, with all other subsequent appointees to be appointed for a six-year term.

(2) At least two of the commission members shall be selected from the area of the state east of the Cascade mountain range and at least two of the commission members shall be selected from the area of the state west of the Cascade mountain range. At least two members of the commission shall be certified general real estate appraisers, at least two members of the commission shall be certified residential real estate appraisers, and at least one member of the commission may be a licensed real estate appraiser, all pursuant to this chapter. No certified or licensed appraiser commission member shall be appointed who has not been certified

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and/or licensed pursuant to this chapter for less than ten years, except that this experience duration shall be not less than five years only for any commission member taking office before January 1, 2003. One member shall be an employee of a financial institution as defined in this chapter whose duties are concerned with real estate appraisal management and policy. One member shall be an individual engaged in mass appraisal whose duties are concerned with ad valorem appraisal management and policy and who is licensed or certified under this chapter. One member may be a member of the general public.

(3) The members of the commission annually shall elect their chairperson and vice chairperson to serve for a term of one calendar year. A majority of the members of said commission shall at all times constitute a quorum.

(4) Any vacancy on the commission shall be filled by appointment by the ~~(governor)~~ director for the unexpired term.

**Escrow Commission**

**Sec. 45.** RCW 18.44.011 and 2010 c 34 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the escrow advisory committee of the state of Washington created by RCW 18.44.500.

~~(2)~~ "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee.

~~((2))~~ (3) "Department" means the department of financial institutions.

~~((3))~~ (4) "Designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director as the licensed escrow officer responsible for supervising that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent.

~~((4))~~ (5) "Director" means the director of financial institutions, or his or her duly authorized representative.

~~((5))~~ (6) "Director of licensing" means the director of the department of licensing, or his or her duly authorized representative.

~~((6))~~ (7) "Escrow" means any transaction, except the acts of a qualified intermediary in facilitating an exchange under section 1031 of the internal revenue code, wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

~~((7))~~ (8) "Escrow agent" means any person engaged in the business of performing for compensation the duties of the third person referred to in subsection ~~((6))~~ (7) of this section.

~~((8))~~ "Escrow commission" means the escrow commission of the state of Washington created by RCW 18.44.500.)

(9) "Licensed escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a license as an escrow agent under the provisions of this chapter.

(10) "Licensed escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(11) "Person" means a natural person, firm, association, partnership, corporation, limited liability company, or the plural thereof, whether resident, nonresident, citizen, or not.

(12) "Split escrow" means a transaction in which two or more escrow agents act to effect and close an escrow transaction.

**Sec. 46.** RCW 18.44.221 and 1999 c 30 s 31 are each amended to read as follows:

The director shall, within thirty days after ~~((the))~~ a written request ~~((of the escrow commission))~~, hold a public hearing to determine whether the fidelity bond, surety bond, and/or the errors and omissions policy specified in RCW 18.44.201 is reasonably available to a substantial number of licensed escrow agents. If the director determines and the insurance commissioner concurs that such bond or bonds and/or policy is not reasonably available, the director shall waive the requirements for such bond or bonds and/or policy for a fixed period of time.

**Sec. 47.** RCW 18.44.251 and 1995 c 238 s 5 are each amended to read as follows:

A request for a waiver of the required errors and omissions policy may be accomplished under the statute by submitting to the director an affidavit that substantially addresses the following:

**REQUEST FOR WAIVER OF ERRORS AND OMISSIONS POLICY**

I, . . . . ., residing at . . . . ., City of . . . . ., County of . . . . ., State of Washington, declare the following:

- (1) ~~((The state escrow commission has determined that))~~ An errors and omissions policy is not reasonably available to a substantial number of licensed escrow officers; and
- (2) Purchasing an errors and omissions policy is cost-prohibitive at this time; and
- (3) I have not engaged in any conduct that resulted in the termination of my escrow certificate; and
- (4) I have not paid, directly or through an errors and omissions policy, claims in excess of ten thousand dollars, exclusive of costs and attorneys' fees, during the calendar year preceding submission of this affidavit; and
- (5) I have not paid, directly or through an errors and omissions policy, claims, exclusive of costs and attorneys' fees, totaling in excess of twenty thousand dollars in the three calendar years immediately preceding submission of this affidavit; and
- (6) I have not been convicted of a crime involving honesty or moral turpitude during the calendar year preceding submission of this application.

THEREFORE, in consideration of the above, I, . . . . ., respectfully request that the director of financial institutions grant this request for a waiver of the requirement that I purchase and maintain an errors and omissions policy covering my activities as an escrow agent licensed by the state of Washington for the period from . . . . ., 19 . . . . ., to . . . . ., 19 . . . . .

Submitted this day of . . . . . day of . . . . ., 19 . . . . .

.....

(signature)

State of Washington,

}  
}

ss.

I certify that I know or have satisfactory evidence that . . . . ., signed this instrument and acknowledged it to be . . . . . free and voluntary act for the uses and purposes mentioned in the instrument.

Dated .....

Signature of

Notary Public .....

(Seal or stamp)

Title .....

My appointment expires .....

Sec. 48. RCW 18.44.195 and 2010 c 34 s 9 are each amended to read as follows:

(1) Any person desiring to become a licensed escrow officer must successfully pass an examination as required by the director.

(2) The examination shall be in such form as prescribed by the director with the advice of the ((escrow commission)) committee.

Sec. 49. RCW 18.44.510 and 1984 c 287 s 37 are each amended to read as follows:

The ((escrow commission)) committee members shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the ((commission)) committee.

Sec. 50. RCW 18.44.500 and 1995 c 238 s 3 are each amended to read as follows:

There is established ((an escrow commission)) a committee of the state of Washington, to consist of the director of financial institutions or his or her designee as ((chairman)) chair, and five other members who shall act as advisors to the director as to the needs of the escrow profession, including but not limited to the design and conduct of tests to be administered to applicants for escrow licenses, the schedule of license fees to be applied to the escrow licensees, educational programs, audits and investigations of the escrow profession designed to protect the consumer, and such other matters determined appropriate. The director is hereby empowered to and shall appoint the other members, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

((The members of the first commission shall serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified.)) Every member of the ((commission)) committee shall receive a certificate of appointment from the director and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the director shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The director may remove any member of the ((commission)) committee for cause. Vacancies in the ((commission)) committee for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred

**Livestock Identification Advisory Board**

Sec. 51. RCW 16.57.015 and 2003 c 326 s 3 are each amended to read as follows:

(1) The director shall establish a livestock identification advisory ((board)) committee. The ((board)) committee shall be composed of six members appointed by the director. One member shall represent each of the following groups: Beef producers, public livestock market operators, horse owners, dairy farmers, cattle feeders, and meat processors. As used in this subsection, "meat processor" means a person licensed to operate a slaughtering establishment under chapter 16.49 RCW or the federal meat inspection act (21 U.S.C. Sec. 601 et seq.). In making appointments, the director shall solicit nominations from organizations representing these groups statewide. The ((board)) committee shall elect a member to serve as chair of the ((board)) committee.

(2) The purpose of the ((board)) committee is to provide advice to the director regarding livestock identification programs administered under this chapter and regarding inspection fees and related licensing fees. The director shall consult the ((board)) committee before adopting, amending, or repealing a rule under this chapter or altering a fee under RCW 16.58.050, 16.65.030, 16.65.037, or 16.65.090. If the director publishes in the state register a proposed rule to be adopted under the authority of this chapter and the rule has not received the approval of the advisory ((board)) committee, the director shall file with the ((board)) committee a written statement setting forth the director's reasons for proposing the rule without the ((board's)) committee's approval.

(3) The members of the advisory ((board)) committee serve three-year terms. However, the director shall by rule provide shorter initial terms for some of the members of the ((board)) committee to stagger the expiration of the initial terms. The members serve without compensation. The director may authorize the expenses of a member to be reimbursed if the member is selected to attend a regional or national conference or meeting regarding livestock identification. Any such reimbursement shall be in accordance with RCW 43.03.050 and 43.03.060.

Sec. 52. RCW 16.57.353 and 2004 c 233 s 1 are each amended to read as follows:

(1) The director may adopt rules:

(a) To support the agriculture industry in meeting federal requirements for the country-of-origin labeling of meat. Any requirements established under this subsection for country of origin labeling purposes shall be substantially consistent with and shall not exceed the requirements established by the United States department of agriculture; and

(b) In consultation with the livestock identification advisory ((board)) committee under RCW 16.57.015, to implement federal requirements for animal identification needed to trace the source of livestock for disease control and response purposes.

(2) The director may cooperate with and enter into agreements with other states and agencies of federal government to carry out such systems and to promote consistency of regulation.

**Superintendent of Public Instruction**

NEW SECTION. Sec. 53. A new section is added to chapter 28A.300 RCW to read as follows:

In addition to any board, commission, council, committee, or other similar group established by statute or executive order, the superintendent of public instruction may appoint advisory groups on

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subject matters within the superintendent's responsibilities or as may be required by any federal legislation as a condition to the receipt of federal funds by the federal department. The advisory groups shall be constituted as required by federal law or as the superintendent may determine.

Members of advisory groups under the authority of the superintendent may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Except as provided in this section, members of advisory groups under the authority of the superintendent are volunteering their services and are not eligible for compensation. A person is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group if the person (1) occupies a position, normally regarded as full-time in nature, as a certificated employee of a local school district; (2) is participating as part of their employment with the local school district; and (3) the meeting or duties are performed outside the period in which school days as defined by RCW 28A.150.030 are conducted. The superintendent may reimburse local school districts for substitute certificated employees to enable members to meet or perform duties on school days. A person is eligible to receive compensation from federal funds in an amount to be determined by personal service contract for groups required by federal law.

#### Quality Education Council

**Sec. 54.** RCW 28A.290.010 and 2010 c 236 s 15 and 2010 c 234 s 4 are each reenacted and amended to read as follows:

(1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate;

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning; and

(d) One nonlegislative representative from the ~~((achievement))~~ educational opportunity gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.

(4) ~~((In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years,))~~ The council shall meet no more than four ~~((times))~~ days a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter 548, Laws of 2009.

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter 548, Laws of 2009. The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall submit a report to the legislature by January 1, 2012, detailing its recommendations for a comprehensive plan for a voluntary program of early learning. Before submitting the report, the council shall seek input from the early learning advisory council created in RCW 43.215.090.

(7) The council shall submit a report to the governor and the legislature by December 1, 2010, that includes:

(a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the ~~((achievement))~~ educational opportunity gap oversight and accountability committee and the building bridges work group in developing its recommendations; and

(b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

(8) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the council. Senate committee services and the house of representatives office of program research may provide additional staff support.

(9) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council.

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Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

## PART II - OTHER PROVISIONS

**Sec. 55.** RCW 43.03.220 and 2010 1st sp.s. c 7 s 142 are each amended to read as follows:

(1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups.

(3) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ (a) No person designated as a member of a class one board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section ~~((605, chapter 3, Laws of 2010))~~ 63 of this act. Class one groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

~~—(4) Beginning July 1, 2010, through June 30, 2011,))~~ (b) Class one groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 56.** RCW 43.03.230 and 2010 1st sp.s. c 7 s 143 are each amended to read as follows:

(1) Any agricultural commodity board or commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ No person designated as a member of a class two board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section ~~((605, chapter 3, Laws of 2010))~~ 63 of this act. Class two groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that

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requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

(5) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ Class two groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 57.** RCW 43.03.240 and 2010 1st sp.s. c 7 s 144 are each amended to read as follows:

(1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ No person designated as a member of a class three board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section ~~((605, chapter 3, Laws of 2010))~~ 63 of this act. Class three groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

(5) ~~((Beginning July 1, 2010, through June 30, 2011,))~~ Class three groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.

**Sec. 58.** RCW 43.03.250 and 2010 1st sp.s. c 7 s 145 are each amended to read as follows:

(1) A part-time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

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(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,)) Class four groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~~~

**Sec. 59.** RCW 43.03.265 and 2010 1st sp.s. c 7 s 146 are each amended to read as follows:

(1) Any part-time commission that has rule-making authority, performs quasi-judicial functions, has responsibility for the policy direction of a health profession credentialing program, and performs regulatory and licensing functions with respect to a health care profession licensed under Title 18 RCW shall be identified as a class five group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class five group is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is necessarily incurred in the course of authorized business consistent with the responsibilities of the commission established by law.

(4) ~~((Beginning July 1, 2010, through June 30, 2011,)) No person designated as a member of a class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section ~~((605, chapter 3, Laws of 2010)) 63 of this act.~~ Class five groups, when feasible, shall use an alternative means of conducting a meeting that does not require travel while still maximizing member and public participation and may use a meeting format that requires members to be physically present at one location only when necessary or required by law. ~~((Meetings that require a member's physical presence at one location must be held in state facilities~~~~

~~whenever possible, and meetings conducted using private facilities must be approved by the director of the office of financial management.))~~

(5) ~~((Beginning July 1, 2010, through June 30, 2011,)) Class five groups that are funded by sources other than the state general fund are encouraged to reduce travel, lodging, and other costs associated with conducting the business of the group including use of other meeting formats that do not require travel.~~

**NEW SECTION. Sec. 60.** A new section is added to chapter 39.29 RCW to read as follows:

Except under a specific statute to the contrary, agencies are prohibited from entering into personal service contracts with members of any agency board, commission, council, committee, or other similar group formed to advise the activities and management of state government for services related to work done as a member of the agency board, commission, council, committee, or other similar group.

**Sec. 61.** RCW 43.03.050 and 2010 1st sp.s. c 7 s 141 are each amended to read as follows:

(1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees. However, during the 2003-05 fiscal biennium, the allowances for any county that is part of a metropolitan statistical area, the largest city of which is in another state, shall equal the allowances prescribed for that larger city.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than

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usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(6) (~~Beginning July 1, 2010, through June 30, 2011,~~) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section (~~605, chapter 3, Laws of 2010~~) 63 of this act.

**Sec. 62.** RCW 43.03.060 and 1990 c 30 s 2 are each amended to read as follows:

(1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

(4) No person designated as a member of a class one through class three or class five board, commission, council, committee, or similar group may receive an allowance for subsistence, lodging, or travel expenses if the allowance cost is funded by the state general fund. Exceptions may be granted under section 63 of this act.

**NEW SECTION. Sec. 63.** A new section is added to chapter 43.03 RCW to read as follows:

Exceptions to restrictions on subsistence, lodging, or travel expenses under this chapter may be granted for the critically necessary work of an agency. For agencies of the executive branch, the exceptions shall be subject to approval by the director of financial management or the director's designee. For agencies of the judicial branch, the exceptions shall be subject to approval of the chief justice of the supreme court. For the house of representatives and the senate, the exceptions shall be subject to the approval of the chief clerk of the house of representatives and the secretary of the senate, respectively, under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives. For other legislative agencies, the exceptions shall be subject to approval of both the chief clerk of the house of representatives and the secretary of the senate under the direction of the senate committee on facilities and operations and the executive rules committee of the house of representatives.

**Effective Dates**

**NEW SECTION. Sec. 64.** Except for sections 53 and 60 of this act, this act is necessary for the immediate preservation of the

public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011.

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Senator Murray spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1371.

The motion by Senator Murray carried and the committee striking amendment was adopted by voice vote.

**MOTION**

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "commissions;" strike the remainder of the title and insert "amending RCW 72.23.025, 74.39A.095, 74.39A.220, 74.39A.240, 74.39A.250, 74.39A.260, 43.105.340, 67.16.012, 77.12.670, 77.12.690, 77.08.045, 77.12.850, 18.106.110, 49.04.010, 36.93.051, 15.92.090, 43.160.030, 70.94.537, 38.52.040, 70.168.020, 67.17.050, 41.60.015, 43.20A.685, 79A.30.030, 28A.300.136, 43.34.080, 72.09.070, 72.09.090, 72.09.100, 72.09.015, 72.62.020, 72.09.080, 43.31.425, 43.31.422, 18.280.040, 18.140.230, 18.44.221, 18.44.251, 18.44.195, 18.44.510, 18.44.500, 16.57.015, 16.57.353, 43.03.220, 43.03.230, 43.03.240, 43.03.250, 43.03.265, 43.03.050, and 43.03.060; reenacting and amending RCW 74.39A.270, 41.56.030, 18.44.011, and 28A.290.010; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 39.29 RCW; adding a new section to chapter 43.03 RCW; decodifying RCW 74.39A.290; repealing RCW 79A.25.220, 70.127.041, 74.39A.230, 74.39A.280, 77.12.680, 28B.10.922, and 77.12.856; providing an effective date; and declaring an emergency."

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MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Second Substitute House Bill No. 1371 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1371 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1371 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 5; Absent, 0; Excused, 7.

Voting yea: Senators Baxter, Becker, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Voting nay: Senators Chase, Hatfield, Holmquist Newbry, Keiser and Pridemore

Excused: Senators Baumgartner, Benton, Brown, Pflug, Roach, Shin and Zarelli

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1371 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1354, by House Committee on Ways & Means (originally sponsored by Representatives Hunt, Haigh, Hunter and Darneille)

Changing the apportionment schedule to educational service districts and school districts for the 2010-11 school year.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1354 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1354.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1354 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 14; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Hewitt, Hobbs, Honeyford, Keiser,

Kilmer, King, Kline, Kohl-Welles, McAuliffe, Murray, Nelson, Parlette, Prentice, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom and White

Voting nay: Senators Baxter, Carrell, Chase, Ericksen, Fain, Haugen, Hill, Holmquist Newbry, Kastama, Litzow, Morton, Pridemore, Sheldon and Stevens

Excused: Senators Baumgartner, Benton, Brown, Pflug, Roach, Shin and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1354, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1449, by House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hunter, Haigh, Anderson, Maxwell, Sullivan and Dammeier)

Establishing a processing fee for educator certificates.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) The legislature finds that the current economic environment requires that the state, when appropriate, charge for some of the services provided directly to the users of those services. The office of the superintendent of public instruction is currently supported with state funds to process certification fees. In addition, the legislature finds that the processing of certifications should be moved to an online system that allows educators to manage their certifications and provides better information to policymakers. The legislature intends to assess a certification processing fee to eliminate state-funded support of the cost to issue educator certificates.

(2) In addition to the certification fee established under RCW 28A.410.060, the superintendent of public instruction shall charge an application processing fee for initial educator certificates and subsequent actions. The superintendent of public instruction shall establish the amount of the fee by rule under chapter 34.05 RCW. The superintendent shall set the fee at a sufficient level to defray the costs of administering the educator certification program under RCW 28A.300.040(9). Revenue generated through the processing fee shall be deposited in the educator certification processing account.

(3) The educator certification processing account is established in the custody of the state treasurer. The superintendent of public instruction shall deposit in the account all moneys received from the fees collected in subsection (2) of this section. Moneys in the account may be spent only for the processing of educator certificates and subsequent actions. Disbursements from the account shall be on authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

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**NEW SECTION. Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senator McAuliffe spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1449.

The motion by Senator McAuliffe carried and the committee striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "actions;" strike the remainder of the title and insert "adding a new section to chapter 28A.410 RCW; providing an effective date; and declaring an emergency."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 1449 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1449 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1449 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 7; Absent, 0; Excused, 7.

Voting yea: Senators Becker, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Stevens, Swecker, Tom and White

Voting nay: Senators Baxter, Carrell, Chase, Delvin, Ericksen, Holmquist Newbry and Sheldon

Excused: Senators Baumgartner, Benton, Brown, Pflug, Roach, Shin and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1449 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:42 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:38 a.m. by the President Pro Tempore.

#### SECOND READING

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SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224, by House Committee on Ways & Means (originally sponsored by Representatives Green, Dammeier, Cody, Appleton, Darneille, Harris and Roberts)

Providing a business and occupation tax deduction for amounts related to the provision of mental health services. Revised for 1st Substitute: Concerning a business and occupation tax deduction for amounts received with respect to mental health services.

The measure was read the second time.

#### MOTION

Senator Regala moved that the following amendment by Senators Regala and Rockefeller be adopted:

On page 1, line 11, after "(2) A" strike "person" and insert "regional support network"

Senator Regala spoke in favor of adoption of the amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Regala and Rockefeller on page 1, line 11 to Second Engrossed Substitute House Bill No. 1224.

The motion by Senator Regala carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Regala, the rules were suspended, Second Engrossed Substitute House Bill No. 1224 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Engrossed Substitute House Bill No. 1224 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute House Bill No. 1224 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner, Benton, Pflug, Roach and Shin

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5846, by Senators Brown, McAuliffe, Tom, Fraser, Hobbs, Conway, Harper, Nelson, Rockefeller,

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Keiser, Kilmer, Litzow, Hatfield, Prentice, Shin, Kohl-Welles and White

Offering health benefit subsidies for certain retired public employees.

#### MOTIONS

On motion of Senator Brown, Substitute Senate Bill No. 5846 was substituted for Senate Bill No. 5846 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Brown, the rules were suspended, Substitute Senate Bill No. 5846 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5846.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5846 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 16; Absent, 0; Excused, 5.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Ranker, Regala, Rockefeller, Sheldon, Swecker, Tom and White

Voting nay: Senators Baxter, Becker, Carrell, Delvin, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Parlette, Pridemore, Schoesler, Stevens and Zarelli

Excused: Senators Baumgartner, Benton, Pflug, Roach and Shin

SUBSTITUTE SENATE BILL NO. 5846, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 11:55 a.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Saturday, May 21, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia, Saturday, May 21, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner, Brown, Hewitt, Hill, Holmquist Newbry, Kline, McAuliffe, Pridemore, Roach, Shin and Zarelli.

The Sergeant at Arms Color Guard consisting of Pages Daniel Bailey and Sarah Bailey, presented the Colors. Senator Haugen offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

May 20, 2011

ESHB 2065 Prime Sponsor, Committee on Ways & Means: Regarding the allocation of funding for students enrolled in alternative learning experiences. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baxter; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: Do not pass. Signed by Senator Hatfield.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Parlette and Tom.

Passed to Committee on Rules for second reading.

May 20, 2011

ESHB 2088 Prime Sponsor, Committee on Ways & Means: Creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baxter; Conway; Fraser; Hatfield; Hewitt; Honeyford; Kastama; Keiser; Regala; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senators Pridemore and Rockefeller.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

At 10:07 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:10 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9011, Nathan Brockett, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Fraser spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senators Baumgartner, Hill, Holmquist Newbry, Parlette, Roach and Zarelli were excused.

MOTION

On motion of Senator White, Senators McAuliffe and Shin were excused.

APPOINTMENT OF NATHAN BROCKETT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9011, Nathan Brockett as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9011, Nathan Brockett as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 38; Nays, 0; Absent, 4; Excused, 7.

Voting yea: Senators Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Absent: Senators Brown, Hewitt, Kline and Pridemore

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Excused: Senators Baumgartner, Hill, Holmquist Newbry, McAuliffe, Roach, Shin and Zarelli

Gubernatorial Appointment No. 9011, Nathan Brockett, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, The Evergreen State College.

MOTION

On motion of Senator Ericksen, Senator Hewitt was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981, by House Committee on Ways & Means (originally sponsored by Representatives Bailey and Carlyle)

Addressing public employee postretirement employment and higher education employees' annuities and retirement income plans.

The measure was read the second time.

MOTION

Senator Schoesler moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends that the retirement and annuity programs of the state's institutions of higher education be revised for future participants to reflect changes that have already occurred in state pension plans. The legislature intends also that newly hired employees who are eligible for participation in an annuity or retirement income plan offered by a higher education institution have an opportunity to participate in either (1) that plan without a supplemental benefit under RCW 28B.10.400(1)(c), or (2) the public employees' retirement system plan 3 or the teachers' retirement system plan 3. Plan 3 provides a combination of defined contribution and defined benefit pension, which will be available for newly hired employees. The legislature also intends to reduce the expanded postretirement employment provisions for members of the public employees' retirement system and the teachers' retirement system plans 1 that were temporarily expanded due to the shortage of qualified workers in particular teaching and public employment categories, and eliminate postretirement employment exceptions that existed for annuity or retirement income plan-covered positions that have been the subject of abuse.

**Sec. 2.** RCW 28B.10.400 and 2010 c 21 s 1 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, ~~((and))~~ the state board for community and technical colleges, and the higher education coordinating board are authorized and empowered:

~~((+))~~ (a) To assist the faculties and such other employees exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) as any such board may designate in the purchase of old age annuities or retirement income plans under such rules as any such board may prescribe, subject to the restrictions in subsection (2) of this section. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several

counties shall be deemed to be full time employees of the Washington State University for the purposes ~~((hereof))~~ of this section;

~~((2))~~ (b) To provide, under such rules ~~((and regulations))~~ as any such board may prescribe for the faculty members or other employees exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) under its supervision, for the retirement of any such faculty member or other exempt employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other exempt employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by (c) of this subsection ~~((3) of this section))~~ and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate; and shall be provided only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011;

~~((3))~~ (c) To pay ~~((to any such retired person))~~ only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011, or to his or her designated beneficiary(s), each year after his or her retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by the retired person or the retired person's designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his or her highest two consecutive years of full time service under an annuity or retirement income plan established pursuant to (a) of this subsection ~~((4) of this section))~~ at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or the retired person's designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be ~~((+))~~ (i) the surviving spouse of the retiree; or, ~~((+))~~ (ii) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education~~((;))~~.

~~((4))~~ (2) Boards are prohibited from offering a purchased annuity or retirement income plan authorized under this section to employees hired on or after July 1, 2011, who have retired or are eligible to retire from a public employees' retirement system described in RCW 41.50.030. The higher education coordinating board ~~((is also authorized and empowered as described in this section, subject to the following: The board))~~ shall only offer participation in a purchased annuity or retirement income plan authorized under this section to employees who have previously contributed premiums to a similar qualified plan~~((, and the board is prohibited from offering or funding such a plan authorized under this section for the benefit of any retiree who is receiving or accruing a retirement allowance from a public employees' retirement system under Title 41 RCW or chapter 43.43 RCW)).~~

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**Sec. 3.** RCW 28B.10.405 and 1977 ex.s. c 169 s 16 are each amended to read as follows:

Members of the faculties and ~~((such other))~~ senior academic administrator employees as are designated by the boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board for community and technical colleges ~~((education))~~ who do not opt to become members of the teachers' retirement system or the public employees' retirement system under section 9 or 18 of this act, or who are not prevented from participation in an annuity or retirement plan under RCW 28B.10.400(2) shall be required to contribute not less than five percent of their salaries during each year of full time service after the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any.

**Sec. 4.** RCW 28B.10.410 and 1977 ex.s. c 169 s 17 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board for community and technical colleges ~~((education))~~ shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400 ~~((as now or hereafter amended))~~. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any.

**Sec. 5.** RCW 28B.10.415 and 1979 ex.s. c 259 s 2 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board for community and technical colleges ~~((education))~~ shall not pay any amount to be added to the annuity or retirement income plan of any retired person who was first hired on or after July 1, 2011, or who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in ~~((subdivision (3) of))~~ RCW 28B.10.400 ~~((as now or hereafter amended))~~ (1)(c), multiplied by the number of years of full time service rendered by such person: PROVIDED, That credit for years of service at an institution of higher education shall be limited to those years in which contributions were made by a faculty member or other employee designated pursuant to RCW 28B.10.400(1)(a) and the institution or the state as a result of which a benefit is being received by a retired person from any Washington state public retirement plan: PROVIDED FURTHER, That all such benefits that a retired person is eligible to receive shall reduce any supplementation payments provided for in RCW 28B.10.400 ~~((as now or hereafter amended))~~.

**Sec. 6.** RCW 28B.10.417 and 1977 ex.s. c 169 s 19 are each amended to read as follows:

(1) This section applies only to those persons who are first employed by a higher education institution in a position eligible for participation in an annuity or retirement program under RCW 28B.10.400 prior to July 1, 2011.

(2) A faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system, shall retain

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credit for such service in the Washington state teachers' retirement system and except as provided in subsection ~~((2))~~ (3) of this section, shall leave his or her accumulated contributions in the teachers' retirement fund. Upon his or her attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497 ~~((as now or hereafter amended))~~. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: PROVIDED, HOWEVER, That any such faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he or she ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: PROVIDED FURTHER, That such service may be rendered up to seventy-five days in a school year without reduction of pension.

~~((2))~~ (3) A faculty member or other exempt employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system may, at his or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system.

**Sec. 7.** RCW 28B.10.423 and 1973 1st ex.s. c 149 s 8 are each amended to read as follows:

(1) For employees who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011, it is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, and 28B.10.423 ~~((and 83.20.030))~~ will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives ~~((and the public pension commission))~~, the select committee on pension policy, and the pension funding council, and joint contribution rates will be adjusted if necessary to accomplish this intent.

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(2) By June 30, 2013, and every two years thereafter, each institution of higher education that is responsible for payment of supplemental amounts under RCW 28B.10.400(1)(c) shall contract with the state actuary under chapter 41.44 RCW for an actuarial valuation of their supplemental benefit plan. By June 30, 2013, and at least once every six years thereafter, each institution shall also contract with the state actuary under chapter 41.44 RCW for an actuarial experience study of the mortality, service, compensation, and other experience of the annuity or retirement income plans created in this chapter, and into the financial condition of each system. At the discretion of the state actuary, the valuation or experience study may be performed by the state actuary or by an outside actuarial firm under contract to the office of the state actuary. Each institution of higher education is required to provide the data and information required for the performance of the valuation or experience study to the office of the state actuary or to the actuary performing the study on behalf of the state actuary. The state actuary may charge each institution for the actual cost of the valuation or experience study through an interagency agreement. Upon completion of the valuation or experience study, the state actuary shall provide copies of the study to the institution of higher education and to the select committee on pension policy and the pension funding council.

(3)(a) A higher education retirement plan supplemental benefit fund is created in the custody of the state treasurer for the purpose of funding future benefit obligations of higher education retirement plan supplemental benefits. The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in the fund.

(b) Beginning January 1, 2014, an employer contribution rate of one-half of one percent of salary is established to begin prefunding the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

(c) Consistent with chapter 41.50 RCW, the department of retirement systems shall collect the employer contribution rates established in this section from each state institution of higher education, and deposit those contributions into the higher education retirement plan supplemental benefit fund. The contributions made by each employer into the higher education retirement plan supplemental benefit fund and the earnings on those contributions shall be accounted for separately within the fund.

(d) Following the completion and review of the initial actuarial valuations and experience study conducted pursuant to subsection (2) of this section, the pension funding council may:

(i) Adopt and make changes to the employer contribution rate established in (a) of this subsection consistent with the procedures established in chapter 41.45 RCW. If the actuarial valuations of the higher education retirement plans of each institution contributing to the higher education retirement plan supplemental benefit fund suggest that different contribution rates are appropriate for each institution, different rates may be adopted. Rates adopted by the pension funding council are subject to revision by the legislature.

(ii) Recommend legislation that will, upon accumulation of sufficient funding in the higher education retirement plan supplemental benefit fund transfer the responsibility for making supplemental benefit payments to the department of retirement systems, and adjust employer contribution rates to reflect the transfer of responsibility.

**Sec. 8.** RCW 28B.10.430 and 1979 ex.s. c 96 s 5 are each amended to read as follows:

(1) This section applies only to those persons who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011.

(2) For any person receiving a monthly benefit pursuant to a

program established under RCW 28B.10.400, the pension portion of such benefit shall be the sum of the following amounts:

(a) One-half of the monthly benefit payable under such program by a life insurance company; and

(b) The monthly equivalent of the supplemental benefit described in RCW 28B.10.400~~((3))~~ (1)(c).

~~((2))~~ (3) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to RCW 28B.10.400 shall receive, as the pension portion of that benefit, less than ten dollars per month for each year of service creditable to the person whose service is the basis of the benefit. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

~~((3))~~ (4) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. Such adjustment shall be calculated as follows:

(a) Monthly benefits to which this subsection and subsection ~~((2))~~ (3) of this section are both applicable shall be determined by first applying subsection ~~((2))~~ (3) of this section and then applying this subsection. The ~~((department))~~ institution shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The ~~((department))~~ institution shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

**NEW SECTION. Sec. 9.** A new section is added to chapter 41.32 RCW to be codified under the subchapter heading "plan 3" to read as follows:

(1) All faculty members who are first employed by an institution of higher education in a position eligible for participation in old age annuities or retirement income plans under chapter 28B.10 RCW on or after July 1, 2011, have a period of thirty days to make an irrevocable choice to:

(a) Become a member of the teachers' retirement system plan 3 under this chapter; or

(b) Participate in the annuities or retirement income plan provided by the institution.

(2) At the end of thirty days, if the member has not made a choice to become a member of the teachers' retirement system, he or she becomes a participant in the institution's plan under RCW 28B.10.400, but does not become eligible for any supplemental benefit under RCW 28B.10.400(1)(c).

**Sec. 10.** RCW 41.32.570 and 2007 c 50 s 3 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

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(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) Except under subsection (3) of this section, any retired teacher or retired administrator who enters service in any public educational institution in Washington state at least one calendar month after his or her accrual date shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than eight hundred sixty-seven hours in a school year.

(3) Any retired teacher or retired administrator who retired prior to September 1, 2011, and who enters service in any public educational institution in Washington state one and one-half calendar months or more after his or her accrual date and:

(a) Is hired pursuant to a written policy into a position for which the school board has documented a justifiable need to hire a retiree into the position;

(b) Is hired through the established process for the position with the approval of the school board or other highest decision-making authority of the prospective employer;

(c) Whose employer retains records of the procedures followed and the decisions made in hiring the retired teacher or retired administrator and provides those records in the event of an audit; and

(d) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours; shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a school year. The one thousand nine hundred hour cumulative total limitation under this section applies prospectively after July 22, 2007.

(4) When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.

(5) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(6) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

**Sec. 11.** RCW 41.32.800 and 2004 c 242 s 55 are each amended to read as follows:

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

**Sec. 12.** RCW 41.32.802 and 2004 c 242 s 61 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

**Sec. 13.** RCW 41.32.860 and 2005 c 327 s 2 are each amended to read as follows:

(1) Except under RCW 41.32.862, no retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

**Sec. 14.** RCW 41.32.862 and 2004 c 242 s 62 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

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**Sec. 15.** RCW 41.35.060 and 2004 c 242 s 64 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

**Sec. 16.** RCW 41.35.230 and 2004 c 242 s 56 are each amended to read as follows:

(1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, 41.40.010, 41.37.010, or 41.32.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

**Sec. 17.** RCW 41.37.050 and 2005 c 327 s 6 are each amended to read as follows:

(1)(a) If a retiree enters employment in an eligible position with an employer as defined in this chapter sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) If a retiree enters employment in an eligible position with an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This

reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(c) The benefit reduction provided in (a) and (b) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

**NEW SECTION. Sec. 18.** A new section is added to chapter 41.40 RCW to be codified under the subchapter heading "plan 3" to read as follows:

(1) All employees who are not qualified under section 9 of this act and who are first employed by an institution of higher education in a position eligible for participation in old age annuities or retirement income plans under RCW 28B.10.400 on or after July 1, 2011, have a period of thirty days to make an irrevocable choice to:

(a) Become a member of the public employees' retirement system plan 3 under this chapter; or

(b) Participate in the annuities or retirement income plan provided by the institution.

(2) At the end of thirty days, if the member has not made a choice to become a member of the public employees' retirement system, he or she becomes a participant in the institution's plan under RCW 28B.10.400, but does not become eligible for any supplemental benefit under RCW 28B.10.400(1)(c).

**Sec. 19.** RCW 41.40.037 and 2007 c 50 s 5 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)(a) Except as provided in (b) of this subsection, a retiree from plan 1 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension.

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(b) A retiree from plan 1 who retired prior to September 1, 2011, and who enters employment with an employer at least three calendar months after his or her accrual date and:

(i) Is hired pursuant to a written policy into a position for which the employer has documented a justifiable need to hire a retiree into the position;

(ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the select committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;

(iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and

(iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;

shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.

(c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.

(d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

**Sec. 20.** RCW 41.50.030 and 2004 c 242 s 42 are each amended to read as follows:

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the

department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

(a) The Washington public employees' retirement system;

(b) The Washington state teachers' retirement system;

(c) The Washington law enforcement officers' and firefighters' retirement system;

(d) The Washington state patrol retirement system;

(e) The Washington judicial retirement system; and

(f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.35 RCW.

(5) The department shall administer the Washington public safety employees' retirement system created under chapter 41.37 RCW.

(6) The department shall administer the collection of employer contributions and initial prefunding of the higher education retirement plan supplemental benefits, also referred to as the annuity or retirement income plans created under chapter 28B.10 RCW.

**Sec. 21.** RCW 41.50.080 and 2004 c 242 s 45 are each amended to read as follows:

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and firefighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the Washington public safety employees' retirement system, the higher education retirement plan supplemental benefit fund, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

**Sec. 22.** RCW 41.50.110 and 2009 c 564 s 924 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37, 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon

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calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the department of retirement systems' expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**NEW SECTION. Sec. 23.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

On page 1, line 2 of the title, after "plans;" strike the remainder of the title and insert "amending RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.417, 28B.10.423, 28B.10.430, 41.32.570, 41.32.800, 41.32.802, 41.32.860, 41.32.862, 41.35.060, 41.35.230, 41.37.050, 41.40.037, 41.50.030, 41.50.080, and 41.50.110; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; creating a new section; providing an effective date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Schoesler to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 1981.

The motion by Senator Schoesler carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Schoesler moved that the following striking amendment by Senator Schoesler and others be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature intends that the retirement and annuity programs of the state's institutions of higher education be revised for future participants to reflect changes that have already occurred in state pension plans. The legislature intends also that newly hired employees who are eligible for participation in an annuity or retirement income plan offered by a higher education institution have an opportunity to participate in either (1) that plan without a supplemental benefit under RCW 28B.10.400(1)(c), or (2) the public employees' retirement system plan 3 or the teachers' retirement system plan 3. Plan 3 provides a combination of defined contribution and defined benefit pension, which will be available for newly hired employees. Further, the legislature intends that effective July 1, 2011, state funding for annuity or retirement income plans under RCW 28B.10.400 will not exceed six percent of salary. The legislature also intends to reduce

the expanded postretirement employment provisions for members of the public employees' retirement system plan 1 and the teachers' retirement system plan 1 that were temporarily expanded due to the shortage of qualified workers in particular teaching and public employment categories, and eliminate postretirement employment exceptions that existed for annuity or retirement income plan-covered positions that have been the subject of abuse.

**Sec. 2.** RCW 28B.10.400 and 2010 c 21 s 1 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, ~~((and))~~ the state board for community and technical colleges, and the higher education coordinating board are authorized and empowered:

~~((2))~~ (a) To assist the faculties and such other employees exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) as any such board may designate in the purchase of old age annuities or retirement income plans under such rules as any such board may prescribe, subject to the restrictions in subsection (2) of this section. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full-time employees of the Washington State University for the purposes ~~((hereof))~~ of this section;

~~((2))~~ (b) To provide, under such rules ~~((and regulations))~~ as any such board may prescribe for the faculty members or other employees exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) under its supervision, for the retirement of any such faculty member or other exempt employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: PROVIDED, That such faculty member or such other exempt employee may elect to retire at the earliest age specified for retirement by federal social security law: PROVIDED FURTHER, That any supplemental payment authorized by (c) of this subsection ~~((3) of this section))~~ and paid as a result of retirement earlier than age sixty- five shall be at an actuarially reduced rate; and shall be provided only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011;

~~((3))~~ (c) To pay ~~((to any such retired person))~~ only to those persons who participate in an annuity or retirement income plan under (a) of this subsection prior to July 1, 2011, or to his or her designated beneficiary(s), each year after his or her retirement, a supplemental amount which, when added to the amount of such annuity or retirement income plan, or retirement income benefit pursuant to RCW 28B.10.415, received by the retired person or the retired person's designated beneficiary(s) in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his or her highest two consecutive years of full-time service under an annuity or retirement income plan established pursuant to (a) of this subsection ~~((1) of this section))~~ at an institution of higher education: PROVIDED, HOWEVER, That if such retired person prior to retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or the retired person's designated beneficiary(s) shall be at actuarially reduced rates: PROVIDED FURTHER, That if a faculty member or other employee of an institution of higher education who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the designated beneficiary(s) shall be entitled to receive the supplemental payment authorized by this subsection to which such designated beneficiary(s) would have been entitled had said deceased faculty member or other employee retired on the date of death after electing

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a supplemental payment survivors option: PROVIDED FURTHER, That for the purpose of this subsection, the designated beneficiary(s) shall be ~~((a))~~ (i) the surviving spouse of the retiree; or, ~~((b))~~ (ii) with the written consent of such spouse, if any, such other person or persons as shall have an insurable interest in the retiree's life and shall have been nominated by written designation duly executed and filed with the retiree's institution of higher education~~(s)~~.

~~((4))~~ (2) Boards are prohibited from offering a purchased annuity or retirement income plan authorized under this section to employees hired on or after July 1, 2011, who have retired or are eligible to retire from a public employees' retirement system described in RCW 41.50.030. The higher education coordinating board ~~(is also authorized and empowered as described in this section, subject to the following: The board)~~ shall only offer participation in a purchased annuity or retirement income plan authorized under this section to employees who have previously contributed premiums to a similar qualified plan~~(, and the board is prohibited from offering or funding such a plan authorized under this section for the benefit of any retiree who is receiving or accruing a retirement allowance from a public employees' retirement system under Title 41 RCW or chapter 43.43 RCW).~~

(3) During the 2011 legislative interim, the select committee on pension policy shall evaluate the suitability and necessity of the annuity and retirement plans authorized under this chapter for employees in various positions within higher education institutions. The select committee shall report its findings, including any recommendations for restrictions on future plan membership, to the ways and means committees of the house of representatives and the senate no later than December 31, 2011.

**Sec. 3.** RCW 28B.10.405 and 1977 ex.s. c 169 s 16 are each amended to read as follows:

Members of the faculties and such other employees exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) as are designated by the boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board for community and technical colleges ((education)) who do not opt to become members of the teachers' retirement system or the public employees' retirement system under section 9 or 18 of this act, or who are not prevented from participation in an annuity or retirement plan under RCW 28B.10.400(2) shall be required to contribute not less than five percent of their salaries during each year of full-time service after the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any.

**Sec. 4.** RCW 28B.10.410 and 1977 ex.s. c 169 s 17 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board for community and technical colleges ((education)) shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400 ~~((as now or hereafter amended))~~. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any.

**Sec. 5.** RCW 28B.10.415 and 1979 ex.s. c 259 s 2 are each amended to read as follows:

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College, the higher education coordinating board, or the state board

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for community and technical colleges ((education)) shall not pay any amount to be added to the annuity or retirement income plan of any retired person who was first hired on or after July 1, 2011, or who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in ~~((subdivision (3) of))~~ RCW 28B.10.400 ~~((as now or hereafter amended))~~ (1)(c), multiplied by the number of years of full-time service rendered by such person: PROVIDED, That credit for years of service at an institution of higher education shall be limited to those years in which contributions were made by a faculty member or other employee designated pursuant to RCW 28B.10.400(1)(a) and the institution or the state as a result of which a benefit is being received by a retired person from any Washington state public retirement plan: PROVIDED FURTHER, That all such benefits that a retired person is eligible to receive shall reduce any supplementation payments provided for in RCW 28B.10.400 ~~((as now or hereafter amended))~~.

**Sec. 6.** RCW 28B.10.417 and 1977 ex.s. c 169 s 19 are each amended to read as follows:

(1) This section applies only to those persons who are first employed by a higher education institution in a position eligible for participation in an annuity or retirement program under RCW 28B.10.400 prior to July 1, 2011.

(2) A faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system, shall retain credit for such service in the Washington state teachers' retirement system and, except as provided in subsection ~~((2))~~ (3) of this section, shall leave his or her accumulated contributions in the teachers' retirement fund. Upon his or her attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his or her accumulated contributions at his or her age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497 ~~((as now or hereafter amended))~~. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: PROVIDED, HOWEVER, That any such faculty member or other employee exempt from civil service pursuant to RCW 41.06.070 (1)(cc) and (2) who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he or she ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: PROVIDED FURTHER, That such service may be rendered up to seventy-five days in a school year without reduction of pension.

~~((2))~~ (3) A faculty member or other exempt employee designated by the board of trustees of the applicable regional university or of The Evergreen State College as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers'

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retirement system may, at his or her election and at any time, on and after midnight June 10, 1959, terminate his or her membership in the Washington state teachers' retirement system and withdraw his or her accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system.

**Sec. 7.** RCW 28B.10.423 and 1973 1st ex.s. c 149 s 8 are each amended to read as follows:

(1) For employees who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011, it is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, and 28B.10.423 ((and 83.20.030)) that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, and 28B.10.423 ((and 83.20.030)) will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives ((and the public pension commission)), the select committee on pension policy, and the pension funding council, and joint contribution rates will be adjusted if necessary to accomplish this intent.

(2) Beginning July 1, 2011, state funding for annuity or retirement income plans under RCW 28B.10.400 shall not exceed six percent of salary. The state board for community and technical colleges and the higher education coordinating board are exempt from the provisions of this subsection (2).

(3) By June 30, 2013, and every two years thereafter, each institution of higher education that is responsible for payment of supplemental amounts under RCW 28B.10.400(1)(c) shall contract with the state actuary under chapter 41.44 RCW for an actuarial valuation of their supplemental benefit plan. By June 30, 2013, and at least once every six years thereafter, each institution shall also contract with the state actuary under chapter 41.44 RCW for an actuarial experience study of the mortality, service, compensation, and other experience of the annuity or retirement income plans created in this chapter, and into the financial condition of each system. At the discretion of the state actuary, the valuation or experience study may be performed by the state actuary or by an outside actuarial firm under contract to the office of the state actuary. Each institution of higher education is required to provide the data and information required for the performance of the valuation or experience study to the office of the state actuary or to the actuary performing the study on behalf of the state actuary. The state actuary may charge each institution for the actual cost of the valuation or experience study through an interagency agreement. Upon completion of the valuation or experience study, the state actuary shall provide copies of the study to the institution of higher education and to the select committee on pension policy and the pension funding council.

(4)(a) A higher education retirement plan supplemental benefit fund is created in the custody of the state treasurer for the purpose of funding future benefit obligations of higher education retirement plan supplemental benefits. The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange

investment money in the fund.

(b) From January 1, 2012, through June 30, 2013, an employer contribution rate of one-quarter of one percent of salary is established to begin prefunding the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

(c) Beginning July 1, 2013, an employer contribution rate of one-half of one percent of salary is established to prefund the unfunded future obligations of the supplemental benefit established in RCW 28B.10.400.

(d) Consistent with chapter 41.50 RCW, the department of retirement systems shall collect the employer contribution rates established in this section from each state institution of higher education, and deposit those contributions into the higher education retirement plan supplemental benefit fund. The contributions made by each employer into the higher education retirement plan supplemental benefit fund and the earnings on those contributions shall be accounted for separately within the fund.

(e) Following the completion and review of the initial actuarial valuations and experience study conducted pursuant to subsection (3) of this section, the pension funding council may:

(i) Adopt and make changes to the employer contribution rates established in this subsection consistent with the procedures established in chapter 41.45 RCW. If the actuarial valuations of the higher education retirement plans of each institution contributing to the higher education retirement plan supplemental benefit fund suggest that different contribution rates are appropriate for each institution, different rates may be adopted. Rates adopted by the pension funding council are subject to revision by the legislature;

(ii) Recommend legislation that will, upon accumulation of sufficient funding in the higher education retirement plan supplemental benefit fund, transfer the responsibility for making supplemental benefit payments to the department of retirement systems, and adjust employer contribution rates to reflect the transfer of responsibility.

**Sec. 8.** RCW 28B.10.430 and 1979 ex.s. c 96 s 5 are each amended to read as follows:

(1) This section applies only to those persons who are first employed by an institution of higher education in a position eligible for participation in an old age annuities or retirement income plan under this chapter prior to July 1, 2011.

(2) For any person receiving a monthly benefit pursuant to a program established under RCW 28B.10.400, the pension portion of such benefit shall be the sum of the following amounts:

(a) One-half of the monthly benefit payable under such program by a life insurance company; and

(b) The monthly equivalent of the supplemental benefit described in RCW 28B.10.400((3)) (1)(c).

((3)) (3) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to RCW 28B.10.400 shall receive, as the pension portion of that benefit, less than ten dollars per month for each year of service creditable to the person whose service is the basis of the benefit. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum pension provided in this section shall be adjusted in a manner consistent with that adjustment.

((3)) (4) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. Such adjustment shall be calculated as follows:

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(a) Monthly benefits to which this subsection and subsection ~~((2))~~ (3) of this section are both applicable shall be determined by first applying subsection ~~((2))~~ (3) of this section and then applying this subsection. The ~~((department))~~ institution shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The ~~((department))~~ institution shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

**NEW SECTION. Sec. 9.** A new section is added to chapter 41.32 RCW to be codified under the subchapter heading "plan 3" to read as follows:

(1) All faculty members who are first employed by an institution of higher education in a position eligible for participation in old age annuities or retirement income plans under chapter 28B.10 RCW on or after July 1, 2011, have a period of thirty days to make an irrevocable choice to:

(a) Become a member of the teachers' retirement system plan 3 under this chapter; or

(b) Participate in the annuities or retirement income plan provided by the institution.

(2) At the end of thirty days, if the member has not made a choice to become a member of the teachers' retirement system, he or she becomes a participant in the institution's plan under RCW 28B.10.400, but does not become eligible for any supplemental benefit under RCW 28B.10.400(1)(c).

**Sec. 10.** RCW 41.32.570 and 2007 c 50 s 3 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any monthly benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) ~~((Except under subsection (3) of this section,))~~ Any retired teacher or retired administrator who enters service in any public educational institution in Washington state at least one calendar month after his or her accrual date shall cease to receive pension payments while engaged in such service, after the retiree has rendered service for more than eight hundred sixty-seven hours in a school year.

(3) ~~((Any retired teacher or retired administrator who enters service in any public educational institution in Washington state one and one-half calendar months or more after his or her accrual date and:~~

~~—(a) Is hired pursuant to a written policy into a position for which the school board has documented a justifiable need to hire a retiree into the position;~~

~~—(b) Is hired through the established process for the position with the approval of the school board or other highest decision making authority of the prospective employer;~~

~~—(c) Whose employer retains records of the procedures followed and the decisions made in hiring the retired teacher or retired~~

~~administrator and provides those records in the event of an audit; and~~

~~—(d) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;~~

~~shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a school year. The one thousand nine hundred hour cumulative total limitation under this section applies prospectively after July 22, 2007.~~

~~—(4) When a retired teacher or administrator renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that fiscal year.~~

~~—(5))~~ The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

~~((6))~~ (4) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five hundred twenty-five hours per year without a reduction of his or her pension.

**Sec. 11.** RCW 41.32.800 and 2004 c 242 s 55 are each amended to read as follows:

(1) Except as provided in RCW 41.32.802, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.37.010, or 41.35.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.

If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(2) The department shall adopt rules implementing this section.

**Sec. 12.** RCW 41.32.802 and 2004 c 242 s 61 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty-seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

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**Sec. 13.** RCW 41.32.860 and 2005 c 327 s 2 are each amended to read as follows:

(1) Except under RCW 41.32.862, no retiree shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.40.010, 41.32.010, 41.35.010, or 41.37.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused the suspension of benefits. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

**Sec. 14.** RCW 41.32.862 and 2004 c 242 s 62 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every seven hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred forty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section, may work up to eight hundred sixty- seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.32.044, he or she terminates his or her retirement status and immediately becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible.

**Sec. 15.** RCW 41.35.060 and 2004 c 242 s 64 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty- seven hours per calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.35.030, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall

have the right to again retire if eligible in accordance with RCW 41.35.420 or 41.35.680. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

**Sec. 16.** RCW 41.35.230 and 2004 c 242 s 56 are each amended to read as follows:

(1) Except as provided in RCW 41.35.060, no retiree under the provisions of plan 2 shall be eligible to receive such retiree's monthly retirement allowance if he or she is employed in an eligible position as defined in RCW 41.35.010, 41.40.010, 41.37.010, or 41.32.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, except that a retiree who ends his or her membership in the retirement system pursuant to RCW 41.40.023(3)(b) is not subject to this section if the retiree's only employment is as an elective official.

(2) If a retiree's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retiree's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(3) The department shall adopt rules implementing this section.

**Sec. 17.** RCW 41.37.050 and 2005 c 327 s 6 are each amended to read as follows:

(1)(a) If a retiree enters employment in an eligible position with an employer as defined in this chapter sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) If a retiree enters employment in an eligible position with an employer as defined in chapter 41.32, 41.35, or 41.40 RCW sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(c) The benefit reduction provided in (a) and (b) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty- seven hours per calendar year in an eligible position as defined in RCW 41.32.010, 41.35.010, or 41.40.010, or as a law enforcement officer or firefighter as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under this chapter, he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with this chapter. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

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(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

**NEW SECTION. Sec. 18.** A new section is added to chapter 41.40 RCW to be codified under the subchapter heading "plan 3" to read as follows:

(1) All employees who are not qualified under section 9 of this act and who are first employed by an institution of higher education in a position eligible for participation in old age annuities or retirement income plans under RCW 28B.10.400 on or after July 1, 2011, have a period of thirty days to make an irrevocable choice to:

(a) Become a member of the public employees' retirement system plan 3 under this chapter; or

(b) Participate in the annuities or retirement income plan provided by the institution.

(2) At the end of thirty days, if the member has not made a choice to become a member of the public employees' retirement system, he or she becomes a participant in the institution's plan under RCW 28B.10.400, but does not become eligible for any supplemental benefit under RCW 28B.10.400(1)(c).

**Sec. 19.** RCW 41.40.037 and 2007 c 50 s 5 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2)((a) Except as provided in (b) of this subsection,) A retiree from plan 1, plan 2, or plan 3 who enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for up to eight hundred sixty-seven hours of service in a calendar year without a reduction of pension. For purposes of this section, employment includes positions covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400.

~~((b) A retiree from plan 1 who enters employment with an employer at least three calendar months after his or her accrual date and:~~

~~— (i) Is hired pursuant to a written policy into a position for which the employer has documented a justifiable need to hire a retiree into the position;~~

~~— (ii) Is hired through the established process for the position with the approval of: A school board for a school district; the chief executive officer of a state agency employer; the secretary of the senate for the senate; the chief clerk of the house of representatives for the house of representatives; the secretary of the senate and the chief clerk of the house of representatives jointly for the joint legislative audit and review committee, the select committee on pension policy, the legislative evaluation and accountability program, the legislative systems committee, and the statute law committee; or according to rules adopted for the rehiring of retired plan 1 members for a local government employer;~~

~~— (iii) The employer retains records of the procedures followed and decisions made in hiring the retiree, and provides those records in the event of an audit; and~~

~~— (iv) The employee has not already rendered a cumulative total of more than one thousand nine hundred hours of service while in receipt of pension payments beyond an annual threshold of eight hundred sixty-seven hours;~~

~~shall cease to receive pension payments while engaged in that service after the retiree has rendered service for more than one thousand five hundred hours in a calendar year. The one thousand nine hundred hour cumulative total under this subsection applies prospectively to those retiring after July 27, 2003, and retroactively to those who retired prior to July 27, 2003, and shall be calculated from the date of retirement.~~

~~— (c) When a plan 1 member renders service beyond eight hundred sixty-seven hours, the department shall collect from the employer the applicable employer retirement contributions for the entire duration of the member's employment during that calendar year.~~

~~— (d) A retiree from plan 2 or plan 3 who has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours in a calendar year in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, without suspension of his or her benefit.)~~

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

**Sec. 20.** RCW 41.50.030 and 2004 c 242 s 42 are each amended to read as follows:

(1) As soon as possible but not more than one hundred and eighty days after March 19, 1976, there is transferred to the department of retirement systems, except as otherwise provided in this chapter, all powers, duties, and functions of:

(a) The Washington public employees' retirement system;

(b) The Washington state teachers' retirement system;

(c) The Washington law enforcement officers' and firefighters' retirement system;

(d) The Washington state patrol retirement system;

(e) The Washington judicial retirement system; and

(f) The state treasurer with respect to the administration of the judges' retirement fund imposed pursuant to chapter 2.12 RCW.

(2) On July 1, 1996, there is transferred to the department all powers, duties, and functions of the deferred compensation committee.

(3) The department shall administer chapter 41.34 RCW.

(4) The department shall administer the Washington school employees' retirement system created under chapter 41.35 RCW.

(5) The department shall administer the Washington public safety employees' retirement system created under chapter 41.37 RCW.

(6) The department shall administer the collection of employer contributions and initial prefunding of the higher education retirement plan supplemental benefits, also referred to as the annuity or retirement income plans created under chapter 28B.10 RCW.

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**Sec. 21.** RCW 41.50.080 and 2004 c 242 s 45 are each amended to read as follows:

The state investment board shall provide for the investment of all funds of the Washington public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the Washington law enforcement officers' and firefighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, the Washington public safety employees' retirement system, the higher education retirement plan supplemental benefit fund, and the judges' retirement fund, pursuant to RCW 43.84.150, and may sell or exchange investments acquired in the exercise of that authority.

**Sec. 22.** RCW 41.50.110 and 2009 c 564 s 924 are each amended to read as follows:

(1) Except as provided by RCW 41.50.255 and subsection (6) of this section, all expenses of the administration of the department, the expenses of administration of the retirement systems, and the expenses of the administration of the office of the state actuary created in chapters 2.10, 2.12, 28B.10, 41.26, 41.32, 41.40, 41.34, 41.35, 41.37, 43.43, and 44.44 RCW shall be paid from the department of retirement systems expense fund.

(2) In order to reimburse the department of retirement systems expense fund on an equitable basis the department shall ascertain and report to each employer, as defined in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, the sum necessary to defray its proportional share of the entire expense of the administration of the retirement system that the employer participates in during the ensuing biennium or fiscal year whichever may be required. Such sum is to be computed in an amount directly proportional to the estimated entire expense of the administration as the ratio of monthly salaries of the employer's members bears to the total salaries of all members in the entire system. It shall then be the duty of all such employers to include in their budgets or otherwise provide the amounts so required.

(3) The department shall compute and bill each employer, as defined in RCW 28B.10.400, 41.26.030, 41.32.010, 41.35.010, 41.37.010, or 41.40.010, at the end of each month for the amount due for that month to the department of retirement systems expense fund and the same shall be paid as are its other obligations. Such computation as to each employer shall be made on a percentage rate of salary established by the department. However, the department may at its discretion establish a system of billing based upon calendar year quarters in which event the said billing shall be at the end of each such quarter.

(4) The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(5) An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

(6) Expenses other than those under RCW 41.34.060(3) shall be paid pursuant to subsection (1) of this section.

(7) During the 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the department of retirement systems'

expense fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**NEW SECTION. Sec. 23.** Except for sections 10 and 19 of this act which take effect January 1, 2012, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Senator Schoesler spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Schoesler and others to Engrossed Substitute House Bill No. 1981.

The motion by Senator Schoesler carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment be adopted:

On page 1, line 2 of the title, after "plans;" strike the remainder of the title and insert "amending RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.417, 28B.10.423, 28B.10.430, 41.32.570, 41.32.800, 41.32.802, 41.32.860, 41.32.862, 41.35.060, 41.35.230, 41.37.050, 41.40.037, 41.50.030, 41.50.080, and 41.50.110; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; creating a new section; providing effective dates; and declaring an emergency."

#### MOTION

On motion of Senator Schoesler, the rules were suspended, Engrossed Substitute House Bill No. 1981 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Conway spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Eide, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1981 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1981 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 1; Excused, 6.

Voting yea: Senators Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Brown

Excused: Senators Baumgartner, Hill, Holmquist Newbry, McAuliffe, Roach and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

SUBSTITUTE SENATE BILL NO. 5749, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Brown, Hewitt and Shin).

Regarding the Washington advanced college tuition payment (GET) program.

The bill was read on Third Reading.

MOTION

On motion of Senator Tom, the rules were suspended and Substitute Senate Bill No. 5749 was returned to second reading for the purpose of amendment.

SECOND READING

SUBSTITUTE SENATE BILL NO. 5749, by Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Brown, Hewitt and Shin)

Regarding the Washington advanced college tuition payment (GET) program.

The measure was read the second time.

MOTION

Senator Tom moved that the following striking amendment by Senators Tom and Becker be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.95.020 and 2007 c 405 s 8 are each amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Board" means the higher education coordinating board as defined in chapter 28B.76 RCW.

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the executive director of the higher education coordinating board, or their designees(,); and ((two)) four members to be appointed by the governor and confirmed by the senate for four-year terms, one representing program participants and ((one)) three private business representatives with marketing, public relations, or financial expertise. Beginning with appointments made after the effective date of this section, in making the three appointments representing

private business, the governor must consider names from a list provided by the president of the senate and the speaker of the house of representatives. Appointment of the two additional members representing private business as provided for in chapter . . . , Laws of 2011 1st sp. sess. (this act) must be made by June 30, 2011, and shall be confirmed by the senate by June 30, 2012.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

(9) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

Sec. 2. RCW 28B.95.030 and 2005 c 272 s 2 are each amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition

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payment which shall be chaired by the executive director of the board. The committee shall be supported by staff of the board.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit. Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit.

(7) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(8) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

**Sec. 3.** RCW 28B.95.080 and 1997 c 289 s 8 are each amended to read as follows:

The governing body shall annually evaluate, and cause to be evaluated by ~~((a nationally recognized))~~ the state actuary, the soundness of the account and determine the additional assets needed, if any, to defray the obligations of the account. The governing body may, at its discretion, consult with a nationally recognized actuary for periodic assessments of the account.

If funds are ~~((not sufficient))~~ determined by the governing body, based on actuarial analysis to be insufficient to ensure the actuarial soundness of the account, the governing body shall adjust the price of subsequent tuition credit purchases to ensure its soundness.

If there are insufficient numbers of new purchases to ensure the actuarial soundness of the account, the governing body shall request such funds from the legislature as are required to ensure the integrity of the program. Funds may be appropriated directly to the account or appropriated under the condition that they be repaid at a later date. The repayment shall be made at such time that the account is again determined to be actuarially sound.

**Sec. 4.** RCW 28B.95.150 and 2001 c 184 s 2 are each amended to read as follows:

(1) The committee may establish a college savings program. If such a program is established, the college savings program shall be established, in such form as may be determined by the committee, to be a qualified state tuition program as defined by the internal revenue service under section 529 of the internal revenue code, and shall be administered in a manner consistent with the Washington advanced college tuition payment program. The committee, in planning and devising the program, shall consult with the state investment board, the state treasurer, ~~((a qualified actuarial consulting firm with appropriate expertise to evaluate such plans))~~ the state actuary, the legislative fiscal and higher education committees, and the institutions of higher education. The governing body may, at its discretion, consult with a qualified actuarial consulting firm with appropriate expertise to evaluate such plans for periodic assessments of the program.

(2) Up to two hundred thousand dollars of administrative fees collected from guaranteed education tuition program participants may be applied as a loan to fund the development of a college savings program. This loan must be repaid with interest before the conclusion of the biennium in which the committee draws funds for this purpose from the advanced college tuition payment program account.

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(3) If such a college savings program is established, the college savings program account is created in the custody of the state treasurer for the purpose of administering the college savings program. If created, the account shall be a discrete nontreasury account in the custody of the state treasurer. Interest earnings shall be retained in accordance with RCW 43.79A.040. Disbursements from the account, except for program administration, are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment provisions, but without appropriation.

(4) The committee, after consultation with the state investment board, shall determine the investment policies for the college savings program. Program contributions may be invested by the state investment board or the committee may contract with an investment company licensed to conduct business in this state to do the investing. The committee shall keep or cause to be kept full and adequate accounts and records of the assets of each individual participant in the college savings program.

(5) Neither the state nor any eligible educational institution may be considered or held to be an insurer of the funds or assets of the individual participant accounts in the college savings program created under this section nor may any such entity be held liable for any shortage of funds in the event that balances in the individual participant accounts are insufficient to meet the educational expenses of the institution chosen by the student for which the individual participant account was intended.

(6) The committee shall adopt rules to implement this section. Such rules shall include but not be limited to administration, investment management, promotion, and marketing; compliance with internal revenue service standards; application procedures and fees; start-up costs; phasing in the savings program and withdrawals therefrom; deterrents to early withdrawals and provisions for hardship withdrawals; and reenrollment in the savings program after withdrawal.

(7) The committee may, at its discretion, determine to cease operation of the college savings program if it determines the continuation is not in the best interest of the state. The committee shall adopt rules to implement this section addressing the orderly distribution of assets.

**NEW SECTION. Sec. 5.** (1) Pursuant to passage of Engrossed Second Substitute House Bill No. 1795 (the higher education opportunity act), and to maintain the actuarial soundness of the account and to lower the risk to the state of incurring additional unfunded liability, the governing body as defined in RCW 28B.95.020 shall, with the assistance of the state actuary, assess the financial solvency of the advanced college tuition payment program and shall determine if any changes should be made to the program for units purchased on or after September 1, 2011, including, but not limited to:

- (a) Establishing a unit payout value that increases predictability and affordability to consumers;
- (b) Modifying the tuition unit price;
- (c) Modifying the contracting of tuition unit purchases to better align the tuition unit price paid throughout the length of the contract with the price established for each enrollment period; and
- (d) Modifying the enrollment period.

(2) The governing body shall submit a report of these efforts to the governor and the appropriate fiscal committees of the legislature no later than October 1, 2011.

(3) This section expires December 31, 2011.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28B.95 RCW to read as follows:

(1)(a) A legislative advisory committee to the committee on advanced tuition payment is established. The advisory committee shall consist of the following members:

(i) Two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives. At least one member from each caucus shall be a member of the house of representatives ways and means committee and at least one member from each caucus shall be a member of the house of representatives higher education committee; and

(ii) Two members from each of the two largest caucuses of the senate appointed by the president of the senate. At least one member from each caucus shall be a member of the senate ways and means committee and at least one member from each caucus shall be a member of the senate higher education and workforce development committee.

(b) All members must be appointed by June 30, 2011, and must serve a term of no less than two years.

(c) Vacancies on the advisory committee shall be filled by appointment by either the president of the senate or the speaker of the house of representatives. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(d) The members of the advisory committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending meetings of the advisory committee and of the committee on advanced tuition payment.

(e) The advisory committee shall appoint its own chair and vice chair and shall meet at least once annually.

(2) The advisory committee shall provide advice to the committee on advanced tuition payment and the state actuary regarding the administration of the program including, but not limited to, pricing guidelines, the tuition unit price, and the unit payout value.

(3) Staff support for the advisory committee must be jointly provided by the senate committee services and the house of representatives office of program research.

**Sec. 7.** RCW 44.44.040 and 2003 c 295 s 4 and 2003 c 92 s 2 are each reenacted and amended to read as follows:

The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 41.04.276.

(7) Provide actuarial assistance to the law enforcement officers' and firefighters' plan 2 retirement board as provided in chapter 2, Laws of 2003. Reimbursement for services shall be made to the

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state actuary under RCW 39.34.130 and section 5(5), chapter 2, Laws of 2003.

(8) Provide actuarial assistance to the committee on advanced tuition payment pursuant to chapter 28B.95 RCW, including recommending a tuition unit price to the committee on advanced tuition payment to be used in the ensuing enrollment period. Reimbursement for services shall be made to the state actuary under RCW 39.34.130.

**NEW SECTION. Sec. 8.** Sections 1 and 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Senator Tom spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Tom and Becker to Substitute Senate Bill No. 5749.

The motion by Senator Tom carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28B.95.020, 28B.95.030, 28B.95.080, and 28B.95.150; reenacting and amending RCW 44.44.040; adding a new section to chapter 28B.95 RCW; creating a new section; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Substitute Senate Bill No. 5749 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5749.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5749 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 1; Excused, 4.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Chase, Nelson and Pflug

Absent: Senator Hargrove

Excused: Senators Baumgartner, McAuliffe, Roach and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5749, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through May 21, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through May 21, 2011 by voice vote.

PERSONAL PRIVILEGE

Senator Zarelli: "Thank you Mr. President. I just want to share something with the body. Last night unfortunately we lost my wife's mother to a long battle with Alzheimer's disease and in some ways it's good for her. It's been a long struggle but I just want to do is take a minute and it's the privilege I guess we get on this floor to honor somebody. I would just like to say that she was a great woman in the sense of being a mom, grandmother and a wife and unfortunately the disease took away the opportunity to get to know her great grandson, my grandson, but she passed last night and Mr. President, I also wanted to take a minute to recognize my father-in-law. We talk a lot on this floor about the compassion that we try to do in this job to try to help people and he exemplified what I think it is as the responsibility of a husband and that vow we take to love each other through good times and bad times, 'till death do us part.' This is a man who refused, after all these years that he had cared for her to turn that care over to another despite the fact that at times that it got financially challenging, physically challenging. Dealing with his own medical issues as well as the emotional challenge. Up to the last day he refused to turn that responsibility over to another and for that I want to honor him as well and just share this with the body. Thank you Mr. President."

MOTION

On motion of Senator Eide, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5942, by Senators Hewitt and Zarelli

Warehousing and distribution of spirits, including the lease and modernization of the state's spirits warehousing and distribution facilities and related operations. Revised for 1st Substitute: Concerning the warehousing and distribution of liquor, including the lease and modernization of the state's liquor warehousing and distribution facilities.

MOTION

On motion of Senator Benton, Substitute Senate Bill No. 5942 was substituted for Senate Bill No. 5942 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Ericksen moved that the following amendment by Senator Ericksen be adopted:

On page 1, line 11, strike "a private sector lessee" and insert "private sector lessees"

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On page 2, line 3, strike "a private sector entity" and insert "multiple private sector entities"

On page 2, line 11, after "entities." insert the following:

"The competitive process must be designed in such a way to allow for:

(a) Multiple entities to contract for liquor warehousing and distribution;

(b) A decentralized warehousing and distribution system;

(c) A method to utilize volume discounts for sales to licensees; and

(d) A provision for licensees to enter in to cooperative agreements for liquor warehousing and distribution."

On page 2, line 20, strike "exclusive"

On page 3, line 1, strike "the" and insert "each"

On page 4, line 4, strike "proposal" and insert "proposals"

On page 4, line 13, strike "a proposal" and insert "selected proposals"

On page 4, line 14, strike "that proposal" and insert "the proposals"

On page 4, line 15, strike "that entity" and insert "the entities"

On page 4, line 18, strike "exclusive"

On page 5, line 15, strike "a private entity" and insert "private entities"

On page 5, beginning on line 16, strike "a selected private entity" and insert "selected private entities"

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Ericksen spoke in favor of adoption of the amendment.

Senators Zarelli and Murray spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Ericksen on page 1, line 11 to Substitute Senate Bill No. 5942.

The motion by Senator Ericksen failed and the amendment was not adopted by voice vote.

## MOTION

Senator Sheldon moved that the following amendment by Senators Sheldon, Ericksen and Tom be adopted:

On page 2, line 9, after "partner" strike "excluding" and insert "including"

Senator Sheldon spoke in favor of adoption of the amendment.

Senators Zarelli and Murray spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Sheldon, Ericksen and Tom on page 2, line 9 to Substitute Senate Bill No. 5942.

The motion by Senator Sheldon failed and the amendment was not adopted by voice vote.

## MOTION

Senator Kastama moved that the following amendment by Senators Kastama and Prentice be adopted:

On page 3, after line 34, insert the following:

"(c) Prior to conducting the competitive process outlined in this section, the request for proposal developed by the office of financial management shall be reviewed by the House and Senate Fiscal Committees. Opportunity for public comment regarding the request for proposal shall be provided."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Kastama spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kastama and Prentice on page 3, after line 34 to Substitute Senate Bill No. 5942.

The motion by Senator Kastama carried and the amendment was adopted by voice vote.

## MOTION

Senator Tom moved that the following amendment by Senator Tom be adopted:

On page 8, line 12, after "**Sec. 10.**" strike "This" and insert "Except for section 2 of this act, this"

On page 8, after line 15, insert the following:

**"NEW SECTION. Sec. 11.** Section 2 of this act takes effect:

(1) September 7, 2011, if an initiative providing for liquor privatization is not certified for placement on the 2011 state general election ballot by the secretary of state; or

(2) November 9, 2011, if an initiative providing for liquor privatization is placed on the 2011 state general election ballot."

On page 1, line 4 of the title, after "66 RCW;" insert "providing contingent effective dates;"

Senators Tom and Ericksen spoke in favor of adoption of the amendment.

Senators Zarelli and Murray spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Tom on page 8, line 12 to Substitute Senate Bill No. 5942.

The motion by Senator Tom failed and the amendment was not adopted by voice vote.

## MOTION

Senator Sheldon moved that the following amendment by Senator Sheldon be adopted:

On page 8, starting on line 12 strike all of section 10

Senator Sheldon spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Sheldon on page 8, line 12 to Substitute Senate Bill No. 5942.

The motion by Senator Sheldon carried and the amendment was adopted by voice vote.

## MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "RCW", strike "; and declaring an emergency"

## MOTION

On motion of Senator Zarelli, the rules were suspended, Engrossed Substitute Senate Bill No. 5942 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Zarelli spoke in favor of passage of the bill.

TWENTY SIXTH DAY, MAY 21, 2011

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Senators Tom and Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5942.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5942 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 14; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Harper, Hatfield, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, Morton, Murray, Nelson, Pflug, Ranker, Regala, Rockefeller, Schoesler, Swecker, White and Zarelli

Voting nay: Senators Baxter, Becker, Ericksen, Fraser, Hargrove, Haugen, Holmquist Newbry, Kline, Parlette, Prentice, Pridemore, Sheldon, Stevens and Tom

Excused: Senators Baumgartner, McAuliffe, Roach and Shin  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5942, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 2:15 p.m., on motion of Senator Eide, the Senate adjourned until 2:00 p.m. Sunday, May 22, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY SEVENTH DAY**

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AFTERNOON SESSION

---

Senate Chamber, Olympia, Sunday, May 22, 2011

BARBARA BAKER, Chief Clerk

The Senate was called to order at 2:00 p.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Baumgartner and Shin.

The Sergeant at Arms Color Guard consisting of Senate Security Staff Terry Kempling and Larry McGrady, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:  
The House has passed:  
SENATE BILL NO. 5956.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:  
The House has passed:  
SUBSTITUTE HOUSE BILL NO. 1250.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:  
The House has passed:  
SUBSTITUTE HOUSE BILL NO. 2119.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:  
The House concurred in the Senate amendment to SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224 and passed the bill as amended by the Senate.  
and the same is herewith transmitted.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5961 by Senators White, Kohl-Welles, Nelson, Keiser, Murray and Chase

AN ACT Relating to providing local government funding of tourism promotion, workforce housing, art and heritage programs, and community development; amending RCW 82.14.049, 82.14.360, 36.38.010, 36.100.220, and 67.28.180; and adding a new section to chapter 67.28 RCW.

Referred to Committee on Government Operations, Tribal Relations & Elections.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 1250 by House Committee on Ways & Means (originally sponsored by Representatives Hunter and Darneille)

AN ACT Relating to transferring funds from the budget stabilization account to the general fund; and making appropriations.

Referred to Committee on Ways & Means.

SHB 2119 by House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Eddy, Hunter, Rodne and Pedersen)

AN ACT Relating to sums due by beneficiaries for reporting certain notices of default; amending RCW 61.24.---; and declaring an emergency.

MOTION

On motion of Senator Eide and without objection, Substitute House Bill No. 1250 and Substitute House Bill No. 2119 were placed on the second reading calendar under suspension of the rules.

MOTION

At 2:17 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:31 p.m. by President Owen.

SIGNED BY THE PRESIDENT

TWENTY SEVENTH DAY, MAY 22, 2011

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The President signed:  
SENATE BILL 5956.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5182 with the following amendment(s): 5182-S2.E AMH ENGR H2828.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that the state's higher education system plays a critical role in assuring Washington's continued leadership role in driving economic prosperity, innovation, and opportunity. By educating citizens for living wage jobs, producing world-class research, and helping to create vibrant communities, the state's institutions of higher education form a foundational component in assuring prosperity for our citizens.

The legislature also recognizes the significant contributions made by the higher education coordinating board in coordinating higher education policy and planning, and administering the state's financial aid programs. The board has also recently finished several significant planning efforts that will provide guidance to the legislature and to the institutions in forming priorities and deploying resources.

However, the legislature also recognizes the importance of prioritizing scarce resources for the core, front-line services that institutions provide--namely instruction, research, and robust financial aid. During times of economic downturn, policymakers must focus on those areas of public service that have the most direct and immediate impact on students. Keeping class sections open, attracting the best professors and instructors, providing comprehensive support services, and offering meaningful financial help to offset the costs of attending school must be the main concerns of policymakers.

It is for these reasons that the legislature intends to create a new office dedicated entirely to the administration of student financial aid programs. By focusing financial and governance resources on direct aid to students, the state can provide the highest level of service in this area. The legislature further intends to eliminate many of the policy and planning functions of the higher education coordinating board and rededicate those resources to the higher education institutions that provide the core, front-line services associated with instruction and research. Given the unprecedented budget crises the state is facing, the state must take the opportunity to build on the recommendations of the board and use the dollars where they can make the most direct impact.

**PART I  
OFFICE OF STUDENT FINANCIAL ASSISTANCE**

**Sec. 101.** RCW 28B.76.020 and 2010 c 245 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (~~"Board" means the higher education coordinating board.~~) "Council" means the council for higher education.

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(3) "Major expansion" means expansion of the higher education system that requires significant new capital investment, including building new institutions, campuses, branches, or centers or conversion of existing campuses, branches, or centers that would result in a mission change.

(4) "Mission change" means a change in the level of degree awarded or institutional type not currently authorized in statute.

(5) "Office" means the office of student financial assistance.

**Sec. 102.** RCW 28B.76.090 and 2007 c 458 s 102 are each amended to read as follows:

(1) The office of student financial assistance is created.

(2) The purpose of the office is to administer state and federal financial aid and other education services programs, including the advanced college tuition payment program in chapter 28B.95 RCW, in a cost-effective manner.

~~(3) The ((board)) office shall employ a director ((and may delegate agency management to the director. The director)) who shall serve at the pleasure of the ((board, shall be the executive officer of the board, and shall, under the board's supervision,)) governor and shall administer the provisions of this chapter. The ((executive)) director shall((, with the approval of the board)): ((4)) (a) Employ necessary deputy and assistant directors and other exempt staff under chapter 41.06 RCW who shall serve at his or her pleasure on such terms and conditions as he or she determines and ((2)) (b) subject to the provisions of chapter 41.06 RCW, appoint and employ such other employees as may be required for the proper discharge of the functions of the ((board. The executive director shall exercise such additional powers, other than rule making, as may be delegated by the board by resolution. In fulfilling the duties under this chapter, the board shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies including but not limited to appropriate legislative groups, the postsecondary education institutions, the office of financial management, the workforce training and education coordinating board, the state board for community and technical colleges, and the office of the superintendent of public instruction. Outside consulting and service agencies may also be employed. The board may compensate these groups and consultants in appropriate ways)) office.~~

**Sec. 103.** RCW 28B.76.120 and 1985 c 370 s 8 are each amended to read as follows:

The ((board)) office shall have authority to adopt rules as necessary to implement this chapter.

**Sec. 104.** RCW 28B.76.210 and 2010 c 245 s 10 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

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(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed operating budget and priorities to the office of financial management by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year.

(5)(a) The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management and to the legislature by November 15th of each even-numbered year. ~~((The board's recommendations for the four-year institutions must include a single, prioritized list of the major projects that the board recommends be funded with state bond and building account appropriations during the forthcoming fiscal biennium. In developing this single prioritized list, the board shall:~~

~~—(a) Seek to identify the combination of projects that will most cost effectively achieve the state's goals. These goals include increasing baccalaureate and graduate degree production, particularly in high demand fields; promoting economic development through research and innovation; providing quality, affordable educational environments; preserving existing assets; and maximizing the efficient utilization of instructional space;~~

~~—(b) Be guided by the objective analysis and scoring of capital budget projects completed by the office of financial management pursuant to chapter 43.88D RCW;~~

~~—(c) Anticipate (i) that state bond and building account appropriations continue at the same level during each of the two subsequent fiscal biennia as has actually been appropriated for the baccalaureate institutions during the current one; (ii) that major projects funded for design during a biennium are funded for construction during the subsequent one before state appropriations are provided for new major projects; and (iii) that minor health, safety, code, and preservation projects are funded at the same average level as in recent biennia before state appropriations are provided for new major projects.))~~

(b) The board shall develop one prioritized list of capital projects for the legislature to consider that includes all of the projects requested by the four-year institutions of higher education that were scored by the office of financial management pursuant to chapter 43.88D RCW, including projects that were previously scored but not funded. The prioritized list of capital projects shall be based on the following priorities in the following order:

(i) Office of financial management scores pursuant to chapter 43.88D RCW;

(ii) Preserving assets;

(iii) Degree production; and

(iv) Maximizing efficient use of instructional space.

(c) The board shall include all of the capital projects requested by the four-year institutions of higher education, except for the minor works projects, in the prioritized list of capital projects provided to the legislature.

(d) The form of the prioritized list for capital projects requested by the four-year institutions of higher education shall be provided as one list, ranked in priority order with the highest priority project ranked number "1" through the lowest priority project numbered last. The ranking for the prioritized list of capital projects may not:

(i) Include subpriorities;

(ii) Be organized by category;

(iii) Assume any state bond or building account biennial funding level to prioritize the list; or

(iv) Assume any specific share of projects by institution in the priority list.

(6) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

**Sec. 105.** RCW 28B.76.310 and 2004 c 275 s 15 are each amended to read as follows:

(1) The board, in consultation with the house of representatives and senate committees responsible for higher education, the respective fiscal committees of the house of representatives and senate, the office of financial management, the state board for community and technical colleges, and the state institutions of higher education, shall develop standardized methods and protocols for measuring the undergraduate and graduate educational costs for the state universities, regional universities, and community colleges, including but not limited to the costs of instruction, costs to provide degrees in specific fields, and costs for precollege remediation.

~~(2) ((By December 1, 2004, the board must propose a schedule of regular cost study reports intended to meet the information needs of the governor's office and the legislature and the requirements of RCW 28B.76.300 and submit the proposed schedule to the higher education and fiscal committees of the house of representatives and the senate for their review.~~

~~—(3)) The institutions of higher education shall participate in the development of cost study methods and shall provide all necessary data in a timely fashion consistent with the protocols developed.~~

**Sec. 106.** RCW 28B.76.500 and 2009 c 215 s 7 are each amended to read as follows:

(1) The ~~((board))~~ office shall administer any state program or state-administered federal program of student financial aid now or hereafter established.

(2) Each of the student financial aid programs administered by the ~~((board))~~ office shall be labeled an "opportunity pathway." Loans provided by the federal government and aid granted to students outside of the financial aid package provided through institutions of higher education are not subject to the labeling

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provisions in this subsection. All communication materials, including, but not limited to, printed materials, presentations, and web content, shall include the "opportunity pathway" label.

(3) If the ~~((board))~~ office develops a one-stop college information web-based portal that includes financial, academic, and career planning information, the portal shall display all available student financial aid programs, except federal student loans and aid granted to students outside of the financial aid package provided through institutions of higher education, under the "opportunity pathway" label. The portal shall also display information regarding federal tax credits related to higher education available for students or their families.

(4) The labeling requirements in this section do not change the source, eligibility requirements, or student obligations associated with each program. The ~~((board))~~ office shall customize its communications to differentiate between programs, eligibility requirements, and student obligations, so long as the reporting provisions of this chapter are also fulfilled.

**Sec. 107.** RCW 28B.76.505 and 2007 c 73 s 1 are each amended to read as follows:

(1) The investment of funds from all scholarship endowment programs administered by the ~~((higher education coordinating board))~~ office shall be managed by the state investment board.

(2) The state investment board has the full power to invest, reinvest, manage, contract, sell, or exchange investment money in scholarship endowment funds. All investment and operating costs associated with the investment of a scholarship endowment fund shall be paid pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these expenses, the earnings from the investments of the fund belong to the fund.

(3) Funds from all scholarship endowment programs administered by the board shall be in the custody of the state treasurer.

(4) All investments made by the state investment board shall be made with the exercise of that degree of judgment and care pursuant to RCW 43.33A.140 and the investment policies established by the state investment board.

(5) As deemed appropriate by the state investment board, money in a scholarship endowment fund may be commingled for investment with other funds subject to investment by the state investment board.

(6) The authority to establish all policies relating to scholarship endowment funds, other than the investment policies in subsections (2) through (5) of this section, resides with the ~~((higher education coordinating board))~~ office.

(7) The ~~((higher education coordinating board))~~ office may request and accept moneys from the state investment board. With the exception of expenses of the state investment board in subsection (2) of this section, disbursements from the fund shall be made only on the authorization of the ~~((higher education coordinating board))~~ office and money in the fund may be spent only for the purposes of the endowment programs as specified in the authorizing chapter of each program.

(8) The state investment board shall routinely consult and communicate with the ~~((higher education coordinating board))~~ office on the investment policy, earnings of the scholarship endowment funds, and related needs of the programs.

**Sec. 108.** RCW 28B.76.510 and 1985 c 370 s 21 are each amended to read as follows:

The ~~((board))~~ office shall administer any federal act pertaining to higher education which is not administered by another state agency.

**Sec. 109.** RCW 28B.76.520 and 1985 c 370 s 22 are each amended to read as follows:

The ~~((board))~~ office is authorized to receive and expend federal funds and any private gifts or grants, such federal funds or private funds to be expended in accordance with the conditions contingent in such grant thereof.

**Sec. 110.** RCW 28B.76.525 and 2005 c 139 s 1 are each amended to read as follows:

(1) The state financial aid account is created in the custody of the state treasurer. The primary purpose of the account is to ensure that all appropriations designated for financial aid through statewide student financial aid programs are made available to eligible students. The account shall be a nontreasury account.

(2) The ~~((higher education coordinating board))~~ office shall deposit in the account all money received for the state need grant program established under RCW 28B.92.010, the state work-study program established under chapter 28B.12 RCW, the Washington scholars program established under RCW 28A.600.110, the Washington award for vocational excellence program established under RCW 28C.04.525, and the educational opportunity grant program established under chapter 28B.101 RCW. The account shall consist of funds appropriated by the legislature for the programs listed in this subsection and private contributions to the programs. Moneys deposited in the account do not lapse at the close of the fiscal period for which they were appropriated. Both during and after the fiscal period in which moneys were deposited in the account, the ~~((board))~~ office may expend moneys in the account only for the purposes for which they were appropriated, and the expenditures are subject to any other conditions or limitations placed on the appropriations.

(3) Expenditures from the account shall be used for scholarships to students eligible for the programs according to program rules and policies.

(4) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(5) Only the ~~((executive))~~ director of the ~~((higher education coordinating board))~~ office or the ~~((executive))~~ director's designee may authorize expenditures from the account.

**Sec. 111.** RCW 28B.76.540 and 2004 c 275 s 18 are each amended to read as follows:

In addition to administrative responsibilities assigned in this chapter, the ~~((board))~~ office shall administer the programs set forth in the following statutes: RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.85 RCW (degree-granting institutions); chapter 28B.92 RCW (state need grant); chapter 28B.12 RCW (work study); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through ~~((28B.15.736))~~ 28B.15.734 (Oregon reciprocity); RCW 28B.15.750 ~~((through 28B.15.754))~~ and 28B.15.752 (Idaho reciprocity); RCW 28B.15.756 ~~((and 28B.15.758))~~ (British Columbia reciprocity); chapter 28B.101 RCW (educational opportunity grant); chapter 28B.102 RCW (future teachers conditional scholarship); chapter 28B.108 RCW (American Indian endowed scholarship); chapter 28B.109 RCW (Washington international exchange scholarship); chapter 28B.115 RCW (health professional conditional scholarship); chapter 28B.119 RCW (Washington promise scholarship); and chapter 28B.133 RCW (gaining independence for students with dependents).

**Sec. 112.** RCW 28B.76.560 and 1987 c 8 s 2 are each amended to read as follows:

The Washington distinguished professorship trust fund program is established.

The program shall be administered by the ~~((higher education coordinating board))~~ office.

The trust fund shall be administered by the state treasurer.

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**Sec. 113.** RCW 28B.76.565 and 2010 1st sp.s. c 37 s 915 are each amended to read as follows:

Funds appropriated by the legislature for the distinguished professorship program shall be deposited in the distinguished professorship trust fund. At the request of the (~~higher education coordinating board~~) office under RCW 28B.76.575, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the 2009-2011 fiscal biennium, the legislature may transfer from the distinguished professorship trust fund to the state general fund such amounts as reflect the excess fund balance in the account.

**Sec. 114.** RCW 28B.76.570 and 1987 c 8 s 4 are each amended to read as follows:

In consultation with the eligible institutions of higher education, the (~~higher education coordinating board~~) office shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of professorships previously received.

Any allocation system shall be superseded by conditions in any act of the legislature appropriating funds for this program.

**Sec. 115.** RCW 28B.76.575 and 1988 c 125 s 3 are each amended to read as follows:

All state four-year institutions of higher education shall be eligible for matching trust funds. An institution may apply to the (~~higher education coordinating board~~) office for two hundred fifty thousand dollars from the fund when the institution can match the state funds with an equal amount of pledged or contributed private donations or with funds received through legislative appropriation specifically for the G. Robert Ross distinguished faculty award and designated as being qualified to be matched from trust fund moneys. These donations shall be made specifically to the professorship program, and shall be donated after July 1, 1985.

Upon an application by an institution, the (~~board~~) office may designate two hundred fifty thousand dollars from the trust fund for that institution's pledged professorship. If the pledged two hundred fifty thousand dollars is not received within three years, the (~~board~~) office shall make the designated funds available for another pledged professorship.

Once the private donation is received by the institution, the (~~higher education coordinating board~~) office shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the professorship.

**Sec. 116.** RCW 28B.76.605 and 1987 c 147 s 2 are each amended to read as follows:

The Washington graduate fellowship trust fund program is established. The program shall be administered by the (~~higher education coordinating board~~) office. The trust fund shall be administered by the state treasurer.

**Sec. 117.** RCW 28B.76.610 and 2010 1st sp.s. c 37 s 916 are each amended to read as follows:

Funds appropriated by the legislature for the graduate fellowship program shall be deposited in the graduate fellowship trust fund. At the request of the (~~higher education coordinating board~~) office under RCW 28B.76.620, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is required for expenditures from the fund. During the 2009-2011 fiscal biennium, the legislature may transfer from the graduate fellowship trust fund to the state general fund such amounts as reflect the excess fund balance in the account.

**Sec. 118.** RCW 28B.76.615 and 1987 c 147 s 4 are each amended to read as follows:

In consultation with eligible institutions of higher education, the (~~higher education coordinating board~~) office shall set guidelines for the program. These guidelines may include an allocation system based on factors which include but are not limited to: The amount of money available in the trust fund; characteristics of the institutions including the size of the faculty and student body; and the number of fellowships previously received.

Any allocation system shall be superseded by conditions in any legislative act appropriating funds for the program.

**Sec. 119.** RCW 28B.76.620 and 1987 c 147 s 5 are each amended to read as follows:

(1) All state four-year institutions of higher education shall be eligible for matching trust funds. Institutions may apply to the (~~higher education coordinating board~~) office for twenty-five thousand dollars from the fund when they can match the state funds with equal pledged or contributed private donations. These donations shall be made specifically to the graduate fellowship program, and shall be donated after July 1, 1987.

(2) Upon an application by an institution, the (~~board~~) office may designate twenty-five thousand dollars from the trust fund for that institution's pledged graduate fellowship fund. If the pledged twenty-five thousand dollars is not received within two years, the (~~board~~) office shall make the designated funds available for another pledged graduate fellowship fund.

(3) Once the private donation is received by the institution, the (~~higher education coordinating board~~) office shall ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for the graduate fellowships.

**Sec. 120.** RCW 28B.76.640 and 1985 c 370 s 17 are each amended to read as follows:

The (~~board~~) office is hereby specifically directed to develop such state plans as are necessary to coordinate the state of Washington's participation within the student exchange compact programs under the auspices of the Western Interstate Commission for Higher Education, as provided by chapter 28B.70 RCW. In addition to establishing such plans the (~~board~~) office shall designate the state certifying officer for student programs.

**Sec. 121.** RCW 28B.76.645 and 2004 c 275 s 23 are each amended to read as follows:

In the development of any such plans as called for within RCW 28B.76.640, the (~~board~~) office shall use at least the following criteria:

(1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance.

(2) For recipients named after January 1, 1995, the tuition assistance shall be in the form of loans that may be completely forgiven in exchange for the student's service within the state of Washington after graduation. The requirements for such service and provisions for loan forgiveness shall be determined in rules adopted by the (~~board~~) office.

(3) If appropriations are insufficient to fund all students qualifying under subsection (1) of this section, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as well as recognizing the financial needs of students.

(4) Receipts from the payment of principal or interest or any other subsidies to which the (~~board~~) office as administrator is entitled, that are paid by or on behalf of participants under this section, shall be deposited with the (~~board~~) office and placed in an account created in this section and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections. The (~~board~~) office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay

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such costs shall be used to grant conditional loans to eligible students.

(5) The Washington interstate commission on higher education professional student exchange program trust fund is created in the custody of the state treasurer. All receipts from loan repayment shall be deposited into the fund. Only the (~~higher education coordinating board~~) office, or its designee, may authorize expenditures from the fund. No appropriation is required for expenditures from this fund.

**Sec. 122.** RCW 28B.76.650 and 1985 c 370 s 19 are each amended to read as follows:

The (~~board~~) office shall periodically advise the governor and the legislature of the policy implications of the state of Washington's participation in the Western Interstate Commission for Higher Education student exchange programs as they affect long-range planning for post-secondary education, together with recommendations on the most efficient way to provide high cost or special educational programs to Washington residents.

**Sec. 123.** RCW 28B.76.660 and 2005 c 518 s 917 are each amended to read as follows:

(1) Recipients of the Washington scholars award or the Washington scholars-alternate award under RCW 28A.600.100 through 28A.600.150 who choose to attend an independent college or university in this state, as defined in subsection (4) of this section, and recipients of the award named after June 30, 1994, who choose to attend a public college or university in the state may receive grants under this section if moneys are available. The (~~higher education coordinating board~~) office shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants to recipients attending an independent institution shall be contingent upon the institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The (~~higher education coordinating board~~) office shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) The (~~higher education coordinating board~~) office shall establish rules that provide for the annual awarding of grants, if moneys are available, to three Washington scholars per legislative district except for fiscal year 2007 when no more than two scholars per district shall be selected; and, if not used by an original recipient, to the Washington scholars-alternate from the same legislative district.

Beginning with scholars selected in the year 2000, if the recipients of grants fail to demonstrate in a timely manner that they will enroll in a Washington institution of higher education in the fall term of the academic year following the award of the grant or are deemed by the (~~higher education coordinating board~~) office to have withdrawn from college during the first academic year following the award, then the grant shall be considered relinquished. The (~~higher education coordinating board~~) office may then award any remaining grant amounts to the Washington scholars-alternate from the same legislative district if the grants are awarded within one calendar year of the recipient being named a Washington scholars-alternate. Washington scholars-alternates named as recipients of the grant must also demonstrate in a timely manner that they will enroll in a Washington institution of higher education during the next available term, as determined by the (~~higher education coordinating board~~) office. The (~~board~~) office may accept appeals and grant waivers to the enrollment requirements of this section based on exceptional mitigating circumstances of individual grant recipients.

To maintain eligibility for the grants, recipients must maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of grants for undergraduate study and may transfer among in-state public and independent colleges and universities during that period and continue to receive the grant as provided under RCW 28B.76.665. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the (~~higher education coordinating board~~) office which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the (~~higher education coordinating board~~) office of financial management as meeting equivalent standards as those institutions accredited under this section.

(5) As used in this section, "public college or university" means an institution of higher education as defined in RCW 28B.10.016.

**Sec. 124.** RCW 28B.76.670 and 1995 1st sp.s. c 7 s 8 are each amended to read as follows:

(1) Recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550, who receive the award after June 30, 1994, may receive a grant, if funds are available. The grant shall be used to attend a postsecondary institution located in the state of Washington. Recipients may attend an institution of higher education as defined in RCW 28B.10.016, or an independent college or university, or a licensed private vocational school. The (~~higher education coordinating board~~) office shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. In consultation with the workforce training and education coordinating board, the (~~higher education coordinating board~~) office shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the postsecondary institution within three years of high school graduation and maintain a minimum grade point average at the institution equivalent to 3.00, or, at a technical college, an above average rating. Students shall be eligible to receive a maximum of two years of grants for undergraduate study and may transfer among in-state eligible postsecondary institutions during that period and continue to receive the grant.

(3) No grant may be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the Northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

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(5) As used in this section, "licensed private vocational school" means a private postsecondary institution, located in the state, licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, and offering postsecondary education in order to prepare persons for a vocation or profession, as defined in RCW 28C.10.020(7).

**Sec. 125.** RCW 28B.76.690 and 2003 c 159 s 3 are each amended to read as follows:

The (~~higher education coordinating board~~) office shall administer Washington's participation in the border county higher education opportunity project.

**Sec. 126.** RCW 28A.600.120 and 1985 c 370 s 32 are each amended to read as follows:

The (~~higher education coordinating board~~) office of student financial assistance shall have the responsibility for administration of the Washington scholars program. The program will be developed cooperatively with the Washington association of secondary school principals, a voluntary professional association of secondary school principals. The cooperation of other state agencies and private organizations having interest and responsibility in public and private education shall be sought for planning assistance.

**Sec. 127.** RCW 28A.600.130 and 2006 c 263 s 916 are each amended to read as follows:

The (~~higher education coordinating board~~) office of student financial assistance shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the office of superintendent of public instruction, the council of presidents, the state board for community and technical colleges, and the Washington friends of higher education.

**Sec. 128.** RCW 28A.600.140 and 1990 c 33 s 501 are each amended to read as follows:

Each year on or before March 1st, the Washington association of secondary school principals shall submit to the (~~higher education coordinating board~~) office of student financial assistance the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under RCW 28A.600.130.

**Sec. 129.** RCW 28A.600.150 and 2005 c 518 s 916 are each amended to read as follows:

Each year, three Washington scholars and one Washington scholars-alternate shall be selected from the students nominated under RCW 28A.600.140, except that during fiscal year 2007, no more than two scholars plus one alternate may be selected. The (~~higher education coordinating board~~) office of student financial assistance shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor when final selections have been made.

The (~~board~~) office, in conjunction with the governor's office, shall prepare appropriate certificates to be presented to the Washington scholars and the Washington scholars-alternates. An awards ceremony at an appropriate time and place shall be planned by the (~~board~~) office in cooperation with the Washington association of secondary school principals, and with the approval of the governor.

**Sec. 130.** RCW 28A.230.125 and 2009 c 556 s 9 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the (~~higher education coordinating board~~) four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

**Sec. 131.** RCW 28A.600.285 and 2009 c 450 s 4 are each amended to read as follows:

The superintendent of public instruction and the (~~higher education coordinating board~~) office of student financial assistance shall develop advising guidelines to assure that students and parents understand that college credits earned in high school dual credit programs may impact eligibility for financial aid.

**Sec. 132.** RCW 28A.630.400 and 2006 c 263 s 815 are each amended to read as follows:

(1) The professional educator standards board and the state board for community and technical colleges, in consultation with the superintendent of public instruction, (~~the higher education coordinating board,~~) the state apprenticeship training council, and community colleges, shall adopt rules as necessary under chapter 34.05 RCW to implement the paraeducator associate of arts degree.

(2) As used in this section, a "paraeducator" is an individual who has completed an associate of arts degree for a paraeducator. The paraeducator may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The paraeducator shall work under the direction of instructional certificated staff.

(3) The training program for a paraeducator associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to children with disabilities, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) Consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

**Sec. 133.** RCW 28A.650.015 and 2009 c 556 s 17 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

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(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, ~~((the higher education coordinating board))~~ the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

**Sec. 134.** RCW 28A.660.050 and 2010 c 235 s 505 are each amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the ~~((higher education coordinating board))~~ office of student financial assistance. In administering the programs, the ~~((higher education coordinating board))~~ office has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers. In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The ~~((higher education coordinating board))~~ office of student financial assistance shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferrals.

(6) The ~~((higher education coordinating board))~~ office of student financial assistance may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**Sec. 135.** RCW 28B.04.080 and 2004 c 275 s 31 are each amended to read as follows:

(1) The board shall consult and cooperate with the department of social and health services; ~~((the higher education coordinating board))~~ the superintendent of public instruction; the workforce training and education coordinating board; the employment security department; the department of labor and industries; sponsoring agencies under the federal comprehensive employment and training act (87 Stat. 839; 29 U.S.C. Sec. 801 et seq.), and any other persons or agencies as the board deems appropriate to facilitate the coordination of centers established under this chapter with existing programs of a similar nature.

(2) Annually on July 1st, each agency listed in subsection (1) of this section shall submit a description of each service or program

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under its jurisdiction which would support the programs and centers established by this chapter and the funds available for such support.

(3) The board shall serve as a clearinghouse for displaced homemaker information and resources and shall compile and disseminate statewide information to the centers, related agencies, and interested persons upon request.

**Sec. 136.** RCW 28B.07.020 and 2007 c 218 s 86 are each amended to read as follows:

As used in this chapter, the following words and terms shall have the following meanings, unless the context otherwise requires:

(1) "Authority" means the Washington higher education facilities authority created under RCW 28B.07.030 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law.

(2) "Bonds" means bonds, notes, commercial paper, certificates of indebtedness, or other evidences of indebtedness of the authority issued under this chapter.

(3) "Bond resolution" means any resolution of the authority, adopted under this chapter, authorizing the issuance and sale of bonds.

(4) "Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the council for higher education (~~coordinating board~~).

(5) "Participant" means a higher education institution which, under this chapter, undertakes the financing of a project or projects or undertakes the refunding or refinancing of obligations, mortgages, or advances previously incurred for a project or projects.

(6) "Project" means any land or any improvement, including, but not limited to, buildings, structures, fixtures, utilities, machinery, excavations, paving, and landscaping, and any interest in such land or improvements, and any personal property pertaining or useful to such land and improvements, which are necessary, useful, or convenient for the operation of a higher education institution, including but not limited to, the following: Dormitories or other multi-unit housing facilities for students, faculty, officers, or employees; dining halls; student unions; administration buildings; academic buildings; libraries; laboratories; research facilities; computer facilities; classrooms; athletic facilities; health care facilities; maintenance, storage, or utility facilities; parking facilities; or any combination thereof, or any other structures, facilities, or equipment so related.

(7) "Project cost" means any cost related to the acquisition, construction, improvement, alteration, or rehabilitation by a participant or the authority of any project and the financing of the project through the authority, including, but not limited to, the following costs paid or incurred: Costs of acquisition of land or interests in land and any improvement; costs of contractors, builders, laborers, material suppliers, and suppliers of tools and equipment; costs of surety and performance bonds; fees and disbursements of architects, surveyors, engineers, feasibility consultants, accountants, attorneys, financial consultants, and other professionals; interest on bonds issued by the authority during any period of construction; principal of and interest on interim financing of any project; debt service reserve funds; depreciation funds, costs of the initial start-up operation of any project; fees for title insurance, document recording, or filing; fees of trustees and the authority; taxes and other governmental charges levied or assessed on any project; and any other similar costs. Except as specifically

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set forth in this definition, the term "project cost" does not include books, fuel, supplies, and similar items which are required to be treated as a current expense under generally accepted accounting principles.

(8) "Trust indenture" means any agreement, trust indenture, or other similar instrument by and between the authority and one or more corporate trustees.

**Sec. 137.** RCW 28B.07.030 and 2007 c 36 s 14 are each amended to read as follows:

(1) The Washington higher education facilities authority is hereby established as a public body corporate and politic, with perpetual corporate succession, constituting an agency of the state of Washington exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010.

(2) The authority shall consist of ~~((seven))~~ six members as follows: The governor, lieutenant governor, ~~((executive director of the higher education coordinating board,))~~ and four public members, one of whom shall be the president of a higher education institution at the time of appointment. The public members shall be residents of the state and appointed by the governor, subject to confirmation by the senate, on the basis of their interest or expertise in the provision of higher education and the financing of higher education. The public members of the authority shall serve for terms of four years. The initial terms of the public members shall be staggered in a manner determined by the governor. In the event of a vacancy on the authority due to death, resignation, or removal of one of the public members, and upon the expiration of the term of any public member, the governor shall appoint a successor for a term expiring on the fourth anniversary of the successor's date of the appointment. If any of the state offices are abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office. Any public member of the authority may be removed by the governor for misfeasance, malfeasance, ~~((willful))~~ willful neglect of duty, or any other cause after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing.

(3) The governor shall serve as chairperson of the authority. The authority shall elect annually one of its members as secretary. If the governor shall be absent from a meeting of the authority, the secretary shall preside. However, the governor may designate an employee of the governor's office to act on the governor's behalf in all other respects during the absence of the governor at any meeting of the authority. If the designation is in writing and is presented to the person presiding at the meetings of the authority who is included in the designation, the vote of the designee has the same effect as if cast by the governor.

(4) Any person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be the custodian of all books, documents, and papers filed with the authority, the minute book or a journal of the authority, and the authority's official seal, if any. The person may cause copies to be made of all minutes and other records and documents of the authority, and may give certificates to the effect that such copies are true copies. All persons dealing with the authority may rely upon the certificates.

(5) Four members of the authority constitute a quorum. Members participating in a meeting through the use of any means of communication by which all members participating can hear each other during the meeting shall be deemed to be present in person at the meeting for all purposes. The authority may act on the basis of a motion except when authorizing the issuance and sale of bonds, in which case the authority shall act by resolution. Bond resolutions and other resolutions shall be adopted upon the affirmative vote of four members of the authority, and shall be signed by those members voting yes. Motions shall be adopted upon the

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affirmative vote of a majority of a quorum of members present at any meeting of the authority. All actions taken by the authority shall take effect immediately without need for publication or other public notice. A vacancy in the membership of the authority does not impair the power of the authority to act under this chapter.

(6) The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses as determined by the authority incurred in the discharge of their duties under this chapter.

**Sec. 138.** RCW 28B.10.786 and 1993 sp.s. c 15 s 7 are each amended to read as follows:

It is the policy of the state of Washington that financial need not be a barrier to participation in higher education. It is also the policy of the state of Washington that the essential requirements level budget calculation include funding for state student financial aid programs. The calculation should, at a minimum, include a funding level equal to the amount provided in the second year of the previous biennium in the omnibus appropriations act, adjusted for the percentage of needy resident students, by educational sector, likely to be included in any enrollment increases necessary to maintain, by educational sector, the participation rate funded in the 1993 fiscal year. The calculation should also be adjusted to reflect, by educational sector, any increases in cost of attendance. The cost of attendance figures should be calculated by the ~~((higher education coordinating board and provided to the))~~ office of financial management and provided to the appropriate legislative committees by June 30th of each even-numbered year.

**Sec. 139.** RCW 28B.10.790 and 2004 c 275 s 44 are each amended to read as follows:

Washington residents attending any nonprofit college or university in another state which has a reciprocity agreement with the state of Washington shall be eligible for the student financial aid program outlined in chapter 28B.92 RCW if (1) they qualify as a "needy student" under RCW 28B.92.030~~((3))~~ (5), and (2) the institution attended is a member institution of an accrediting association recognized by rule of the ~~((higher education coordinating board))~~ office of student financial assistance for the purposes of this section and is specifically encompassed within or directly affected by such reciprocity agreement and agrees to and complies with program rules and regulations pertaining to such students and institutions adopted pursuant to RCW 28B.92.150.

**Sec. 140.** RCW 28B.10.792 and 1985 c 370 s 55 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall develop guidelines for determining the conditions under which an institution can be determined to be directly affected by a reciprocity agreement for the purposes of RCW 28B.10.790: PROVIDED, That no institution shall be determined to be directly affected unless students from the county in which the institution is located are provided, pursuant to a reciprocity agreement, access to Washington institutions at resident tuition and fee rates to the extent authorized by Washington law.

**Sec. 141.** RCW 28B.10.840 and 1985 c 370 s 57 are each amended to read as follows:

The term "institution of higher education" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean any public institution of higher education in Washington. The term "educational board" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean the state board for community and technical colleges ~~((education and the higher education coordinating board))~~.

**Sec. 142.** RCW 28B.12.030 and 2002 c 187 s 2 are each amended to read as follows:

As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "needy student" shall mean a student enrolled or accepted for enrollment at a ~~((post secondary))~~ postsecondary institution who, according to a system of need analysis approved by the ~~((higher education coordinating board))~~ office of student financial assistance, demonstrates a financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "eligible institution" shall mean any ~~((post secondary))~~ postsecondary institution in this state accredited by the Northwest Association of Schools and Colleges, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, or any public technical college in the state.

**Sec. 143.** RCW 28B.12.040 and 2009 c 560 s 21 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall develop and administer the state work-study program. The board shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the ~~((higher education coordinating board))~~ office may deem necessary or appropriate to carry out the purposes of this chapter.

With the exception of off-campus community service placements, the share from moneys disbursed under the state work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students.

By rule, the ~~((board))~~ office shall define community service placements and may determine any salary matching requirements for any community service employers.

**Sec. 144.** RCW 28B.12.050 and 1994 c 130 s 5 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall disburse state work-study funds. In performing its duties under this section, the ~~((board))~~ office shall consult eligible institutions and ~~((post secondary))~~ postsecondary education advisory and governing bodies. The ~~((board))~~ office shall establish criteria designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter.

**Sec. 145.** RCW 28B.12.055 and 2009 c 215 s 12 are each amended to read as follows:

(1) Within existing resources, the ~~((higher education coordinating board))~~ office of student financial assistance shall establish the work-study opportunity grant for high-demand occupations, a competitive grant program to encourage job placements in high-demand fields. The ~~((board))~~ office shall award grants to eligible institutions of higher education that have developed a partnership with a proximate organization willing to host work-study placements. Partner organizations may be nonprofit organizations, for-profit firms, or public agencies. Eligible institutions of higher education must verify that all job placements will last for a minimum of one academic quarter or one academic semester, depending on the system used by the eligible institution of higher education.

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(2) The ~~((board))~~ office may adopt rules to identify high-demand fields for purposes of this section. The legislature recognizes that the high-demand fields identified by the ~~((board))~~ office may differ in different regions of the state.

(3) The ~~((board))~~ office may award grants to eligible institutions of higher education that cover both student wages and program administration.

(4) The ~~((board))~~ office shall develop performance benchmarks regarding program success including, but not limited to, the number of students served, the amount of employer contributions, and the number of participating high-demand employers.

**Sec. 146.** RCW 28B.12.060 and 2009 c 172 s 1 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the ~~((state higher education))~~ administrative procedure act. Such rules shall include provisions designed to make employment under the work-study program reasonably available, to the extent of available funds, to all eligible needy students in eligible postsecondary institutions. The rules shall include:

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013, particularly former foster youth as defined in RCW 28B.92.060;

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

(4) To the extent practicable, limiting the proportion of state subsidy expended upon nonresident students to fifteen percent, or such less amount as specified in the biennial appropriations act;

(5) Provisions to assure that in the state institutions of higher education, utilization of this work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the director of personnel's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

(6) Provisions to encourage job placements in high employer demand occupations that meet Washington's economic development goals, including those in international trade and international relations. The ~~((board))~~ office shall permit appropriate job placements in other states and other countries.

**Sec. 147.** RCW 28B.12.070 and 1994 c 130 s 7 are each amended to read as follows:

Each eligible institution shall submit to the ~~((higher education coordinating board))~~ office of student financial assistance an annual report in accordance with such requirements as are adopted by the board.

**Sec. 148.** RCW 28B.15.012 and 2010 c 183 s 1 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is the spouse or a dependent of a person who is on active military duty stationed in the state. If the person on

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active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(i) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(j) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

(k) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(l) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(m) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (j) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States (~~citizen and~~) citizenship immigration services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules (~~and regulations~~) adopted by the (~~higher education coordinating board~~) office of student financial assistance and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the

calendar year prior to the year in which application is made and such other evidence as the board may require.

(6) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

**Sec. 149.** RCW 28B.15.013 and 1989 c 175 s 79 are each amended to read as follows:

(1) The establishment of a new domicile in the state of Washington by a person formerly domiciled in another state has occurred if such person is physically present in Washington primarily for purposes other than educational and can show satisfactory proof that such person is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Unless proven to the contrary it shall be presumed that:

(a) The domicile of any person shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(b) A person does not lose a domicile in the state of Washington by reason of residency in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas if that person returns to the state of Washington within one year of discharge from said service with the intent to be domiciled in the state of Washington; any resident dependent student who remains in this state when such student's parents, having theretofore been domiciled in this state for a period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution, remove from this state, shall be entitled to continued classification as a resident student so long as such student's attendance (except summer sessions) at an institution in this state is continuous.

(3) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington primarily for purposes other than educational, the rules and regulations adopted by the (~~higher education coordinating board~~) office of student financial assistance shall include but not be limited to the following:

(a) Registration or payment of Washington taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property owned or used by the person for which state registration or the payment of a state tax or fee is required will be a factor in considering evidence of the establishment of a Washington domicile.

(b) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(c) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(4) After a student has registered at an institution such student's classification shall remain unchanged in the absence of satisfactory evidence to the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect the semester or quarter such evidence was filed with the institution: PROVIDED, That applications for a change in

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classification shall be accepted up to the thirtieth calendar day following the first day of instruction of the quarter or semester for which application is made.

**Sec. 150.** RCW 28B.15.015 and 1985 c 370 s 64 are each amended to read as follows:

The (~~(higher education coordinating board, upon consideration of advice from representatives of the))~~ state's institutions, with the advice of the attorney general, shall adopt rules and regulations to be used by the state's institutions for determining a student's resident and nonresident status and for recovery of fees for improper classification of residency.

**Sec. 151.** RCW 28B.15.100 and 2011 c 274 s 5 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine. For the governing boards of the state universities, the regional universities, and The Evergreen State College, the total of all fees shall be rounded to the nearest whole dollar amount: PROVIDED, That such tuition fees shall be established in accordance with RCW 28B.15.067.

(2) Part-time students shall be charged tuition and services and activities fees proportionate to full-time student rates established for residents and nonresidents: PROVIDED, That except for students registered at community colleges, students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: PROVIDED FURTHER, That, subject to the limitations of RCW 28B.15.910, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be exempted from payment of all or a portion of the nonresident tuition fees differential upon a declaration by the (~~(higher education coordinating board))~~ office of student financial assistance that it finds Washington residents from the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the community colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine, doctor of pharmacy, or law, or who are registered exclusively in required courses in vocational preparatory programs.

**Sec. 152.** RCW 28B.15.543 and 2004 c 275 s 49 are each amended to read as follows:

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for students named by the (~~(higher education coordinating board))~~ office of student financial assistance on or before June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of waivers and may transfer among state-supported institutions of higher education during that

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period and continue to have the tuition and services and activities fees waived by the state-supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the (~~(higher education coordinating board))~~ office of student financial assistance which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(2) Students named by the (~~(higher education coordinating board))~~ office of student financial assistance after June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 shall be eligible to receive a grant for undergraduate course work as authorized under RCW 28B.76.660.

**Sec. 153.** RCW 28B.15.732 and 1985 c 370 s 70 are each amended to read as follows:

Prior to January 1<sup>st</sup> of each odd-numbered year the (~~(higher education coordinating board, in cooperation with the state board for community college education, and))~~ office of student financial assistance, in consultation with appropriate agencies and officials in the state of Oregon, shall determine for the purposes of RCW 28B.15.730 the number of students for whom nonresident tuition and fees have been waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made, and the aggregate amount of tuition and fees paid by residents of the other state. Should the (~~(board))~~ office of student financial assistance determine that the state of Oregon has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institutions in Oregon an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Oregon, minus twenty-five thousand dollars for each year of the biennium: PROVIDED, That appropriate officials in the state of Oregon agree to make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Oregon.

**Sec. 154.** RCW 28B.15.752 and 1985 c 370 s 74 are each amended to read as follows:

Prior to January 1<sup>st</sup> of each odd-numbered year, the (~~(higher education coordinating board, in cooperation with the state board for community college education and))~~ office of student financial assistance in consultation with appropriate agencies and officials in the state of Idaho, shall determine for the purposes of RCW 28B.15.750 the number of students for whom nonresident tuition and fees have been waived for the first academic year of the biennium and the fall term of the second academic year, and make an estimate of the number of such students for the remainder of the second academic year, and the difference between the aggregate amount of tuition and fees that would have been paid to the respective states by residents of the other state had such waivers not been made, and the aggregate amount of tuition and fees paid by residents of the other state. Should the (~~(board))~~ office of student financial assistance determine that the state of Idaho has experienced a greater net tuition and fee revenue loss than institutions in Washington, it shall pay from funds appropriated for this purpose to the appropriate agency or institution in Idaho an amount determined by subtracting the net tuition and fee revenue loss of Washington from the net tuition and fee revenue loss of Idaho, minus twenty-five thousand dollars for each year of the biennium if the appropriate officials in the state of Idaho agree to

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make similar restitution to the state of Washington should the net tuition and fee revenue loss in Washington be greater than that in Idaho.

**Sec. 155.** RCW 28B.15.760 and 2004 c 275 s 65 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 28B.15.762 and 28B.15.764.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is a member institution of an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Board" means the higher education coordinating board.

(3) "Eligible student" means a student registered for at least ten credit hours or the equivalent and demonstrates achievement of a 3.00 grade point average for each academic year, who is a resident student as defined by RCW 28B.15.012 through 28B.15.015, who is a "needy student" as defined in RCW 28B.92.030, and who has a declared major in a program leading to a degree in teacher education in a field of science or mathematics, or a certificated teacher who meets the same credit hour and "needy student" requirements and is seeking an additional degree in science or mathematics.

(4) "Public school" means a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(5) "Forgiven" or "to forgive" means to collect service as a teacher in a field of science or mathematics at a public school in the state of Washington in lieu of monetary payment.

(6) "Satisfied" means paid-in-full.

(7) "Borrower" means an eligible student who has received a loan under RCW 28B.15.762.

(8) "Office" means the office of student financial assistance.

**Sec. 156.** RCW 28B.15.762 and 1996 c 107 s 2 are each amended to read as follows:

(1) The ~~((board))~~ office may make long-term loans to eligible students at institutions of higher education from the funds appropriated to the ~~((board))~~ office for this purpose. The amount of any such loan shall not exceed the demonstrated financial need of the student or two thousand five hundred dollars for each academic year whichever is less, and the total amount of such loans to an eligible student shall not exceed ten thousand dollars. The interest rates and terms of deferral of such loans shall be consistent with the terms of the guaranteed loan program established by 20 U.S.C. Sec. 1701 et seq. The period for repaying the loan principal and interest shall be ten years with payments accruing quarterly commencing nine months from the date the borrower graduated. The entire principal and interest of each loan payment shall be forgiven for each payment period in which the borrower teaches science or mathematics in a public school in this state until the entire loan is satisfied or the borrower ceases to teach science or mathematics at a public school in this state. Should the borrower cease to teach science or mathematics at a public school in this state before the time in which the principal and interest on the loan are satisfied, payments on the unsatisfied portion of the principal and interest on the loan shall begin the next payment period and continue until the remainder of the loan is paid.

(2) The ~~((board))~~ office is responsible for collection of loans made under subsection (1) of this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that maximum repayments are made. Collection and servicing of loans under subsection (1) of this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The board is responsible to forgive all or parts of such loans under the criteria established in subsection (1) of this

section and shall maintain all necessary records of forgiven payments.

(3) Receipts from the payment of principal or interest or any other subsidies to which the board as lender is entitled, which are paid by or on behalf of borrowers under subsection (1) of this section, shall be deposited with the ~~((higher education coordinating board))~~ office and shall be used to cover the costs of making the loans under subsection (1) of this section, maintaining necessary records, and making collections under subsection (2) of this section. The ~~((board))~~ office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to make loans to eligible students.

(4) Any funds not used to make loans, or to cover the cost of making loans or making collections, shall be placed in the state educational trust fund for needy or disadvantaged students.

(5) The ~~((board))~~ office shall adopt necessary rules to implement this section.

**Sec. 157.** RCW 28B.50.272 and 2007 c 277 s 102 are each amended to read as follows:

(1) To be eligible for participation in the opportunity grant program established in RCW 28B.50.271, a student must:

(a) Be a Washington resident student as defined in RCW 28B.15.012 enrolled in an opportunity grant-eligible program of study;

(b) Have a family income that is at or below two hundred percent of the federal poverty level using the most current guidelines available from the United States department of health and human services, and be determined to have financial need based on the free application for federal student aid; and

(c) Meet such additional selection criteria as the college board shall establish in order to operate the program within appropriated funding levels.

(2) Upon enrolling, the student must provide evidence of commitment to complete the program. The student must make satisfactory progress and maintain a cumulative 2.0 grade point average for continued eligibility. If a student's cumulative grade point average falls below 2.0, the student may petition the institution of higher education of attendance. The qualified institution of higher education has the authority to establish a probationary period until such time as the student's grade point average reaches required standards.

(3) Subject to funds appropriated for this specific purpose, public qualified institutions of higher education shall receive an enhancement of one thousand five hundred dollars for each full-time equivalent student enrolled in the opportunity grant program whose income is below two hundred percent of the federal poverty level. The funds shall be used for individualized support services which may include, but are not limited to, college and career advising, tutoring, emergency child care, and emergency transportation. The qualified institution of higher education is expected to help students access all financial resources and support services available to them through alternative sources.

(4) The college board shall be accountable for student retention and completion of opportunity grant-eligible programs of study. It shall set annual performance measures and targets and monitor the performance at all qualified institutions of higher education. The college board must reduce funding at institutions of higher education that do not meet targets for two consecutive years, based on criteria developed by the college board.

(5) The college board and ~~((higher education coordinating board))~~ office of student financial assistance shall work together to ensure that students participating in the opportunity grant program are informed of all other state and federal financial aid to which they may be entitled while receiving an opportunity grant.

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(6) The college board and (~~higher education coordinating board~~) office of student financial assistance shall document the amount of opportunity grant assistance and the types and amounts of other sources of financial aid received by participating students. Annually, they shall produce a summary of the data.

(7) The college board shall:

(a) Begin developing the program no later than August 1, 2007, with student enrollment to begin no later than January 14, 2008; and

(b) Submit a progress report to the legislature by December 1, 2008.

(8) The college board may, in implementing the opportunity grant program, accept, use, and expend or dispose of contributions of money, services, and property. All such moneys received by the college board for the program must be deposited in an account at a depository approved by the state treasurer. Only the college board or a duly authorized representative thereof may authorize expenditures from this account. In order to maintain an effective expenditure and revenue control, the account is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditure of moneys in the account.

**Sec. 158.** RCW 28B.92.020 and 2003 c 19 s 11 are each amended to read as follows:

(1) The legislature finds that the (~~higher education coordinating board, in consultation with the~~) higher education community, has completed a review of the state need grant program. It is the intent of the legislature to endorse the (~~boards~~) proposed changes to the state need grant program, including:

(a) Reaffirmation that the primary purpose of the state need grant program is to assist low-income, needy, and disadvantaged Washington residents attending institutions of higher education;

(b) A goal that the base state need grant amount over time be increased to be equivalent to the rate of tuition charged to resident undergraduate students attending Washington state public colleges and universities;

(c) State need grant recipients be required to contribute a portion of the total cost of their education through self-help;

(d) State need grant recipients be required to document their need for dependent care assistance after taking into account other public funds provided for like purposes; and

(e) Institutional aid administrators be allowed to determine whether a student eligible for a state need grant in a given academic year may remain eligible for the ensuing year if the student's family income increases by no more than a marginal amount except for funds provided through the educational assistance grant program for students with dependents.

(2) The legislature further finds that the (~~higher education coordinating board, under its authority to implement the proposed~~) changes in subsection (1) of this section, should do so in a timely manner.

(3) The legislature also finds that:

(a) In most circumstances, need grant eligibility should not extend beyond five years or one hundred twenty-five percent of the published length of the program in which the student is enrolled or the credit or clock-hour equivalent; and

(b) State financial aid programs should continue to adhere to the principle that funding follows resident students to their choice of institution of higher education.

**Sec. 159.** RCW 28B.92.030 and 2009 c 238 s 7 and 2009 c 215 s 5 are each reenacted and amended to read as follows:

As used in this chapter:

(1) ("~~Board~~" means the higher education coordinating board.  
—(2)) "Disadvantaged student" means a (~~post high~~) posthigh school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full-time student in an

institution of higher education, who would otherwise qualify as a needy student, and who is attending an institution of higher education under an established program designed to qualify the student for enrollment as a full-time student.

((~~3~~)) (2) "Financial aid" means loans and/or grants to needy students enrolled or accepted for enrollment as a student at institutions of higher education.

((~~4~~)) (3) "Institution" or "institutions of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of an accrediting association recognized by rule of the board for the purposes of this section: PROVIDED, That any institution, branch, extension or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students: PROVIDED FURTHER, That no institution of higher education shall be eligible to participate in a student financial aid program unless it agrees to and complies with program rules and regulations adopted pursuant to RCW 28B.92.150.

((~~5~~)) (4) "Needy student" means a (~~post high~~) posthigh school student of an institution of higher education who demonstrates to the board the financial inability, either through the student's parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter. "Needy student" also means an opportunity internship graduate as defined by RCW 28C.18.162 who enrolls in a postsecondary program of study as defined in RCW 28C.18.162 within one year of high school graduation.

(5) "Office" means the office of student financial assistance.

(6) "Placebound student" means a student who (a) is unable to complete a college program because of family or employment commitments, health concerns, monetary inability, or other similar factors; and (b) may be influenced by the receipt of an enhanced student financial aid award to complete a baccalaureate degree at an eligible institution.

**Sec. 160.** RCW 28B.92.040 and 2004 c 275 s 36 are each amended to read as follows:

The (~~board~~) office shall be cognizant of the following guidelines in the performance of its duties:

(1) The (~~board~~) office shall be research oriented, not only at its inception but continually through its existence.

(2) The (~~board~~) office shall coordinate all existing programs of financial aid except those specifically dedicated to a particular institution by the donor.

(3) The (~~board~~) office shall take the initiative and responsibility for coordinating all federal student financial aid programs to ensure that the state recognizes the maximum potential effect of these programs, and shall design state programs that complement existing federal, state, and institutional programs. The (~~board~~) office shall ensure that state programs continue to follow the principle that state financial aid funding follows the student to the student's choice of institution of higher education.

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(4) Counseling is a paramount function of the state need grant and other state student financial aid programs, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid programs shall be concerned with the attainment of those goals which, in the judgment of the ((board)) office, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptual element of the state's involvement.

(6) The ((board)) office shall ensure that allocations of state appropriations for financial aid are made to individuals and institutions in a timely manner and shall closely monitor expenditures to avoid under or overexpenditure of appropriated funds.

**Sec. 161.** RCW 28B.92.050 and 1999 c 345 s 4 are each amended to read as follows:

The ((board)) office shall have the following powers and duties:

(1) Conduct a full analysis of student financial aid as a means of:

(a) Fulfilling educational aspirations of students of the state of Washington, and

(b) Improving the general, social, cultural, and economic character of the state.

Such an analysis will be a continuous one and will yield current information relevant to needed improvements in the state program of student financial aid. The ((board)) office will disseminate the information yielded by their analyses to all appropriate individuals and agents.

(2) Design a state program of student financial aid based on the data of the study referred to in this section. The state programs will supplement available federal and local aid programs. The state programs of student financial aid will not exceed the difference between the budgetary costs of attending an institution of higher education and the student's total resources, including family support, personal savings, employment, and federal, state, and local aid programs.

(3) Determine and establish criteria for financial need of the individual applicant based upon the consideration of that particular applicant. In making this determination the ((board)) office shall consider the following:

(a) Assets and income of the student.

(b) Assets and income of the parents, or the individuals legally responsible for the care and maintenance of the student.

(c) The cost of attending the institution the student is attending or planning to attend.

(d) Any other criteria deemed relevant to the ((board)) office.

(4) Set the amount of financial aid to be awarded to any individual needy or disadvantaged student in any school year.

(5) Award financial aid to needy or disadvantaged students for a school year based upon only that amount necessary to fill the financial gap between the budgetary cost of attending an institution of higher education and the family and student contribution.

(6) Review the need and eligibility of all applications on an annual basis and adjust financial aid to reflect changes in the financial need of the recipients and the cost of attending the institution of higher education.

**Sec. 162.** RCW 28B.92.060 and 2009 c 215 s 4 are each amended to read as follows:

In awarding need grants, the ((board)) office shall proceed substantially as follows: PROVIDED, That nothing contained herein shall be construed to prevent the ((board)) office, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The ((board)) office shall annually select the financial aid award recipients from among Washington residents applying for student financial aid who have been ranked according to:

(a) Financial need as determined by the amount of the family contribution; and

(b) Other considerations, such as whether the student is a former foster youth, or is a placebound student who has completed an associate of arts or associate of science degree or its equivalent.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until disbursed, except that eligible former foster youth shall be assured receipt of a grant.

(3) A student shall be eligible to receive a state need grant for up to five years, or the credit or clock hour equivalent of five years, or up to one hundred twenty-five percent of the published length of time of the student's program. A student may not start a new associate degree program as a state need grant recipient until at least five years have elapsed since earning an associate degree as a need grant recipient, except that a student may earn two associate degrees concurrently. Qualifications for renewal will include maintaining satisfactory academic progress toward completion of an eligible program as determined by the ((board)) office. Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds, except as provided in RCW 28B.92.070.

(4) In computing financial need, the ((board)) office shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. Any child support payments received by students who are parents attending less than half-time shall not be used in computing financial need.

(5)(a) A student who is enrolled in three to six credit-bearing quarter credits, or the equivalent semester credits, may receive a grant for up to one academic year before beginning a program that leads to a degree or certificate.

(b) An eligible student enrolled on a less-than-full-time basis shall receive a prorated portion of his or her state need grant for any academic period in which he or she is enrolled on a less-than-full-time basis, as long as funds are available.

(c) An institution of higher education may award a state need grant to an eligible student enrolled in three to six credit-bearing quarter credits, or the semester equivalent, on a provisional basis if:

(i) The student has not previously received a state need grant from that institution;

(ii) The student completes the required free application for federal student aid;

(iii) The institution has reviewed the student's financial condition, and the financial condition of the student's family if the student is a dependent student, and has determined that the student is likely eligible for a state need grant; and

(iv) The student has signed a document attesting to the fact that the financial information provided on the free application for federal student aid and any additional financial information provided directly to the institution is accurate and complete, and that the student agrees to repay the institution for the grant amount if the student submitted false or incomplete information.

(6) As used in this section, "former foster youth" means a person who is at least eighteen years of age, but not more than twenty-four

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years of age, who was a dependent of the department of social and health services at the time he or she attained the age of eighteen.

**Sec. 163.** RCW 28B.92.084 and 2009 c 238 s 8 are each amended to read as follows:

(1) The ~~((board))~~ office shall work with institutions of higher education to assure that the institutions are aware of the eligibility of opportunity internship graduates for an award under this chapter.

(2) If an opportunity internship graduate enrolls within one year of high school graduation in a postsecondary program of study in an institution of higher education, including in an apprenticeship program with related and supplemental instruction provided through an institution of higher education, the graduate is eligible to receive a state need grant for up to one year. The graduate shall not be required to be enrolled on at least a half-time basis. The related and supplemental instruction provided to a graduate through an apprenticeship program shall not be required to lead to a degree or certificate.

(3) Except for the eligibility criteria for an opportunity internship graduate that are provided under this section, other rules pertaining to award of a state need grant apply.

(4) Nothing in this section precludes an opportunity internship graduate from being eligible to receive additional state need grants after the one-year grant provided in this section if the graduate meets other criteria as a needy or disadvantaged student.

**Sec. 164.** RCW 28B.92.120 and 2004 c 275 s 41 are each amended to read as follows:

Funds appropriated for student financial assistance to be granted pursuant to this chapter shall be disbursed as determined by the ~~((board))~~ office.

**Sec. 165.** RCW 28B.92.130 and 2004 c 275 s 42 are each amended to read as follows:

The ~~((board))~~ office shall be authorized to accept grants, gifts, bequests, and devises of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state.

**Sec. 166.** RCW 28B.92.140 and 1997 c 269 s 1 are each amended to read as follows:

The state educational trust fund is hereby established in the state treasury. The primary purpose of the trust is to pledge statewide available college student assistance to needy or disadvantaged students, especially middle and high school youth, considered at-risk of dropping out of secondary education who participate in ~~((board-))~~ approved early awareness and outreach programs and who enter any accredited Washington institution of postsecondary education within two years of high school graduation.

The ~~((board))~~ office shall deposit refunds and recoveries of student financial aid funds expended in prior fiscal periods in such account. The ~~((board))~~ office may also deposit moneys that have been contributed from other state, federal, or private sources.

Expenditures from the fund shall be for financial aid to needy or disadvantaged students. The ~~((board))~~ office may annually expend such sums from the fund as may be necessary to fulfill the purposes of this section, including not more than three percent for the costs to administer aid programs supported by the fund. All earnings of investments of balances in the state educational trust fund shall be credited to the trust fund. Expenditures from the fund shall not be subject to appropriation but are subject to allotment procedures under chapter 43.88 RCW.

**Sec. 167.** RCW 28B.92.150 and 2004 c 275 s 43 are each amended to read as follows:

The ~~((board))~~ office shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act.

**Sec. 168.** RCW 28B.95.020 and 2007 c 405 s 8 are each amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the board from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) ~~((Board))~~ "Office" means the ~~((higher education coordinating board))~~ office of student financial assistance as defined in chapter 28B.76 RCW.

(4) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the ~~((executive))~~ director of the ~~((higher education coordinating board))~~ office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(5) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(7) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

(8) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

(9) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(12) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(13) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

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(14) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

(15) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

**Sec. 169.** RCW 28B.95.025 and 2000 c 14 s 2 are each amended to read as follows:

The ~~((board))~~ office shall maintain appropriate offices and employ and fix compensation of such personnel as may be necessary to perform the advanced college tuition payment program duties. The ~~((board))~~ office shall consult with the governing body on the selection, compensation, and other issues relating to the employment of the program director. The positions are exempt from classified service under chapter 41.06 RCW. The employees shall be employees of the ~~((higher education coordinating board))~~ office.

**Sec. 170.** RCW 28B.95.030 and 2005 c 272 s 2 are each amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the ~~((executive))~~ director of the ~~((board))~~ office. The committee shall be supported by staff of the ~~((board))~~ office.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit. Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit.

(7) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(8) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

**Sec. 171.** RCW 28B.95.040 and 1997 c 289 s 4 are each amended to read as follows:

The governing body may, at its discretion, allow an organization to purchase tuition units for future use as scholarships. Such organizations electing to purchase tuition units for this purpose must enter into a contract with the governing body which, at a minimum, ensures that the scholarship shall be freely given by the purchaser to a scholarship recipient. For such purchases, the purchaser need not name a beneficiary until four months before the date when the tuition units are first expected to be used.

The governing body shall formulate and adopt such rules as are necessary to determine which organizations may qualify to purchase tuition units for scholarships under this section. The governing

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body also may consider additional rules for the use of tuition units if purchased as scholarships.

The governing body may establish a scholarship fund with moneys from the Washington advanced college tuition payment program account. A scholarship fund established under this authority shall be administered by the (~~higher education coordinating board~~) office and shall be provided to students who demonstrate financial need. Financial need is not a criterion that any other organization need consider when using tuition units as scholarships. The (~~board~~) office also may establish its own corporate-sponsored scholarship fund under this chapter.

**Sec. 172.** RCW 28B.95.060 and 2007 c 214 s 13 are each amended to read as follows:

(1) The Washington advanced college tuition payment program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2)(a) Except as provided in (b) of this subsection, the governing body shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of payments received from purchasers of tuition units and funds received from other sources, public or private. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration shall include, but not be limited to: The salaries and expenses of the program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for program promotion and advertisement, audits, and account management; and other general costs of conducting the business of the program.

(b) All money received by the program from the (~~higher education coordinating board~~) office for the GET ready for math and science scholarship program shall be deposited in the GET ready for math and science scholarship account created in RCW 28B.105.110.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington advanced college tuition payment program. Disbursements from the account shall be made only on the authorization of the governing body.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore the assets of the program are not considered state money, common cash, or revenue to the state.

**Sec. 173.** RCW 28B.95.160 and 2007 c 214 s 12 are each amended to read as follows:

Ownership of tuition units purchased by the (~~higher education coordinating board~~) office for the GET ready for math and science scholarship program under RCW 28B.105.070 shall be in the name of the state of Washington and may be redeemed by the state of Washington on behalf of recipients of GET ready for math and science scholarship program scholarships for tuition and fees.

**Sec. 174.** RCW 28B.97.010 and 2009 c 215 s 13 are each amended to read as follows:

(1) The Washington higher education loan program is created. The program is created to assist students in need of additional low-cost student loans and related loan benefits.

(2) The program shall be administered by the (~~board~~) office. In administering the program, the (~~board~~) office must:

(a) Periodically assess the needs and target the benefits to selected students;

(b) Devise a program to address the following issues related to loans:

(i) Issuance of low-interest educational loans;

(ii) Determining loan repayment obligations and options;

(iii) Borrowing educational loans at low interest rates;

(iv) Developing conditional loans that can be forgiven in exchange for service; and

(v) Creating an emergency loan fund to help students until other state and federal long-term financing can be secured;

(c) Accept public and private contributions;

(d) Publicize the program; and

(e) Work with public and private colleges and universities, the state board for community and technical colleges, the workforce training and education coordinating board, and with students, to conduct periodic assessment of program needs. The (~~board~~) office may also consult with other groups and individuals as needed.

**Sec. 175.** RCW 28B.97.020 and 2009 c 215 s 14 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (~~"Board" means the higher education coordinating board.~~

~~(2))~~ "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the board.

(2) "Office" means the office of student financial assistance.

(3) "Program" means the Washington higher education loan program.

(4) "Resident student" has the definition in RCW 28B.15.012(2) (a) through (d).

**Sec. 176.** RCW 28B.102.020 and 2004 c 58 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders service as a teacher in an approved education program in this state.

(2) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the council for higher education (~~coordinating board~~).

(3) (~~"Board"~~) "Office" means the (~~higher education coordinating board~~) office of student financial assistance.

(4) "Eligible student" means a student who is registered for at least six credit hours or the equivalent, demonstrates high academic achievement, is a resident student as defined by RCW 28B.15.012 and 28B.15.013, and has a declared intention to complete an approved preparation program leading to initial teacher certification or required for earning an additional endorsement, and commits to teaching service in the state of Washington.

(5) "Public school" means an elementary school, a middle school, junior high school, or high school within the public school system referred to in Article IX of the state Constitution.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render service as a teacher in an approved education program in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship or loan repayment under this chapter.

(9) "Loan repayment" means a federal student loan that is repaid in whole or in part if the recipient renders service as a teacher in an approved education program in Washington state.

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(10) "Approved education program" means an education program in the state of Washington for knowledge and skills generally learned in preschool through twelfth grade. Approved education programs may include but are not limited to:

(a) K-12 schools under Title 28A RCW; or

(b) Other K-12 educational sites in the state of Washington as designated by the board.

(11) "Equalization fee" means the additional amount added to the principal of a loan under this chapter to equate the debt to that which the student would have incurred if the loan had been received through the federal subsidized Stafford student loan program.

(12) "Teacher shortage area" means a shortage of elementary or secondary school teachers in a specific subject area, discipline, classification, or geographic area as defined by the office of the superintendent of public instruction.

**Sec. 177.** RCW 28B.102.030 and 2004 c 58 s 3 are each amended to read as follows:

The future teachers conditional scholarship and loan repayment program is established. The program shall be administered by the ~~((higher education coordinating board))~~ office. In administering the program, the board shall have the following powers and duties:

(1) Select students to receive conditional scholarships or loan repayments;

(2) Adopt necessary rules and guidelines;

(3) Publicize the program;

(4) Collect and manage repayments from students who do not meet their teaching obligations under this chapter; and

(5) Solicit and accept grants and donations from public and private sources for the program.

**Sec. 178.** RCW 28B.102.040 and 2008 c 170 s 306 are each amended to read as follows:

(1) The ~~((board))~~ office may select participants based on an application process conducted by the ~~((board))~~ office or the ~~((board))~~ office may utilize selection processes for similar students in cooperation with the professional educator standards board or the office of the superintendent of public instruction.

(2) If the ~~((board))~~ office selects participants for the program, it shall establish a selection committee for screening and selecting recipients of the conditional scholarships. The criteria shall emphasize factors demonstrating excellence including but not limited to superior scholastic achievement, leadership ability, community contributions, bilingual ability, willingness to commit to providing teaching service in shortage areas, and an ability to act as a role model for students. Priority will be given to individuals seeking certification or an additional endorsement in math, science, technology education, agricultural education, business and marketing education, family and consumer science education, or special education.

**Sec. 179.** RCW 28B.102.050 and 2004 c 58 s 6 are each amended to read as follows:

The ~~((board))~~ office may award conditional scholarships or provide loan repayments to eligible participants from the funds appropriated to the ~~((board))~~ office for this purpose, or from any private donations, or any other funds given to the ~~((board))~~ office for this program. The amount of the conditional scholarship or loan repayment awarded an individual shall not exceed the amount of tuition and fees at the institution of higher education attended by the participant or resident undergraduate tuition and fees at the University of Washington per academic year for a full-time student, whichever is lower. Participants are eligible to receive conditional scholarships or loan repayments for a maximum of five years.

**Sec. 180.** RCW 28B.102.055 and 2004 c 58 s 8 are each amended to read as follows:

(1) Upon documentation of federal student loan indebtedness, the ~~((board))~~ office may enter into agreements with participants to

repay all or part of a federal student loan in exchange for teaching service in an approved educational program. The ratio of loan repayment to years of teaching service for the loan repayment program shall be the same as established for the conditional scholarship program.

(2) The agreement shall specify the period of time it is in effect and detail the obligations of the ~~((board))~~ office and the participant, including the amount to be paid to the participant. The agreement may also specify the geographic location and subject matter area of teaching service for which loan repayment will be provided.

(3) At the end of each school year, a participant under this section shall provide evidence to the ~~((board))~~ office that the requisite teaching service has been provided. Upon receipt of the evidence, the ~~((board))~~ office shall pay the participant the agreed-upon amount for one year of full-time teaching service or a prorated amount for less than full-time teaching service. To qualify for additional loan repayments, the participant must be engaged in continuous teaching service as defined by the ~~((board))~~ office.

(4) The ~~((board))~~ office may, at its discretion, arrange to make the loan repayment directly to the holder of the participant's federal student loan.

(5) The ~~((board's))~~ office's obligations to a participant under this section shall cease when:

(a) The terms of the agreement have been fulfilled;

(b) The participant fails to maintain continuous teaching service as determined by the ~~((board))~~ office; or

(c) All of the participant's federal student loans have been repaid.

(6) The ~~((board))~~ office shall adopt rules governing loan repayments, including approved leaves of absence from continuous teaching service and other deferments as may be necessary.

**Sec. 181.** RCW 28B.102.060 and 2011 c 26 s 4 are each amended to read as follows:

(1) Participants in the conditional scholarship program incur an obligation to repay the conditional scholarship, with interest and an equalization fee, unless they teach for two years in an approved education program for each year of scholarship received, under rules adopted by the ~~((board))~~ office. Participants who teach in a designated teacher shortage area shall have one year of loan canceled for each year they teach in the shortage area.

(2) The interest rate shall be determined by the ~~((board))~~ office. Participants who fail to complete the teaching service shall incur an equalization fee based on the remaining unforgiven balance of the loan. The equalization fee shall be added to the remaining balance and repaid by the participant.

(3) The minimum payment shall be set by the ~~((board))~~ office. The maximum period for repayment shall be ten years, with payments of principal and interest commencing six months from the date the participant completes or discontinues the course of study. The interest rate shall be determined by the ~~((board))~~ office and be established by rule. Provisions for deferral of payment shall be determined by the ~~((board))~~ office. The ~~((board))~~ office shall establish an appeal process by rule.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant teaches in an approved education program until the entire repayment obligation is satisfied. Should the participant cease to teach in an approved education program in this state before the participant's repayment obligation is completed, payments on the unsatisfied portion of the principal and interest shall begin the next payment period and continue until the remainder of the participant's repayment obligation is satisfied.

(5) The ~~((board))~~ office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to insure that

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maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary. The ~~((board))~~ office is responsible to forgive all or parts of such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(6) Receipts from the payment of principal or interest or any other subsidies to which the ~~((board))~~ office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited in the future teachers conditional scholarship account and shall be used to cover the costs of granting the conditional scholarships, maintaining necessary records, and making collections under subsection (5) of this section. The ~~((board))~~ office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant conditional scholarships to eligible students.

(7) The ~~((board))~~ office shall adopt rules to define the terms of repayment, including applicable interest rates, fees, and deferments.

**Sec. 182.** RCW 28B.102.080 and 2010 1st sp.s. c 37 s 917 are each amended to read as follows:

(1) The future teachers conditional scholarship account is created in the custody of the state treasurer. An appropriation is not required for expenditures of funds from the account. The account is not subject to allotment procedures under chapter 43.88 RCW except for moneys used for program administration.

(2) The ~~((board))~~ office shall deposit in the account all moneys received for the future teachers conditional scholarship and loan repayment program and for conditional loan programs under chapter 28A.660 RCW. The account shall be self-sustaining and consist of funds appropriated by the legislature for the future teachers conditional scholarship and loan repayment program, private contributions to the program, receipts from participant repayments from the future teachers conditional scholarship and loan repayment program, and conditional loan programs established under chapter 28A.660 RCW. Beginning July 1, 2004, the ~~((board))~~ office shall also deposit into the account: (a) All funds from the institution of higher education loan account that are traceable to any conditional scholarship program for teachers or prospective teachers established by the legislature before June 10, 2004; and (b) all amounts repaid by individuals under any such program.

(3) Expenditures from the account may be used solely for conditional loans and loan repayments to participants in the future teachers conditional scholarship and loan repayment program established by this chapter, conditional scholarships for participants in programs established in chapter 28A.660 RCW, and costs associated with program administration by the ~~((board))~~ office.

(4) Disbursements from the account may be made only on the authorization of the ~~((board))~~ office.

(5) During the 2009-2011 fiscal biennium, the legislature may transfer from the future teachers conditional scholarship account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 183.** RCW 28B.105.020 and 2007 c 214 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~("Board" means the higher education coordinating board.~~  
~~(2))~~ "GET units" means tuition units under the advanced college tuition payment program in chapter 28B.95 RCW.

~~((3))~~ (2) "Institution of higher education" has the same meaning as in RCW 28B.92.030.

(3) "Office" means the office of student financial assistance.

(4) "Program administrator" means the private nonprofit corporation that is registered under Title 24 RCW and qualified as a

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tax-exempt entity under section 501(c)(3) of the federal internal revenue code, that will serve as the private partner in the public-private partnership under this chapter.

(5) "Qualified program" or "qualified major" means a mathematics, science, or related degree program or major line of study offered by an institution of higher education that is included on the list of programs or majors selected by the board and the program administrator under RCW 28B.105.100.

**Sec. 184.** RCW 28B.105.040 and 2007 c 214 s 4 are each amended to read as follows:

(1) If the student enrolls in a qualified program or declares a qualified major and the program or major is subsequently removed from the list of qualified programs and qualified majors by the ~~((board))~~ office and the program administrator, the student's eligibility to receive a GET ready for math and science scholarship shall not be affected.

(2) If a student who received a GET ready for math and science scholarship ceases to be enrolled in an institution of higher education, withdraws or is no longer enrolled in a qualified program, declares a major that is not a qualified major, or otherwise is no longer eligible to receive a GET ready for math and science scholarship, the student shall notify the program administrator as soon as practicable and is not eligible for further GET ready for math and science scholarship awards. Such a student shall also repay the amount of the GET ready for math and science scholarship awarded to the student as required by RCW 28B.105.050.

**Sec. 185.** RCW 28B.105.050 and 2007 c 214 s 5 are each amended to read as follows:

(1) A recipient of a GET ready for math and science scholarship incurs an obligation to repay the scholarship, with interest and an equalization fee, if he or she does not:

(a) Graduate with a bachelor's degree from a qualified program or in a qualified major within five years of first enrolling at an institution of higher education; and

(b) Work in Washington in a mathematics, science, or related occupation full time for at least three years following completion of a bachelor's degree, unless he or she is enrolled in a graduate degree program as provided in subsection (4) of this section.

(2) A former scholarship recipient who has earned a bachelor's degree shall annually verify to the ~~((board))~~ office that he or she is working full time in a mathematics, science, or related field for three years.

(3) If a former scholarship recipient begins but then stops working full time in a mathematics, science, or related field within three years following completion of a bachelor's degree, he or she shall pay back a prorated portion of the amount of the GET ready for math and science scholarship award received by the recipient, plus interest and a prorated equalization fee.

(4) A recipient may postpone for up to three years his or her in-state work obligation if he or she enrolls full time in a graduate degree program in mathematics, science, or a related field.

**Sec. 186.** RCW 28B.105.070 and 2007 c 214 s 7 are each amended to read as follows:

The ~~((board))~~ office shall:

(1) Purchase GET units to be owned and held in trust by the ~~((board))~~ office, for the purpose of scholarship awards as provided for in this section;

(2) Distribute scholarship funds, in the form of GET units or through direct payments from the GET ready for math and science scholarship account, to institutions of higher education on behalf of eligible recipients identified by the program administrator;

(3) Provide the program administrator with annual reports regarding enrollment, contact, and graduation information of GET ready for math and science scholarship recipients, if the recipients have given permission for the ~~((board))~~ office to do so;

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(4) Collect repayments from former scholarship recipients who do not meet the eligibility criteria or work obligations;

(5) Establish rules for scholarship repayment, approved leaves of absence, deferments, and exceptions to recognize extenuating circumstances that may impact students; and

(6) Provide information to school districts in Washington, at least once per year, about the GET ready for math and science scholarship program.

**Sec. 187.** RCW 28B.105.100 and 2007 c 214 s 10 are each amended to read as follows:

The ~~((board))~~ office and the program administrator shall jointly:

(1) Determine criteria for qualifying undergraduate programs, majors, and courses leading to a bachelor's degree in mathematics, science, or a related field, offered by institutions of higher education. The ~~((board))~~ office shall publish the criteria for qualified courses, and lists of qualified programs and qualified majors, on its web site on a biennial basis; and

(2) Establish criteria for selecting among eligible applicants those who, without scholarship assistance, would be least likely to pursue a qualified undergraduate program at an institution of higher education in Washington state.

**Sec. 188.** RCW 28B.105.110 and 2010 1st sp.s. c 37 s 918 are each amended to read as follows:

(1) The GET ready for math and science scholarship account is created in the custody of the state treasurer.

(2) The ~~((board))~~ office shall deposit into the account all money received for the GET ready for math and science scholarship program from appropriations and private sources. The account shall be self-sustaining.

(3) Expenditures from the account shall be used for scholarships to eligible students and for purchases of GET units. Purchased GET units shall be owned and held in trust by the ~~((board))~~ office. Expenditures from the account shall be an equal match of state appropriations and private funds raised by the program administrator. During the 2009-2011 fiscal biennium, expenditures from the account not to exceed five percent may be used by the program administrator to carry out the provisions of RCW 28B.105.090.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the ~~((board))~~ office.

~~(7) ((During the 2007-2009 fiscal biennium, the legislature may transfer state appropriations to the GET ready for math and science scholarship account that have not been matched by private contributions to the state general fund.~~

~~—(8))~~ During the 2009-2011 fiscal biennium, the legislature may transfer from the GET ready for math and science scholarship account to the state general fund such amounts as have not been donated from or matched by private contributions.

**Sec. 189.** RCW 28B.106.010 and 1988 c 125 s 9 are each amended to read as follows:

The following definitions shall apply throughout this chapter, unless the context clearly indicates otherwise:

(1) "College savings bonds" or "bonds" are Washington state general obligation bonds, issued under the authority of and in accordance with this chapter.

(2) ~~((("Board"))~~ "Office" means the ~~((higher education coordinating board))~~ office of student financial assistance, or any successor thereto.

**Sec. 190.** RCW 28B.106.070 and 1988 c 125 s 16 are each amended to read as follows:

The ~~((board))~~ office and the state finance committee shall create and implement marketing strategies and educational programs designed to publicize the college savings bond program to Washington residents.

**Sec. 191.** RCW 28B.108.010 and 2004 c 275 s 69 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Institution of higher education" or "institution" means a college or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the council for higher education ~~((coordinating board))~~.

(2) ~~((("Board"))~~ "Office" means the ~~((higher education coordinating board))~~ office of student financial assistance.

(3) "Eligible student" or "student" means an American Indian who is a financially needy student, as defined in RCW 28B.92.030, who is a resident student, as defined by RCW 28B.15.012(2), who is a full-time student at an institution of higher education, and who promises to use his or her education to benefit other American Indians.

**Sec. 192.** RCW 28B.108.020 and 2009 c 259 s 1 are each amended to read as follows:

The American Indian endowed scholarship program is created. The program shall be administered by the ~~((higher education coordinating board))~~ office. In administering the program, the board's powers and duties shall include but not be limited to:

(1) Selecting students to receive scholarships, with the assistance of a screening committee composed of persons involved in helping American Indian students to obtain a higher education. The membership of the committee may include, but is not limited to representatives of: Indian tribes, urban Indians, the governor's office of Indian affairs, the Washington state Indian education association, and institutions of higher education;

(2) Adopting necessary rules and guidelines;

(3) Publicizing the program;

(4) Accepting and depositing donations into the endowment fund created in RCW 28B.108.060;

(5) Requesting from the state investment board and accepting from the state treasurer moneys earned from the endowment fund created in RCW 28B.108.060;

(6) Soliciting and accepting grants and donations from public and private sources for the program; and

(7) Naming scholarships in honor of those American Indians from Washington who have acted as role models.

**Sec. 193.** RCW 28B.108.030 and 1991 c 228 s 11 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office shall establish an advisory committee to assist in program design and to develop criteria for the screening and selection of scholarship recipients. The committee shall be composed of representatives of the same groups as the screening committee described in RCW 28B.108.020. The criteria shall assess the student's social and cultural ties to an American Indian community within the state. The criteria shall include a priority for upper-division or graduate students. The criteria may include a priority for students who are majoring in program areas in which expertise is needed by the state's American Indians.

**Sec. 194.** RCW 28B.108.060 and 2009 c 259 s 2 are each amended to read as follows:

The American Indian scholarship endowment fund is created in the custody of the state treasurer. The investment of the endowment fund shall be managed by the state investment board.

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Funds appropriated by the legislature for the endowment fund must be deposited into the fund.

(1) Moneys received from the ~~((higher education coordinating board)) office~~, private donations, state moneys, and funds received from any other source may be deposited into the endowment fund. Private moneys received as a gift subject to conditions may be deposited into the fund.

(2) At the request of the ~~((higher education coordinating board)) office~~, the state investment board shall release earnings from the endowment fund to the state treasurer. The state treasurer shall then release those funds at the request of the ~~((higher education coordinating board)) office~~ for scholarships. No appropriation is required for expenditures from the endowment fund.

(3) When notified by the ~~((higher education coordinating board)) office~~ that a condition attached to a gift of private moneys in the fund has failed, the state investment board shall release those moneys to the ~~((higher education coordinating board)) office~~. The ~~((higher education coordinating board)) office~~ shall then release the moneys to the donors according to the terms of the conditional gift.

(4) The principal of the endowment fund shall not be invaded. The release of moneys under subsection (3) of this section shall not constitute an invasion of corpus.

(5) The earnings on the fund shall be used solely for the purposes set forth in RCW 28B.108.040, except when the terms of a conditional gift of private moneys in the fund require that a portion of earnings on such moneys be reinvested in the fund.

**Sec. 195.** RCW 28B.109.010 and 1996 c 253 s 401 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ~~("Board" means the higher education coordinating board.~~  
~~—(2))~~ "Eligible participant" means an international student whose country of residence has a trade relationship with the state of Washington.

~~((3))~~ (2) "Institution of higher education" or "institution" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the board.

(3) "Office" means the office of student financial assistance.

(4) "Service obligation" means volunteering for a minimum number of hours as established by the board based on the amount of scholarship award, to speak to or teach groups of Washington citizens, including but not limited to elementary, middle, and high schools, service clubs, and universities.

(5) "Washington international exchange scholarship program" means a scholarship award for a period not to exceed one academic year to attend a Washington institution of higher education made to an international student whose country has an established trade relationship with Washington.

**Sec. 196.** RCW 28B.109.020 and 1996 c 253 s 402 are each amended to read as follows:

The Washington international exchange scholarship program is created subject to funding under RCW 28B.109.060. The program shall be administered by the ~~((board)) office~~. In administering the program, the ~~((board)) office~~ may:

(1) Convene an advisory committee that may include but need not be limited to representatives of the office of the superintendent of public instruction, the department of ~~((community, trade, and economic development)) commerce~~, the secretary of state, private business, and institutions of higher education;

(2) Select students to receive the scholarship with the assistance of a screening committee composed of leaders in business, international trade, and education;

(3) Adopt necessary rules and guidelines including rules for disbursing scholarship funds to participants;

(4) Publicize the program;

(5) Solicit and accept grants and donations from public and private sources for the program;

(6) Establish and notify participants of service obligations; and

(7) Establish a formula for selecting the countries from which participants may be selected in consultation with the \*department of community, trade, and economic development.

**Sec. 197.** RCW 28B.109.030 and 1996 c 253 s 403 are each amended to read as follows:

The ~~((board)) office~~ may negotiate and enter into a reciprocal agreement with foreign countries that have international students attending institutions in Washington. The goal of the reciprocal agreements shall be to allow Washington students enrolled in an institution of higher education to attend an international institution under similar terms and conditions.

**Sec. 198.** RCW 28B.109.040 and 1996 c 253 s 404 are each amended to read as follows:

If funds are available, the ~~((board)) office~~ shall select students yearly to receive a Washington international exchange student scholarship from moneys earned from the Washington international exchange scholarship endowment fund created in RCW 28B.109.060, from funds appropriated to the ~~((board)) office~~ for this purpose, or from any private donations, or from any other funds given to the ~~((board)) office~~ for this program.

**Sec. 199.** RCW 28B.109.050 and 1996 c 253 s 405 are each amended to read as follows:

The Washington international exchange trust fund is established in the custody of the state treasurer. Any funds appropriated by the legislature for the trust fund shall be deposited into the fund. At the request of the ~~((board)) office~~, and when conditions set forth in RCW 28B.109.070 are met, the treasurer shall deposit state matching moneys from the Washington international exchange trust fund into the Washington international exchange scholarship endowment fund. No appropriation is required for expenditures from the trust fund.

**Sec. 200.** RCW 28B.109.060 and 1996 c 253 s 406 are each amended to read as follows:

The Washington international exchange scholarship endowment fund is established in the custody of the state treasurer. Moneys received from the private donations and funds received from any other source may be deposited into the endowment fund. At the request of the ~~((board)) office~~, the treasurer shall release earnings from the endowment fund to the ~~((board)) office~~ for scholarships. No appropriation is required for expenditures from the endowment fund. The principal of the endowment fund shall not be invaded. The earnings on the fund shall be used solely for the purposes in this chapter.

**Sec. 201.** RCW 28B.109.070 and 1996 c 253 s 407 are each amended to read as follows:

The ~~((board)) office~~ may request that the treasurer deposit state matching funds into the Washington international exchange scholarship endowment fund when the ~~((board)) office~~ can match the state funds with an equal amount of private cash donations, including conditional gifts.

**Sec. 202.** RCW 28B.109.080 and 1996 c 253 s 408 are each amended to read as follows:

Each Washington international exchange scholarship recipient shall agree to complete the service obligation as defined by the ~~((board)) office~~.

**Sec. 203.** RCW 28B.110.040 and 1997 c 5 s 5 are each amended to read as follows:

The executive director of the higher education coordinating board, in consultation with the council of presidents and the state board for community and technical colleges, shall monitor the compliance by institutions of higher education with this chapter.

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(1) The board shall establish a timetable and guidelines for compliance with this chapter.

(2) By November 30, 1990, each institution shall submit to the board for approval a plan to comply with the requirements of RCW 28B.110.030. The plan shall contain measures to ensure institutional compliance with the provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

~~(3) (The board shall report every four years, beginning December 31, 1998, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance. This report may be combined with the report required in RCW 28B.15.465.~~

~~(4))~~ The board may delegate to the state board for community and technical colleges any or all responsibility for community college compliance with the provisions of this chapter.

**Sec. 204.** RCW 28B.115.020 and 2011 c 26 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) (~~"Board"~~) "Office" means the (~~higher education coordinating board~~) office of student financial assistance.

(2) "Department" means the state department of health.

(3) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(4) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the (~~board~~) office.

(5) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(6) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(7) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(8) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW and designated by the department in RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

(9) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the state board of pharmacy under chapter 18.64 RCW.

(10) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(11) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

**Sec. 205.** RCW 28B.115.030 and 1991 c 332 s 16 are each amended to read as follows:

The health professional loan repayment and scholarship program is established for credentialed health professionals serving in health professional shortage areas. The program shall be administered by the (~~higher education coordinating board~~) office. In (~~administering~~) administering this program, the (~~board~~) office shall:

(1) Select credentialed health care professionals to participate in the loan repayment portion of the loan repayment and scholarship program and select eligible students to participate in the scholarship portion of the loan repayment and scholarship program;

(2) Adopt rules and develop guidelines to administer the program;

(3) Collect and manage repayments from participants who do not meet their service obligations under this chapter;

(4) Publicize the program, particularly to maximize participation among individuals in shortage areas and among populations expected to experience the greatest growth in the workforce;

(5) Solicit and accept grants and donations from public and private sources for the program; and

(6) Develop criteria for a contract for service in lieu of the service obligation where appropriate, that may be a combination of service and payment.

**Sec. 206.** RCW 28B.115.050 and 2004 c 275 s 70 are each amended to read as follows:

The (~~board~~) office shall establish a planning committee to assist in developing criteria for the selection of participants. The (~~board~~) office shall include on the planning committee representatives of the department, the department of social and health services, appropriate representatives from health care facilities, provider groups, consumers, the state board for community and technical colleges, the superintendent of public

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instruction, and other appropriate public and private agencies and organizations. The criteria may require that some of the participants meet the definition of "needy student" under RCW 28B.92.030.

**Sec. 207.** RCW 28B.115.070 and 2003 c 278 s 3 are each amended to read as follows:

After June 1, 1992, the department, in consultation with the ((board)) office and the department of social and health services, shall:

(1) Determine eligible credentialed health care professions for the purposes of the loan repayment and scholarship program authorized by this chapter. Eligibility shall be based upon an assessment that determines that there is a shortage or insufficient availability of a credentialed profession so as to jeopardize patient care and pose a threat to the public health and safety. The department shall consider the relative degree of shortages among professions when determining eligibility. The department may add or remove professions from eligibility based upon the determination that a profession is no longer in shortage. Should a profession no longer be eligible, participants or eligible students who have received scholarships shall be eligible to continue to receive scholarships or loan repayments until they are no longer eligible or until their service obligation has been completed;

(2) Determine health professional shortage areas for each of the eligible credentialed health care professions.

**Sec. 208.** RCW 28B.115.080 and 1993 c 492 s 271 are each amended to read as follows:

After June 1, 1992, the ((board)) office, in consultation with the department and the department of social and health services, shall:

(1) Establish the annual award amount for each credentialed health care profession which shall be based upon an assessment of reasonable annual eligible expenses involved in training and education for each credentialed health care profession. The annual award amount may be established at a level less than annual eligible expenses. The annual award amount shall be established by the ((board)) office for each eligible health profession. The awards shall not be paid for more than a maximum of five years per individual;

(2) Determine any scholarship awards for prospective physicians in such a manner to require the recipients declare an interest in serving in rural areas of the state of Washington. Preference for scholarships shall be given to students who reside in a rural physician shortage area or a nonshortage rural area of the state prior to admission to the eligible education and training program in medicine. Highest preference shall be given to students seeking admission who are recommended by sponsoring communities and who declare the intent of serving as a physician in a rural area. The ((board)) office may require the sponsoring community located in a nonshortage rural area to financially contribute to the eligible expenses of a medical student if the student will serve in the nonshortage rural area;

(3) Establish the required service obligation for each credentialed health care profession, which shall be no less than three years or no more than five years. The required service obligation may be based upon the amount of the scholarship or loan repayment award such that higher awards involve longer service obligations on behalf of the participant;

(4) Determine eligible education and training programs for purposes of the scholarship portion of the program;

(5) Honor loan repayment and scholarship contract terms negotiated between the ((board)) office and participants prior to May 21, 1991, concerning loan repayment and scholarship award amounts and service obligations authorized under chapter 28B.115, 28B.104, or 70.180 RCW.

**Sec. 209.** RCW 28B.115.090 and 2003 c 278 s 4 are each amended to read as follows:

(1) The ((board)) office may grant loan repayment and scholarship awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the ((board)) office for this purpose. Participants are ineligible to receive loan repayment if they have received a scholarship from programs authorized under this chapter or chapter 70.180 RCW or are ineligible to receive a scholarship if they have received loan repayment authorized under this chapter or chapter 28B.115 RCW.

(2) Funds appropriated for the program, including reasonable administrative costs, may be used by the ((board)) office for the purposes of loan repayments or scholarships. The ((board)) office shall annually establish the total amount of funding to be awarded for loan repayments and scholarships and such allocations shall be established based upon the best utilization of funding for that year.

(3) One portion of the funding appropriated for the program shall be used by the ((board)) office as a recruitment incentive for communities participating in the community-based recruitment and retention program as authorized by chapter 70.185 RCW; one portion of the funding shall be used by the ((board)) office as a recruitment incentive for recruitment activities in state-operated institutions, county public health departments and districts, county human service agencies, federal and state contracted community health clinics, and other health care facilities, such as rural hospitals that have been identified by the department, as providing substantial amounts of charity care or publicly subsidized health care; one portion of the funding shall be used by the ((board)) office for all other awards. The ((board)) office shall determine the amount of total funding to be distributed between the three portions.

**Sec. 210.** RCW 28B.115.110 and 2011 c 26 s 2 are each amended to read as follows:

Participants in the health professional loan repayment and scholarship program who are awarded loan repayments shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to a credential as a credentialed health professional in the state of Washington.

(1) Participants shall agree to meet the required service obligation in a designated health professional shortage area.

(2) Repayment shall be limited to eligible educational and living expenses as determined by the ((board)) office and shall include principal and interest.

(3) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the ((board)) office access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(4) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the ((board)) office, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the required service obligation when eligibility discontinues, whichever comes first.

(5) Should the participant discontinue service in a health professional shortage area, payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(6) Except for circumstances beyond their control, participants who serve less than the required service obligation shall be obligated to repay to the program an amount equal to twice the total amount

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paid by the program on their behalf. This amount is due and payable immediately. Participants who are unable to pay the full amount due shall enter into a payment arrangement with the ((board)) office, including an arrangement for payment of interest. The maximum period for repayment is ten years. The ((board)) office shall determine the applicability of this subsection. The interest rate shall be determined by the ((board)) office and be established by rule.

(7) The ((board)) office is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before completion of the required service obligation. The ((board)) office shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(8) The ((board)) office shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

(9) The ((board)) office shall temporarily or, in special circumstances, permanently defer the requirements of this section for eligible students as defined in RCW 28B.10.017.

(10) The ((board)) office shall establish an appeal process by rule.

**Sec. 211.** RCW 28B.115.120 and 2011 c 26 s 3 are each amended to read as follows:

(1) Participants in the health professional loan repayment and scholarship program who are awarded scholarships incur an obligation to repay the scholarship, with penalty and interest, unless they serve the required service obligation in a health professional shortage area in the state of Washington.

(2) The interest rate shall be determined by the ((board)) office and established by rule.

(3) The period for repayment shall coincide with the required service obligation, with payments of principal and interest commencing no later than six months from the date the participant completes or discontinues the course of study or completes or discontinues the required postgraduate training. Provisions for deferral of payment shall be determined by the ((board)) office.

(4) The entire principal and interest of each payment shall be forgiven for each payment period in which the participant serves in a health professional shortage area until the entire repayment obligation is satisfied or the borrower ceases to so serve. Should the participant cease to serve in a health professional shortage area of this state before the participant's repayment obligation is completed, payment of the unsatisfied portion of the principal and interest is due and payable immediately.

(5) In addition to the amount determined in subsection (4) of this section, except for circumstances beyond their control, participants who serve less than the required service obligation shall be obliged to pay a penalty of an amount equal to twice the unsatisfied portion of the principal.

(6) Participants who are unable to pay the full amount due shall enter into a payment arrangement with the ((board)) office for repayment including interest. The maximum period for repayment is ten years.

(7) The ((board)) office is responsible for collection of repayments made under this section and shall exercise due diligence in such collection, maintaining all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under this section shall be pursued using the full extent of the law, including wage garnishment if necessary, and shall be performed by entities approved for such servicing by the Washington student loan guaranty association or its successor agency. The ((board)) office is responsible to forgive all or parts of

such repayments under the criteria established in this section and shall maintain all necessary records of forgiven payments.

(8) Receipts from the payment of principal or interest or any other subsidies to which the ((board)) office as administrator is entitled, which are paid by or on behalf of participants under this section, shall be deposited with the ((board)) office and shall be used to cover the costs of granting the scholarships, maintaining necessary records, and making collections under subsection (7) of this section. The ((board)) office shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant scholarships to eligible students.

(9) Sponsoring communities who financially contribute to the eligible financial expenses of eligible medical students may enter into agreements with the student to require repayment should the student not serve the required service obligation in the community as a primary care physician. The ((board)) office may develop criteria for the content of such agreements with respect to reasonable provisions and obligations between communities and eligible students.

(10) The ((board)) office may make exceptions to the conditions for participation and repayment obligations should circumstances beyond the control of individual participants warrant such exceptions. The ((board)) office shall establish an appeal process by rule.

**Sec. 212.** RCW 28B.115.130 and 1991 c 332 s 28 are each amended to read as follows:

(1) Any funds appropriated by the legislature for the health professional loan repayment and scholarship program or any other public or private funds intended for loan repayments or scholarships under this program shall be placed in the account created by this section.

(2) The health professional loan repayment and scholarship program fund is created in custody of the state treasurer. All receipts from the program shall be deposited into the fund. Only the ((higher education coordinating board)) office, or its designee, may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

**Sec. 213.** RCW 28B.115.140 and 1989 1st ex.s. c 9 s 722 are each amended to read as follows:

After consulting with the ((higher education coordinating board)) office, the governor may transfer the administration of this program to another agency with an appropriate mission.

**Sec. 214.** RCW 28B.116.010 and 2005 c 215 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(2) "Eligible student" means a student who:

(a) Is between the ages of sixteen and twenty-three;

(b) Has been in foster care in the state of Washington for a minimum of six months since his or her fourteenth birthday;

(c) Is a financially needy student, as defined in RCW 28B.92.030;

(d) Is a resident student, as defined in RCW 28B.15.012(2);

(e) Has entered or will enter an institution of higher education in Washington state within three years of high school graduation or having successfully completed his or her GED;

(f) Is not pursuing a degree in theology; and

(g) Makes satisfactory progress towards the completion of a degree or certificate program.

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(3) "Cost of attendance" means the cost associated with the attendance of the institution of higher education as determined by the ~~((higher education coordinating board))~~ office of student financial assistance, including but not limited to tuition, room, board, and books.

(4) "Office" means the office of student financial assistance.

**Sec. 215.** RCW 28B.116.020 and 2009 c 560 s 20 are each amended to read as follows:

(1) The foster care endowed scholarship program is created. The purpose of the program is to help students who were in foster care attend an institution of higher education in the state of Washington. The foster care endowed scholarship program shall be administered by the ~~((higher education coordinating board))~~ office.

(2) In administering the program, the ~~((higher education coordinating board's))~~ office's powers and duties shall include but not be limited to:

(a) Adopting necessary rules and guidelines; and

(b) Administering the foster care endowed scholarship trust fund and the foster care scholarship endowment fund.

(3) In administering the program, the ~~((higher education coordinating board's))~~ office's powers and duties may include but not be limited to:

(a) Working with the department of social and health services and the superintendent of public instruction to provide information about the foster care endowed scholarship program to children in foster care in the state of Washington and to students over the age of sixteen who could be eligible for this program;

(b) Publicizing the program; and

(c) Contracting with a private agency to perform outreach to the potentially eligible students.

**Sec. 216.** RCW 28B.116.030 and 2005 c 215 s 4 are each amended to read as follows:

(1) The ~~((higher education coordinating board))~~ office may award scholarships to eligible students from the foster care scholarship endowment fund in RCW 28B.116.060, from funds appropriated to the board for this purpose, from any private donations, or from any other funds given to the ~~((board))~~ office for the program.

(2) The ~~((board))~~ office may award scholarships to eligible students from moneys earned from the foster care scholarship endowment fund created in RCW 28B.116.060, or from funds appropriated to the board for this purpose, or from any private donations, or from any other funds given to the ~~((board))~~ office for this program. For an undergraduate student, the amount of the scholarship shall not exceed the student's demonstrated financial need. For a graduate student, the amount of the scholarship shall not exceed the student's demonstrated need; or the stipend of a teaching assistant, including tuition, at the University of Washington; whichever is higher. In calculating a student's need, the ~~((board))~~ office shall consider the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care. The student's scholarship awarded under this chapter shall not exceed the amount received by a student attending a state research university. A student is eligible to receive a scholarship for a maximum of five years. However, the length of the scholarship shall be determined at the discretion of the ~~((board))~~ office.

(3) Grants under this chapter shall not affect eligibility for the state student financial aid program.

**Sec. 217.** RCW 28B.116.050 and 2005 c 215 s 6 are each amended to read as follows:

(1) The foster care endowed scholarship trust fund is created in the custody of the state treasurer.

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(2) Funds appropriated by the legislature for the foster care endowed scholarship trust fund shall be deposited in the foster care endowed scholarship trust fund. When conditions in RCW 28B.116.070 are met, the ~~((higher education coordinating board))~~ office shall deposit state matching moneys from the trust fund into the foster care scholarship endowment fund.

(3) No appropriation is required for expenditures from the trust fund.

**Sec. 218.** RCW 28B.116.060 and 2007 c 73 s 3 are each amended to read as follows:

The foster care scholarship endowment fund is created in the custody of the state treasurer. The investment of the endowment fund shall be managed by the state investment board.

(1) Moneys received from the ~~((higher education coordinating board))~~ office, private donations, state matching moneys, and funds received from any other source may be deposited into the foster care scholarship endowment fund. Private moneys received as a gift subject to conditions may be deposited into the endowment fund if the conditions do not violate state or federal law.

(2) At the request of the ~~((higher education coordinating board))~~ office, the state investment board shall release earnings from the endowment fund to the state treasurer. The state treasurer shall then release those funds at the request of the ~~((higher education coordinating board))~~ office for scholarships. No appropriation is required for expenditures from the endowment fund.

(3) The ~~((higher education coordinating board))~~ office may disburse grants to eligible students from the foster care scholarship endowment fund. No appropriation is required for expenditures from the endowment fund.

(4) When notified by court order that a condition attached to a gift of private moneys from the foster care scholarship endowment fund has failed, the ~~((higher education coordinating board))~~ office shall release those moneys to the donors according to the terms of the conditional gift.

(5) The principal of the foster care scholarship endowment fund shall not be invaded. For the purposes of this section, only the first twenty-five thousand dollars deposited into the foster care scholarship endowment fund shall be considered the principal. The release of moneys under subsection (4) of this section shall not constitute an invasion of the corpus.

(6) The foster care scholarship endowment fund shall be used solely for the purposes in this chapter, except when the conditional gift of private moneys in the endowment fund require a portion of the earnings on such moneys be reinvested in the endowment fund.

**Sec. 219.** RCW 28B.116.070 and 2005 c 215 s 8 are each amended to read as follows:

(1) The ~~((higher education coordinating board))~~ office may deposit twenty-five thousand dollars of state matching funds into the foster care scholarship endowment fund when the ~~((board))~~ office can match state funds with an equal amount of private cash donations.

(2) After the initial match of twenty-five thousand dollars, state matching funds from the foster care endowed scholarship trust fund shall be released to the foster care scholarship endowment fund semiannually so long as there are funds available in the foster care endowed scholarship trust fund.

**Sec. 220.** RCW 28B.117.020 and 2007 c 314 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Cost of attendance" means the cost associated with attending a particular institution of higher education as determined by the ~~((higher education coordinating board))~~ office, including but not limited to tuition, fees, room, board, books, personal expenses, and transportation, plus the cost of reasonable additional expenses

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incurred by an eligible student and approved by a financial aid administrator at the student's school of attendance.

(2) "Emancipated from foster care" means a person who was a dependent of the state in accordance with chapter 13.34 RCW and who was receiving foster care in the state of Washington when he or she reached his or her eighteenth birthday.

(3) "Financial need" means the difference between a student's cost of attendance and the student's total family contribution as determined by the method prescribed by the United States department of education.

(4) "Independent college or university" means a private, nonprofit institution of higher education, open to residents of the state, providing programs of education beyond the high school level leading to at least the baccalaureate degree, and accredited by the Northwest association of schools and colleges, and other institutions as may be developed that are approved by the ~~((higher education coordinating))~~ board as meeting equivalent standards as those institutions accredited under this section.

(5) "Institution of higher education" means:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or

(b) Any independent college or university in Washington; or

(c) Any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level that is a member institution of an accrediting association recognized by rule of the higher education coordinating board for the purposes of this section: PROVIDED, That any institution, branch, extension, or facility operating within the state of Washington that is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association, or a branch of a member institution of an accrediting association recognized by rule of the board for purposes of this section, that is eligible for federal student financial aid assistance and has operated as a nonprofit college or university delivering on-site classroom instruction for a minimum of twenty consecutive years within the state of Washington, and has an annual enrollment of at least seven hundred full-time equivalent students.

(6) "Office" means the office of student financial assistance.

(7) "Program" means the passport to college promise pilot program created in this chapter.

**Sec. 221.** RCW 28B.117.030 and 2007 c 314 s 4 are each amended to read as follows:

(1) The ~~((higher education coordinating board))~~ office shall design and, to the extent funds are appropriated for this purpose, implement, a program of supplemental scholarship and student assistance for students who have emancipated from the state foster care system after having spent at least one year in care.

(2) The ~~((board))~~ office shall convene and consult with an advisory committee to assist with program design and implementation. The committee shall include but not be limited to former foster care youth and their advocates; representatives from the state board for community and technical colleges, and from public and private agencies that assist current and former foster care recipients in their transition to adulthood; and student support specialists from public and private colleges and universities.

(3) To the extent that sufficient funds have been appropriated for this purpose, a student is eligible for assistance under this section if he or she:

(a) Emancipated from foster care on or after January 1, 2007, after having spent at least one year in foster care subsequent to his or her sixteenth birthday;

(b) Is a resident student, as defined in RCW 28B.15.012(2);

(c) Is enrolled with or will enroll on at least a half-time basis with an institution of higher education in Washington state by the age of twenty-one;

(d) Is making satisfactory academic progress toward the completion of a degree or certificate program, if receiving supplemental scholarship assistance;

(e) Has not earned a bachelor's or professional degree; and

(f) Is not pursuing a degree in theology.

(4) A passport to college scholarship under this section:

(a) Shall not exceed resident undergraduate tuition and fees at the highest-priced public institution of higher education in the state; and

(b) Shall not exceed the student's financial need, less a reasonable self-help amount defined by the board, when combined with all other public and private grant, scholarship, and waiver assistance the student receives.

(5) An eligible student may receive a passport to college scholarship under this section for a maximum of five years after the student first enrolls with an institution of higher education or until the student turns age twenty-six, whichever occurs first. If a student turns age twenty-six during an academic year, and would otherwise be eligible for a scholarship under this section, the student shall continue to be eligible for a scholarship for the remainder of the academic year.

(6) The ~~((higher education coordinating board))~~ office, in consultation with and with assistance from the state board for community and technical colleges, shall perform an annual analysis to verify that those institutions of higher education at which students have received a scholarship under this section have awarded the student all available need-based and merit-based grant and scholarship aid for which the student qualifies.

(7) In designing and implementing the passport to college student support program under this section, the ~~((board))~~ office, in consultation with and with assistance from the state board for community and technical colleges, shall ensure that a participating college or university:

(a) Has a viable plan for identifying students eligible for assistance under this section, for tracking and enhancing their academic progress, for addressing their unique needs for assistance during school vacations and academic interims, and for linking them to appropriate sources of assistance in their transition to adulthood;

(b) Receives financial and other incentives for achieving measurable progress in the recruitment, retention, and graduation of eligible students.

**Sec. 222.** RCW 28B.117.040 and 2007 c 314 s 5 are each amended to read as follows:

Effective operation of the passport to college promise pilot program requires early and accurate identification of former foster care youth so that they can be linked to the financial and other assistance that will help them succeed in college. To that end:

(1) All institutions of higher education that receive funding for student support services under RCW 28B.117.030 shall include on their applications for admission or on their registration materials a question asking whether the applicant has been in foster care in Washington state for at least one year since his or her sixteenth birthday. All other institutions of higher education are strongly encouraged to include such a question. No institution may consider whether an applicant may be eligible for a scholarship or student support services under this chapter when deciding whether the applicant will be granted admission.

(2) The department of social and health services shall devise and implement procedures for efficiently, promptly, and accurately identifying students and applicants who are eligible for services under RCW 28B.117.030, and for sharing that information with the ~~((higher education coordinating board))~~ office and with institutions

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of higher education. The procedures shall include appropriate safeguards for consent by the applicant or student before disclosure.

**Sec. 223.** RCW 28B.117.050 and 2007 c 314 s 6 are each amended to read as follows:

(1) To the extent funds are appropriated for this purpose, the ~~((higher education coordinating board))~~ office, with input from the state board for community and technical colleges, the foster care partnership, and institutions of higher education, shall develop and maintain an internet web site and outreach program to serve as a comprehensive portal for foster care youth in Washington state to obtain information regarding higher education including, but not necessarily limited to:

(a) Academic, social, family, financial, and logistical information important to successful postsecondary educational success;

(b) How and when to obtain and complete college applications;

(c) What college placement tests, if any, are generally required for admission to college and when and how to register for such tests;

(d) How and when to obtain and complete a federal free application for federal student aid (FAFSA); and

(e) Detailed sources of financial aid likely available to eligible former foster care youth, including the financial aid provided by this chapter.

(2) The ~~((board))~~ office shall determine whether to design, build, and operate such program and web site directly or to use, support, and modify existing web sites created by government or nongovernmental entities for a similar purpose.

**Sec. 224.** RCW 28B.117.060 and 2007 c 314 s 7 are each amended to read as follows:

(1) To the extent funds are appropriated for this purpose, the department of social and health services, with input from the state board for community and technical colleges, the ~~((higher education coordinating board))~~ office, and institutions of higher education, shall contract with at least one nongovernmental entity through a request for proposals process to develop, implement, and administer a program of supplemental educational transition planning for youth in foster care in Washington state.

(2) The nongovernmental entity or entities chosen by the department shall have demonstrated success in working with foster care youth and assisting foster care youth in successfully making the transition from foster care to independent adulthood.

(3) The selected nongovernmental entity or entities shall provide supplemental educational transition planning to foster care youth in Washington state beginning at age fourteen and then at least every six months thereafter. The supplemental transition planning shall include:

(a) Comprehensive information regarding postsecondary educational opportunities including, but not limited to, sources of financial aid, institutional characteristics and record of support for former foster care youth, transportation, housing, and other logistical considerations;

(b) How and when to apply to postsecondary educational programs;

(c) What precollege tests, if any, the particular foster care youth should take based on his or her postsecondary plans and when to take the tests;

(d) What courses to take to prepare the particular foster care youth to succeed at his or her postsecondary plans;

(e) Social, community, educational, logistical, and other issues that frequently impact college students and their success rates; and

(f) Which web sites, nongovernmental entities, public agencies, and other foster care youth support providers specialize in which services.

(4) The selected nongovernmental entity or entities shall work directly with the school counselors at the foster care youths' high

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schools to ensure that a consistent and complete transition plan has been prepared for each foster care youth who emancipates out of the foster care system in Washington state.

**Sec. 225.** RCW 28B.117.070 and 2007 c 314 s 8 are each amended to read as follows:

(1) The ~~((higher education coordinating board))~~ office of student financial assistance shall report to appropriate committees of the legislature by January 15, 2008, on the status of program design and implementation. The report shall include a discussion of proposed scholarship and student support service approaches; an estimate of the number of students who will receive such services; baseline information on the extent to which former foster care youth who meet the eligibility criteria in RCW 28B.117.030 have enrolled and persisted in postsecondary education; and recommendations for any statutory changes needed to promote achievement of program objectives.

(2) The state board for community and technical colleges and the ~~((higher education coordinating board))~~ office of student financial assistance shall monitor and analyze the extent to which eligible young people are increasing their participation, persistence, and progress in postsecondary education, and shall jointly submit a report on their findings to appropriate committees of the legislature by December 1, 2009, and by December 1, 2011.

(3) The Washington state institute for public policy shall complete an evaluation of the passport to college promise pilot program and shall submit a report to appropriate committees of the legislature by December 1, 2012. The report shall estimate the impact of the program on eligible students' participation and success in postsecondary education, and shall include recommendations for program revision and improvement.

**Sec. 226.** RCW 28B.118.010 and 2008 c 321 s 9 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall design the Washington college bound scholarship program in accordance with this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the ~~((higher education coordinating board))~~ office of student financial assistance by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

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(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

**Sec. 227.** RCW 28B.118.020 and 2007 c 405 s 3 are each amended to read as follows:

The office of the superintendent of public instruction shall:

(1) Notify elementary, middle, and junior high schools about the Washington college bound scholarship program using methods in place for communicating with schools and school districts; and

(2) Work with the ~~((higher education coordinating board))~~ office of student financial assistance to develop application collection and student tracking procedures.

**Sec. 228.** RCW 28B.118.040 and 2007 c 405 s 5 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall:

(1) With the assistance of the office of the superintendent of public instruction, implement and administer the Washington college bound scholarship program;

(2) Develop and distribute, to all schools with students enrolled in grade seven or eight, a pledge form that can be completed and returned electronically or by mail by the student or the school to the ~~((higher education coordinating board))~~ office of student financial assistance;

(3) Develop and implement a student application, selection, and notification process for scholarships;

(4) Track scholarship recipients to ensure continued eligibility and determine student compliance for awarding of scholarships;

(5) Subject to appropriation, deposit funds into the state educational trust fund;

(6) Purchase tuition units under the advanced college tuition payment program in chapter 28B.95 RCW to be owned and held in trust by the board, for the purpose of scholarship awards as provided for in this section; and

(7) Distribute scholarship funds, in the form of tuition units purchased under the advanced college tuition payment program in chapter 28B.95 RCW or through direct payments from the state educational trust fund, to institutions of higher education on behalf of scholarship recipients identified by the ~~((board))~~ office, as long as recipients maintain satisfactory academic progress.

**Sec. 229.** RCW 28B.118.050 and 2007 c 405 s 6 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance may accept grants, gifts, bequests, and devise of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state.

**Sec. 230.** RCW 28B.118.060 and 2007 c 405 s 7 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance may adopt rules to implement this chapter.

**Sec. 231.** RCW 28B.119.010 and 2004 c 275 s 60 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall design the Washington promise scholarship program based on the following parameters:

(1) Scholarships shall be awarded to students graduating from public and approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, who meet both an academic and a financial eligibility criteria.

(a) Academic eligibility criteria shall be defined as follows:

(i) Beginning with the graduating class of 2002, students graduating from public and approved private high schools under chapter 28A.195 RCW must be in the top fifteen percent of their graduating class, as identified by each respective high school at the completion of the first term of the student's senior year; or

(ii) Students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a GED certificate, must equal or exceed a cumulative scholastic assessment test I score of twelve hundred on their first attempt or must equal or exceed a composite American college test score of twenty-seven on their first attempt.

(b) To meet the financial eligibility criteria, a student's family income shall not exceed one hundred thirty-five percent of the state median family income adjusted for family size, as determined by the ~~((higher education coordinating board))~~ office of student financial assistance for each graduating class. Students not meeting the eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits, but must still meet the income standard set by the ~~((board))~~ office for the student's graduating class.

(2) Promise scholarships are not intended to supplant any grant, scholarship, or tax program related to postsecondary education. If the ~~((board))~~ office of student financial assistance finds that promise scholarships supplant or reduce any grant, scholarship, or tax program for categories of students, then the ~~((board))~~ office shall adjust the financial eligibility criteria or the amount of scholarship to the level necessary to avoid supplanting.

(3) Within available funds, each qualifying student shall receive two consecutive annual awards, the value of each not to exceed the

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full-time annual resident tuition rates charged by Washington's community colleges. The ~~((higher education coordinating board))~~ office of student financial assistance shall award scholarships to as many students as possible from among those qualifying under this section.

(4) By October 15th of each year, the ~~((board))~~ office of student financial assistance shall determine the award amount of the scholarships, after taking into consideration the availability of funds.

(5) The scholarships may only be used for undergraduate coursework at accredited institutions of higher education in the state of Washington.

(6) The scholarships may be used for undergraduate coursework at Oregon institutions of higher education that are part of the border county higher education opportunity project in RCW 28B.76.685 when those institutions offer programs not available at accredited institutions of higher education in Washington state.

(7) The scholarships may be used for college-related expenses, including but not limited to, tuition, room and board, books, and materials.

(8) The scholarships may not be awarded to any student who is pursuing a degree in theology.

(9) The ~~((higher education coordinating board))~~ office of student financial assistance may establish satisfactory progress standards for the continued receipt of the promise scholarship.

(10) The ~~((higher education coordinating board))~~ office of student financial assistance shall establish the time frame within which the student must use the scholarship.

**Sec. 232.** RCW 28B.119.020 and 2002 c 204 s 3 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance, with the assistance of the office of the superintendent of public instruction, shall implement and administer the Washington promise scholarship program described in RCW 28B.119.010 as follows:

(1) The first scholarships shall be awarded to eligible students enrolling in postsecondary education in the 2002-03 academic year.

(2) The office of the superintendent of public instruction shall provide information to the ~~((higher education coordinating board))~~ office of student financial assistance that is necessary for implementation of the program. The ~~((higher education coordinating board))~~ office of student financial assistance and the office of the superintendent of public instruction shall jointly establish a timeline and procedures necessary for accurate and timely data reporting.

(a) For students meeting the academic eligibility criteria as provided in RCW 28B.119.010(1)(a), the office of the superintendent of public instruction shall provide the ~~((higher education coordinating board))~~ office of student financial assistance with student names, addresses, birth dates, and unique numeric identifiers.

(b) Public and approved private high schools under chapter 28A.195 RCW shall provide requested information necessary for implementation of the program to the office of the superintendent of public instruction within the established timeline.

(c) All student data is confidential and may be used solely for the purposes of providing scholarships to eligible students.

(3) The ~~((higher education coordinating board))~~ office of student financial assistance may adopt rules to implement this chapter.

**Sec. 233.** RCW 28B.119.030 and 2004 c 275 s 71 are each amended to read as follows:

The Washington promise scholarship program shall not be funded at the expense of the state need grant program as defined in chapter 28B.92 RCW. In administering the state need grant and promise scholarship programs, the ~~((higher education coordinating~~

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~~board))~~ office of student financial assistance shall first ensure that eligibility for state need grant recipients is at least fifty-five percent of state median family income.

**Sec. 234.** RCW 28B.119.050 and 2002 c 204 s 6 are each amended to read as follows:

(1) The Washington promise scholarship account is created in the custody of the state treasurer. The account shall be a nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2) The ~~((higher education coordinating board))~~ office of student financial assistance shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of funds appropriated by the legislature for the Washington promise scholarship program, private contributions to the program, and refunds of Washington promise scholarships.

(3) Expenditures from the account shall be used for scholarships to eligible students.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the ~~((higher education coordinating board))~~ office of student financial assistance.

**Sec. 235.** RCW 28B.120.020 and 2010 c 245 s 8 are each amended to read as follows:

The higher education coordinating board shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

(1) To adopt rules necessary to carry out the program;

(2) To award grants no later than September 1st in those years when funding is available by June 30th;

(3) To establish each biennium specific guidelines for submitting grant proposals consistent with RCW 28B.120.005 and consistent with the strategic master plan for higher education, the system design plan, the overall goals of the program and the guidelines established by the state board for community and technical colleges under RCW 28B.120.025.

After June 30, 2001, and each biennium thereafter, the board shall determine funding priorities for proposals for the biennium in consultation with ~~((the governor))~~ the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with statewide needs;

(4) To solicit grant proposals and provide information to the institutions of higher education about the program; and

(5) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the ~~((higher education coordinating board))~~ office of financial management.

**Sec. 236.** RCW 28B.133.030 and 2011 c 60 s 12 are each amended to read as follows:

(1) The students with dependents grant account is created in the custody of the state treasurer. All receipts from the program shall be deposited into the account. Only the ~~((higher education coordinating board))~~ office of student financial assistance, or its designee, may authorize expenditures from the account. Disbursements from the account are exempt from appropriations and the allotment procedures under chapter 43.88 RCW.

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(2) The ~~((board))~~ office may solicit and receive gifts, grants, or endowments from private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the educational assistance grant program. The ~~((executive))~~ director, or the ~~((executive))~~ director's designee, may spend gifts, grants, or endowments or income from the private sources according to their terms unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(3) The earnings on the account shall be used solely for the purposes in RCW 28B.133.010, except when the terms of a conditional gift of private moneys in the account require that a portion of earnings on such moneys be reinvested in the account.

**Sec. 237.** RCW 28B.133.040 and 2003 c 19 s 5 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall develop and administer the educational assistance grant program for students with dependents. In administering the program, once the balance in the students with dependents grant account is five hundred thousand dollars, the ~~((boards))~~ office's powers and duties shall include but not be limited to:

- (1) Adopting necessary rules and guidelines;
- (2) Publicizing the program;
- (3) Accepting and depositing donations into the grant account established in RCW 28B.133.030; and
- (4) Soliciting and accepting grants and donations from private sources for the program.

**Sec. 238.** RCW 28B.133.050 and 2004 c 275 s 74 are each amended to read as follows:

The educational assistance grant program for students with dependents grants may be used by eligible participants to attend any public or private college or university in the state of Washington as defined in RCW 28B.92.030. Each participating student may receive an amount to be determined by the ~~((higher education coordinating board))~~ office of student financial assistance, with a minimum amount of one thousand dollars per academic year, not to exceed the student's documented financial need for the course of study as determined by the institution.

Educational assistance grants for students with dependents are not intended to supplant any grant scholarship or tax program related to postsecondary education. If the ~~((higher education coordinating board))~~ office of student financial assistance finds that the educational assistance grants for students with dependents supplant or reduce any grant, scholarship, or tax program for categories of students, then the ~~((higher education coordinating board))~~ office shall adjust the financial eligibility criteria or the amount of the grant to the level necessary to avoid supplanting.

**Sec. 239.** RCW 28B.135.010 and 2010 1st sp.s. c 9 s 5 are each amended to read as follows:

The four-year student child care in higher education account is established. The ~~((higher education coordinating board))~~ office of student financial assistance shall administer the program for the four-year institutions of higher education. Through ~~((these))~~ this program(s) the ~~((board))~~ office shall award either competitive or matching child care grants to state institutions of higher education to encourage programs to address the need for high quality, accessible, and affordable child care for students at higher education institutions. The grants shall be used exclusively for the provision of quality child care services for students at institutions of higher education. The university or college administration and student government association, or its equivalent, of each institution receiving the award may contribute financial support in an amount equal to or greater than the child care grant received by the institution.

**Sec. 240.** RCW 28B.135.030 and 2008 c 162 s 3 are each amended to read as follows:

The ~~((higher education coordinating board))~~ office of student financial assistance shall have the following powers and duties in administering the program for the four-year institutions of higher education:

- (1) To adopt rules necessary to carry out the program;
- (2) To establish one or more review committees to assist in the evaluation of proposals for funding. The review committees may receive input from parents, educators, and other experts in the field of early childhood education for this purpose;
- (3) To establish each biennium specific guidelines for submitting grant proposals consistent with the overall goals of the program. The guidelines shall be consistent with the following desired outcomes of increasing access to quality child care for students, providing affordable child care alternatives for students, creating a partnership between university or college administrations, university or college foundations, and student government associations, or their equivalents;
- (4) To proportionally distribute the amount of money available in the trust fund based on the financial support for child care received by the student government associations or their equivalents. Student government associations may solicit funds from private organizations and targeted fund-raising campaigns as part of their financial support for child care;
- (5) To solicit grant proposals and provide information to the institutions of higher education about the program;
- (6) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants; and

~~((7) To report to the appropriate committees of the legislature by December 15, 2008, and every two years thereafter, on the status of program design and implementation at the four year institutions of higher education. The report shall include but not be limited to summary information on the institutions receiving child care grant allocations, the amount contributed by each university or college administration and student government association for the purposes of child care including expenditures and reports for the previous biennium, services provided by each institutional child care center, the number of students using such services, and identifiable unmet need.))~~

**Sec. 241.** RCW 28B.135.040 and 2010 1st sp.s. c 9 s 4 are each amended to read as follows:

The four-year student child care in higher education account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of RCW 28B.135.010. Disbursements from the account shall be on the authorization of the ~~((higher education coordinating board))~~ office of student financial assistance. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements.

**Sec. 242.** RCW 28C.18.166 and 2009 c 238 s 5 are each amended to read as follows:

On an annual basis, each opportunity internship consortium shall provide the board with a list of the opportunity internship graduates from the consortium. The board shall compile the lists from all consortia and shall notify the ~~((higher education coordinating board))~~ office of student financial assistance of the eligibility of each graduate on the lists to receive a state need grant under chapter 28B.92 RCW if the graduate enrolls in a postsecondary program of study within one year of high school graduation.

**Sec. 243.** RCW 39.86.130 and 2010 1st sp.s. c 6 s 7 are each amended to read as follows:

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(1) In granting an allocation, reallocation, or carryforward of the state ceiling as provided in this chapter, the agency shall consider existing state priorities and other such criteria, including but not limited to, the following criteria:

- (a) Need of issuers to issue bonds within a bond use category subject to a state ceiling;
- (b) Amount of the state ceiling available;
- (c) Public benefit and purpose to be satisfied, including economic development, educational opportunity, and public health, safety, or welfare;
- (d) Cost or availability of alternative methods of financing for the project or program; and
- (e) Certainty of using the allocation which is being requested.

(2) In determining whether to allocate an amount of the state ceiling to an issuer within any bond use category, the agency shall consider, but is not limited to, the following criteria for each of the bond use categories:

- (a) Housing: Criteria which comply with RCW 43.180.200.
- (b) Student loans: Criteria which comply with the applicable provisions of Title 28B RCW and rules adopted by the ~~(higher education coordinating board)~~ office of student financial assistance or applicable state agency dealing with student financial aid.
- (c) Small issue: Factors which may include:
  - (i) The number of employment opportunities the project is likely to create or retain in relation to the amount of the bond issuance;
  - (ii) The level of unemployment existing in the geographic area likely to be affected by the project;
  - (iii) A commitment to providing employment opportunities to low-income persons in cooperation with the employment security department;
  - (iv) Geographic distribution of projects;
  - (v) The number of persons who will benefit from the project;
  - (vi) Consistency with criteria identified in subsection (1) of this section; and
  - (vii) Order in which requests were received.
- (d) Exempt facility or redevelopment: Factors which may include:
  - (i) State issuance needs;
  - (ii) Consistency with criteria identified in subsection (1) of this section;
  - (iii) Order in which requests were received;
  - (iv) The proportionate number of persons in relationship to the size of the community who will benefit from the project; and
  - (v) The unique timing and issuance needs of large scale projects that may require allocations in more than one year.
- (e) Public utility: Factors which may include:
  - (i) Consistency with criteria identified in subsection (1) of this section; and
  - (ii) Timing needs for issuance of bonds over a multi-year period.

**NEW SECTION. Sec. 244.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2012:

- (1) RCW 28B.76.010 (Board created) and 1985 c 370 s 1;
- (2) RCW 28B.76.030 (Purpose) and 2004 c 275 s 1;
- (3) RCW 28B.76.040 (Members--Appointment) and 2002 c 348 s 1, 2002 c 129 s 1, & 1985 c 370 s 10;
- (4) RCW 28B.76.050 (Members--Terms) and 2007 c 458 s 101, 2004 c 275 s 3, 2002 c 129 s 2, & 1985 c 370 s 11;
- (5) RCW 28B.76.060 (Members--Vacancies) and 1985 c 370 s 12;
- (6) RCW 28B.76.070 (Bylaws--Meetings) and 1985 c 370 s 13;

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(7) RCW 28B.76.080 (Members--Compensation and travel expenses) and 1985 c 370 s 16, 1984 c 287 s 65, 1975-'76 2nd ex.s. c 34 s 77, & 1969 ex.s. c 277 s 12;

(8) RCW 28B.76.200 (Statewide strategic master plan for higher education--Institution-level strategic plans) and 2007 c 458 s 201, 2004 c 275 s 6, & 2003 c 130 s 2;

(9) RCW 28B.76.260 (Statewide system of course equivalency--Work group) and 2004 c 55 s 3;

(10) RCW 28B.76.280 (Data collection and research--Privacy protection) and 2010 1st sp.s. c 7 s 58 & 2004 c 275 s 12;

(11) RCW 28B.76.330 (Coordination, articulation, and transitions among systems of education--Biennial updates to legislature) and 2004 c 275 s 17 & 1994 c 222 s 3; and

(12) RCW 28B.76.530 (Board may develop and administer demonstration projects) and 1989 c 306 s 2.

**NEW SECTION. Sec. 245.** The following acts or parts of acts are each repealed:

(1) RCW 28B.10.056 (State enrollment and degree priority--Science and technology fields--Report to the legislature) and 2006 c 180 s 2;

(2) RCW 28B.10.5691 (Campus safety--Institutional assessments--Updates--Reports) and 2008 c 168 s 2;

(3) RCW 28B.15.465 (Gender equity--Reports) and 1997 c 5 s 3 & 1989 c 340 s 5;

(4) RCW 28B.15.736 (Washington/Oregon reciprocity tuition and fee program--Program review) and 1985 c 370 s 72, 1983 c 104 s 2, & 1979 c 80 s 4;

(5) RCW 28B.15.754 (Washington/Idaho reciprocity tuition and fee program--Implementation agreement--Program review) and 1987 c 446 s 1, 1985 c 370 s 75, & 1983 c 166 s 3;

(6) RCW 28B.15.758 (Washington/British Columbia reciprocity tuition and fee program--Implementation agreement--Program review) and 1987 c 446 s 3, 1985 c 370 s 77, & 1983 c 166 s 5;

(7) RCW 28B.76.300 (State support received by students--Information) and 2004 c 275 s 14, 1997 c 48 s 1, & 1993 c 250 s 1; and

(8) RCW 28B.76.320 (Board to transmit amounts constituting approved educational costs) and 2004 c 275 s 16, 1995 1st sp.s. c 9 s 6, & 1989 c 245 s 4.

**NEW SECTION. Sec. 246.** (1) All powers, duties, and functions of the higher education coordinating board pertaining to student financial assistance are transferred to the office of student financial assistance. All references to the executive director or the higher education coordinating board in the Revised Code of Washington shall be construed to mean the director or the office of student financial assistance when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the higher education coordinating board pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the office of student financial assistance. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the higher education coordinating board in carrying out the powers, functions, and duties transferred shall be made available to the office of student financial assistance. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of student financial assistance.

(b) Any appropriations made to the higher education coordinating board for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of student financial assistance.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files,

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equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the higher education coordinating board engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the office of student financial assistance. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of student financial assistance to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the higher education coordinating board pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the office of student financial assistance. All existing contracts and obligations shall remain in full force and shall be performed by the office of student financial assistance.

(5) The transfer of the powers, duties, functions, and personnel of the higher education coordinating board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the higher education coordinating board assigned to the office of student financial assistance under this section whose positions are within an existing bargaining unit description at the office of student financial assistance shall become a part of the existing bargaining unit at the office of student financial assistance and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART II  
COUNCIL FOR HIGHER EDUCATION**

NEW SECTION. Sec. 301. On July 1, 2012, the higher education coordinating board is abolished and the council for higher education is created subject to the recommendations of the higher education steering committee established in section 302, chapter ..., Laws of 2011 1st sp. sess. (section 302 of this act) and implementing legislation enacted by the 2012 legislature.

NEW SECTION. Sec. 302. (1) The higher education steering committee is created.

(2) Members of the steering committee include: The governor or the governor's designee, who shall chair the committee; two members from the house of representatives, with one from each of the two major caucuses, appointed by the speaker of the house of representatives; two members from the senate, with one appointed from each of the two major caucuses, appointed by the president of the senate; an equal representation from the key sectors of the higher education system in the state; and at least two members representing the public as appointed by the governor.

(3) The steering committee shall review coordination, planning, and communication for higher education in the state and establish the purpose and functions of the council for higher education. Specifically, the steering committee shall consider options for the following:

(a) Creating an effective and efficient higher education system and coordinating key sectors including through the P-20 system;

(b) Improving the coordination of institutions of higher education and sectors with specific attention to strategic planning, system design, and transfer and articulation;

(c) Improving structures and functions related to administration and regulation of the state's higher education institutions and programs, including but not limited to financial aid, the advanced college tuition payment program, federal grant administration, new degree program approval, authorization to offer degrees in the state, reporting performance data, and minimum admission standards; and

(d) The composition and mission of the council for higher education.

(4) The steering committee shall consider input from higher education stakeholders, including but not limited to the higher education coordinating board, the state board for community and technical colleges, the community and technical colleges system, private, nonprofit baccalaureate degree-granting institutions, the office of the superintendent of public instruction, the workforce training and education coordinating board, the four-year institutions of higher education, students, faculty, business and labor organizations, and members of the public.

(5) Staff support for the steering committee must be provided by the office of financial management.

(6) The steering committee shall report its findings and recommendations, including proposed legislation, to the governor and appropriate committees of the legislature by December 1, 2011.

(7) This section expires July 1, 2012.

**PART III  
MISCELLANEOUS PROVISIONS**

NEW SECTION. Sec. 401. Section 301 of this act constitutes a new chapter in Title 28B RCW.

NEW SECTION. Sec. 402. Sections 220 through 225 of this act expire June 30, 2013.

NEW SECTION. Sec. 403. Sections 101 through 103, 106 through 202, 204 through 244, and 301 of this act take effect July 1, 2012.

NEW SECTION. Sec. 404. Section 302 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

**MOTION**

Senator White moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5182.

Senator White spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator White that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5182.

The motion by Senator White carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5182 by voice vote.

**MOTION**

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On motion of Senator Ericksen, Senators Baumgartner and Holmquist Newbry were excused.

#### MOTION

On motion of Senator White, Senator Shin was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5182, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5182, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner and Shin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5182, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:

The House passed SENATE BILL NO. 5941 with the following amendment(s): 5941 AMH HUNT H2869.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 3.62.020 and 2009 c 479 s 5 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs, fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except costs, fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the state auditor, noting the information necessary for crediting of such funds as required by law.

(2) Except as provided in RCW 10.99.080 and this section, the county treasurer shall remit thirty-two percent of the noninterest money received under subsection (1) of this section except certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel. With the exception of funds to be transferred to the judicial stabilization trust account under RCW 3.62.060(2),

money remitted under this subsection to the state treasurer shall be deposited in the state general fund.

(3) The balance of the noninterest money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund. Funds deposited under this subsection that are attributable to the county's portion of a surcharge imposed under RCW 3.62.060(2) must be used to support local trial court and court-related functions.

(4) All money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the state general fund, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts.

**Sec. 2.** RCW 12.40.020 and 2009 c 572 s 2 are each amended to read as follows:

(1) A small claims action shall be commenced by the plaintiff filing a claim, in the form prescribed by RCW 12.40.050, in the small claims department. A filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035 shall be paid when the claim is filed. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of fourteen dollars plus any surcharge authorized by RCW 7.75.035.

(2) Until July 1, (~~2014~~) 2013, in addition to the fees required by this section, an additional surcharge of ten dollars shall be charged on the filing fees required by this section, of which (~~shall~~) seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

**Sec. 3.** RCW 36.18.018 and 2009 c 572 s 3 are each amended to read as follows:

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The administrative office of the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrative office of the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(4) Until July 1, (~~2014~~) 2013, in addition to the fee established under subsection (2) of this section, a surcharge of thirty dollars is established for appellate review. The county clerk shall transmit seventy-five percent of this surcharge to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

**Sec. 4.** RCW 3.62.060 and 2009 c 572 s 1 and 2009 c 372 s 1 are each reenacted and amended to read as follows:

(1) Clerks of the district courts shall collect the following fees for their official services:

(~~(1)~~) (a) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of forty-three dollars plus any surcharge authorized by RCW 7.75.035. Any party filing a counterclaim, cross-claim, or third-party claim in such action shall pay to the court a filing fee of forty-three dollars

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plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

~~((2))~~ (b) For issuing a writ of garnishment or other writ, or for filing an attorney issued writ of garnishment, a fee of twelve dollars.

~~((3))~~ (c) For filing a supplemental proceeding a fee of twenty dollars.

~~((4))~~ (d) For demanding a jury in a civil case a fee of one hundred twenty-five dollars to be paid by the person demanding a jury.

~~((5))~~ (e) For preparing a transcript of a judgment a fee of twenty dollars.

~~((6))~~ (f) For certifying any document on file or of record in the clerk's office a fee of five dollars.

~~((7))~~ (g) At the option of the district court:

~~((a))~~ (i) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar;

~~((b))~~ (ii) For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed;

~~((c))~~ (iii) For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page;

~~((d))~~ (iv) When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page;

~~((e))~~ (v) For copies made on a compact disc, an additional fee of twenty dollars for each compact disc.

~~((8))~~ (h) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

~~((9))~~ (i) At the option of the district court, for clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, a fee not to exceed twenty dollars per hour or portion of an hour.

~~((10))~~ (j) For duplication of part or all of the electronic recording of a proceeding ten dollars per tape or other electronic storage medium.

~~((11))~~ (k) For filing any abstract of judgment or transcript of judgment from a municipal court or municipal department of a district court organized under the laws of this state a fee of forty-three dollars.

~~((12))~~ (l) At the option of the district court, a service fee of up to three dollars for the first page and one dollar for each additional page for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

~~((13))~~ (2)(a) Until July 1, ~~((2014))~~ 2013, in addition to the fees required ~~((by subsection (1) of this section, clerks of the district courts shall collect a surcharge of twenty dollars on all fees required by subsection (1) of this section, which shall be remitted to the state treasurer for deposit in the judicial stabilization trust account. This surcharge is not subject to the division and remittance requirements of RCW 3.62.020))~~ to be collected under this section, clerks of the district courts must collect a surcharge of twenty dollars on all fees required to be collected under subsection (1)(a) of this section.

(b) Seventy-five percent of each surcharge collected under this subsection (2) must be remitted to the state treasurer for deposit in the judicial stabilization trust account.

(c) Twenty-five percent of each surcharge collected under this subsection (2) must be retained by the county.

(3) The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

**Sec. 5.** RCW 36.18.020 and 2009 c 572 s 4, 2009 c 479 s 21, and 2009 c 417 s 3 are each reenacted and amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972(~~PROVIDED, That~~). However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5)(a) Until July 1, ((2014)) 2013, in addition to the fees required ((by this section, clerks of superior courts shall collect the surcharges required by this subsection, which shall be remitted to the state treasurer for deposit in the judicial stabilization trust account:

~~(a) On filing fees under subsection (2)(b) of this section, a~~

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~~surcharge of twenty dollars; and~~

~~—(b) On all other filing fees required by this section except for filing fees in subsection (2)(d) and (h) of this section, a surcharge of thirty dollars)) to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.~~

~~(b) On filing fees required to be collected under subsection (2)(b) of this section, a surcharge of twenty dollars must be collected.~~

~~(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of thirty dollars must be collected.~~

**Sec. 6.** RCW 43.79.505 and 2009 c 572 s 5 are each amended to read as follows:

The judicial stabilization trust account is created within the state treasury, subject to appropriation. All receipts from the surcharges authorized by ~~((sections 1 through 4, chapter 572, Laws of 2009))~~ RCW 3.62.060(2), 12.40.020(2), 36.18.018(4), and 36.18.020(5) shall be deposited in this account. Moneys in the account may be spent only after appropriation.

Expenditures from the account may be used only for the support of judicial branch agencies.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Senate Bill No. 5941.

Senator Eide spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Senate Bill No. 5941.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5941 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5941, as amended by the House.

Senator Sheldon spoke against passage of the bill.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5941, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Ranker, Regala, Rockefeller, Tom and White

Voting nay: Senators Baxter, Becker, Benton, Carrell, Chase, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, Morton, Pridemore, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Baumgartner and Shin

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SENATE BILL NO. 5941, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:

The House passed SENATE JOINT RESOLUTION NO. 8206 with the following amendment(s): 8206 AMH WAYS H2866.1

On page 1, line 15, after "biennium," insert "three-quarters of" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Zarelli moved that the Senate concur in the House amendment(s) to Senate Joint Resolution No. 8206.

Senator Zarelli spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zarelli that the Senate concur in the House amendment(s) to Senate Joint Resolution No. 8206.

The motion by Senator Zarelli carried and the Senate concurred in the House amendment(s) to Senate Joint Resolution No. 8206 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Joint Resolution No. 8206, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Resolution No. 8206, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Baumgartner and Shin

SENATE JOINT RESOLUTION NO. 8206, as amended by the House, having received the constitutional majority, was declared passed.

#### MESSAGE FROM THE HOUSE

May 21, 2011

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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Senator Regala moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1965.

The President declared the question before the Senate to be motion by Senator Regala that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1965.

The motion by Senator Regala carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1965 by voice vote.

MOTION

On motion of Senator Regala, the rules were suspended and Engrossed Second Substitute House Bill No. 1965 was returned to second reading for the purpose of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Jinkins, Frockt and Kenney)

Concerning adverse childhood experiences.

The measure was read the second time.

MOTION

Senator Regala moved that the following striking amendment by Senators Regala and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that adverse childhood experiences are a powerful common determinant of a child's ability to be successful at school and, as an adult, to be successful at work, to avoid behavioral and chronic physical health conditions, and to build healthy relationships. The purpose of this chapter is to identify the primary causes of adverse childhood experiences in communities and to mobilize broad public and private support to prevent harm to young children and reduce the accumulated harm of adverse experiences throughout childhood. A focused effort is needed to: (1) Identify and promote the use of innovative strategies based on evidence-based and research-based approaches and practices; and (2) align public and private policies and funding with approaches and strategies which have demonstrated effectiveness.

The legislature recognizes that many community public health and safety networks across the state have knowledge and expertise regarding the reduction of adverse childhood experiences and can provide leadership on this initiative in their communities. In addition, a broad range of community coalitions involved with early learning, child abuse prevention, and community mobilization have coalesced in many communities. The adverse childhood experiences initiative should coordinate and assemble the strongest components of these networks and coalitions to effectively respond to the challenge of reducing and preventing adverse childhood experiences while providing flexibility for communities to design responses that are appropriate for their community.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adverse childhood experiences" means the following indicators of severe childhood stressors and family dysfunction that, when experienced in the first eighteen years of life and taken

together, are proven by public health research to be powerful determinants of physical, mental, social, and behavioral health across the lifespan: Child physical abuse; child sexual abuse; child emotional abuse; child emotional or physical neglect; alcohol or other substance abuse in the home; mental illness, depression, or suicidal behaviors in the home; incarceration of a family member; witnessing intimate partner violence; and parental divorce or separation. Adverse childhood experiences have been demonstrated to affect the development of the brain and other major body systems.

(2) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(3) "Department" means the department of social and health services.

(4) "Director" means the director of the department of early learning.

(5) "Evidence-based" has the same meaning as in RCW 43.215.146.

(6) "Research-based" has the same meaning as in RCW 43.215.146.

(7) "Secretary" means the secretary of social and health services.

**NEW SECTION. Sec. 3.** (1)(a) The secretary of the department of social and health services and the director of the department of early learning shall actively participate in the development of a nongovernmental private-public initiative focused on coordinating government and philanthropic organizations' investments in the positive development of children and preventing and mitigating the effects of adverse childhood experiences. The secretary and director shall convene a planning group to work with interested private partners to: (i) Develop a process by which the goals identified in section 1 of this act shall be met; and (ii) develop recommendations for inclusive and diverse governance to advance the adverse childhood experiences initiative.

(b) The secretary and director shall select no more than twelve to fifteen persons as members of the planning group. The members selected must represent a diversity of interests including: Early learning coalitions, community public health and safety networks, organizations that work to prevent and address child abuse and neglect, tribes, representatives of public agency agencies involved with interventions in or prevention of adverse childhood experiences, philanthropic organizations, and organizations focused on community mobilization.

(c) The secretary and director shall cochair the planning group meetings and shall convene the first meeting.

(2) The planning group shall submit a report on its progress and recommendations to the appropriate legislative committees no later than December 15, 2011.

(3) In addition to other powers granted to the secretary, the secretary may:

(a) Enter into contracts on behalf of the department to carry out the purposes of this chapter;

(b) Provide funding to communities or any governance entity that is created as a result of the partnership; and

(c) Accept gifts, grants, or other funds for the purposes of this chapter.

**Sec. 4.** RCW 13.40.462 and 2006 c 304 s 2 are each amended to read as follows:

(1) The department of social and health services juvenile rehabilitation administration shall establish a reinvesting in youth program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime, subject to the availability of amounts appropriated for this specific purpose.

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(2) Effective July 1, 2007, any county or group of counties may apply for participation in the reinvesting in youth program.

(3) Counties that participate in the reinvesting in youth program shall have a portion of their costs of serving youth through the research-based intervention service models paid for with moneys from the reinvesting in youth account established pursuant to RCW 13.40.466.

(4) The department of social and health services juvenile rehabilitation administration shall review county applications for funding through the reinvesting in youth program and shall select the counties that will be awarded grants with funds appropriated to implement this program. The department, in consultation with the Washington state institute for public policy, shall develop guidelines to determine which counties will be awarded funding in accordance with the reinvesting in youth program. At a minimum, counties must meet the following criteria in order to participate in the reinvesting in youth program:

(a) Counties must match state moneys awarded for research-based early intervention services with nonstate resources that are at least proportional to the expected local government share of state and local government cost avoidance that would result from the implementation of such services;

(b) Counties must demonstrate that state funds allocated pursuant to this section are used only for the intervention service models authorized pursuant to RCW 13.40.464;

(c) Counties must participate fully in the state quality assurance program established in RCW 13.40.468 to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans shall be grounds for termination of state funding; and

(d) Counties that submit joint applications must submit for approval by the department of social and health services juvenile rehabilitation administration multicounty plans for efficient program delivery.

~~((5) The department of social and health services juvenile rehabilitation administration shall convene a technical advisory committee comprised of representatives from the house of representatives, the senate, the governor's office of financial management, the department of social and health services juvenile rehabilitation administration, the family policy council, the juvenile court administrator's association, and the Washington association of counties to assist in the implementation of chapter 304, Laws of 2006.))~~

**Sec. 5.** RCW 43.121.100 and 2011 c 171 s 9 are each amended to read as follows:

~~((The council may accept))~~ Contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations and funds generated through the issuance of the "Keep Kids Safe" license plate under chapter 46.18 RCW~~((All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature))~~, shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the ~~((council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050))~~ director of the department of early learning beginning July 1, 2012. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds.

**Sec. 6.** RCW 43.215.146 and 2007 c 466 s 2 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW ((43.121.170 through)) 43.215.145, 43.215.147, and 43.121.185 unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

**Sec. 7.** RCW 43.215.147 and 2008 c 152 s 6 are each amended to read as follows:

(1) Within available funds, the ~~((council for children and families))~~ department shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes. In order to maximize opportunities to obtain matching funds from private entities, general funds intended to support home visiting funding shall be appropriated to the home visiting services account established in RCW 43.215.130.

(2) The ~~((council for children and families shall develop a plan))~~ department shall work with the department of social and health services, the department of health~~((the department of early learning, and the family policy council)),~~ the private-public partnership created in RCW 43.215.070, and key partners and stakeholders to develop a plan to coordinate or consolidate home visitation services for children and families ~~((and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the plan))~~ to the extent practicable.

**Sec. 8.** RCW 43.70.555 and 1998 c 245 s 77 are each amended to read as follows:

The department~~((in consultation with the family policy council created in chapter 70.190 RCW,))~~ shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550.

**NEW SECTION. Sec. 9.** (1) Beginning July 1, 2011, the council for children and families and the department of early learning shall develop a plan for transitioning the work of the council for children and families, including public awareness campaigns, to the department of early learning. The council for children and families and the department of early learning shall participate in the development of the private-public initiative in order to streamline efforts around the prevention of child abuse and neglect and avoid duplication of effort.

(2) The executive director of the council for children and families and the director of the department of early learning shall consult with the planning group convened in section 3 of this act to

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develop strategies to maximize Washington's leverage and match of federal child abuse and neglect prevention moneys.

(3) No later than January 1, 2012, the council for children and families and the department of early learning shall report to the appropriate committees of the legislature on its transition plan.

**Sec. 10.** RCW 74.14A.060 and 2000 c 219 s 2 are each amended to read as follows:

Within available funds, the secretary of the department of social and health services shall ~~((charge appropriated funds to))~~ support blended funding projects for youth ~~((subject to any current or future waiver the department receives to the requirements of IV-E funding))~~. To be eligible for blended funding a child must be eligible for services designed to address a behavioral, mental, emotional, or substance abuse issue from the department of social and health services and require services from more than one categorical service delivery system. Before any blended funding project is established by the secretary, any entity or person proposing the project shall seek input from the public health and safety network or networks established in the catchment area of the project. The network or networks shall submit recommendations on the blended funding project to the ~~((family policy council))~~ private-public initiative described in section 3 of this act. The ~~((family policy council))~~ private-public initiative shall advise the secretary whether to approve the proposed blended funding project. The network shall review the proposed blended funding project pursuant to its authority to examine the decategorization of program funds under RCW 70.190.110, within the current appropriation level. The department shall document the number of children who participate in blended funding projects, the total blended funding amounts per child, the amount charged to each appropriation by program, and services provided to each child through each blended funding project and report this information to the appropriate committees of the legislature by December 1st of each year, beginning in December 1, 2000.

**Sec. 11.** RCW 70.190.040 and 1993 c 336 s 901 are each amended to read as follows:

(1) The legislature finds that helping children to arrive at school ready to learn is an important part of improving student learning.

(2) To the extent funds are appropriated, the ~~((family policy council))~~ superintendent of public instruction shall award grants to community-based consortiums that submit comprehensive plans that include strategies to improve readiness to learn.

**NEW SECTION. Sec. 12.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 43.121.010 (Legislative declaration, intent) and 1982 c 4 s 1;

(2) RCW 43.121.015 (Definitions) and 2008 c 152 s 8, 1988 c 278 s 4, & 1987 c 351 s 2;

(3) RCW 43.121.020 (Council established--Members, chairperson--Appointment, qualifications, terms, vacancies) and 2008 c 152 s 7, 2007 c 144 s 1, 1996 c 10 s 1, 1994 c 48 s 1, 1989 c 304 s 4, 1987 c 351 s 3, 1984 c 261 s 1, & 1982 c 4 s 2;

(4) RCW 43.121.030 (Compensation and travel expenses of members) and 1984 c 287 s 87 & 1982 c 4 s 3;

(5) RCW 43.121.040 (Executive director, salary--Staff) and 1982 c 4 s 4;

(6) RCW 43.121.050 (Council powers and duties--Generally--Rules) and 1988 c 278 s 5, 1987 c 351 s 4, & 1982 c 4 s 5;

(7) RCW 43.121.060 (Contracts for services--Scope of programs--Funding) and 1982 c 4 s 6;

(8) RCW 43.121.070 (Contracts for services--Factors in awarding) and 1982 c 4 s 7;

(9) RCW 43.121.080 (Contracts for services--Partial funding by administering organization, what constitutes) and 1982 c 4 s 8;

(10) RCW 43.121.110 (Parenting skills--Legislative findings) and 1988 c 278 s 1;

(11) RCW 43.121.120 (Community-based early parenting skills programs--Funding) and 1988 c 278 s 2;

(12) RCW 43.121.130 (Decreased state funding of parenting skills programs--Evaluation) and 1998 c 245 s 48 & 1988 c 278 s 3;

(13) RCW 43.121.140 (Shaken baby syndrome--Outreach campaign) and 1993 c 107 s 2;

(14) RCW 43.121.150 (Juvenile crime--Legislative findings) and 1997 c 338 s 56;

(15) RCW 43.121.160 (Postpartum depression--Public information and communication outreach campaign) and 2005 c 347 s 2;

(16) RCW 43.121.185 (Children's trust of Washington renamed) and 2008 c 152 s 5 & 2007 c 466 s 4; and

(17) RCW 43.121.910 (Severability--1982 c 4) and 1982 c 4 s 15.

**NEW SECTION. Sec. 13.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2012:

(1) RCW 70.190.005 (Purpose) and 1994 sp.s. c 7 s 301 & 1992 c 198 s 1;

(2) RCW 70.190.010 (Definitions) and 2009 c 565 s 52, 2009 c 479 s 58, 1996 c 132 s 2, 1995 c 399 s 200, & 1992 c 198 s 3;

(3) RCW 70.190.020 (Consolidate efforts of existing entities) and 1994 sp.s. c 7 s 315 & 1992 c 198 s 4;

(4) RCW 70.190.100 (Duties of council) and 2009 c 479 s 59, 1998 c 245 s 123, & 1994 sp.s. c 7 s 307;

(5) RCW 70.190.110 (Program review) and 1998 c 245 s 124 & 1994 sp.s. c 7 s 308;

(6) RCW 70.190.120 (Interagency agreement) and 1994 sp.s. c 7 s 309;

(7) RCW 70.190.130 (Comprehensive plan--Approval process--Network expenditures--Penalty for noncompliance with chapter) and 1998 c 314 s 13, 1996 c 132 s 8, & 1994 sp.s. c 7 s 310;

(8) RCW 70.190.150 (Federal restrictions on funds transfers, waivers) and 1994 sp.s. c 7 s 312; and

(9) RCW 70.190.920 (Effective date--1992 c 198) and 1992 c 198 s 21.

**NEW SECTION. Sec. 14.** RCW 74.14C.050 (Implementation and evaluation plan) and 1995 c 311 s 9 & 1992 c 214 s 6 are each repealed.

**NEW SECTION. Sec. 15.** RCW 70.190.040 is recodified as a section in chapter 28A.300 RCW.

**NEW SECTION. Sec. 16.** Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW.

**NEW SECTION. Sec. 17.** Section 5 of this act takes effect July 1, 2012."

Senator Regala spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala and Carrell to Engrossed Second Substitute House Bill No. 1965.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 13.40.462,

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43.121.100, 43.215.146, 43.215.147, 43.70.555, 74.14A.060, and 70.190.040; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 70 RCW; creating a new section; recodifying RCW 70.190.040; repealing RCW 43.121.010, 43.121.015, 43.121.020, 43.121.030, 43.121.040, 43.121.050, 43.121.060, 43.121.070, 43.121.080, 43.121.110, 43.121.120, 43.121.130, 43.121.140, 43.121.150, 43.121.160, 43.121.185, 43.121.910, 70.190.005, 70.190.010, 70.190.020, 70.190.100, 70.190.110, 70.190.120, 70.190.130, 70.190.150, 70.190.920, and 74.14C.050; and providing effective dates."

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Second Substitute House Bill No. 1965 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1965 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1965 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Benton, Carrell, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, Morton, Roach, Stevens and Swecker

Excused: Senators Baumgartner and Shin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 3:53 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Monday, May 23, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

TWENTY EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, May 23, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Ericksen, Hewitt, Murray, Parlette, Shin and Zarelli.

The Sergeant at Arms Color Guard consisting of Senate Legislative Aides Kim Cusick and Krista Winters, presented the Colors. Senator Fraser offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5581,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5596,  
SECOND ENGROSSED SENATE BILL NO. 5773,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5927.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House has passed:

SECOND ENGROSSED SENATE BILL NO. 5638,  
SUBSTITUTE SENATE BILL NO. 5912.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House receded from its amendment to SENATE BILL NO. 5289 and passed the bill without the House amendment. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 1248,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1277,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1354,  
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1738,  
HOUSE BILL NO. 2070,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2115.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1449 and passed the bill as amended by the Senate. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1346 by House Committee on Ways & Means (originally sponsored by Representative Hunter)

AN ACT Relating to making changes to laws administered by the department of revenue that do not create any new or broaden any existing tax preference as defined in RCW 43.136.021 or increase any person's tax burden; amending RCW 82.04.220, 82.12.040, and 43.06.400; and repealing RCW 82.16.140 and 82.32.570.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, the measure listed on the Introduction and First Reading report was referred to the Committee on Ways & Means.

PERSONAL PRIVILEGE

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Senator Eide: "Before we go at ease I understand that there is a very special, very dynamic, very powerful and may I dare say very handsome man's birthday today and it's the fine gentleman of Lieutenant Governor. Happy Birthday."

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL 1248,  
ENGROSSED SUBSTITUTE HOUSE BILL 1277,  
ENGROSSED SUBSTITUTE HOUSE BILL 1354,  
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE  
BILL 1738,  
HOUSE BILL 2070,  
ENGROSSED SUBSTITUTE HOUSE BILL 2115.

MOTION

At 10:12 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:40 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5182,  
SENATE BILL NO. 5289,  
SECOND ENGROSSED SENATE BILL NO. 5638,  
SUBSTITUTE SENATE BILL NO. 5912,  
SENATE BILL NO. 5941,  
SENATE JOINT RESOLUTION NO. 8206.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9030, Ronald Erickson, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senators Rockefeller and White spoke in favor of passage of the motion.

MOTION

On motion of Senator White, Senator Shin was excused.

APPOINTMENT OF RONALD ERICKSON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9030, Ronald Erickson as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9030, Ronald Erickson as a

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member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 7; Excused, 1.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Absent: Senators Brown, Ericksen, Hargrove, Hewitt, Murray, Parlette and Zarelli

Excused: Senator Shin

Gubernatorial Appointment No. 9030, Ronald Erickson, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

MOTION

On motion of Senator Eide, Senators Brown, Hewitt, Murray, Parlette and Zarelli were excused.

MOTION

On motion of Senator Schoesler, Senator Ericksen was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9096, Ann Ryherd, as a member of the Lottery Commission, be confirmed.

Senator Rockefeller spoke in favor of the motion.

APPOINTMENT OF ANN RYHERD

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9096, Ann Ryherd as a member of the Lottery Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9096, Ann Ryherd as a member of the Lottery Commission and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 0; Excused, 6.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and White

Excused: Senators Brown, Hewitt, Murray, Parlette, Shin and Zarelli

Gubernatorial Appointment No. 9096, Ann Ryherd, having received the constitutional majority was declared confirmed as a member of the Lottery Commission.

MOTION

On motion of Senator Delvin, Senator Ericksen was excused.

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MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MOTION

On motion of Senator Eide, Senator Kilmer was excused.

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742 and has passed the bill as recommended by the Conference Committee and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Pursuant to Rule 20 of the Joint Rules of the Senate and House of Representatives, on motion of Senator Eide and without objection, the requirement in Rule 20 of the Joint Rules that each house shall have twenty-four hours from the time of proper receipt and distribution to the desks of the members before considering certain reports from a conference committee was suspended.

REPORT OF THE CONFERENCE COMMITTEE  
Second Engrossed Substitute Senate Bill No. 5742  
May 21, 2011

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Second Engrossed Substitute Senate Bill No. 5742, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.60.530 and 1979 c 27 s 4 are each amended to read as follows:

~~((There is hereby created in the motor vehicle fund)) (1) The Puget Sound ferry operations account ((to the credit of which shall be deposited all moneys directed by law to be deposited therein. All moneys deposited in this account shall be expended pursuant to appropriations only for reimbursement of the motor vehicle fund for any state moneys, other than insurance proceeds, expended therefrom for alternate transportation services instituted as a result of the destruction of the Hood Canal bridge, and)) is created in the motor vehicle fund.~~

(2) The following funds must be deposited into the account:

(a) All moneys directed by law;

(b) All revenues generated from ferry fares; and

(c) All revenues generated from commercial advertising, concessions, parking, and leases as allowed under RCW 47.60.140.

(3) Moneys in the account may be spent only after appropriation.

(4) Expenditures from the account may be used only for the maintenance, administration, and operation of the ((Washington state ferries including the Hood Canal bridge, supplementing as

~~required the revenues available from the)) Washington state ferry system.~~

NEW SECTION. Sec. 2. A new section is added to chapter 47.60 RCW to read as follows:

(1) The capital vessel replacement account is created in the motor vehicle fund. All revenues generated from the vessel replacement surcharge under RCW 47.60.315(7) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the construction or purchase of ferry vessels and to pay the principal and interest on bonds authorized for the construction or purchase of ferry vessels. However, expenditures from the account must first be used to support the construction or purchase, including any applicable financing costs, of a ferry vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The state treasurer may not transfer any moneys from the capital vessel replacement account except to the transportation 2003 account (nickel account) for debt service on bonds issued for the construction of a 144-car class ferry vessel.

Sec. 3. RCW 47.60.315 and 2007 c 512 s 6 are each amended to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) By September 1st of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

(6) The commission may not raise fares until the fare rules contain pricing policies developed under RCW 47.60.290, or September 1, 2009, whichever is later.

(7) The commission shall impose a vessel replacement surcharge of twenty-five cents on every one-way and round-trip ferry fare sold, including multiride and monthly pass fares. This surcharge must be clearly indicated to ferry passengers and drivers and, if possible, on the fare media itself.

Sec. 4. RCW 82.08.0255 and 2007 c 223 s 9 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

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(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger- only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter 82.36 or 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

**Sec. 5.** RCW 82.12.0256 and 2007 c 223 s 10 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger- only ferry vessels; or

(d) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)(d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013.

**Sec. 6.** RCW 43.84.092 and 2010 1st sp.s. c 30 s 20, 2010 1st sp.s. c 9 s 7, 2010 c 248 s 6, 2010 c 222 s 5, 2010 c 162 s 6, and 2010 c 145 s 11 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government

pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multiagency permitting team account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public

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employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 7.** RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, working conditions, and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees retirement system under chapter 41.40 RCW and

shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall not bargain over the rights of management as identified in RCW 41.80.040.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

**NEW SECTION. Sec. 8.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The captain of a Washington state ferry vessel, also known as the master of a vessel or the commanding officer, is the ultimate authority on, manager of, and has responsibility for the entire vessel and its Washington state ferries personnel while it is in service. The captain's responsibilities include, but are not limited to:

(a) Ensuring the safe navigation of the vessel and its crew and passengers;

(b) Following all applicable federal, state, and agency policies and regulations;

(c) Supervising crew in performance, operations, training, security, and environmental protection;

(d) Overseeing all aspects of vessel operations;

(e) Ensuring that the vessel operations and its Washington state ferries personnel satisfy performance expectations set forth by the department; and

(f) Managing vessel arrivals and departures, as well as all other vessel operations while the vessel is in service.

(3) Effective July 1, 2013, the public employment relations commission shall sever from the masters, mates, and pilots bargaining unit all captains. By August 31, 2011, if a majority of the captains in the masters, mates, and pilots bargaining unit indicate by vote that they desire to be included in a newly formed captains-only bargaining unit, the public employment relations commission shall certify a captains-only bargaining unit, to be effective July 1, 2013. For the vote described in this subsection, a union seeking to represent captains does not have to demonstrate a showing of interest to be included on a ballot. Notwithstanding the results of a vote, captains shall remain a part of the masters, mates, and pilots bargaining unit through June 30, 2013.

(4) If a new captains-only bargaining unit is created, the employer and the exclusive bargaining representative for the

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captains-only bargaining unit must negotiate a collective bargaining agreement exclusive to the captains-only bargaining unit.

(5) Beginning with negotiations covering the 2013-2015 biennium, the employer and the exclusive bargaining representative of the captains-only bargaining unit must negotiate agreements that are consistent with this section.

(6) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

**NEW SECTION. Sec. 9.** A new section is added to chapter 47.64 RCW to read as follows:

For the purposes of this section and sections 10 through 15 of this act:

(1) "Management" means an employee at the Washington state ferries who is part of Washington management services or is exempt.

(2) "Performance measure" means measurable standards to be used by the department to evaluate the sufficiency of the services being provided to ferry riders.

(3) "Performance report" means a report that summarizes ferry system performance using the performance measures identified in sections 10 and 11 of this act.

(4) "Performance target" means the desired outcome of a performance measure.

**NEW SECTION. Sec. 10.** A new section is added to chapter 47.64 RCW to read as follows:

Performance targets must be established by an ad hoc committee with members from and designated by the office of the governor, which must include at least one member from labor. The committee may not consist of more than eleven members. By December 31, 2011, the committee shall present performance targets to the representatives of the legislative transportation committees and the joint transportation committee for review of the performance measures listed under this section. The committee may also develop performance measures in addition to the following:

(1) Safety performance as measured by passenger injuries per one million passenger miles and by injuries per ten thousand revenue service hours that are recordable by standards of the federal occupational safety and health administration and related to standard operating procedures;

(2) Service effectiveness measures including, but not limited to, passenger satisfaction of interactions with ferry employees, cleanliness and comfort of vessels and terminals, and satisfactory response to requests for assistance. Passenger satisfaction must be measured by an evaluation that is created by a contracted market research company and conducted by the Washington state transportation commission as part of the ferry riders' opinion group survey. The Washington state transportation commission shall, to the extent possible, integrate the passenger satisfaction evaluation into the ferry user data survey described in RCW 47.60.286;

(3) Cost-containment measures including, but not limited to, operating cost per passenger mile, operating cost per revenue service mile, discretionary overtime as a percentage of straight time, and gallons of fuel consumed per revenue service mile; and

(4) Maintenance and capital program effectiveness measures including, but not limited to: Project delivery rate as measured by the number of projects completed on time and within the omnibus transportation appropriations act; vessel and terminal design and engineering costs as measured by a percentage of the total capital program, including measurement of the ongoing operating and maintenance costs; and total vessel out-of-service time.

The ad hoc committee described in subsection (1) of this section expires December 31, 2011.

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**NEW SECTION. Sec. 11.** A new section is added to chapter 47.64 RCW to read as follows:

(1) Beginning on October 1, 2011, the department shall report on peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions. On-time is defined as within ten minutes of the scheduled time. Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measure in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site. The statistics must include reasons for any delays over five minutes and any delays over ten minutes from the scheduled time.

(3) The department may not eliminate any ferry route without prior legislative approval.

**NEW SECTION. Sec. 12.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The office of financial management shall complete a government management and accountability performance report that provides a baseline assessment of current performance on the performance measures identified in sections 10 and 11 of this act using final 2009-2011 data. This report must be presented to the legislature by November 1, 2011, through the attainment report required in RCW 47.01.071(5) and 47.04.280.

(2) By December 31, 2012, and each year thereafter, the office of financial management shall complete a performance report for the prior fiscal year. This report must be reviewed by the joint transportation committee.

(3) Management shall lead implementation of the performance measures in sections 10 and 11 of this act.

**NEW SECTION. Sec. 13.** A new section is added to chapter 47.64 RCW to read as follows:

If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 10 and 11 of this act by June 30, 2013, as reported in the December 31, 2013, performance report described in section 12 of this act, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the performance targets in sections 10 and 11 of this act within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

**NEW SECTION. Sec. 14.** A new section is added to chapter 47.64 RCW to read as follows:

(1) If the Washington state ferries does not meet at least eighty percent of the performance target that is set for each performance measure identified in sections 10 and 11 of this act by June 30, 2013, as reported in the December 31, 2013, performance report described in section 12 of this act, the department must:

(a) Solicit a fixed cost bid for meeting the performance measures in sections 10 and 11 of this act, which must include a request for information or a request for qualifications to identify qualifications necessary and costs associated with privatizing the management functions of the Washington state ferries; and

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(b) Present the results of the request for information or request for qualifications to the transportation committees of the legislature and the governor.

(2) In consultation with the governor's office, the transportation committees of the legislature shall utilize the information provided in subsection (1) of this section to determine whether or not to competitively contract out the management functions of the Washington state ferry system the following biennium.

(3) If the governor and the transportation committees of the legislature opt to competitively contract out the management functions of the Washington state ferry system in the following biennium, the contract must be a fixed cost contract that requires the private management services firm to meet or exceed the performance target for eighty percent of the performance measures under sections 10 and 11 of this act. Based on these performance measures, the contract must provide for incentive or retained payment arrangements as a means of ensuring satisfactory performance of the contract and improved performance of the ferry system over time.

(4) The contract must include a requirement that the firm retain existing and future collective bargaining agreements as negotiated between the state and the employees' labor representatives. The private management services firm may rehire Washington management services employees or exempt employees at the Washington state ferries.

(5) The contract must be for a two-year period. If the private management services firm meets or exceeds the performance measures under sections 10 and 11 of this act, the contract is renewable for an additional two years for a maximum of ten years. After ten years, the department shall implement an invitation for bid process.

(6) Consistent with RCW 41.06.142(3), the contract is not subject to requirements for agencies purchasing services that have been customarily and historically provided by state employees.

**NEW SECTION. Sec. 15.** A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in sections 10 and 11 of this act.

**NEW SECTION. Sec. 16.** A new section is added to chapter 41.58 RCW to read as follows:

(1) There is created the marine employees' commission within the public employment relations commission. The governor shall appoint the marine employees' commission with the consent of the senate. The marine employees' commission shall consist of three members: One member to be appointed from labor; one member from industry; and one member from the public who has significant knowledge of maritime affairs. The public member is chair of the marine employees' commission. Any member of the marine employees' commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Marine employees' commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the marine employees' commission. Members of the marine employees' commission must be compensated in accordance with RCW 43.03.250 and must receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission under RCW 47.01.061.

(2) The rules of procedure adopted by the public employment relations commission under RCW 41.58.050 apply to state ferry system employees, except that the marine employees' commission shall act in place of the public employment relations commission only for appeals of unfair labor practice complaints, questions concerning representation, and unit clarifications.

(3) In addition to subsection (2) of this section, the marine employees' commission shall perform the duties as provided in RCW 47.64.280.

(4) This section expires June 30, 2013.

**Sec. 17.** RCW 41.58.050 and 1975 1st ex.s. c 296 s 7 are each amended to read as follows:

The (~~board~~) commission shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter.

**Sec. 18.** RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of this chapter and chapter 47.64 RCW shall govern. However, if a conflict exists between this chapter and chapter 47.64 RCW, this chapter shall govern.

**Sec. 19.** RCW 47.64.130 and 2010 c 8 s 10021 are each amended to read as follows:

(1) It is an unfair labor practice for the employer or its representatives:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. However, subject to rules made by the public employment relations commission pursuant to RCW (~~47.64.280~~) 41.58.050, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hiring, tenure of employment, or any term or condition of employment, but nothing contained in this subsection prevents an employer from requiring, as a condition of continued employment, payment of periodic dues and fees uniformly required to an exclusive bargaining representative pursuant to RCW 47.64.160. However, nothing prohibits the employer from agreeing to obtain employees by referral from a lawful hiring hall operated by or participated in by a labor organization;

(d) To discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce (i) employees in the exercise of the rights guaranteed by this chapter. However, this subsection does not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership therein, or (ii) an employer in the selection of his or her representatives for the purposes of collective bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To refuse to bargain collectively with an employer.

(3) The expression of any view, argument, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this chapter, if the expression contains no threat of reprisal or force or promise of benefit.

**Sec. 20.** RCW 47.64.280 and 2010 c 283 s 14 are each amended to read as follows:

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~~(1) ((There is created the marine employees' commission. The governor shall appoint the commission with the consent of the senate. The commission shall consist of three members: One member to be appointed from labor, one member from industry, and one member from the public who has significant knowledge of maritime affairs. The public member shall be chair of the commission. One of the original members shall be appointed for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Commission members are eligible for reappointment. Any member of the commission may be removed by the governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause. Commission members are not eligible for state retirement under chapter 41.40 RCW by virtue of their service on the commission. Members of the commission shall be compensated in accordance with RCW 43.03.250 and shall receive reimbursement for official travel and other expenses at the same rate and on the same terms as provided for the transportation commission by RCW 47.01.061. The payments shall be made from the Puget Sound ferry operations account.~~

~~—(2)) The marine employees' commission, created in section 16 of this act, shall((:-(a)) adjust all complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system as provided in RCW 47.64.150((:-(b) provide for impasse mediation as required in RCW 47.64.210; and (c) perform those duties required in RCW 47.64.300.~~

~~—(3)(a) In adjudicating all complaints, grievances, and disputes, the party claiming labor disputes shall, in writing, notify the commission, which shall make careful inquiry into the cause thereof and issue an order advising the ferry employee, or the ferry employee organization representing him or her, and the department of transportation, as to the decision of the commission.~~

~~—(b) The parties are entitled to offer evidence relating to disputes at all hearings conducted by the commission. The orders and awards of the commission are final and binding upon any ferry employee or employees or their representative affected thereby and upon the department.~~

~~—(c) The commission shall adopt rules of procedure under chapter 34.05 RCW.~~

~~—(d) The commission has the authority to subpoena any ferry employee or employees, or their representatives, and any member or representative of the department, and any witnesses. The commission may require attendance of witnesses and the production of all pertinent records at any hearings held by the commission. The subpoenas of the commission are enforceable by order of any superior court in the state of Washington for the county within which the proceeding may be pending. The commission may hire staff as necessary, appoint consultants, enter into contracts, and conduct studies as reasonably necessary to carry out this chapter).~~

~~(2) All unfair labor practice complaints, questions concerning representation, and unit clarifications must be filed with the public employment relations commission and processed in accordance with the commission's rules adopted under RCW 41.58.050, except that the marine employees' commission shall act in place of the public employment relations commission only for appeals.~~

~~(3) This section expires June 30, 2013.~~

**Sec. 21.** RCW 47.64.300 and 2007 c 160 s 4 are each amended to read as follows:

(1) If an agreement has not been reached following a reasonable period of negotiations and, when applicable, mediation, upon the recommendation of the assigned mediator that the parties remain at impasse or, with respect to biennial bargaining, in compliance with

the interest arbitration agreement under RCW 47.64.170(6)(a), all impasse items shall be submitted to arbitration under this section. The issues for arbitration shall be limited to the issues certified by the ((commission)) executive director.

(2) The parties may agree to submit the dispute to a single arbitrator, whose authority and duties shall be the same as those of an arbitration panel. If the parties cannot agree on the arbitrator within five working days, the selection shall be made under subsection (3) of this section, except with respect to biennial bargaining described under RCW 47.64.170(6). The full costs of arbitration under this section shall be shared equally by the parties to the dispute.

(3) Within seven days following the issuance of the determination of the ((commission)) executive director, each party shall, absent an agreement to the contrary, name one person to serve as its arbitrator on the arbitration panel. Except with respect to biennial bargaining described under RCW 47.64.170(6), the two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chair of the arbitration panel. Upon the failure of the arbitrators to select a neutral chair within seven days, either party may apply to the federal mediation and conciliation service, or, with the consent of the parties, the American arbitration association to provide a list of five qualified arbitrators from which the neutral chair shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chair shall be shared equally between the parties.

(4) In consultation with the parties, the arbitrator or arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. The parties shall exchange final positions in writing, with copies to the arbitrator or arbitration panel, with respect to every issue to be arbitrated, on a date mutually agreed upon, but in no event later than ten working days before the date set for hearing. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chair of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof.

(5) The neutral chair shall consult with the other members of the arbitration panel, if a panel has been created. Within thirty days following the conclusion of the hearing, or sooner as the October 1st deadline set forth in RCW 47.64.170 (6)(c) and (7) necessitates, the neutral chair shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination is final and binding upon both parties, subject to review by the superior court upon the application of either

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party solely upon the question of whether the decision of the panel was arbitrary or capricious.

**Sec. 22.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~(y) ((All employees of the marine employees' commission;~~

~~—(z)))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aaa))~~ (z) The manager of the energy facility site evaluation council;

~~((bbb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((ccc))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption

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to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

- (a) The salary increase can be paid within existing resources; and
- (b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under

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this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 23.** (1) Consistent with section 16 of this act, the marine employees' commission's powers, duties, and functions are transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

**Sec. 24.** RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Executive director" means the executive director of the commission.

~~\_\_\_~~(6) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

~~((6))~~ (7) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

~~((7))~~ (8) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee

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organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

~~((8))~~ (9) "Office of financial management" means the office as created in RCW 43.41.050.

~~((9))~~ (10) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

**Sec. 25.** RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the ~~((marine employees))~~ commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger- only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading

the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

**NEW SECTION. Sec. 26.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders; however, a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

**NEW SECTION. Sec. 27.** A new section is added to chapter 47.64 RCW to read as follows:

(1) The commission shall determine all questions pertaining to representation and shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections. The commission shall adopt rules that provide for at least the following:

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job classification, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

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(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(2) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit.

(3) The certified exclusive bargaining representative is responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

(a) Fewer than twelve months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days and no less than ninety calendar days before the expiration of the contract.

**NEW SECTION. Sec. 28.** The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.150 (Grievance procedures) and 1983 c 15 s 6.

**NEW SECTION. Sec. 29.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 30.** Sections 1 through 15 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**NEW SECTION. Sec. 31.** Sections 16 through 25 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011.

**NEW SECTION. Sec. 32.** Sections 26 through 28 of this act take effect July 1, 2013."

Correct the title.

And the bill do pass as recommended by the conference committee.

Signed by Senators Haugen, King and Prentice; Representatives Clibborn, Hargrove and Reykdal.

#### MOTION

Senator Haugen moved that the Report of the Conference Committee on Second Engrossed Substitute Senate Bill No. 5742 be adopted.

Senators Haugen, King and Eide spoke in favor of the motion.

#### MOTION

At 2:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 5:30 p.m. by President Owen.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Hobbs moved that Gubernatorial Appointment No. 9103, James Shipman, as a member of the Board of Trustees, Everett Community College District No. 5, be confirmed.

Senator Hobbs spoke in favor of the motion.

#### MOTION

On motion of Senator White, Senators Kilmer and Prentice were excused.

#### MOTION

On motion of Senator Fain, Senators Delvin, Ericksen and Parlette were excused.

#### APPOINTMENT OF JAMES SHIPMAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9103, James Shipman as a member of the Board of Trustees, Everett Community College District No. 5.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9103, James Shipman as a member of the Board of Trustees, Everett Community College District No. 5 and the appointment was confirmed by the following vote: Yeas, 43; Nays, 0; Absent, 3; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Hargrove, Kline and Regala

Excused: Senators Ericksen, Prentice and Shin

Gubernatorial Appointment No. 9103, James Shipman, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Everett Community College District No. 5.

#### MOTION

On motion of Senator Eide, Senators Kline and Regala were excused.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Second Engrossed Substitute Senate Bill No. 5742 be adopted.

Senators Haugen and King spoke in favor of the motion.

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The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute Senate Bill No. 5742, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Substitute Senate Bill No. 5742, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 9; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Becker, Brown, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Benton, Carrell, Delvin, Ericksen, Holmquist Newbry, Pflug, Roach and Stevens

Excused: Senators Kline, Prentice, Regala and Shin

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

May 23, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED HOUSE BILL NO. 2123, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 23, 2011

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1371,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 2123 by Representatives Green and Condotta

AN ACT Relating to stabilizing workers' compensation premium rates and claim costs through the limited means of creating the stay-at-work program, suspending cost-of-living

adjustments for fiscal year 2012 with no catch-up and delaying the initial adjustment, allowing claim resolution structured settlements for injured workers age fifty-five and older effective 2012, fifty-three and older effective 2015, and fifty and older effective 2016, adjusting pension benefits for prior permanent partial disability awards, eliminating the interest on permanent partial disability award schedules, providing safety and health investment grants, creating the industrial insurance rainy day fund, directing the department of labor and industries to increase its employer, worker, and provider fraud prevention efforts, requiring a performance audit by the joint legislative audit and review committee of workers' compensation claims management in the workers' compensation system to include self-insured claims, and studying occupational disease claims in the workers' compensation system; amending RCW 51.32.072, 51.32.075, 51.52.120, 51.32.080, 51.04.110, 51.44.100, and 43.79A.040; reenacting and amending RCW 51.32.090; adding new sections to chapter 51.04 RCW; adding a new section to chapter 49.17 RCW; adding a new section to chapter 51.44 RCW; creating new sections; providing an expiration date; and declaring an emergency.

MOTION

On motion of Senator Eide, and without objection, Engrossed House Bill No. 2123 was placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 22, 2011

MR. PRESIDENT:

The House passed SECOND ENGROSSED SENATE BILL NO. 5764 with the following amendment(s): 5764.E2 AMH WAYS H2823.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Innovate Washington is hereby created as a state agency exercising public and essential governmental functions. Innovate Washington is created as the successor to the Washington technology center and the Spokane intercollegiate research and technology institute. Innovate Washington is created to be a collaborative effort between the state's public and private institutions of higher education, private industry, and government and is to be the primary agency focused on growing the innovation-based economic sectors of the state and responding to the technology transfer needs of existing businesses in the state.

(2) The mission of innovate Washington is to make Washington the best place to develop, build, and deploy innovative products, services, and solutions to serve the world. To carry out this mission, innovate Washington is to: Develop and strengthen academic-industry relationships through research and assistance that is primarily of interest to existing small and medium-sized Washington-based companies; facilitate company growth through early stage financing; and leverage state investments in sector-focused, innovation-based economic development initiatives consistent with the state's economic development strategic plan and export strategy. As funds are available, innovate Washington shall:

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(a) Facilitate leading edge collaborative research and technology transfer opportunities to existing state businesses directly and by working with industry associations and innovation partnership zones;

(b) Coordinate its activities with the commercialization and technology transfer activities of the state's research institutions to facilitate research that supports and develops state industries;

(c) Provide methods, systems, and venues for effective interaction and collaboration between the state's technology-based industries and its institutions of higher education;

(d) Provide assistance and support to businesses in:

(i) Securing federal and private funds to support product research and commercialization;

(ii) Developing and integrating technology in new or enhanced products and services; and

(iii) Launching those products and services in sustainable businesses in the state;

(e) Establish programmatic activities that, through partnerships with the private sector, increase the competitiveness of state industries. This may include support provided to firms in innovation partnership zones established under RCW 43.330.270;

(f) Provide opportunities for training undergraduate and graduate students in technology transfer and commercialization processes through direct involvement in research and industry interactions;

(g) Work with regional public and private utilities, district energy providers, the utilities and transportation commission, and the state energy office to improve the alignment of investments in clean energy technologies with existing state policies. This may include facilitating public-private partnerships to encourage research and development of emerging clean and renewable energy technologies;

(h) Serve as the lead entity in the state for coordinating clean energy-related initiatives and establishing a long-term funding strategy for programs targeted at expanding the clean energy sector, while maintaining existing energy policy and regulatory functions at the department of commerce within the state energy office;

(i) Administer technology and innovation grant and loan programs including bridge funding programs for the state's technology sector;

(j) Emphasize and develop nonstate support of program activities; and

(k) Facilitate public-private partnerships that support the growth of strategic, innovation-based sectors.

(3)(a) Administrative responsibilities for the Washington technology center facilities located on the University of Washington Seattle campus and the Spokane intercollegiate research and technology institute facilities located on the Riverpoint campus operated by Washington State University Spokane are hereby transferred to innovate Washington except to the extent that such responsibilities are the subject of an interagency agreement between the University of Washington and the Washington technology center, in which case the terms of that agreement control. The facilities shall be used for purposes consistent with the obligations of innovate Washington under this chapter. As initially established, the University of Washington and Washington State University shall continue to provide the facility support and maintenance for these facilities as required by innovate Washington, except to the extent that such responsibilities are the subject of an interagency agreement between the University of Washington and the Washington technology center, in which case the terms of that agreement control. Other institutions of higher education may provide facility support and maintenance subsequently.

(b) The University of Washington, Washington State University, and other institutions of higher education participating

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in innovate Washington programs shall provide the affiliated staff and faculty participating in these programs at their own expense.

(4) The facilities of innovate Washington may be made available to any research institution or any public institution of higher education within the state when this would benefit specific program needs consistent with this chapter.

(5) Innovate Washington shall, by December 1, 2012, develop a five-year business plan that must be updated by December 1st of every even-numbered year and submitted to the appropriate committees of the legislature. The plan must include:

(a) A plan for operating additional facilities in Vancouver, the Tri-Cities, Bellingham, and such other locations as the innovate Washington board identifies as appropriate;

(b) Identification and specification of activities to be undertaken by those operating each of innovate Washington's facilities to include potential collaboration with innovative programs at the state's community and technical colleges and methods of working with the centers of excellence established under RCW 28B.50.902 to identify businesses that could benefit from innovate Washington services;

(c) The process to be followed, developed in collaboration with impact Washington or any successor manufacturing extension partnership program operating in the state, to ensure that impact Washington clients have ready access to innovate Washington's services when appropriate and that companies being assisted by innovate Washington have ready access to impact Washington's services; and

(d) Mechanisms for outreach to firms operating in the state's innovation partnership zones established under RCW 43.330.270 to ensure such firms benefit from innovate Washington services.

(6) The five-year business plan required under this section must include a clean energy component that includes:

(a) A strategy for implementation of the first three market-driving initiatives identified by the clean energy leadership council in its 2010 report. These market-driving initiatives are in the areas of:

(i) Combined energy efficiency, green buildings, and smart grid;

(ii) Renewable energy resource optimization and smart grid deployment; and

(iii) Bioenergy deployment acceleration.

(b) Recommendations on ways to improve policy alignment, streamline regulatory requirements, and remove administrative barriers that limit the growth of the clean energy sector in Washington.

(7) For the purposes of this section, "lead entity" means the organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support of clean energy initiatives.

**NEW SECTION. Sec. 2.** (1) The powers of innovate Washington are vested in and shall be exercised by a board of directors consisting of:

(a) The governor of the state of Washington or the governor's designee;

(b)(i) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(ii) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(c) The president of the University of Washington or the president's designee;

(d) The president of Washington State University or the president's designee;

(e) The director of the department of commerce or the director's designee;

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(f) The chairs of the sector advisory committees created under this chapter shall serve as ex officio voting members; and

(g) Seven members appointed by the governor from among individuals who own or are executives at technology-based and innovative firms in the state; of these members, at least four must be from firms manufacturing in the state. The term of office for each board member appointed by the governor shall be three years except, of the initial appointees, three shall be appointed for one year and three shall be appointed for two years. Members of the board may be appointed for additional terms.

(2) The board shall meet at least biannually. The initial meeting of the board must occur before December 31, 2011.

(3) A board member may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor must fill any vacancy on the board by appointment for the remainder of the unexpired term.

(4)(a) The appointed members of the board shall be compensated in accordance with RCW 43.03.240 and may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

(b) The ex officio members of the board under subsection (1)(a) and (c) through (g) of this section may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 43.03.050 and 43.03.060.

(c) Legislative members of the board may be reimbursed for expenses incurred in the discharge of their duties under this chapter pursuant to RCW 44.04.120.

(5) A majority of currently serving board members constitutes a quorum.

(6) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the board members so requests. Meetings of the board may be held at any location within or out of the state, and board members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(7) The innovate Washington board must:

(a) Develop operating policies for innovate Washington programs;

(b) Appoint, and perform an annual performance review of, an executive director;

(c) Approve an annual operating budget and ensure adequate funding for operations;

(d) Approve a five-year business plan and its updates;

(e) Perform the duties required under chapter 70.210 RCW relating to the investing in innovation program;

(f) Convene representatives of the commercialization and technology transfer offices of private and public research institutions in the state to determine the best methods for:

(i) Integrating existing databases into a single database of in-state technologies and inventions;

(ii) Making the technologies in the integrated database accessible; and

(iii) Promoting the integrated database to entrepreneurs and investors for commercialization and licensing purposes;

(g) Set performance goals for each program or service established; and

(h) Provide a report to the governor and the legislature detailing the fund-raising activities and outcomes, operations, economic impact, and performance of innovate Washington. The report is due by December 1st of every year and the first report is due by December 1, 2012. The report must include measures related to customer satisfaction as well as measures of results derived from assistance provided to businesses, including but not limited to manufacturing facilities established in Washington, job creation

inside and outside of Washington, new product development, new markets opened and other export measures, the adoption of new production processes, revenue and sales growth, measures that would be included in a balanced scorecard, and such other outcome-based measures as the board determines is appropriate.

(8) The board may:

(a) Make and execute agreements, contracts, and other instruments with any private, public, or nonprofit entity for the performance, operation, administration, implementation, or advancement of any program in accordance with this chapter;

(b) Employ, contract with, or engage staff, advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter. Staff support for innovate Washington programs may be provided through cooperative agreements with any public or private institution of higher education;

(c) Solicit and receive gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source, and expend the same for any purpose consistent with this chapter;

(d) Establish such:

(i) Affiliated organizations, that may not be considered state agencies as defined under chapter 43.88 RCW, to facilitate partnerships and program delivery with the private sector;

(ii) Special funds consistent with the provisions of chapter 43.88 RCW; and

(iii) Controls as it finds convenient for the implementation of this chapter;

(e) Create one or more advisory committees;

(f) Adopt rules consistent with this chapter;

(g) Delegate any of its powers and duties if consistent with the purposes of this chapter; and

(h) Exercise any other power reasonably required to implement the purposes of this chapter.

**NEW SECTION. Sec. 3.** (1) To increase participation by Washington state small business innovators in federal small business research programs, innovate Washington shall provide or contract for the provision of a small business innovation assistance program. The program must include a proposal review process and must train and assist Washington small business innovators to win awards from federal small business research programs. The program must collaborate with small business development centers, entrepreneur-in-residence programs, and other appropriate sources of technical assistance to ensure that small business innovators also receive the planning, counseling, and support services necessary to expand their businesses and protect their intellectual property.

(2) In operating the program, innovate Washington must give priority to first-time applicants to the federal small business research programs, new businesses, and firms with fewer than ten employees, and may charge a fee for its services.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Federal small business research programs" means the programs, operating pursuant to the small business innovation development act of 1982, P.L. 97-219, and the small business technology transfer act of 1992, P.L. 102-564, title II, that provide funds to small businesses to conduct research having commercial application.

(b) "Small business" means a corporation, partnership, sole proprietorship, or individual, operating a business for profit, with two hundred fifty employees or fewer, including employees employed in a subsidiary or affiliated corporation, that otherwise meets the requirements of federal small business research programs.

**NEW SECTION. Sec. 4.** The investing in innovation account is created in the custody of the state treasurer to receive state

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and federal funds, grants, private gifts, or contributions to further the purpose of innovate Washington. Expenditures from the account may be used only for the purposes of the investing in innovation programs established in chapter 70.210 RCW and any other purpose consistent with this chapter. Only the executive director of innovate Washington or the executive director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**NEW SECTION. Sec. 5.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions in RCW 41.06.070, this chapter does not apply to any position in or employee of innovate Washington under chapter 43.--- RCW (the new chapter created in section 20 of this act).

**Sec. 6.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to read as follows:

(1) The college board, in consultation with business, industry, labor, the workforce training and education coordinating board, the department of ~~((community, trade, and economic development))~~ commerce, the employment security department, and community and technical colleges, shall designate centers of excellence and allocate funds to existing and new centers of excellence based on a competitive basis.

(2) Eligible applicants for the program established under this section include community and technical colleges. Priority shall be given to applicants that have an established education and training program serving the targeted industry and that have in their home district or region an industry cluster with the same targeted industry at its core.

(3) It is the role of centers of excellence to employ strategies to:

(a) Create educational efficiencies;

(b) Build a diverse, competitive workforce for strategic industries;

(c) Maintain an institutional reputation for innovation and responsiveness;

(d) Develop innovative curriculum and means of delivering education and training;

(e) Act as brokers of information and resources related to community and technical college education and training ~~((for))~~ and assistance available for firms in a targeted industry, including working with innovate Washington to develop methods to identify businesses within a targeted industry that could benefit from the services offered by innovate Washington under chapter 43.--- RCW (the new chapter created in section 20 of this act); and

(f) Serve as partners with workforce development councils, associate development organizations, and other workforce and economic development organizations.

(4) Examples of strategies under subsection (3) of this section include but are not limited to: Sharing curriculum and other instructional resources, to ensure cost savings to the system; delivering collaborative certificate and degree programs; and holding statewide summits, seminars, conferences, and workshops on industry trends and best practices in community and technical college education and training.

**Sec. 7.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to read as follows:

It is the intent of the legislature to promote growth in the technology sectors of our state's economy and to particularly focus support on the ~~((creation and))~~ commercialization of intellectual property ~~((in the technology, energy, and telecommunications industries))~~ and the manufacture of innovative products in the state.

**Sec. 8.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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(1) ~~((“Center” means the Washington technology center established under RCW 28B.20.283 through 28B.20.295.~~

~~—(2)))~~ “Board” means the innovate Washington board of directors ~~((for the center)).~~

(3) “Innovate Washington” means the agency created in section 1 of this act.

**Sec. 9.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to read as follows:

(1) The investing in innovation ~~((grants))~~ program is established.

(2) ~~((The center))~~ Innovate Washington shall periodically make strategic assessments of the types of ~~((state))~~ investments in research ~~((and)),~~ technology, and industrial development in this state that would likely create new products, jobs, and business opportunities and produce the most beneficial long-term improvements to the lives and health of the citizens of the state. The assessments shall be available to the public and shall be used to guide decisions on awarding ~~((grants))~~ funds under this chapter.

**Sec. 10.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to read as follows:

The board shall:

(1) Develop criteria for the awarding of loans or grants to qualifying universities, institutions, businesses, or individuals;

(2) Make decisions regarding distribution of ~~((grant))~~ funds ~~((and make grant awards)); ((and))~~

(3) In making ~~((grant awards, seek to provide a balance between research grant awards and commercialization grant awards))~~ funding decisions and to the extent that economic impact is not diminished, provide priority to enterprises that:

(a) Were created through, and have existing intellectual property agreements in place with, public and private research institutions in the state; and

(b) Intend to produce new products or services, develop or expand facilities, or manufacture in the state; and

(4) Specify in contracts awarding funds that recipients must utilize funding received to support operations in the state of Washington and must subsequently report on the impact of their research, development, and any subsequent production activities within Washington for a period of ten years following the award of funds, and that a failure to comply with this requirement will obligate the recipient to return the amount of the award plus interest as determined by the board.

**Sec. 11.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to read as follows:

(1) The board may accept grant and loan proposals and establish a competitive process for the awarding of grants and loans.

(2) The board shall establish a peer review committee to include board members, scientists, engineers, and individuals with specific recognized expertise. The peer review committee shall provide to the board an independent peer review of all proposals determined to be competitive for a loan or grant award that are submitted to the board.

(3) In the awarding of grants and loans, priority shall be given to proposals that leverage additional private and public funding resources.

~~((Up to fifty percent of available funds from the investing in innovation account may be used to support commercialization opportunities for research in Washington state through an organization with commercialization expertise such as the Spokane intercollegiate research and technology institute.~~

~~—(5) The center))~~ Innovate Washington may not be a direct recipient of ~~((grant awards))~~ funding under this chapter ~~((403, Laws of 2003))~~

**Sec. 12.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to read as follows:

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The board shall establish performance benchmarks against which the program will be evaluated. The ~~((grants))~~ program shall be reviewed periodically by the board. The board shall report annually to the appropriate standing committees of the legislature on loans made and grants awarded and as appropriate on program reviews conducted by the board.

**Sec. 13.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to read as follows:

(1) ~~((The center))~~ Innovate Washington shall administer the investing in innovation ~~((grants))~~ program.

(2) Not more than one percent of the available funds from the investing in innovation account may be used for administrative costs of the program.

**Sec. 14.** RCW 42.30.110 and 2010 1st s.p.s. c 33 s 5 are each amended to read as follows:

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

(a) To consider matters affecting national security;

(b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;

(c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;

(d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

(e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;

(f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;

(g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW 42.30.140(4), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

(h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;

(i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a) concerning:

(i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

**Sec. 15.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or

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examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of ~~((community, trade, and economic development))~~ commerce:

(i) Financial and proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of ~~((community, trade, and economic development))~~ commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of ~~((community, trade, and economic development))~~ commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of ~~((community, trade, and economic development))~~ commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

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(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business; ~~((and))~~

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.--- RCW (the new chapter created in section 20 of this act), to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information.

NEW SECTION. Sec. 16. The following acts or parts of acts are each repealed:

(1) RCW 28B.20.283 (Washington technology center--Findings) and 1995 c 399 s 25 & 1992 c 142 s 1;

(2) RCW 28B.20.285 (Washington technology center--Created--Purpose) and 2004 c 151 s 3, 2003 c 403 s 10, 1992 c 142 s 3, & 1983 1st ex.s. c 72 s 11;

(3) RCW 28B.20.287 (Washington technology center--Definitions) and 2004 c 151 s 4 & 1992 c 142 s 2;

(4) RCW 28B.20.289 (Washington technology center--Administration-- Board of directors) and 2003 c 403 s 11, 1995 c 399 s 26, & 1992 c 142 s 4;

(5) RCW 28B.20.291 (Washington technology center--Support from participating institutions) and 1992 c 142 s 5;

(6) RCW 28B.20.293 (Washington technology center--Role of department of community, trade, and economic development) and 1995 c 399 s 27 & 1992 c 142 s 6;

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(7) RCW 28B.20.295 (Washington technology center--Availability of facilities to other institutions) and 1992 c 142 s 7;

(8) RCW 28B.20.296 (Washington technology center--Renewable energy and energy efficiency business development--Strategic plan) and 2004 c 151 s 2;

(9) RCW 28B.20.297 (Washington technology center--Small business innovation research assistance program) and 2005 c 357 s 1;

(10) RCW 28B.38.010 (Spokane intercollegiate research and technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;

(11) RCW 28B.38.020 (Administration--Board of directors--Powers and duties) and 1998 c 344 s 10;

(12) RCW 28B.38.030 (Support from participating institutions) and 1998 c 344 s 11;

(13) RCW 28B.38.040 (Operating staff--Cooperative agreements for programs and research) and 1998 c 344 s 12;

(14) RCW 28B.38.050 (Role of department of community, trade, and economic development) and 1998 c 344 s 13;

(15) RCW 28B.38.060 (Availability of facilities to other institutions) and 1998 c 344 s 14;

(16) RCW 28B.38.070 (Authority to receive and expend funds) and 1998 c 344 s 15; and

(17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

**NEW SECTION. Sec. 17.** (1) The Spokane intercollegiate research and technology institute and the Washington technology center are hereby abolished and the powers, duties, and functions are hereby transferred to innovate Washington. Once the board created in section 2 of this act has convened, all references to the Spokane intercollegiate research and technology institute or the Washington technology center in the Revised Code of Washington shall be construed to mean innovate Washington.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Spokane intercollegiate research and technology institute or the Washington technology center shall be delivered to the custody of innovate Washington. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Spokane intercollegiate research and technology institute or the Washington technology center shall be made available to innovate Washington. All funds, credits, or other assets held by the Spokane intercollegiate research and technology institute or the Washington technology center shall be assigned to innovate Washington.

(b) Any appropriations made to the Spokane intercollegiate research and technology institute or the Washington technology center shall, on the effective date of this section, be transferred and credited to innovate Washington.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the Spokane intercollegiate research and technology institute or the Washington technology center are transferred to the jurisdiction of innovate Washington. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to innovate Washington to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the Spokane intercollegiate research and technology institute or the Washington technology center shall be continued and acted upon by innovate

Washington. All existing contracts and obligations shall remain in full force and shall be performed by innovate Washington.

(5) The transfer of the powers, duties, functions, and personnel of the Spokane intercollegiate research and technology institute and the Washington technology center shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the Spokane intercollegiate research and technology institute or the Washington technology center assigned to innovate Washington under this section whose positions are within an existing bargaining unit description at innovate Washington shall become a part of the existing bargaining unit at innovate Washington and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 18.** The joint legislative audit and review committee shall review the performance of innovate Washington as provided in this act and make recommendations to the appropriate policy and fiscal committees of the legislature by December 1, 2015, regarding the effectiveness of innovate Washington programs. The review shall consider each aspect of the innovate Washington balanced scorecard as adopted by the innovate Washington board under section 2(7)(h) of this act and any other measures of performance deemed relevant by the joint legislative audit and review committee.

**NEW SECTION. Sec. 19.** RCW 70.210.070 is recodified as a section in chapter 43.--- RCW (the new chapter created in section 20 of this act).

**NEW SECTION. Sec. 20.** Sections 1 through 4, 17, and 18 of this act constitute a new chapter in Title 43 RCW.

**NEW SECTION. Sec. 21.** This act takes effect August 1, 2011."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5764.

Senator Kastama spoke in favor of the motion.

POINT OF INQUIRY

Senator Rockefeller: "Would Senator Kastama yield to a question? Senator Kastama, section one of the bill as amended defines 'lead entity' to mean an 'organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support clean energy initiatives. Does this all awards dealing with clean energy must be approved by the lead entity?'"

Senator Kastama: "Thank you for that question Senator Rockefeller. Section one is intended to apply to new clean energy initiatives targeted at growing the clean energy sector."

Senator Baumgartner spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Second Engrossed Senate Bill No. 5764.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Second Engrossed Senate Bill No. 5764 by voice vote.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5764, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5764, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Pflug

Excused: Senators Prentice and Shin

SECOND ENGROSSED SENATE BILL NO. 5764, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 5:54 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 7:13 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

## REPORTS OF STANDING COMMITTEES

May 23, 2011

SB 5860 Prime Sponsor, Senator Murray: Addressing state government employee compensation. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5860 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller; Schoesler and Tom.

Passed to Committee on Rules for second reading.

May 23, 2011

HB 1131 Prime Sponsor, Representative Haigh: Regarding student achievement fund allocations. Reported by Committee on Ways & Means

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MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Baxter; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

May 23, 2011

2SHB 1132 Prime Sponsor, Committee on Ways & Means: Regarding reducing compensation for educational and academic employees. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

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ESHB 1346 Prime Sponsor, Committee on Ways & Means: Making tax law changes that do not create any new or broaden any existing tax preferences as defined in RCW 43.136.021 or increase any person's tax burden. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

Passed to Committee on Rules for second reading.

## MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through May 23, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through May 23, 2011 by voice vote.

## SECOND READING

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ENGROSSED HOUSE BILL NO. 2123, by Representatives Green and Condotta

Addressing the workers' compensation system.

The measure was read the second time.

MOTION

Senator Chase moved that the following amendment by Senators Chase and Nelson be adopted:

On page 10, after line 38, insert the following:

**"PART 3. PROHIBITING DEDUCTIONS OF WORKERS' COMPENSATION PREMIUMS AND OTHER COSTS FROM WAGES AND EARNINGS**

**Sec. 301.** RCW 51.16.140 and 1989 c 385 s 3 are each amended to read as follows:

~~((1) Every employer who is not a self-insurer shall deduct from the pay of each of his or her workers one half of the amount he or she is required to pay, for medical benefits within each risk classification. Such amount shall be periodically determined by the director and reported by him or her to all employers under this title: PROVIDED, That the state governmental unit shall pay the entire amount into the medical aid fund for volunteers, as defined in RCW 51.12.035, and the state apprenticeship council shall pay the entire amount into the medical aid fund for registered apprentices or trainees, for the purposes of RCW 51.12.130. The deduction under this section is not authorized for premiums assessed under RCW 51.16.210.~~

~~—(2)) It shall be unlawful for the employer(, unless specifically authorized by this title,) to deduct or obtain any part of the premium or other costs required to be by him or her paid from the wages or earnings of any of his or her workers, and the making of or attempt to make any such deduction shall be a gross misdemeanor.~~

**Sec. 302.** RCW 51.32.073 and 1989 c 385 s 4 are each amended to read as follows:

~~((1) Except as provided in subsection (2) of this section,) Each employer shall ((retain from the earnings of each worker)) remit to the department that amount as shall be fixed from time to time by the director, the basis for measuring ((said)) that amount to be determined by the director. ~~((The money so retained shall be matched in an equal amount by each employer, and all))~~ Such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund(~~:(— PROVIDED, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes).~~). The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075, as now or hereafter amended, and shall be no more than necessary to make such payments on a current basis. The department may require a self-insurer to make any additional payments which are payable from the supplemental pension fund and thereafter such self-insurer shall be reimbursed therefrom.~~

~~((2) None of the amount assessed for the supplemental pension fund under RCW 51.16.210 may be retained from the earnings of workers covered under RCW 51.16.210.)~~

**Sec. 303.** RCW 51.32.242 and 2008 c 280 s 3 are each amended to read as follows:

~~((1) Except as provided in subsection (2) of this section,) Each self-insured employer shall ((retain from the earnings of each of its workers)) remit to the department that amount as shall be fixed from time to time by the director, the basis for measuring ((said)) that amount to be determined by the director. These moneys shall only be ~~((retained from employees and))~~ remitted to the department in such manner and at such intervals as the department directs and shall be placed in the self-insured employer overpayment reimbursement fund. The moneys so collected shall be used exclusively for reimbursement to the reserve fund and to self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered, and shall be no more than necessary to make such payments on a current basis.~~

~~((2) None of the amount assessed for the employer overpayment reimbursement fund under this section may be retained from the earnings of workers covered under RCW 51.16.210.)~~

**Sec. 304.** RCW 51.32.370 and 1994 c 265 s 4 are each amended to read as follows:

(1) The department shall conduct research on chemically related illnesses, which shall include contracting with recognized medical research institutions. The department shall develop an implementation plan for research based on sound scientific research criteria, such as double blind studies, and shall include adequate provisions for peer review, and submit the plan to the ~~((worker's [workers']~~) workers' compensation advisory committee for review and approval. Following approval of the plan, all specific proposals for projects under the plan shall be submitted for review to a scientific advisory committee, established to provide scientific oversight of research projects, and to the workers' compensation advisory committee. The department shall include a research project that encourages regional cooperation in addressing chemically related illness.

(2) Expenditures for research projects shall be within legislative appropriations from the medical aid fund, with self-insured employers and the state fund each paying a pro rata share, based on the number of worker hours, of the authorized expenditures. ~~((For the purposes of this subsection only, self-insured employers may deduct from the pay of each of their employees one half of the share charged to the employer for the expenditures from the medical aid fund.))~~

NEW SECTION. Sec. 305. Sections 301 through 304 of this act take effect January 1, 2012."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Correct the title.

Senator Chase spoke in favor of adoption of the amendment.

Senator Holmquist Newbry spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Chase and Nelson on page 10, after line 38 to Engrossed House Bill No. 2123.

The motion by Senator Chase failed and the amendment was not adopted by voice vote.

MOTION

Senator Conway moved that the following amendment by Senator Conway and others be adopted:

On page 11, line 32, after "appeals" insert ", must contain a statement that the right to medical benefits cannot be waived or resolved, and must contain a statement that accepting the agreement means surrendering rights to workers compensation

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benefits the worker has and benefits the worker may be entitled to receive in the future"

On page 14, line 24, after "final." Insert "Failure to pay benefits due during negotiation of a settlement agreement until it becomes final and binding is considered coercion and will subject the employer to penalty or corrective action under subsection 12 of this section, and the worker will have the option to rescind the settlement agreement."

On page 15, line 24, after "RCW 51.14.030." insert "A worker who has entered into a settlement agreement with an employer who has been found to have engaged in a pattern of coercion during the negotiation of the worker's agreement by the department has the option to rescind his or her settlement agreement, even if the determination of coercion has been made after the thirty day revocation period established in subsection six of this section. For the purposes of this subsection, a employer will be found to have engaged in a pattern of coercion if the employer uses a threat to withhold payment of benefits or take adverse employment actions, or uses misrepresentation of worker rights or benefits, to compel or induce a person to enter into a settlement agreement. Any penalty imposed on an employer pursuant to this subsection will be collected by the department and paid to the worker."

On page 15, line 33, after "employment." Insert "Use of a prior settlement agreement in violation of this subsection is an unfair practice in employment and subjects the employer to remedies established in Chapter 49.60 RCW. If the department determines that an employer has used settlement agreement information obtained under this section in an unauthorized manner, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified from self-insurance under RCW 51.14.030."

Senator Conway spoke in favor of adoption of the amendment.

Senators Hobbs and Holmquist Newbry spoke against adoption of the amendment.

Senator Kline spoke on adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Conway and others on page 11, line 32 to Engrossed House Bill No. 2123.

The motion by Senator Conway failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Nelson moved that the following amendment by Senator Nelson and others be adopted:

On page 12, line 19, after "designee" insert "; and (vi) provide an amount of total compensation to the worker that is no less than eighty-five percent of the total permanent total disability benefits that the worker would be entitled to if the worker qualified for permanent total disability benefits."

Senator Nelson spoke in favor of adoption of the amendment.

Senator Holmquist Newbry spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson and others on page 12, line 19 to Engrossed House Bill No. 2123.

The motion by Senator Nelson failed and the amendment was not adopted by voice vote.

#### MOTION

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Senator Keiser moved that the following amendment by Senator Keiser and others be adopted:

On page 12, line 26, strike "may" and insert "shall"

Senators Keiser and Conway spoke in favor of adoption of the amendment.

Senators Holmquist Newbry and Honeyford spoke against adoption of the amendment.

Senator Kline spoke on adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Keiser and others on page 12, line 26 to Engrossed House Bill No. 2123.

The motion by Senator Keiser failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Conway moved that the following amendment by Senator Conway be adopted:

On page 17, line 14, after "settlement agreements." insert "By December 31, 2012 and annually thereafter, the department must report to the appropriate committees of the legislature on the use of claim resolution structured settlement agreements. At a minimum, the report must include: (i) specific information about employers using settlements, including the size and industry of employers and the number of agreements approved for state fund and self-insured employers; (ii) specific information about workers using agreements, including use rates by worker injury and demographic information of injured workers using agreements, whether workers had representation, and involvement of the self-insured ombudsman; (iii) specific information about the structure of the settlements, including the size of the settlement and the terms of structured payments, agreement revocation information, and information about the length of settlement negotiations; and (iv) specific information about agreement approval and disapproval rates by the board and disciplinary actions taken against non-complying, harassing, or coercive employers, if any."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Conway, the amendment by Senator Conway on page 17, line 14 to Engrossed House Bill No. 2123 was withdrawn.

#### MOTION

Senator Nelson moved that the following amendment by Senator Nelson and others be adopted:

On page 25, starting on line 25, strike "or aid businesses in recovering from or during economic recessions"

Senators Nelson, Conway and Kline spoke in favor of adoption of the amendment.

Senator Hobbs spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Nelson and others on page 25, line 25 to Engrossed House Bill No. 2123.

The motion by Senator Nelson failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Chase moved that the following amendment by Senators Chase and Nelson be adopted:

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On page 30, after line 26, insert the following:

**"PART 9. RETROSPECTIVE RATING PLANS**

**NEW SECTION. Sec. 901.** The legislature finds that, according to the 2009 Wyman actuarial report, at least three miscalculations have occurred affecting the amount of refunds provided to the sponsors of retrospective rating plans with the participants of retrospective rating plans receiving substantial overpayments as a result of these miscalculations. These miscalculations include a recurring computer coding error which resulted in overpayments of about one hundred fifty million dollars, a misassignment of occupational disease claims resulting in overpayments of about three hundred million dollars, and a forty-five month adjustments limitation error which resulted in overpayments of about fifty million dollars. These overpayments have depleted the industrial insurance accident fund of at least five hundred million dollars, not including interest owed on the overpayments per RCW 51.48.260. The legislature finds that these overpayments have caused the accident fund to contain fewer assets than it otherwise would contain, requiring base premiums to be set at a level higher than would otherwise be necessary, and further causing the employers who are not members of a retrospective rating plan to subsidize retro members by inflating the amount of retro refunds beyond what was merited by the experience of retro member employers.

The legislature further finds that while retrospective refunds were intended to reward improved safety of retro agencies by returning amounts in excess of the difference between premiums paid and the developed cost estimate of claims owed, in many cases, retrospective refunds exceeded this difference by more than one hundred million dollars in a single year. For example, in the four quarters comprising the 2006 reporting period, retrospective program premiums paid were about seven hundred twenty-seven million dollars and retrospective developed claims were about seven hundred thirty million dollars for a loss of about three million dollars. Yet retrospective refunds during this period were about one hundred twenty-nine million dollars for a total loss to the industrial insurance accident fund of one hundred thirty-two million dollars.

**NEW SECTION. Sec. 902.** A new section is added to chapter 51.18 RCW to read as follows:

The legislature finds that the primary purposes of the retrospective rating program created in this chapter are increasing workplace safety, preventing accidents, and improving worker outcomes. The legislature finds that retrospective rating refunds are provided from the industrial insurance accident account, and that the use of Title 51 funds to improve workplace safety, prevent accidents, and improve injured worker outcomes are appropriate uses of such funds. The legislature further finds that any retrospective rating refunds not used to administer the retrospective rating group or to support the purposes of the retrospective rating program belong to and should be returned to the employer members of each retrospective rating group, with the sole exception that individual members may annually authorize use of retrospective rating refunds for purposes unrelated to worker safety and accident prevention, the primary purposes of the retrospective rating program, similar to the annual authorization required from the members of union organizations. The legislature therefore intends to allow and encourage retrospective rating group sponsoring entities to use retrospective rating refunds to create and maintain programs that improve workplace safety, prevent accidents, and improve worker outcomes while distributing the remainder of the refund to employer members of the group, subject to the optional annual authorizations by the members of each group. To restore

public confidence in the use of retrospective rating funds, the legislature intends to make information concerning the sponsoring entities' administration of the program publicly available.

**NEW SECTION. Sec. 903.** A new section is added to chapter 51.18 RCW to read as follows:

Beginning January 1, 2012, and continuing for five consecutive years, the department shall:

(1) Conduct an annual actuarial review of the retrospective rating program. The actuarial review must include an examination of the method used to calculate retrospective premiums, refunds, and assessments, an examination of the impact retrospective rating refunds and assessments have on the accident fund, and an examination of any other factors necessary to conduct a thorough actuarial review.

(2) By December 31st of each year in which an actuarial review is conducted, report the contents of the review to the appropriate committees of the legislature.

**NEW SECTION. Sec. 904.** A new section is added to chapter 51.18 RCW to read as follows:

(1) With respect to refunds made by the department to a sponsor of a retrospective rating group on or after the effective date of this section:

(a) The sponsoring entity must distribute the retrospective rating refund or adjustment to employers in the retrospective rating group based on a distribution plan, less any amount retained by the sponsoring entity, within a time period selected by the sponsoring entity and set forth in the distribution plan. The distribution plan may not authorize a sponsoring entity to retain any portion of a refund or adjustment, except as authorized by this section. This distribution plan shall be provided to the department upon enrollment, and annually to the members of the retrospective rating group. The department shall make the distribution plan publicly available, excluding any financial information specific to individual employer members.

(b) The sponsoring entity may retain a portion of the refund for reasonable administrative costs. When any portion of the refund is distributed to the employers in the retrospective rating group, the sponsoring entity shall disclose to such employers and to the department the amounts of all administrative costs for which it has retained any portion of the refund and the specific purposes for which those costs were incurred.

(c) The sponsoring entity may retain a portion of the refund for costs directly related to the development and implementation of a safety plan to increase workplace safety and to prevent accidents. The safety plan shall be submitted to the department annually. The department shall develop rules to define the required elements of a retrospective rating safety plan.

(d) The sponsoring entity may retain a portion of the refund for costs directly related to claims assistance provided to its member employers.

(e) The sponsoring entity may retain a portion of the refund to establish and maintain reserves for the sole and exclusive purpose of covering the costs of future potential retrospective rating assessments and an amount of reserves necessary to protect against future penalties or other unexpected retrospective rating costs incurred during the same or a subsequent coverage year.

(f) The sponsoring entity must keep a detailed list of costs related to (b) through (e) of this subsection and report this list to the department and to employers in the retrospective rating group at the time the retrospective rating refunds or adjustments are distributed to members of the group.

(g) Any amounts retained by a sponsoring entity under (b) through (e) of this subsection shall be used solely for the purposes described in those subsections, and may not be used directly or indirectly for any other purpose.

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(h) In addition to the amounts that a sponsoring entity may retain under (b) through (e) of this subsection, the sponsoring entity may retain a portion of the retrospective rating refund or adjustment due an employer member if the member has provided a written authorization allowing the entity to retain a portion of the refund or adjustment due the employer member. Any authorization provided by an employer member shall be effective for a period not to exceed one year. If a sponsoring entity retains funds due the employer member under this subsection, the sponsoring entity must notify the employer member that additional funds have been retained by the sponsoring entity, and inform the employer member of the amount withheld from the employer member under this subsection. The department shall develop a form to be separately executed by any employer member authorizing the retention of funds under this subsection, which form shall (i) authorize the retention of either a percentage of the member's refund or a fixed dollar amount, and (ii) inform the member that the authorization is irrevocable for one year. The sponsoring entity shall use the form developed by the department or a form prepared by the sponsoring entity that is consistent with this subsection and has been approved by the department.

(i) Any amounts retained by a sponsoring entity under (h) of this subsection may be used by the sponsoring entity for any legal purpose, even if such purpose is unrelated to worker safety and accident prevention.

(2) The group must comply with subsection (1) of this section to be approved by the department for future enrollment.

**Sec. 905.** RCW 51.18.030 and 1999 c 7 s 4 are each amended to read as follows:

(1) Entities which sponsored retrospective rating groups prior to July 25, 1999, may not sponsor additional retrospective rating groups in a new business or industry category until the coverage period beginning January 1, 2003.

(2) For retrospective rating groups approved by the department on or after July 25, 1999, the sponsoring entity may not propose another retrospective rating group in a new business or industry category until the minimum mandatory adjustment periods required by the department for the first two coverage periods of the last formed retrospective rating group are completed.

(3) Subsections (1) and (2) of this section do not prohibit a sponsoring entity from proposing to:

(a) Divide an existing retrospective rating group into two or more groups provided that the proposed new groups fall within the same business or industry category as the group that is proposed to be divided; or

(b) Merge existing retrospective rating groups into one business or industry category provided that the proposed merged groups fall within the same business or industry category as the groups that are proposed to be merged.

(4) Under no circumstances may a sponsoring entity propose retrospective rating groups in multiple business or industry categories in the same application to the department.

(5) An insurer, insurance broker, agent, or solicitor may not:

(a) Participate in the formation of a retrospective rating group; or

(b) Sponsor a retrospective rating group.

(6) A sponsoring entity may not require a participating member or applicant to: (a) Agree to reenroll in the group's future coverage period, (b) maintain membership in the sponsoring entity or any other organization beyond the coverage period, which includes the three-year period during which further refunds and assessments may be made, or (c) contribute funds to the sponsoring entity or any other organization in excess of the amounts authorized by this act.

**NEW SECTION. Sec. 906.** A new section is added to chapter 51.18 RCW to read as follows:

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**FULL DISCLOSURE OF RETRO AND NONRETRO LOSS RATIOS.** With respect to refunds/subsidies made by the department to a sponsor of a retrospective rating group:

(1) If retrospective premiums, as a group, exceed retrospective developed claims, as a group, the amount refunded to retrospective agencies may not exceed the difference between premiums paid by retrospective agencies and the developed cost estimate of claims owed by retrospective agencies.

(2) If retrospective developed claims exceed retro premiums paid, the amount additionally assessed to retrospective agencies may not be less than the difference between the developed estimate of claims owed by retrospective agencies and premiums paid by retrospective agencies.

(3) The department must provide evidence and information to the public on its web site fully documenting and explaining how the retrospective refund/subsidy calculation for each reporting period was determined including complete data on retro premiums paid and developed losses and nonretrospective premiums paid and developed losses for the same period and a comparison of retro to nonretrospective premiums paid and developed losses so that the public can readily determine from the evidence and information provided that, after all retrospective refunds and assessments, the loss ratios of retro and nonretrospective employers have been properly equalized.

**NEW SECTION. Sec. 907.** A new section is added to chapter 51.18 RCW to read as follows:

**FULL RECOVERY OF ALL OVERPAYMENTS TO RESTORE THE ACCIDENT FUND.** With respect to refunds made by the department to a sponsor of a retrospective rating group:

(1) The department is required as provided in RCW 4.16.160 and 51.48.260 and WAC 296-17-90402 to accurately determine the cost of all overpayments due to the actuarial unsound accounting practiced uncovered by the 2009 Wyman actuarial report. These unsound practices are inconsistent with WAC 296-17-90402 and resulted in overpayments to retrospective groups included an annual recurring computer coding error, resulting in an estimated one hundred fifty million dollars in overpayments, an occupational disease misassignment error resulting in an estimated three hundred million dollars in overpayments, and a forty-five month adjustment limitation error resulting in an estimated fifty million dollars in overpayments.

(2) The department is required as provided in RCW 4.16.160 and 51.48.260 and WAC 296-17-90402 to collect all overpayments plus interest and restore these funds to the industrial insurance accident fund such that, for all past periods, the proportion of retrospective to nonretrospective premiums to developed claims is restored to the intended balance.

(3) No further refunds are to be issued to retro agencies until all past overpayments have been recovered and paid back to the industrial insurance accident fund with interest.

(4) A fourth retrospective adjustment period must be added at sixty months to more accurately determine long-term costs of retrospective programs and to more accurately determine the cost differences between the retrospective and nonretrospective programs.

(5) The department must adopt policies and procedures to assure greater transparency of all income and expenses of all retrospective programs.

**NEW SECTION. Sec. 908.** A new section is added to chapter 51.18 RCW to read as follows:

(1) The department is required to review all past retrospective refunds and submit a report to the legislature by December 1, 2011, identifying any past cases when retrospective refunds exceeded the difference between retrospective premiums paid and retrospective

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developed losses and whether such refunds maintained equitable ratios compared to nonretrospective groups.

(2) The department is required to develop a plan to restore the contingency reserve to a minimum of twenty percent of basic plan liabilities within the next ten years.

**NEW SECTION. Sec. 909.** A new section is added to chapter 51.18 RCW to read as follows:

Any overpayment recovered pursuant to section 907 or 908 of this act must be deposited in the rainy day account created in section 601 of this act."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Chase spoke in favor of adoption of the amendment.

Senator Hobbs spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Chase and Nelson on page 30, after line 26 to Engrossed House Bill No. 2123.

The motion by Senator Chase failed and the amendment was not adopted by voice vote.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 2123 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles, Sheldon, Kastama, Ericksen, Brown, Honeyford and Holmquist Newbry spoke in favor of passage of the bill.

Senators Nelson, Conway, Keiser and Chase spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2123.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2123 and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kohl-Welles, Litzow, Morton, Parlette, Pflug, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Chase, Conway, Fraser, Harper, Keiser, Kline, McAuliffe, Murray, Nelson, Ranker and White

Excused: Senators Prentice and Shin

ENGROSSED HOUSE BILL NO. 2123, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 8:15 p.m., on motion of Senator Eide, the Senate adjourned until 9:00 a.m. Tuesday, May 24, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**TWENTY NINTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Tuesday, May 24, 2011

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Nelson, Prentice and Shin.

The Sergeant at Arms Color Guard consisting of Senate Security Staff Ken Boad and Paul Henden, presented the Colors. Senator Regala offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

May 23, 2011

SB 5919 Prime Sponsor, Senator Murray: Regarding education funding. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5919 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Brown; Conway; Fraser; Hewitt; Honeyford; Kastama; Keiser; Kohl-Welles; Regala; Rockefeller; Schoesler and Tom.

MINORITY recommendation: Do not pass. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

May 23, 2011

ESHB 2082 Prime Sponsor, Committee on Ways & Means: Concerning the long-term disability assistance program and the essential needs and housing support program. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Brown; Conway; Fraser; Hatfield; Honeyford; Kastama; Kohl-Welles; Pflug; Pridemore; Regala; Rockefeller and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Keiser.

Passed to Committee on Rules for second reading.

**MOTION**

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

**MOTION**

On motion of Senator Eide, the Senate advanced to the third order of business.

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

May 23, 2011

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

DENISE PORTMANN, appointed April 20, 2011, for the term ending September 30, 2015, as Member, Board of Trustees, Community College District No. 2 (Grays Harbor College).

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Higher Education & Workforce Development.

**MOTION**

On motion of Senator Eide, the appointee listed on the Gubernatorial Appointment report was referred to the committee as designated.

**MOTION**

At 9:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

**AFTERNOON SESSION**

The Senate was called to order at 4:41 p.m. by President Owen.

**MOTION**

On motion of Senator Eide, the Senate reverted to the first order of business.

**SUPPLEMENTAL REPORTS OF STANDING COMMITTEES**

May 23, 2011

HB 2111 Prime Sponsor, Representative Maxwell: Implementing selected recommendations from the 2011 report of the quality education council. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Brown; Conway; Fraser; Hatfield; Kastama; Keiser; Kohl-Welles; Pridemore; Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Honeyford and Tom.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Zarelli; Parlette; Baumgartner; Baxter; Hewitt; Pflug and Schoesler.

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Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the measure listed on the Supplemental Standing Committee report was referred to the committee as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548,

ENGROSSED HOUSE BILL NO. 2003,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5749,

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981 and passed the bill as amended by the Senate.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5749.

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742,

SECOND ENGROSSED SENATE BILL NO. 5764.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1548 by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Darneille and Kenney)

AN ACT Relating to implementation of long-term care worker requirements regarding background checks and training; amending RCW 18.88B.020, 18.88B.030, 18.88B.040, 18.88B.050, 74.39A.050, 74.39A.055, 74.39A.073, 74.39A.075, 74.39A.085, 74.39A.260, 74.39A.330, 74.39A.340, 74.39A.350, 74.39A.095, 18.20.125, 43.20A.710, and 43.43.837; and declaring an emergency.

EHB 2003 by Representatives Pettigrew, Hunter, Ryu and Kenney

AN ACT Relating to premium payments for children's health coverage for children in families with income greater than two hundred percent of the federal poverty level who are not eligible for the federal children's health insurance program; amending RCW 74.09.470 and 74.09.470; providing an effective date; providing contingent effective dates; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide and without objections, Engrossed Substitute House Bill No. 1548 and Engrossed House Bill No. 2003 were placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Eide, Senators Nelson, Prentice and Shin were excused.

MOTION

On motion of Senator Ericksen, Senators Benton and Carrell were excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2119, by House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Eddy, Hunter, Rodne and Pedersen)

Requiring another one-time sum due by beneficiaries for reporting certain notices of default.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, Substitute House Bill No. 2119 was advanced to third reading, the

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second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2119.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2119 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 9; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Delvin, Ericksen, Holmquist Newbry, Honeyford, Morton, Roach and Stevens

Excused: Senators Benton, Nelson, Prentice and Shin

SUBSTITUTE HOUSE BILL NO. 2119, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1131, by Representative Haigh

Regarding student achievement fund allocations.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, House Bill No. 1131 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senator Sheldon was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1131.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1131 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 17; Absent, 0; Excused, 5.

Voting yea: Senators Brown, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Parlette, Regala, Rockefeller, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Fain, Harper, Hill, Holmquist Newbry, Litzow, McAuliffe, Pflug, Pridemore, Ranker, Roach, Tom and White

Excused: Senators Benton, Nelson, Prentice, Sheldon and Shin

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HOUSE BILL NO. 1131, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1132, by House Committee on Ways & Means (originally sponsored by Representative Haigh)

Regarding reducing compensation for educational and academic employees.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Second Substitute House Bill No. 1132 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1132.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1132 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 16; Absent, 0; Excused, 5.

Voting yea: Senators Brown, Conway, Delvin, Eide, Ericksen, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Morton, Murray, Parlette, Pflug, Regala, Rockefeller, Schoesler, Stevens, Swecker and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Fain, Harper, Hill, Holmquist Newbry, Litzow, McAuliffe, Pridemore, Ranker, Roach, Tom and White

Excused: Senators Benton, Nelson, Prentice, Sheldon and Shin

SECOND SUBSTITUTE HOUSE BILL NO. 1132, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the first order of business.

#### SECOND SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

May 24, 2011

SB 5181 Prime Sponsor, Senator Parlette: Creating a statutory limitation on state debts. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5181 be substituted therefor, and the substitute bill do pass. Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli; Parlette; Baumgartner; Brown; Conway; Fraser; Hatfield; Hewitt; Holmquist

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Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pridemore; Regala; Rockefeller; Schoesler and Tom.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1795,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965,  
ENGROSSED HOUSE BILL NO. 2123.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Pflug.

Passed to Committee on Rules for second reading.

MOTION

MOTION

On motion of Senator Eide, and without objections, Senate Bill No. 5181 was placed on the second reading calendar under suspension of the rules.

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

On motion of Senator Ericksen, Senator Carrell was excused.

MOTION

MESSAGE FROM THE HOUSE

On motion of Senator Eide, the Senate advanced to the seventh order of business.

THIRD READING

May 24, 2011

MR. PRESIDENT:

SUBSTITUTE SENATE BILL NO. 5834, by Senate Committee on Ways & Means (originally sponsored by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain and Eide).

The Speaker has signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5182,

Permitting counties to direct an existing portion of local lodging taxes to programs for arts and heritage.

SENATE BILL 5289,

The bill was read on Third Reading.

SECOND ENGROSSED SENATE BILL NO. 5638,

MOTION

SUBSTITUTE SENATE BILL NO. 5912,

On motion of Senator White, the rules were suspended and Engrossed Substitute Senate Bill No. 5834 was returned to second reading for the purpose of amendment.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5921,

SENATE BILL NO. 5941,

SENATE BILL NO. 5956,

SENATE JOINT RESOLUTION NO. 8206.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

SECOND READING

May 24, 2011

MR. PRESIDENT:

SUBSTITUTE SENATE BILL NO. 5834, by Senate Committee on Ways & Means (originally sponsored by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain and Eide)

The Speaker has signed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224,

Permitting counties to direct an existing portion of local lodging taxes to programs for arts and heritage.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1371,

The measure was read the second time.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1449,

MOTION

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1795,

Senator White moved that the following striking amendment by Senator White and others be adopted:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1965,

Strike everything after the enacting clause and insert the following:

ENGROSSED HOUSE BILL NO. 2123.

"Sec. 1. RCW 67.28.180 and 2010 1st sp.s. c 26 s 8 are each amended to read as follows:

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1224,

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1371,

(2) Any levy authorized by this section (~~shall be~~) is subject to the following:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1449,

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(a) Any county ordinance or resolution adopted pursuant to this section ~~((shall))~~ must contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b)(i) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county ~~((shall be))~~ is exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160 ~~((—PROVIDED, That)).~~ However, so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: ~~((#))~~ (A) In any county with a population of one million five hundred thousand or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; ~~((#))~~ (B) in any county with a population of one million five hundred thousand or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or ~~((#))~~ (C) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

(ii) A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, ~~((2021))~~ 2035. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion ~~((and must perform an annual financial audit of organizations receiving funding on the use of the funds)).~~

(iii) As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) ~~((shall))~~ must be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under ~~((subsection (2)))~~ (b) of this subsection may levy the tax authorized by this section so long as said county is so exempt.

(ii) ~~((If bonds have been issued under RCW 43.99N.020 and any necessary property transfers have been made under RCW 36.102.100,))~~ No city within a county with a population of one million five hundred thousand or more may levy the tax authorized by this section ~~((before January 1, 2021)).~~

(iii) However, in the event that any city in a county described in (c)(i) or (ii) of this subsection (2) ~~((€))~~ has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has ~~((levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160 shall be))~~ a population of one million five hundred thousand or more is subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars ~~((shall))~~ may only be used as follows:

(i) ~~((Seventy five percent from January 1, 1992, through December 31, 2000, and))~~ Seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) ~~((shall))~~ must be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) ~~((Twenty five percent from January 1, 1992, through December 31, 2000, and))~~ Thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) ~~((shall))~~ must be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, ~~((in a county with a population of one million or more,))~~ all revenues under this section shall be used to retire the debt on the stadium, ~~((or deposited in the stadium and exhibition center account under RCW 43.99N.060 after))~~ until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (e) of this subsection.

(c) From January 1, 2016, through December 31, 2020, ~~((in a county with a population of one million or more,))~~ all revenues under this section ~~((shall))~~ must be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) ~~((At least seventy percent of moneys spent under (a)(i) of this subsection for the period January 1, 1992, through December 31, 2000, shall be used only for the purchase, design, construction, and remodeling of performing arts, visual arts, heritage, and cultural facilities, and for the purchase of fixed assets that will benefit art, heritage, and cultural organizations. For purposes of this subsection, fixed assets are tangible objects such as machinery and other equipment intended to be held or used for ten years or more. Moneys received under this subsection (3)(d) may be used for~~

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~~payment of principal and interest on bonds issued for capital projects. Qualifying organizations receiving moneys under this subsection (3)(d) must be financially stable and have at least the following:~~

- ~~— (i) A legally constituted and working board of directors;~~
- ~~— (ii) A record of artistic, heritage, or cultural accomplishments;~~
- ~~— (iii) Been in existence and operating for at least two years;~~
- ~~— (iv) Demonstrated ability to maintain net current liabilities at less than thirty percent of general operating expenses;~~
- ~~— (v) Demonstrated ability to sustain operational capacity subsequent to completion of projects or purchase of machinery and equipment; and~~
- ~~— (vi) Evidence that there has been independent financial review of the organization.)~~

On and after January 1, 2021, the revenues under this section must be used as follows:

(i) At least thirty-seven and one-half percent of the revenues under this section must be deposited in the special account under (e) of this subsection.

(ii) At least thirty-seven and one-half percent of the revenues under this section must be used for nonprofit organizations or public housing authorities for affordable workforce housing within one-half of a mile of a transit station, as described under RCW 9.91.025 or for services for homeless youth.

(iii) The remainder must be used for capital or operating programs that promote tourism and attract tourists to the county.

(e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection (~~for the period January 1, 2001, through December 31, 2012, shall~~) must be deposited in (~~an~~) a special account (~~and shall be used to establish an endowment. Principal in the account shall remain permanent and irreducible~~). The (~~earnings from investments of balances in the~~) account may only be used for the purposes of (a)(i) of this subsection.

(f) School districts and schools (~~shall~~) may not receive revenues distributed pursuant to (a)(i) of this subsection.

(g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion (~~shall~~) must be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

(h) (~~As used in~~) For the purposes of this section(:);

(i) "Affordable workforce housing" means housing for a single person, family, or unrelated persons living together whose income is between thirty percent and eighty percent of the median income, adjusted for household size, for the county where the housing is located; and

(ii) "Tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a county with a population of one million or more (~~shall~~) must be allocated to local public organizations and nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations (~~shall~~) must use moneys from the taxes to promote events in all parts of the county.

(i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this

section are or are projected to be insufficient to meet debt service requirements on such bonds.

(k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

(l) The county (~~shall~~) may not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(l) does not apply to contracts in existence on April 1, 1986.

(4) If a court of competent jurisdiction declares any provision of (~~this~~) subsection (3) of this section invalid, then that invalid provision (~~shall be~~) is null and void and the remainder of this section is not affected.

**Sec. 2.** RCW 36.38.010 and 1999 c 165 s 20 are each amended to read as follows:

(1) Any county may by ordinance enacted by its county legislative authority, levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid for county purposes by persons who pay an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations; and require that one who receives any admission charge to any place (~~shall~~) must collect and remit the tax to the county treasurer of the county(~~:- PROVIDED,;~~) However, no county (~~shall~~) may impose such tax on persons paying an admission to any activity of any elementary or secondary school or any public facility of a public facility district under chapter 35.57 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210.

(2) As used in this chapter, the term "admission charge" includes a charge made for season tickets or subscriptions, a cover charge, or a charge made for use of seats and tables, reserved or otherwise, and other similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided; a charge made for rental or use of equipment or facilities for purpose of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges (~~shall~~) must be considered as the admission charge. (~~It shall~~) Admission charge also includes any automobile parking charge where the amount of such charge is determined according to the number of passengers in any automobile.

(3) Subject to subsections (4) and (5) of this section, the tax (~~herein~~) authorized (~~shall~~) in this section is not (~~be~~) exclusive and (~~shall~~) does not prevent any city or town within the taxing county, when authorized by law, from imposing within its corporate limits a tax of the same or similar kind(~~:- PROVIDED, That~~), However, whenever the same or similar kind of tax is imposed by any such city or town, no such tax (~~shall~~) may be levied within the corporate limits of such city or town by the county.

(4) Notwithstanding subsection (3) of this section, the legislative authority of a county with a population of one million or more may exclusively levy taxes on events in baseball stadiums constructed on or after January 1, 1995, that are owned by a public

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facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand at the rates of:

(a) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. If the revenue from the tax exceeds the amount needed for that purpose, the excess ~~((shall))~~ must be placed in a contingency fund which ~~((may only))~~ must be used ~~((to pay unanticipated capital costs on the baseball stadium, excluding any cost overruns on initial construction))~~ exclusively by the public facilities district to fund repair, reequipping, and capital improvement of the baseball stadium; and

(b) Not more than one cent on twenty cents or fraction thereof, to be used for the purpose of paying the principal and interest payments on bonds issued by a county to construct a baseball stadium as defined in RCW 82.14.0485. The tax imposed under this subsection (4)(b) ~~((shall))~~ expires when the bonds issued for the construction of the baseball stadium are retired, but not later than twenty years after the tax is first collected.

(5) Notwithstanding subsection (3) of this section, the legislative authority of a county that has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.050 may levy and fix a tax on charges for admission to events in a stadium and exhibition center, as defined in RCW 36.102.010, constructed in the county on or after January 1, 1998, that is owned by a public stadium authority under chapter 36.102 RCW. The tax ~~((shall be))~~ is exclusive and ~~((shall))~~ precludes the city or town within which the stadium and exhibition center is located from imposing a tax of the same or similar kind on charges for admission to events in the stadium and exhibition center, and ~~((shall))~~ precludes the imposition of a general county admissions tax on charges for admission to events in the stadium and exhibition center. For the purposes of this subsection, "charges for admission to events" means only the actual admission charge, exclusive of taxes and service charges and the value of any other benefit conferred by the admission. The tax authorized under this subsection ~~((shall be))~~ is at the rate of not more than one cent on ten cents or fraction thereof. Revenues collected under this subsection ~~((shall))~~ must be deposited in the stadium and exhibition center account under RCW 43.99N.060 until the bonds issued under RCW 43.99N.020 for the construction of the stadium and exhibition center are retired. After the bonds issued for the construction of the stadium and exhibition center are retired, the tax authorized under this section ~~((shall be))~~ is used exclusively to fund repair, reequipping, and capital improvement of the stadium and exhibition center. The tax under this subsection may be levied upon the first use of any part of the stadium and exhibition center but ~~((shall))~~ may not be collected at any facility already in operation as of July 17, 1997.

**Sec. 3.** RCW 36.100.220 and 1999 c 165 s 18 are each amended to read as follows:

(1) A public facility district may levy and fix a tax on any vehicle parking charges imposed at any parking facility that is owned or leased by the public facility district as part of a regional center, as defined in RCW 35.57.020, or a baseball stadium, as defined in RCW 82.14.0485. No county ~~((or))~~ city, or town within which the regional center or baseball stadium is located may impose a tax of the same or similar kind on any vehicle parking charges at the facility.

(2) For the purposes of this section, "vehicle parking charges" means only the actual parking charges exclusive of taxes and service charges and the value of any other benefit conferred.

(3) The tax authorized under this section ~~((shall))~~ must be at the rate of not more than ten percent. The tax authorized by this section with respect to a parking facility associated with a baseball stadium

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must be used exclusively to fund repair, reequipping, and capital improvement of the baseball stadium, and is not subject to the requirements of RCW 36.100.010(4)."

Senator White spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator White and others to Substitute Senate Bill No. 5834.

The motion by Senator White carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "arts" strike the remainder of the title and insert ", culture, heritage, tourism, and housing; and amending RCW 67.28.180, 36.38.010, and 36.100.220."

#### MOTION

On motion of Senator White, the rules were suspended, Engrossed Substitute Senate Bill No. 5834 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators White, King and Zarelli spoke in favor of passage of the bill.

#### MOTION

On motion of Senator White, Senator Tom was excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5834.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5834 and the bill passed the Senate by the following vote: Yeas, 33; Nays, 8; Absent, 1; Excused, 7.

Voting yea: Senators Becker, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Ranker, Regala, Rockefeller, Schoesler, Swecker, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Holmquist Newbry, Honeyford, Pflug, Pridmore, Roach and Stevens

Absent: Senator Ericksen

Excused: Senators Benton, Carrell, Nelson, Prentice, Sheldon, Shin and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 5834, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5181, by Senators Parlette, Kilmer, Zarelli, Murray, Litzow, Rockefeller, Stevens, Becker, Baumgartner and Hill

Creating a statutory limitation on state debts. Revised for 1st Substitute: Concerning limitations on state debt.

## MOTIONS

On motion of Senator Parlette, Substitute Senate Bill No. 5181 was substituted for Senate Bill No. 5181 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Parlette, the rules were suspended, Substitute Senate Bill No. 5181 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Parlette, Kilmer, Roach, Brown and Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5181.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5181 and the bill passed the Senate by the following vote: Yeas, 40; Nays, 1; Absent, 1; Excused, 7.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Stevens, Swecker and White

Voting nay: Senator Pflug

Absent: Senator Zarelli

Excused: Senators Benton, Carrell, Nelson, Prentice, Sheldon, Shin and Tom

SUBSTITUTE SENATE BILL NO. 5181, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

## MOTION

At 5:49 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Wednesday, May 25, 2011.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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MORNING SESSION

Senate Chamber, Olympia, Wednesday, May 25, 2011

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Nelson and Shin.

The Sergeant at Arms Color Guard consisting of Legislative Assistants Karen Wickstrom and Judy Rogers-LaVigne, presented the Colors. Senator Morton offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5962 by Senators Honeyford, Haugen, Schoesler and Hatfield

AN ACT Relating to reforming water resource management through streamlining the administration of water rights and providing for funding; amending RCW 90.14.130, 90.14.140, 90.14.200, and 90.03.255; reenacting and amending RCW 90.14.140; adding new sections to chapter 90.03 RCW; adding new sections to chapter 90.42 RCW; creating a new section; providing an effective date; and providing an expiration date.

Referred to Committee on Environment, Water & Energy.

SB 5963 by Senators Baxter, Stevens, Morton, Chase and Shin

AN ACT Relating to state agencies' lobbying activities; amending RCW 42.17A.635 and 42.17A.750; creating new sections; prescribing penalties; and providing an effective date.

Referred to Committee on Government Operations, Tribal Relations & Elections.

SB 5964 by Senators Holmquist Newbry, Hatfield, Honeyford, Kastama, Delvin, Schoesler, Hewitt, Hobbs and Sheldon

AN ACT Relating to narrowing the requirement that utilities purchase electricity, renewable energy credits, or electric generating facilities that are not needed to serve their customers' loads; amending RCW 19.285.040; and creating a new section.

Referred to Committee on Environment, Water & Energy.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

SUPPLEMENTAL INTRODUCTION AND FIRST READING

SJM 8011 by Senators Swecker, Morton, Ranker, Haugen, Rockefeller, Pridemore and White

Regarding runoff from dams on the Snake and Columbia rivers and the impact on the state's fish resources.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

2ESHB 1087 by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

AN ACT Relating to fiscal matters; amending RCW 15.76.115, 19.30.030, 28B.15.068, 28B.116.050, 28C.04.535, 36.22.175, 40.14.025, 40.14.027, 41.06.022, 41.50.110, 41.60.050, 41.80.010, 41.80.020, 43.07.129, 43.08.190, 43.09.475, 43.19.501, 43.20A.725, 43.79.201, 43.79.465, 43.88.150, 43.101.200, 43.135.045, 43.185.050, 43.185C.190, 43.336.020, 46.66.080, 66.08.170, 66.08.190, 66.08.235, 67.70.260, 70.93.180, 70.105D.070, 74.13.621, 79.64.040, 79.105.150, 80.36.430, 82.08.160, 82.14.310, 82.14.320, 82.14.330, 82.14.390, 82.14.500, 82.45.060, 86.26.007, and 90.71.370; reenacting and amending RCW 41.06.070, 43.79.480, 43.155.050, 43.185A.030, and 43.330.250; amending 2011 c 5 ss 106, 107, 108, 113, 114, 115, 117, 118, 119, 120, 121, 122, 125, 126, 127, 128, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 301, 302, 303, 304, 305, 306, 307, 401, 402, 501, 502, 503, 504, 505, 507, 508, 607, 608, 609, 612, 613, 614, 615, 616, 617, 703, and 801 (uncodified); amending 2010 2nd sp.s. c 1 ss 101, 102, 106, 107, 108, 116, 305, and 306 (uncodified); amending 2010 1st sp.s. c 37 ss 201, 504, 509, 510, 514, 515, 516, 517, 612, 701, 702, 703, 709, 710, and 801 (uncodified); amending 2009 c 564 ss 719, 802, and 803 (uncodified); adding new sections to 2009 c 564 (uncodified); adding new sections to 2011 c 367 (uncodified); creating new sections; repealing 2010 1st sp.s. c 37 s 802 (uncodified); making

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appropriations; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide and without objections, Senate Joint Memorial No. 8011 and Second Engrossed Substitute House Bill No. 1087 were placed on the second reading calendar under suspension of the rules.

MOTION

At 10:12 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:59 a.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5891 with the following amendment(s): 5891-S.E AMH PROB SILV 162

On page 3, beginning on line 1, strike all of section 2 and insert the following:

"Sec. 2. RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are each reenacted and amended to read as follows:

(1) The department shall supervise ~~((every offender convicted of a misdemeanor or gross misdemeanor offense who is))~~ the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 ((, for an offense included in (a) and (b) of this subsection. The superior court shall order probation for:

~~(a) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:~~

- ~~(i) A violent offense;~~
- ~~(ii) A sex offense;~~
- ~~(iii) A crime against a person as provided in RCW 9.94A.411;~~
- ~~(iv) Fourth degree assault; or~~
- ~~(v) Violation of a domestic violence court order; and~~

- ~~(b))~~;
- ~~(a) Offenders convicted of:~~
  - (i) Sexual misconduct with a minor second degree;
  - (ii) Custodial sexual misconduct second degree;
  - (iii) Communication with a minor for immoral purposes; and
  - (iv) Violation of RCW 9A.44.132(2) (failure to register); and
- (b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been plead and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment ~~((, conducted pursuant to subsection (6) of this section,))~~ classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense ~~((as defined in RCW 9.94A.030))~~ and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e) Has a current conviction for a domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670; or

~~((f))~~ (g) Is subject to supervision pursuant to RCW 9.94A.745.

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under ~~((subsection (1), (2), (3), or (4) of) this section or section 3 of this act.~~

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or section 3 of this act."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Ericksen, Senator Benton was excused.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

MOTION

On motion of Senator White, Senators Nelson and Shin were excused.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891.

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The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5891 by voice vote.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5891, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Carrell, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Prentice, Ranker, Regala, Rockefeller, Schoesler, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Chase, Conway, Delvin, Ericksen, Fain, Hill, Holmquist Newbry, Honeyford, Kilmer, King, Litzow, Morton, Parlette, Pflug, Pridemore, Roach and Sheldon

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5942 with the following amendment(s): 5942-S.E AMH ORMS H2907.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1. FINDINGS.** The legislature finds that it is in the public interest to seek revenue opportunities through leasing and modernizing the state's liquor warehousing and distribution facilities and related operations. The legislature finds that it is also in the public interest to conduct a competitive process to select a private sector lessee for this purpose. Nothing in this act is intended to affect the private distribution or sale of beer or wine, the operation by the state of state liquor stores, or the authority of the Washington state liquor control board to oversee, manage, and enforce state liquor sales.

NEW SECTION. **Sec. 2. COMPETITIVE PROCUREMENT.** (1) Within one hundred twenty days after the effective date of this section, the office of financial management, in consultation with the Washington state liquor control board and the liquor distribution advisory committee, must establish and conduct a competitive process for the selection of a private sector entity to lease and modernize the state's liquor warehousing and distribution facilities and related operations. The competitive process must assume that the Washington state liquor control board retains its existing exclusive retail spirits sales business, be designed to encourage the participation of private sector entities with previous wholesale distribution experience with a public partner excluding licensees engaged in the manufacture of liquor or the retail sale of liquor in the state, and be designed to encourage competition among such entities.

(2)(a) To implement the competitive process required under subsection (1) of this section, the office of financial management

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must, after consultation with the Washington state liquor control board and the liquor distribution advisory committee, request proposals for:

(i) The lease of or other contract for the entire state liquor warehousing and distribution business, including the facilities, operations, and other assets associated with the warehousing of liquor and the distribution of liquor; and

(ii) The exclusive right to warehouse spirits and to distribute spirits in the state.

(b) The request for proposals must include without limitation:

(i) A requirement that proposals demonstrate to the satisfaction of the office of financial management relevant previous experience as well as the financial capacity to perform obligations under the contract;

(ii) A requirement that proposals demonstrate, to the satisfaction of the office of financial management, a net positive financial benefit to the state and local government over the term of the proposed lease or contract taking into account: An initial up-front payment to the state during the 2011-2013 biennium; proposed profit sharing payments to the state; projected business and occupation and liquor tax revenues; and changes to retail profits generated as a result of the lease or contract. The office of financial management, in consultation with the liquor distribution advisory committee and interested stakeholders, must develop a definition and criteria on how to determine "positive financial benefit to the state and local government";

(iii) A requirement that the prevailing proponent deposit into an escrow account, within fifteen business days after the announcement of selection of that proposal and definitive resolution of any appeals to such selection, the full amount of the initial up-front payment offered in the proponent's response to the request for proposals, pending and subject to successful negotiation of a mutually acceptable lease or other contract;

(iv) A requirement that proposals include a quantified commitment to invest in capital improvements to warehousing and distribution facilities and a mechanism to ensure that such investments are timely made, consistent with requirements in a mutually acceptable lease or contract;

(v) A requirement that proposals include a commitment to assume responsibility for the costs associated with the operation of liquor warehousing and distribution;

(vi) A requirement that proposals demonstrate to the satisfaction of the office of financial management a commitment to improved distribution including without limitation logistics and delivery improvements to improve margins, ensure regularity of deliveries to state or contract liquor stores to reduce out-of-stock problems, improve service to stores located in geographically remote areas of the state, expand liquor selection, provide for bottle rather than minimum case purchasing and stocking of state or contract liquor stores, if practicable, and enable electronic funds transfer of payments;

(vii) A requirement that proposals include a commitment to offer employment to the state employees currently in positions relating to the wholesale distribution of liquor and to recognize and bargain with any existing bargaining representative of such employees with respect to terms and conditions of employment;

(viii) A requirement that the variety of brands and types of liquor available to licensees, contract liquor stores, and state liquor stores must be equal to or greater than what is being distributed by the Washington state liquor control board; and

(ix) Measurable standards for the performance of the contract.

(c) Prior to conducting the competitive process outlined in this section, the request for proposals developed by the office of financial management must be reviewed by the house and senate fiscal committees. Opportunity for public comment regarding the

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request for proposal must be provided. The review must be completed within fourteen days of the office of financial management providing the request for proposals to the house and senate fiscal committees.

(d) The office of financial management must publicly disclose an analysis of the fiscal impacts to state and local government of each of the offers in the procurement process.

(e) After consultation with the Washington state liquor control board, local government, and the liquor distribution advisory committee, the office of financial management is authorized to recommend to the Washington state liquor control board the proposal that in the determination of the office of financial management best meets the criteria required under this subsection (2), in the best interests of the state. If, in the determination of the office of financial management, there is no proposal that meets the best interest of the state, the office of financial management must notify the Washington state liquor control board to not accept any of the proposals.

(3) Any challenge to or protest of the recommendation of the office of financial management and the acceptance by the liquor control board of the recommended proposal must be filed by a respondent that submitted a proposal with the office of financial management within five days after such recommendation and acceptance. The grounds for such challenge or protest are limited to claims that the recommendation and acceptance were arbitrary and capricious. The office of financial management must, within five days, render its decision on the protest. The respondent that filed the protest may, within five days after such decision, appeal to the superior court of Thurston county by petition setting forth objections to the decision. A copy of the petition on appeal together with a notice that an appeal has been taken must be served upon the secretary of state, the attorney general, the office of financial management, the liquor control board, and the respondent that submitted the recommended and accepted proposal. The court must accord first priority to examining the objections, may hear arguments, and must, within ten days, render its decision. The decision of the superior court is final.

**NEW SECTION. Sec. 3. CONTRACT.** (1) Within sixty days after the recommendation of a proposal under section 2 of this act, the Washington state liquor control board may accept that proposal and enter into a long-term contract with that entity for the lease of the business, facilities, and assets associated with the warehousing and distribution of liquor in the state. The contract must grant the exclusive right to distribute spirits in the state for the period of the contract. The contract must include enforceable performance standards and minimum financial returns to the state. The contract must provide a provision that allows the state to terminate the contract should specific performance standards or financial returns to the state not be realized. The contract must provide for a reasonable termination notification process as well as financial terms of termination should termination of contract take place.

(2) If the state receives an up-front payment of one hundred million dollars or more as a result of accepting a proposal from the procurement process in section 2 of this act, the contract must provide that the private entity place the up-front payment into irrevocable trust with the state being the beneficiary. The contract must provide that the trust be created in a manner that the state may not receive more than one-sixth of the up-front payment placed into the trust in any fiscal year.

(3) The contract must contain provisions that the Washington state liquor control board maintains the exclusive authority to select products and determine which products will be carried in state and contract liquor stores.

(4) The contract must contain provisions that the Washington state liquor control board must set the prices of liquor for sales in state and contract liquor stores as well as sales to licensees.

(5) The contract must contain a provision that any financial deficiencies or losses of the private entity contracting for the warehousing and distribution of liquor in the state must not be compensated for in any way by the state, contract stores, consumers, or licensees.

**NEW SECTION. Sec. 4.** (1) The director of the office of financial management must appoint a liquor distribution advisory committee. The purpose of the committee is to assist and make recommendations to the office of financial management and the Washington state liquor control board regarding the provisions of this act including, but not limited to, setting requirements for the competitive procurement process, selection of a private entity or recommendation that no entity be selected, and creating the terms of a contract with a selected private entity. The advisory committee's recommendations and assistance to the office of financial management and Washington state liquor control board in regards to the provisions of this act are advisory in nature and do not prohibit the office of financial management and Washington state liquor control board from performing their duties under this act as they deem fit.

(2) The liquor distribution advisory committee is composed of the Washington state treasurer or his or her designee, a designee from each of the two largest caucuses of the senate determined by the leaders of each caucus, and a designee from each of the two largest caucuses of the house of representatives determined by the leaders of each caucus.

**NEW SECTION. Sec. 5.** Contracting for services under this chapter is not subject to the processes of RCW 41.06.142 (1), (4), and (5).

**NEW SECTION. Sec. 6. DEFINITIONS.** For the purposes of this chapter, unless the context clearly requires otherwise:

(1) "Liquor" has the same meaning as provided in RCW 66.04.010.

(2) "Spirits" has the same meaning as provided in RCW 66.04.010.

(3) "State liquor stores" includes "stores" and "contract liquor stores" as those terms are defined in RCW 66.04.010.

**Sec. 7.** RCW 66.08.050 and 2005 c 151 s 3 are each amended to read as follows:

The board, subject to the provisions of this title and the rules, shall:

(1) Determine the localities within which state liquor stores shall be established throughout the state, and the number and situation of the stores within each locality;

(2) Appoint in cities and towns and other communities, in which no state liquor store is located, contract liquor stores. In addition, the board may appoint, in its discretion, a manufacturer that also manufactures liquor products other than wine under a license under this title, as a contract liquor store for the purpose of sale of liquor products of its own manufacture on the licensed premises only. Such contract liquor stores shall be authorized to sell liquor under the guidelines provided by law, rule, or contract, and such contract liquor stores shall be subject to such additional rules and regulations consistent with this title as the board may require;

(3) If a contract under section 3 of this act is not then in effect, establish all necessary warehouses for the storing and bottling, diluting and rectifying of stocks of liquors for the purposes of this title;

(4) Provide for the leasing for periods not to exceed ten years of all premises required for the conduct of the business (other than premises subject to a lease or other contract under section 3 of this act); and for remodeling the same, and the procuring of their

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furnishings, fixtures, and supplies; and for obtaining options of renewal of such leases by the lessee. The terms of such leases in all other respects (~~shall be~~) is subject to the direction of the board;

(5) Determine the nature, form and capacity of all packages to be used for containing liquor kept for sale under this title;

(6) Execute or cause to be executed, all contracts, papers, and documents in the name of the board, under such regulations as the board may fix;

(7) Pay all customs, duties, excises, charges and obligations whatsoever relating to the business of the board (other than obligations assumed by the lessee through a contract under section 3 of this act);

(8) Require bonds from all employees in the discretion of the board, and to determine the amount of fidelity bond of each such employee;

(9) Perform services for the state lottery commission to such extent, and for such compensation, as may be mutually agreed upon between the board and the commission;

(10) Accept and deposit into the general fund-local account and disburse, subject to appropriation, federal grants or other funds or donations from any source for the purpose of improving public awareness of the health risks associated with alcohol consumption by youth and the abuse of alcohol by adults in Washington state. The board's alcohol awareness program shall cooperate with federal and state agencies, interested organizations, and individuals to effect an active public beverage alcohol awareness program;

(11) Perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this title, and shall have full power to do each and every act necessary to the conduct of its business, including all buying, selling, preparation and approval of forms, and every other function of the business whatsoever, subject only to audit by the state auditor (~~(= PROVIDED, That)~~). However, the board (~~shall have~~) has no authority to regulate the content of spoken language on licensed premises where wine and other liquors are served and where there is not a clear and present danger of disorderly conduct being provoked by such language.

**Sec. 8.** RCW 66.08.070 and 1985 c 226 s 2 are each amended to read as follows:

(1) Every order for the purchase of liquor (~~shall~~) must be authorized by the board, and no order for liquor (~~shall be~~) is valid or binding unless it is so authorized and signed by the board or its authorized designee.

(2) A duplicate of every such order (~~shall~~) must be kept on file in the office of the board.

(3) All cancellations of such orders made by the board (~~shall~~) must be signed in the same manner and duplicates thereof kept on file in the office of the board. Nothing in this title (~~shall~~) may be construed as preventing the board from accepting liquor on consignment.

(4) In the purchase of wine or malt beverages the board (~~shall~~) may not require, as a term or condition of purchase, any warranty or affirmation with respect to the relationship of the price charged the board to any price charged any other buyer.

(5) This section does not apply to a contract entered into under section 3 of this act.

**NEW SECTION. Sec. 9.** Sections 1 through 6 of this act constitute a new chapter in Title 66 RCW.

**NEW SECTION. Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." Correct the title. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Zarelli moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942.

Senator Zarelli spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Zarelli that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942.

The motion by Senator Zarelli carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5942 by voice vote.

#### POINT OF ORDER

Senator Tom: "Mr. President, I am asking that the President determine and announce the number of votes needed for final passage of this bill as I believe the bill will fall under the provisions of Initiative 1053 and requires a two-thirds majority vote on final passage. The bill before the body privatizes the distribution of liquor within the state and part of it requires that any person or business responding to the RFP provide certain specific information. Included in that response must be the following information: Any changes to retail profits generated as a result of the lease or contract. In part, the contract will allow the distribution of liquor into the state liquor stores and it is those stores that will experience the changes in retail profits that the bill contemplates to the extent that the award of the contract results in an increase and deposits of funds into the state general fund. The legislation creates a back-door tax therefore requiring a two-thirds vote on final passage."

Senator Zarelli spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5942 was deferred and the bill held its place on the calendar.

#### MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5846 with the following amendment(s): 5846-S AMH WAYS H2898.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

From September 1, 2011, through August 31, 2014, the health care authority shall provide an optional subsidy of two hundred fifty dollars per month for health benefit premiums to any member of plan 1 of the teachers' retirement system who:

(1) Is ineligible for medicare;

(2) Has signed an employment contract under RCW 28A.405.210 by May 20, 2011, for the 2011-12 school year and has not previously notified the school district of an intent to retire at the conclusion of the 2010-11 school year;

(3) Applies for retirement under RCW 41.32.480 after May 20, 2011, and before September 1, 2011; and

(4) Receives the first installment of a retirement allowance as provided under RCW 41.32.480 before October 31, 2011."

Correct the title. and the same are herewith transmitted.

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Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

MOTION

Senator Eide moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and ask the House to recede therefrom.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and ask the House to recede therefrom.

The motion by Senator Eide carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5846 and asked the House to recede therefrom by voice vote.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5860, by Senator Murray

Addressing state government employee compensation. Revised for 1st Substitute: Addressing temporary compensation reductions for state government employees during the 2011-2013 fiscal biennium.

MOTION

On motion of Senator Murray, Substitute Senate Bill No. 5860 was substituted for Senate Bill No. 5860 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Murray moved that the following amendment by Senators Murray and Zarelli be adopted:

On page 18, after line 27, insert the following:

" From July 1, 2011, through June 29, 2013, the rate of monetary compensation for the purposes of this subsection shall not be reduced by any temporary salary reduction."

Senator Murray spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Murray and Zarelli on page 18, after line 27 to Substitute Senate Bill No. 5860.

The motion by Senator Murray carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute Senate Bill No. 5860 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5860.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5860 and the bill passed the

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Delvin, Holmquist Newbry, Morton, Pridemore, Roach, Sheldon and Stevens

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5860, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Darneille and Kenney)

Concerning the implementation of long-term care worker requirements regarding background checks and training.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 1548 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1548.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1548 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 12; Absent, 0; Excused, 3.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist Newbry, Honeyford, Kastama, Kilmer, King, Kline, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Chase, Conway, Fain, Hargrove, Harper, Hill, Keiser, Kohl-Welles, Litzow, Ranker and Roach

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 2003, by Representatives Pettigrew, Hunter, Ryu and Kenney

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Concerning premium payments for children's health coverage for certain families who are not eligible for federal children's health insurance coverage.

The measure was read the second time.

## MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 2003 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser, Hobbs and Becker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2003.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2003 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Nelson and Shin

ENGROSSED HOUSE BILL NO. 2003, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 12:34 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 3:30 p.m. by President Owen.

## MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2053.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed:

SUBSTITUTE SENATE BILL NO. 5181.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5181.

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SECOND SUPPLEMENTAL AND FIRST READING  
OF HOUSE BILLS

ESHB 2053 by House Committee on Transportation (originally sponsored by Representatives Clibborn, Morris, Rolfes, Liias, Reykdal, Billig, Ormsby, Finn, Seaquist and Lytton)

AN ACT Relating to additive transportation funding; amending RCW 46.20.055, 46.20.117, 46.20.200, 46.20.308, 46.17.005, 46.17.100, 46.17.140, 46.17.200, 46.52.130, 46.29.050, and 46.20.293; reenacting and amending RCW 46.20.120; creating new sections; making appropriations and authorizing expenditures for capital improvements; and providing an effective date.

## MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 2053 was placed on the second reading calendar under suspension of the rules.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5891.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082, by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Goodman, Dickerson, Roberts, Pettigrew, Appleton, Ryu, Fitzgibbon, Finn, Orwall, Ormsby, Ladenburg, Kenney and Moscoso)

Making changes to the disability lifeline program. Revised for 1st Substitute: Concerning the long-term disability assistance program and the essential needs and housing support program.

The measure was read the second time.

## MOTION

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Senator Regala moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. Intent.** (1) The legislature finds that:

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program;

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or chemical dependency face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through this act, the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, and disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under this act.

**NEW SECTION. Sec. 2.** Effective October 31, 2011, the disability lifeline program, as defined under chapter 74.04 RCW, is terminated and all benefits provided under that program shall expire and cease to exist.

**NEW SECTION. Sec. 3.** (1)(a) Effective November 1, 2011, the aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age sixty-five or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history but need not duplicate the full five-step sequential review process set out in federal supplemental security income regulations.

In determining whether a person is disabled, the department may rely on the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting long-term disability assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the long-term disability assistance program; or

(ii) Persons for whom there has been a final determination by the social security administration of ineligibility for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits pending application for federal supplemental security income benefits. The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) Effective November 1, 2011, the pregnant women assistance program shall provide financial grants to persons who:

(a) Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; or

(b) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families benefits for a reason other than failure to cooperate in program requirements; and

(c) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(b) Have furnished the department his or her social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(c) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(d) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Effective November 1, 2011, referrals for essential needs and housing support under section 4 of this act shall be provided to persons found eligible for medical care services under RCW

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74.09.035 who are not recipients of alcohol and addiction services provided under chapter 74.50 RCW or are not recipients of aged, blind, or disabled assistance.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must review the cases of all persons, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, or recipients of aged, blind, or disabled assistance, who have received medical care services for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.185C RCW to read as follows:

**Grants to local governments and community-based organizations for essential needs and housing support.** (1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under section 3(4) of this act and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds, as provided in the biennial operating budget, upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3) As provided in the biennial operating budget, for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at imminent risk of losing stable housing or at imminent risk of losing one of the other services defined in section 7(6) of this act. For purposes of this chapter, "imminent risk" means the client has written proof that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to essential needs and housing support program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every essential needs and housing support recipient that is referred to the local entity or who meets the priority standards in subsection (5)(c) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more

counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The appropriations by the legislature for the purposes of the essential needs and housing support program established under this section shall be based on forecasted program caseloads. To the extent that actual caseloads are less than forecasted, the proportional amount of the appropriation shall lapse and remain unexpended. Savings resulting from program caseload attrition from forecasted levels shall not result in increased per-client expenditures.

(d) In awarding housing support, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010.

(e) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of this act;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals referred for housing support by the department of social and health services, but not receiving services;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources or public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and

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administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

NEW SECTION. Sec. 5. A new section is added to chapter 43.185C RCW to read as follows:

The department, in collaboration with the department of social and health services, shall develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible and remains eligible for medical care services under RCW 74.09.035 by the department of social and health services.

Sec. 6. RCW 74.09.035 and 2011 c 284 s 3 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to ((recipients of disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.));

(a) Persons who:

(i) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(ii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(iii) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(iv) Have countable income as described in RCW 74.04.005 at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual; and

(v) Do not have countable resources in excess of those described in RCW 74.04.005.

(b) Persons eligible for the aged, blind, or disabled assistance program authorized in section 3 of this act and who are not eligible for medicaid under RCW 74.09.510.

(c) Persons eligible for alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.

(d) The following persons are not eligible for medical care services:

(i) Persons who are unemployable due primarily to alcohol or drug addiction, except as provided in (c) of this subsection. These persons shall be referred to appropriate assessment, treatment,

shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting medical care services benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for medical care services;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(iii) Persons who refuse or fail without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(iv) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(e) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapitation.

(2) Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment and establish a waiting list of ((eligible)) persons who may receive benefits only when sufficient funds are available. ((Upon implementation of a federal medicaid 1115 waiver providing federal matching funds for medical care services, persons subject to termination of disability lifeline benefits under RCW 74.04.005(5)(h) remain enrolled in medical care services and persons subject to denial of disability lifeline benefits under RCW 74.04.005(5)(h) remain eligible for medical care services.

~~(2))~~ (3) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

((3)) (4) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services ((to recipients of disability

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~~lifeline benefits~~) under this section. The contract must provide for integrated delivery of medical and mental health services.

((4)) (5) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co- insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

((5)) (6) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for persons with intellectual disabilities, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

((6) Eligibility for medical care services shall commence with the date of certification for disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.)

(7) Eligibility for medical care services shall commence with the date of certification for medical services, date of eligibility for the aged, blind, or disabled assistance program provided under section 3 of this act, or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

**NEW SECTION. Sec. 7.** For the purposes of this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, and disabled assistance program" means the program established under section 3 of this act.

(2) "Department" means the department of social and health services.

(3) "Director" or "secretary" means the secretary of social and health services.

(4) "Essential needs and housing support program" means the program established under section 4 of this act.

(5) "Essential needs support" means personal health and hygiene items, cleaning supplies, other necessary items and transportation passes or tokens provided through an essential needs support entity established under section 4 of this act.

(6) "Housing support" means assistance provided by a designated housing support entity established under section 4 of this act to maintain existing housing when the client is at imminent risk of becoming homeless, to obtain housing, or to obtain heat, electricity, natural gas, sewer, garbage, and water services when the client is at imminent risk of losing these services.

(7) "Pregnant women assistance program" means the program established under section 3 of this act.

(8) In the construction of words and phrases used in this chapter, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 8.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance" ~~((--))~~ means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, and federal aid assistance.

(2) "Department" ~~((--))~~ means the department of social and health services.

(3) "County or local office" ~~((--))~~ means the administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) ~~((Disability lifeline))~~ Essential needs and housing support program means ((a program that provides aid and support in accordance with the conditions set out in this subsection.

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under RCW 74.04.655 indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under RCW 43.330.175 that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

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(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or

general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction)) the program established in section 4 of this act.

(6) ("Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7)) "Aged, blind, or disabled assistance program" means the program established under section 3 of this act.

(7) "Federal aid assistance"((--)) means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(8) "Applicant"((--)) means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"((--)) means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Standards of assistance"((--)) means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(11) "Resource"((--)) means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

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(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of ~~((disability-lifetime))~~ benefits under sections 3 and 4 of this act shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property(~~(--PROVIDED, That)~~) if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(12) "Income"(~~(--)~~) means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(13) "Need"(~~(--)~~) means the difference between the applicant's or recipient's standards of assistance for himself or herself and the

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dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(14) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(15) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 9.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

(1) Individuals who would be eligible for cash assistance except for their institutional status;

(2) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for persons with intellectual disabilities, or (d) inpatient psychiatric facilities;

(3) Individuals who:

(a) Are under twenty-one years of age;

(b) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

(c) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

(4) Persons who are aged, blind, or disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized;

(5) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

(6) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

(7) Children and pregnant women allowed by federal statute for whom funding is appropriated;

(8) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

(9) Other individuals eligible for medical services under RCW 74.09.035 based on age, blindness, or disability and income and resources standards for medical care services and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

(10) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

(11) Women who: (a) Are under sixty-five years of age; (b) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and (c) are not otherwise covered by health insurance. Medical assistance provided under this subsection is limited to the period during which

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the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

**Sec. 10.** RCW 74.50.055 and 1989 1st ex.s. c 18 s 4 are each amended to read as follows:

(1) A person shall not be eligible for treatment services under this chapter unless he or she:

(a) Meets the ~~((financial))~~ income and resource eligibility requirements ~~((contained in RCW 74.04.005))~~ for the medical care services program under RCW 74.09.035(1)(a)(iv) and (v); and

(b) Is incapacitated from gainful employment, which incapacity will likely continue for a minimum of sixty days.

(2) First priority for receipt of treatment services shall be given to pregnant women and parents of young children.

(3) In order to rationally allocate treatment services, the department may establish by rule caseload ceilings and additional eligibility criteria, including the setting of priorities among classes of persons for the receipt of treatment services. Any such rules shall be consistent with any conditions or limitations contained in any appropriations for treatment services.

**Sec. 11.** RCW 70.96A.530 and 2010 1st sp.s. c 8 s 10 are each amended to read as follows:

If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act to improve his or her health status and transition from ~~((disability lifeline))~~ those benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. ~~((Persons who are terminated from disability lifeline benefits under RCW 74.04.005(5)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.))~~

**Sec. 12.** RCW 10.101.010 and 2010 1st sp.s. c 8 s 12 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty- five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail

obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2011 c 330 s 3 and 2011 c 309 s 22 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifetime))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ~~((section 4 of this act))~~ RCW 13.--- (section 4, chapter 309, Laws of 2011).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

**Sec. 14.** RCW 26.19.071 and 2010 1st sp.s. c 8 s 14 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

(a) Salaries;

(b) Wages;

(c) Commissions;

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- (d) Deferred compensation;
- (e) Overtime, except as excluded for income in subsection (4)((~~h~~)) (i) of this section;
- (f) Contract-related benefits;
- (g) Income from second jobs, except as excluded for income in subsection (4)((~~h~~)) (i) of this section;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits;
- (t) Disability insurance benefits; and
- (u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or new domestic partner or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) ((~~Disability lifeline~~)) Aged, blind, or disabled assistance benefits;
- (g) Pregnant women assistance benefits;
- (h) Food stamps; and
- ((~~h~~)) (i) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, ((~~disability lifeline~~)) aged, blind, or disabled assistance benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered maintenance to the extent actually paid;
- (g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and
- (h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

- (a) Full-time earnings at the current rate of pay;
- (b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;
- (c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;
- (d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, ((~~disability lifeline~~)) aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;
- (e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2010 1st sp.s. c 8 s 15 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, ((~~disability lifeline benefits~~)) aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 2010 1st sp.s. c 8 s 16 are each amended to read as follows:

((~~Disability lifeline~~)) Aged, blind, or disabled assistance benefits, essential needs and housing support benefits, pregnant women assistance benefits, or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the

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department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2010 1st sp.s. c 8 s 17 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, medical care services, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 2010 1st sp.s. c 8 s 18 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act. An appropriate living situation shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is

licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.225 and 2010 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support, and ~~((disability lifeline benefits))~~ the programs under sections 3 and 4 of this act and as defined in RCW 10.101.010, 13.34.030, ~~((43.330.175,))~~ 70.96A.530, 74.04.005, 74.04.652, 74.04.655, 74.04.657, and ~~((74.04.810))~~ sections 1 through 3 and 7 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food

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banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

**Sec. 20.** RCW 74.04.230 and 2010 1st sp.s. c 8 s 20 are each amended to read as follows:

Persons eligible for ~~((disability lifeline))~~ medical care services benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 2010 1st sp.s. c 8 s 21 are each amended to read as follows:

In determining need for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance, and medical care services, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 2010 1st sp.s. c 8 s 22 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released

directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.652 and 2010 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from ~~((disability lifeline benefits to disability lifeline expedited))~~ the essential needs and housing support program to the aged, blind or disabled assistance program, and the medicaid program, and then to the supplemental security income program as quickly as practicable, the department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving ~~((disability lifeline))~~ benefits under section 5 of this act at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing ~~((disability lifeline))~~ aged, blind, or disabled assistance incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct disability lifeline medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for disability lifeline benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act;

(ii) Making timely determinations that a person receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely

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identification of clients who have not been transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, should be screened within thirty days of entering the program to determine the propriety of their transfer to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program; and

(b) Seventy-five percent of persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, that appear likely to qualify for supplemental security income benefits shall be transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their application for disability lifeline benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving ~~((disability lifeline or general assistance unemployable benefits))~~ medical care services, except recipients of alcohol and addiction treatment under chapter 74.50 RCW or aged, blind, or disabled assistance, for twelve or more months ~~((as of September 1, 2010))~~.

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

**Sec. 24.** RCW 74.04.655 and 2010 1st sp.s. c 8 s 5 are each amended to read as follows:

(1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act in returning to the workforce. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving disability lifeline benefits to the workforce.

(2) After January 1, 2011, all persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 5 of this act shall be assessed to determine whether they would likely benefit from a program

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offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

**Sec. 25.** RCW 74.04.657 and 2010 1st sp.s. c 8 s 6 are each amended to read as follows:

During the application process for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

**Sec. 26.** RCW 74.04.770 and 2010 1st sp.s. c 8 s 23 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((disability lifeline))~~ benefits under section 3 of this act. Standards for temporary assistance for needy families, refugee assistance, and ~~((disability lifeline))~~ benefits under section 3 of this act shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 27.** RCW 74.08.043 and 2010 1st sp.s. c 8 s 24 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 28.** RCW 74.08.278 and 2010 1st sp.s. c 8 s 25 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of ~~((disability lifeline))~~ benefits under section 3 of this act in a sum not to exceed one million dollars. Such funds shall be deposited as

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agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 29.** RCW 74.08.335 and 2010 1st sp.s. c 8 s 26 are each amended to read as follows:

Temporary assistance for needy families and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act shall not be granted to any person who has made an assignment or transfer of property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living: PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 30.** RCW 74.08A.210 and 2010 1st sp.s. c 8 s 27 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or ~~((disability lifeline))~~ benefits under section 3 of this act due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 31.** RCW 74.08A.440 and 2010 1st sp.s. c 8 s 32 are each amended to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive ~~((disability lifeline))~~ services for which they are eligible, including aged, blind, or disabled assistance benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, referrals to essential needs and housing support benefits, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming employable. ~~((Disability lifeline))~~ Aged, blind, or disabled assistance and essential needs and housing support benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent possible, services shall be funded through the temporary assistance for needy families appropriations.

**Sec. 32.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department

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shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 33.** RCW 74.50.060 and 2010 1st sp.s. c 8 s 31 are each amended to read as follows:

~~((+))~~ The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program, unless the department grants an exception on an individual basis for less intense supervision.

~~((2))~~ Persons continuously eligible for the disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.)

**NEW SECTION. Sec. 34.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.175 (Disability lifeline housing voucher program) and 2010 1st sp.s. c 8 s 8;

(2) RCW 74.04.120 (Basis of state's allocation of federal aid funds--County budget) and 2010 1st sp.s. c 8 s 19, 1979 c 141 s 301, & 1959 c 26 s 74.04.120; and

(3) RCW 74.04.810 (Study of disability lifeline program terminations--Report) and 2010 1st sp.s. c 8 s 11.

**NEW SECTION. Sec. 35.** The code reviser shall alphabetize the subsections containing definitions in RCW 74.04.005.

**NEW SECTION. Sec. 36.** Sections 1 through 3 and 7 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 37.** Section 11 of this act expires June 30, 2013.

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**NEW SECTION. Sec. 38.** Except for sections 6 and 8 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 39.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 22, 2011.

**NEW SECTION. Sec. 40.** Section 8 of this act takes effect November 1, 2011."

On page 1, line 6 of the title, after "funding," strike the remainder of the title and insert "amending RCW 74.09.035, 74.04.005, 74.09.510, 74.50.055, 70.96A.530, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.225, 74.04.230, 74.04.266, 74.04.620, 74.04.652, 74.04.655, 74.04.657, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.08A.440, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 43.330.175, 74.04.120, and 74.04.810; providing effective dates; providing an expiration date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Regala to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2082.

The motion by Senator Regala carried and the committee striking amendment was not adopted by voice vote.

## MOTION

Senator Regala moved that the following striking amendment by Senators Regala and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. Intent.** (1) The legislature finds that:

(a) Persons who have a long-term disability and apply for federal supplemental security income benefits should receive assistance while their application for federal benefits is pending, with repayment from the federal government of state-funded income assistance paid through the aged, blind, or disabled assistance program;

(b) Persons who are incapacitated from gainful employment for an extended period, but who may not meet the level of severity of a long-term disability, are at increased risk of homelessness; and

(c) Persons who are homeless and suffering from significant medical impairments, mental illness, or chemical dependency face substantial barriers to successful participation in, and completion of, needed medical or behavioral health treatment services. Stable housing increases the likelihood of compliance with and completion of treatment.

(2) Through this act, the legislature intends to:

(a) Terminate all components of the disability lifeline program created in 2010 and codified in RCW 74.04.005 and create new programs: (i) To provide financial grants through the aged, blind, and disabled assistance program and the pregnant women assistance program; and (ii) to provide services through the essential needs and housing support program; and

(b) Increase opportunities to utilize limited public funding, combined with private charitable and volunteer efforts to serve persons who are recipients of the benefits provided by the new programs created under this act.

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**NEW SECTION. Sec. 2.** Effective October 31, 2011, the disability lifeline program, as defined under chapter 74.04 RCW, is terminated and all benefits provided under that program shall expire and cease to exist.

**NEW SECTION. Sec. 3.** (1)(a) Effective November 1, 2011, the aged, blind, or disabled assistance program shall provide financial grants to persons in need who:

(i) Are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance;

(ii) Meet the eligibility requirements of subsection (3) of this section; and

(iii) Are aged, blind, or disabled. For purposes of determining eligibility for assistance for the aged, blind, or disabled assistance program, the following definitions apply:

(A) "Aged" means age sixty-five or older.

(B) "Blind" means statutorily blind as defined for the purpose of determining eligibility for the federal supplemental security income program.

(C) "Disabled" means likely to meet the federal supplemental security income disability standard. In making this determination, the department should give full consideration to the cumulative impact of an applicant's multiple impairments, an applicant's age, and vocational and educational history.

In determining whether a person is disabled, the department may rely on the following:

(I) A previous disability determination by the social security administration or the disability determination service entity within the department; or

(II) A determination that an individual is eligible to receive optional categorically needy medicaid as a disabled person under the federal regulations at 42 C.F.R. Parts 435, Secs. 201(a)(3) and 210.

(b) The following persons are not eligible for the aged, blind, or disabled assistance program:

(i) Persons who are not able to engage in gainful employment due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection may not be construed to prohibit the department from granting aged, blind, or disabled assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the aged, blind, or disabled assistance program; or

(ii) Persons for whom there has been a final determination of ineligibility for federal supplemental security income benefits.

(c) Persons may receive aged, blind, or disabled assistance benefits pending application for federal supplemental security income benefits. The monetary value of any aged, blind, or disabled assistance benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(2) Effective November 1, 2011, the pregnant women assistance program shall provide financial grants to persons who:

(a) Are not eligible to receive federal aid assistance other than basic food benefits or medical assistance; and

(b) Are pregnant and in need, based upon the current income and resource standards of the federal temporary assistance for needy families program, but are ineligible for federal temporary assistance for needy families benefits for a reason other than failure to cooperate in program requirements; and

(c) Meet the eligibility requirements of subsection (3) of this section.

(3) To be eligible for the aged, blind, or disabled assistance program under subsection (1) of this section or the pregnant women assistance program under subsection (2) of this section, a person must:

(a) Be a citizen or alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(b) Have furnished the department his or her social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(c) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(d) Not have refused or failed to cooperate in obtaining federal aid assistance, without good cause.

(4) Effective November 1, 2011, referrals for essential needs and housing support under section 4 of this act shall be provided to persons found eligible for medical care services under RCW 74.09.035 who are not recipients of alcohol and addiction services provided under chapter 74.50 RCW or are not recipients of aged, blind, or disabled assistance.

(5) No person may be considered an eligible individual for benefits under this section with respect to any month if during that month the person:

(a) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(b) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction.

(6) The department must review the cases of all persons, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, or recipients of aged, blind, or disabled assistance, who have received medical care services for twelve consecutive months, and at least annually after the first review, to determine whether they are eligible for the aged, blind, or disabled assistance program.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.185C RCW to read as follows:

**Grants to local governments and community-based organizations for essential needs and housing support.** (1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under section 3(4) of this act and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount

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of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing or at substantial risk of losing one of the other services defined in section 7(6) of this act. For purposes of this chapter, "substantial risk" means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every medical care services recipient that is referred to the local entity or who meets the priority standards in subsection (3) of this section.

(a) Each designated entity must be a local government or community-based organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

(c) The appropriations by the legislature for the purposes of the essential needs and housing support program established under this section shall be based on forecasted program caseloads. The caseload forecast council shall provide a courtesy forecast of the medical care services recipient population that is homeless or is included in reporting under subsection (7)(c)(iii) of this section. The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii)

inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased per-client expenditures.

(d) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of this act;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources of public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

NEW SECTION. Sec. 5. A new section is added to chapter 43.185C RCW to read as follows:

The department, in collaboration with the department of social and health services, shall develop a mechanism through which the department and local governments or community-based organizations can verify a person has been determined eligible and remains eligible for medical care services under RCW 74.09.035 by the department of social and health services.

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**Sec. 6.** RCW 74.09.035 and 2011 c 284 s 3 are each amended to read as follows:

(1) To the extent of available funds, medical care services may be provided to ((recipients of disability lifeline benefits, persons denied disability lifeline benefits under RCW 74.04.005(5)(b) or 74.04.655 who otherwise meet the requirements of RCW 74.04.005(5)(a), and recipients of alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.)):

(a) Persons who:

(i) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards;

(ii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(iii) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(iv) Have countable income as described in RCW 74.04.005 at or below four hundred twenty-eight dollars for a married couple or at or below three hundred thirty-nine dollars for a single individual; and

(v) Do not have countable resources in excess of those described in RCW 74.04.005.

(b) Persons eligible for the aged, blind, or disabled assistance program authorized in section 3 of this act and who are not eligible for medicaid under RCW 74.09.510.

(c) Persons eligible for alcohol and drug addiction services provided under chapter 74.50 RCW, in accordance with medical eligibility requirements established by the department.

(d) The following persons are not eligible for medical care services:

(i) Persons who are unemployable due primarily to alcohol or drug addiction, except as provided in (c) of this subsection. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting medical care services benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for medical care services;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause;

(iii) Persons who refuse or fail without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(iv) Persons who are fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or who are violating a condition of probation, community supervision, or parole imposed under

federal or state law for a felony or gross misdemeanor conviction.

(e) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) For purposes of reviewing a person's continuing eligibility and in order to remain eligible for the program, persons who have been found to have an incapacity from gainful employment must demonstrate that there has been no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapitation.

(2) Enrollment in medical care services may not result in expenditures that exceed the amount that has been appropriated in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the department may freeze new enrollment and establish a waiting list of ((eligible)) persons who may receive benefits only when sufficient funds are available. ~~((Upon implementation of a federal medicaid 1115 waiver providing federal matching funds for medical care services, persons subject to termination of disability lifeline benefits under RCW 74.04.005(5)(h) remain enrolled in medical care services and persons subject to denial of disability lifeline benefits under RCW 74.04.005(5)(h) remain eligible for medical care services.~~

~~((2))~~ (3) Determination of the amount, scope, and duration of medical care services shall be limited to coverage as defined by the department, except that adult dental, and routine foot care shall not be included unless there is a specific appropriation for these services.

~~((3))~~ (4) The department shall enter into performance-based contracts with one or more managed health care systems for the provision of medical care services ~~((to recipients of disability lifeline benefits))~~ under this section. The contract must provide for integrated delivery of medical and mental health services.

~~((4))~~ (5) The department shall establish standards of assistance and resource and income exemptions, which may include deductibles and co- insurance provisions. In addition, the department may include a prohibition against the voluntary assignment of property or cash for the purpose of qualifying for assistance.

~~((5))~~ (6) Residents of skilled nursing homes, intermediate care facilities, and intermediate care facilities for persons with intellectual disabilities, as that term is described by federal law, who are eligible for medical care services shall be provided medical services to the same extent as provided to those persons eligible under the medical assistance program.

~~((6))~~ Eligibility for medical care services shall commence with the date of certification for disability lifeline benefits or the date of eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.)

(7) Eligibility for medical care services shall commence with the date of certification for medical care services, date of eligibility for the aged, blind, or disabled assistance program provided under section 3 of this act, or the date or eligibility for alcohol and drug addiction services provided under chapter 74.50 RCW.

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**NEW SECTION. Sec. 7.** For the purposes of this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Aged, blind, and disabled assistance program" means the program established under section 3 of this act.

(2) "Department" means the department of social and health services.

(3) "Director" or "secretary" means the secretary of social and health services.

(4) "Essential needs and housing support program" means the program established under section 4 of this act.

(5) "Essential needs support" means personal health and hygiene items, cleaning supplies, other necessary items and transportation passes or tokens provided through an essential needs support entity established under section 4 of this act.

(6) "Housing support" means assistance provided by a designated housing support entity established under section 4 of this act to maintain existing housing when the client is at substantial risk of becoming homeless, to obtain housing, or to obtain heat, electricity, natural gas, sewer, garbage, and water services when the client is at substantial risk of losing these services.

(7) "Pregnant women assistance program" means the program established under section 3 of this act.

(8) In the construction of words and phrases used in this chapter, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 8.** RCW 74.04.005 and 2010 1st sp.s. c 8 s 4 are each amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance" ~~((--))~~ means public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, and federal aid assistance.

(2) "Department" ~~((--))~~ means the department of social and health services.

(3) "County or local office" ~~((--))~~ means the administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) ~~((Disability lifeline))~~ Essential needs and housing support program means ~~((a program that provides aid and support in accordance with the conditions set out in this subsection.~~

(a) Aid and assistance shall be provided to persons who are not eligible to receive federal aid assistance, other than basic food benefits transferred electronically and medical assistance and meet one of the following conditions:

(i) Are pregnant and in need, based upon the current income and resource requirements of the federal temporary assistance for needy families program; or

(ii) Are incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of ninety days as determined by the department. The standard for incapacity in this subsection, as evidenced by the ninety-day duration standard, is not intended to be as stringent as federal supplemental security income disability standards; and

(A) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law;

(B) Have furnished the department their social security number. If the social security number cannot be furnished because it has not been issued or is not known, an application for a number shall be

made prior to authorization of benefits, and the social security number shall be provided to the department upon receipt;

(C) Have not refused or failed without good cause to participate in drug or alcohol treatment if an assessment by a certified chemical dependency counselor indicates a need for such treatment. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in drug or alcohol dependency treatment, when needed outpatient drug or alcohol treatment is not available to the person in the county of his or her residence or when needed inpatient treatment is not available in a location that is reasonably accessible for the person; and

(D) Have not refused or failed without good cause to participate in vocational rehabilitation services, if an assessment conducted under RCW 74.04.655 indicates that the person might benefit from such services. Good cause must be found to exist when a person's physical or mental condition, as determined by the department, prevents the person from participating in vocational rehabilitation services, or when vocational rehabilitation services are not available to the person in the county of his or her residence.

(b)(i) Persons who initially apply and are found eligible for disability lifeline benefits based upon incapacity from gainful employment under (a) of this subsection on or after September 2, 2010, who are homeless and have been assessed as needing chemical dependency or mental health treatment or both, must agree, as a condition of eligibility for the disability lifeline program, to accept a housing voucher in lieu of a cash grant if a voucher is available. The department shall establish the dollar value of the housing voucher. The dollar value of the housing voucher may differ from the value of the cash grant. Persons receiving a housing voucher under this subsection also shall receive a cash stipend of fifty dollars per month.

(ii) If the department of commerce has determined under RCW 43.330.175 that sufficient housing is not available, persons described in this subsection who apply for disability lifeline benefits during the time period that housing is not available shall receive a cash grant in lieu of a cash stipend and housing voucher.

(iii) Persons who refuse to accept a housing voucher under this subsection but otherwise meet the eligibility requirements of (a) of this subsection are eligible for medical care services benefits under RCW 74.09.035, subject to the time limits in (h) of this subsection.

(c) The following persons are not eligible for the disability lifeline program:

(i) Persons who are unemployable due primarily to alcohol or drug addiction. These persons shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW. Referrals shall be made at the time of application or at the time of eligibility review. This subsection shall not be construed to prohibit the department from granting disability lifeline benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the disability lifeline program;

(ii) Persons who refuse or fail to cooperate in obtaining federal aid assistance, without good cause.

(d) Disability lifeline benefits shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in (a) of this subsection, and who will accept available services that can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

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(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(e) Persons who are likely eligible for federal supplemental security income benefits shall be moved into the disability lifeline expedited component of the disability lifeline program. Persons placed in the expedited component of the program may, if otherwise eligible, receive disability lifeline benefits pending application for federal supplemental security income benefits. The monetary value of any disability lifeline benefit that is subsequently duplicated by the person's receipt of supplemental security income for the same period shall be considered a debt due the state and shall by operation of law be subject to recovery through all available legal remedies.

(f) For purposes of determining whether a person is incapacitated from gainful employment under (a) of this subsection:

(i) The department shall adopt by rule medical criteria for disability lifeline incapacity determinations to ensure that eligibility decisions are consistent with statutory requirements and are based on clear, objective medical information; and

(ii) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(g) Persons receiving disability lifeline benefits based upon a finding of incapacity from gainful employment who remain otherwise eligible shall have their benefits discontinued unless the recipient demonstrates no material improvement in their medical or mental health condition. The department may discontinue benefits when there was specific error in the prior determination that found the person eligible by reason of incapacitation.

(h)(i) Beginning September 1, 2010, no person who is currently receiving or becomes eligible for disability lifeline program benefits shall be eligible to receive benefits under the program for more than twenty-four months in a sixty-month period. For purposes of this subsection, months of receipt of general assistance-unemployable benefits count toward the twenty-four month limit. Months during which a person received benefits under the expedited component of the disability lifeline or general assistance program or under the aged, blind, or disabled component of the disability lifeline or general assistance program shall not be included when determining whether a person has been receiving benefits for more than twenty-four months. On or before July 1, 2010, the department must review the cases of all persons who have received disability lifeline benefits or general assistance unemployable benefits for at least twenty months as of that date. On or before September 1, 2010, the department must review the cases of all remaining persons who have received disability lifeline benefits for at least twelve months as of that date. The review should determine whether the person meets the federal supplemental security income disability standard and, if the person does not meet that standard, whether the receipt of additional services could lead to employability. If a need for additional services is identified, the department shall provide case management services, such as assistance with arranging transportation or locating stable housing, that will facilitate the person's access to needed services. A person may not be determined ineligible due to exceeding the time limit unless he or she has received a case review under this subsection finding that the person does not meet the federal supplemental security income disability standard.

(ii) The time limits established under this subsection expire June 30, 2013.

(i) No person may be considered an eligible individual for disability lifeline benefits with respect to any month if during that

month the person:

(i) Is fleeing to avoid prosecution of, or to avoid custody or confinement for conviction of, a felony, or an attempt to commit a felony, under the laws of the state of Washington or the place from which the person flees; or

(ii) Is violating a condition of probation, community supervision, or parole imposed under federal or state law for a felony or gross misdemeanor conviction)) the program established in section 4 of this act.

(6) ("Disability lifeline expedited" means a component of the disability lifeline program under which persons receiving disability lifeline benefits have been determined, after examination by an appropriate health care provider, to be likely to be eligible for federal supplemental security income benefits based on medical and behavioral health evidence that meets the disability standards used for the federal supplemental security income program.

(7)) "Aged, blind, or disabled assistance program" means the program established under section 3 of this act.

(7) "Federal aid assistance"((-)) means the specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(8) "Applicant"((-)) means any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(9) "Recipient"((-)) means any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(10) "Standards of assistance"((-)) means the level of income required by an applicant or recipient to maintain a level of living specified by the department.

(11) "Resource"((-)) means any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent. The department may by rule designate resources that an applicant may retain and not be ineligible for public assistance because of such resources. Exempt resources shall include, but are not limited to:

(a) A home that an applicant, recipient, or their dependents is living in, including the surrounding property;

(b) Household furnishings and personal effects;

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed five thousand dollars;

(d) A motor vehicle necessary to transport a household member with a physical disability. This exclusion is limited to one vehicle per person with a physical disability;

(e) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance. The department shall also allow recipients of temporary assistance for needy families to exempt savings accounts with combined balances of up to an additional three thousand dollars;

(f) Applicants for or recipients of (~~disability lifeline~~) benefits under sections 3 and 4 of this act shall have their eligibility based on resource limitations consistent with the temporary assistance for needy families program rules adopted by the department; and

(g) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the

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applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance for a period not to exceed nine months from the date the agreement is signed pursuant to this section to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property (~~(--PROVIDED, That)~~ if:

(A) The applicant or recipient signs an agreement to repay the lesser of the amount of aid received or the net proceeds of such sale;

(B) If the owner of the excess property ceases to make good faith efforts to sell the property, the entire amount of assistance may become an overpayment and a debt due the state and may be recovered pursuant to RCW 43.20B.630;

(C) Applicants and recipients are advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good faith efforts to sell have ceased, prior to assessment of an overpayment under this section; and

(D) At the time assistance is authorized, the department files a lien without a sum certain on the specific property.

(12) "Income"(~~(--)~~) means:

(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him or her to decrease his or her need for public assistance or to aid in rehabilitating him or her or his or her dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance. In addition, for cash assistance the department may disregard income pursuant to RCW 74.08A.230 and 74.12.350.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(13) "Need"(~~(--)~~) means the difference between the applicant's or recipient's standards of assistance for himself or herself and the dependent members of his or her family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his or her family.

(14) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(15) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders, and the present tense shall include the past and future tenses, unless the context thereof shall clearly indicate to the contrary.

**Sec. 9.** RCW 74.09.510 and 2010 c 94 s 24 are each amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

(1) Individuals who would be eligible for cash assistance except for their institutional status;

(2) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for persons with intellectual disabilities, or (d) inpatient psychiatric facilities;

(3) Individuals who:

(a) Are under twenty-one years of age;

(b) On or after July 22, 2007, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state; and

(c) On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;

(4) Persons who are aged, blind, or disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized;

(5) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

(6) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

(7) Children and pregnant women allowed by federal statute for whom funding is appropriated;

(8) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

(9) Other individuals eligible for medical services under RCW 74.09.035 based on age, blindness, or disability and income and resources standards for medical care services and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

(10) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

(11) Women who: (a) Are under sixty-five years of age; (b) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and (c) are not otherwise covered by health insurance. Medical assistance provided under this subsection is limited to the period during which the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

**Sec. 10.** RCW 74.50.055 and 1989 1st ex.s. c 18 s 4 are each amended to read as follows:

(1) A person shall not be eligible for treatment services under this chapter unless he or she:

(a) Meets the (~~(financial)~~) income and resource eligibility requirements (~~(contained in RCW 74.04.005)~~) for the medical care services program under RCW 74.09.035(1)(a)(iv) and (v); and

(b) Is incapacitated from gainful employment, which incapacity will likely continue for a minimum of sixty days.

(2) First priority for receipt of treatment services shall be given to pregnant women and parents of young children.

(3) In order to rationally allocate treatment services, the department may establish by rule caseload ceilings and additional eligibility criteria, including the setting of priorities among classes of persons for the receipt of treatment services. Any such rules shall be consistent with any conditions or limitations contained in any appropriations for treatment services.

**Sec. 11.** RCW 70.96A.530 and 2010 1st sp.s. c 8 s 10 are each amended to read as follows:

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If an assessment by a certified chemical dependency counselor indicates a need for drug or alcohol treatment, in order to enable a person receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act to improve his or her health status and transition from ~~((disability lifeline))~~ those benefits to employment, or transition to federal disability benefits, the person must be given high priority for enrollment in treatment, within funds appropriated for that treatment. However, first priority for receipt of treatment services must be given to pregnant women and parents of young children. This section expires June 30, 2013. ~~((Persons who are terminated from disability lifeline benefits under RCW 74.04.005(5)(h) and are actively engaged in chemical dependency treatment during the month they are terminated shall be provided the opportunity to complete their current course of treatment.))~~

**Sec. 12.** RCW 10.101.010 and 2010 1st sp.s. c 8 s 12 are each amended to read as follows:

The following definitions shall be applied in connection with this chapter:

(1) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(2) "Indigent and able to contribute" means a person who, at any stage of a court proceeding, is unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are less than the anticipated cost of counsel but sufficient for the person to pay a portion of that cost.

(3) "Anticipated cost of counsel" means the cost of retaining private counsel for representation on the matter before the court.

(4) "Available funds" means liquid assets and disposable net monthly income calculated after provision is made for bail obligations. For the purpose of determining available funds, the following definitions shall apply:

(a) "Liquid assets" means cash, savings accounts, bank accounts, stocks, bonds, certificates of deposit, equity in real estate, and equity in motor vehicles. A motor vehicle necessary to maintain employment and having a market value not greater than three thousand dollars shall not be considered a liquid asset.

(b) "Income" means salary, wages, interest, dividends, and other earnings which are reportable for federal income tax purposes, and cash payments such as reimbursements received from pensions, annuities, social security, and public assistance programs. It includes any contribution received from any family member or other person who is domiciled in the same residence as the defendant and who is helping to defray the defendant's basic living costs.

(c) "Disposable net monthly income" means the income remaining each month after deducting federal, state, or local income taxes, social security taxes, contributory retirement, union dues, and basic living costs.

(d) "Basic living costs" means the average monthly amount spent by the defendant for reasonable payments toward living costs, such as shelter, food, utilities, health care, transportation, clothing, loan payments, support payments, and court-imposed obligations.

**Sec. 13.** RCW 13.34.030 and 2011 c 330 s 3 and 2011 c 309 s 22 are each reenacted and amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" means:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a

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guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(11) "Housing assistance" means appropriate referrals by the department or other supervising agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or time-limited family reunification service as described in RCW 13.34.025(2).

(12) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability lifeline))~~ aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(13) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(14) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child.

(15) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(16) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in ~~((section 4 of this act))~~ RCW 13.--- (section 4, chapter 309, Laws of 2011).

(17) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been

considered and rejected; the preventive services, including housing assistance, that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(18) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services as defined in RCW 74.13.020.

(19) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031.

**Sec. 14.** RCW 26.19.071 and 2010 1st sp.s. c 8 s 14 are each amended to read as follows:

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

(a) Salaries;

(b) Wages;

(c) Commissions;

(d) Deferred compensation;

(e) Overtime, except as excluded for income in subsection (4)~~((4))~~ (i) of this section;

(f) Contract-related benefits;

(g) Income from second jobs, except as excluded for income in subsection (4)~~((4))~~ (i) of this section;

(h) Dividends;

(i) Interest;

(j) Trust income;

(k) Severance pay;

(l) Annuities;

(m) Capital gains;

(n) Pension retirement benefits;

(o) Workers' compensation;

(p) Unemployment benefits;

(q) Maintenance actually received;

(r) Bonuses;

(s) Social security benefits;

(t) Disability insurance benefits; and

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(u) Income from self-employment, rent, royalties, contracts, proprietorship of a business, or joint ownership of a partnership or closely held corporation.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

(a) Income of a new spouse or new domestic partner or income of other adults in the household;

(b) Child support received from other relationships;

(c) Gifts and prizes;

(d) Temporary assistance for needy families;

(e) Supplemental security income;

(f) ~~((Disability-lifeline))~~ Aged, blind, or disabled assistance benefits;

(g) Pregnant women assistance benefits;

(h) Food stamps; and

~~((H))~~ (i) Overtime or income from second jobs beyond forty hours per week averaged over a twelve-month period worked to provide for a current family's needs, to retire past relationship debts, or to retire child support debt, when the court finds the income will cease when the party has paid off his or her debts.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

(a) Federal and state income taxes;

(b) Federal insurance contributions act deductions;

(c) Mandatory pension plan payments;

(d) Mandatory union or professional dues;

(e) State industrial insurance premiums;

(f) Court-ordered maintenance to the extent actually paid;

(g) Up to five thousand dollars per year in voluntary retirement contributions actually made if the contributions show a pattern of contributions during the one-year period preceding the action establishing the child support order unless there is a determination that the contributions were made for the purpose of reducing child support; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of records of a parent's actual earnings, the court shall impute a parent's income in the following order of priority:

(a) Full-time earnings at the current rate of pay;

(b) Full-time earnings at the historical rate of pay based on reliable information, such as employment security department data;

(c) Full-time earnings at a past rate of pay where information is incomplete or sporadic;

(d) Full-time earnings at minimum wage in the jurisdiction where the parent resides if the parent has a recent history of minimum wage earnings, is recently coming off public assistance, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, supplemental security income, or disability, has recently been released from incarceration, or is a high school student;

(e) Median net monthly income of year-round full-time workers as derived from the United States bureau of census, current population reports, or such replacement report as published by the bureau of census.

**Sec. 15.** RCW 31.04.540 and 2010 1st sp.s. c 8 s 15 are each amended to read as follows:

(1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, ~~((disability-lifeline-benefits))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act.

**Sec. 16.** RCW 70.123.110 and 2010 1st sp.s. c 8 s 16 are each amended to read as follows:

~~((Disability-lifeline))~~ Aged, blind, or disabled assistance benefits, essential needs and housing support benefits, pregnant women assistance benefits, or temporary assistance for needy families payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

**Sec. 17.** RCW 73.08.005 and 2010 1st sp.s. c 8 s 17 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, ~~((disability-lifeline))~~ aged, blind, or disabled assistance benefits, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement

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benefits, medicaid, medical care services, or supplemental security income;

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

**Sec. 18.** RCW 74.04.0052 and 2010 1st sp.s. c 8 s 18 are each amended to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act. An appropriate living situation shall include a place of residence that is maintained by the applicant's parents, parent, legal guardian, or other adult relative as their or his or her own home and that the department finds would provide an appropriate supportive living arrangement. It also includes a living situation maintained by an agency that is licensed under chapter 74.15 RCW that the department finds would provide an appropriate supportive living arrangement. Grant assistance shall not be provided under this chapter if the applicant does not reside in the most appropriate living situation, as determined by the department.

(2) A pregnant minor residing in the most appropriate living situation, as provided under subsection (1) of this section, is presumed to be unable to manage adequately the funds paid to the minor or on behalf of the dependent child or children and, unless the minor provides sufficient evidence to rebut the presumption, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the unmarried minor parent or pregnant minor applicant as to an appropriate living situation for the minor, whether in the parental home or other situation. If the parents or a parent of the minor request, they or he or she shall be entitled to a hearing in juvenile court regarding designation of the parental home or other relative placement as the most appropriate living situation for the pregnant or parenting minor.

The department shall provide the parents or parent with the opportunity to make a showing that the parental home, or home of the other relative placement, is the most appropriate living situation. It shall be presumed in any administrative or judicial proceeding conducted under this subsection that the parental home or other relative placement requested by the parents or parent is the most appropriate living situation. This presumption is rebuttable.

(4) In cases in which the minor is unmarried and unemployed, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations providing counseling.

(5) For the purposes of this section, "most appropriate living situation" shall not include a living situation including an adult male who fathered the qualifying child and is found to meet the elements of rape of a child as set forth in RCW 9A.44.079.

**Sec. 19.** RCW 74.04.225 and 2010 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) An online opportunity portal shall be established to provide the public with more effective access to available state, federal, and local services. The secretary of the department of social and health services shall act as the executive branch sponsor of the portal planning process. Under the leadership of the secretary, the department shall:

(a) Identify and select an appropriate solution and acquisition approach to integrate technology systems to create a user-friendly electronic tool for Washington residents to apply for benefits;

(b) Facilitate the adaptation of state information technology systems to allow applications generated through the opportunity portal and other compatible electronic application systems to seamlessly link to appropriate state information systems;

(c) Ensure that the portal provides access to a broad array of state, federal, and local services, including but not limited to: Health care services, higher education financial aid, tax credits, civic engagement, nutrition assistance, energy assistance, family support, and ~~((disability lifeline benefits))~~ the programs under sections 3 and 4 of this act and as defined in RCW 10.101.010, 13.34.030, ~~((43.330.175,))~~ 70.96A.530, 74.04.005, 74.04.652, 74.04.655, 74.04.657, and ~~((74.04.810))~~ sections 1 through 3 and 7 of this act;

(d) Design an implementation strategy for the portal that maximizes collaboration with community-based organizations to facilitate its use by low-income individuals and families;

(e) Provide access to the portal at a wide array of locations including but not limited to: Community or technical colleges, community college campuses where community service offices are colocated, community-based organizations, libraries, churches, food banks, state agencies, early childhood education sites, and labor unions;

(f) Ensure project resources maximize available federal and private funds for development and initial operation of the opportunity portal. Any incidental costs to state agencies shall be derived from existing resources. This subsection does not obligate or preclude the appropriation of future state funding for the opportunity portal;

(g) Determine the solution and acquisition approach by June 1, 2010.

(2) By December 1, 2011, and annually thereafter, the department of social and health services shall report to the legislature and governor. The report shall include data and information on implementation and outcomes of the opportunity portal, including any increases in the use of public benefits and increases in federal funding.

(3) The department shall develop a plan for implementing paperless application processes for the services included in the opportunity portal for which the electronic exchange of application information is possible. The plan should include a goal of

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achieving, to the extent possible, the transition of these services to paperless application processes by July 1, 2012. The plan must comply with federal statutes and regulations and must allow applicants to submit applications by alternative means to ensure that access to benefits will not be restricted.

(4) To the extent that the department enters into a contractual relationship to accomplish the purposes of this section, such contract or contracts shall be performance-based.

**Sec. 20.** RCW 74.04.230 and 2010 1st sp.s. c 8 s 20 are each amended to read as follows:

Persons eligible for ~~((disability lifeline))~~ medical care services benefits are eligible for mental health services to the extent that they meet the client definitions and priorities established by chapter 71.24 RCW.

**Sec. 21.** RCW 74.04.266 and 2010 1st sp.s. c 8 s 21 are each amended to read as follows:

In determining need for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance, and medical care services, the department may by rule and regulation establish a monthly earned income exemption in an amount not to exceed the exemption allowable under disability programs authorized in Title XVI of the federal social security act.

**Sec. 22.** RCW 74.04.620 and 2010 1st sp.s. c 8 s 22 are each amended to read as follows:

(1) The department is authorized to establish a program of state supplementation to the national program of supplemental security income consistent with Public Law 92-603 and Public Law 93-66 to those persons who are in need thereof in accordance with eligibility requirements established by the department.

(2) The department is authorized to establish reasonable standards of assistance and resource and income exemptions specifically for such program of state supplementation which shall be consistent with the provisions of the Social Security Act.

(3) The department is authorized to make payments to applicants for supplemental security income, pursuant to agreements as provided in Public Law 93-368, who are otherwise eligible for ~~((disability lifeline benefits))~~ aged, blind, or disabled assistance.

(4) Any agreement between the department and a supplemental security income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a fee by the United States department of health and human services shall be released directly to the applicant's attorney. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

**Sec. 23.** RCW 74.04.652 and 2010 1st sp.s. c 8 s 7 are each amended to read as follows:

(1) To ensure that persons who are likely eligible for supplemental security income benefits are transitioned from ~~((disability lifeline benefits to disability lifeline expedited))~~ the medical care services program to the aged, blind, or disabled assistance program, and the medicaid program, and then to the supplemental security income program as quickly as practicable, the department shall implement the early supplemental security income transition project starting in King, Pierce, and Spokane counties no later than July 1, 2010, and extending statewide no later than October 1, 2011. The program shall be implemented through performance-based contracts with managed health care systems providing medical care services under RCW 74.09.035 or other qualified entities. The participants shall have the following responsibilities and duties under this program:

(a) The entities with whom the department contracts to provide the program shall be responsible for:

(i) Systematically screening persons receiving ~~((disability lifeline))~~ benefits under section 6 of this act at the point of eligibility determination or shortly thereafter to determine if the persons should be referred for medical or behavioral health evaluations to determine whether they are likely eligible for supplemental security income;

(ii) Immediately sharing the results of the disability screening with the department;

(iii) Managing ~~((disability lifeline))~~ medical care services and aged, blind, or disabled assistance incapacity evaluation examinations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations. To maximize the timeliness and efficiency of incapacity evaluation examinations, the department must strongly consider contracting with a managed health care system with a network of health care providers that are trained and have agreed to conduct ~~((disability lifeline))~~ aged, blind, or disabled medical and psychological incapacity and recertification exams. The department may obtain medical evidence and other relevant information from sources other than the contracted entity if such evidence is available at the time of a person's application for ~~((disability lifeline))~~ aged, blind, or disabled benefits and is sufficient to support a determination that the person is incapacitated;

(iv) Maintaining a centralized appointment and clinical data system; and

(v) Assisting persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, with obtaining additional medical or behavioral health examinations needed to meet the disability standard for federal supplemental security income benefits and with submission of applications for supplemental security income benefits.

(b) The department shall be responsible for:

(i) Determining incapacity and eligibility for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act;

(ii) Making timely determinations that a person receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, is likely eligible for supplemental security income based on medical evidence and other relevant information provided by a contracted entity, and immediately referring such persons to a contracted entity for services;

(iii) Developing standardized procedures for sharing data and information with the contracted entities to ensure timely identification of clients who have not been transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their date of application, but who may, upon further review, be appropriately transferred to that program;

(iv) Providing case management, in partnership with the managed health care system or contracted entity, to support persons' transition to federal supplemental security income and medicaid benefits; and

(v) Identifying a savings determination methodology, in consultation with the contracted entities, the office of financial management, and the legislature, on or before implementation of the project.

(2) Early supplemental security income transition project contracts shall include the following performance goals:

(a) Persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, should be screened within thirty days of entering the program to determine the propriety of

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their transfer to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program; and

(b) Seventy-five percent of persons receiving ~~((disability lifeline benefits))~~ medical care services benefits, except recipients of alcohol and addiction treatment under chapter 74.50 RCW, that appear likely to qualify for supplemental security income benefits shall be transferred to the ~~((disability lifeline expedited))~~ aged, blind, or disabled assistance program within four months of their application for ~~((disability lifeline))~~ aged, blind, or disabled benefits.

(3) The initial focus of the efforts of the early supplemental security income transition project shall be on persons who have been receiving ~~((disability lifeline or general assistance unemployable benefits))~~ medical care services, except recipients of alcohol and addiction treatment under chapter 74.50 RCW or aged, blind, or disabled assistance, for twelve or more months ~~((as of September 1, 2010))~~.

(4) No later than December 1, 2011, the department shall report to the governor and appropriate policy and fiscal committees on whether the early supplemental security income transition project performance goals in subsection (2) of this section were met, including the reasons those goals were or were not met.

(5) Pursuant to RCW 41.06.142(3), performance-based contracting under this section is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

The statewide expansion of the program under this section shall be considered expressly mandated by the legislature and not be subject to the provisions of RCW 41.06.142 (1), (4), and (5).

**Sec. 24.** RCW 74.04.655 and 2010 1st sp.s. c 8 s 5 are each amended to read as follows:

(1) The economic services administration shall work jointly with the division of vocational rehabilitation to develop an assessment tool that must be used to determine whether the programs offered by the division of vocational rehabilitation could assist persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act in returning to the workforce. The assessment tool shall be completed no later than December 1, 2010. The economic services administration shall begin using the tool no later than January 1, 2011. No later than December 30, 2011, the department shall report on the use of the tool and to what extent the programs offered by the division of vocational rehabilitation have been successful in returning persons receiving ~~((disability lifeline))~~ aged, blind, or disabled benefits to the workforce.

(2) After January 1, 2011, all persons receiving ~~((disability lifeline))~~ benefits under sections 3 and 5 of this act shall be assessed to determine whether they would likely benefit from a program offered by the division of vocational rehabilitation. If the assessment indicates that the person might benefit, the economic services administration shall make a referral to the division of vocational rehabilitation. If the person is found eligible for a program with the division of vocational rehabilitation, he or she must participate in that program to remain eligible for the monthly stipend and housing voucher or a cash grant. If the person refuses to participate or does not complete the program, the department shall terminate the cash stipend and housing voucher or cash grant but may not terminate medical coverage and food benefits.

**Sec. 25.** RCW 74.04.657 and 2010 1st sp.s. c 8 s 6 are each amended to read as follows:

During the application process for ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department shall inquire of each applicant whether he or she has ever served in the United States military service. If the applicant answers in the affirmative, the department shall confer with a veterans benefit specialist with the Washington state department of veterans affairs or a contracted veterans service officer in the community to determine whether the

applicant is eligible for any benefits or programs offered to veterans by either the state or the federal government.

**Sec. 26.** RCW 74.04.770 and 2010 1st sp.s. c 8 s 23 are each amended to read as follows:

The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and ~~((disability lifeline))~~ benefits under section 3 of this act. Standards for temporary assistance for needy families, refugee assistance, and ~~((disability lifeline))~~ benefits under section 3 of this act shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, and necessary incidentals. The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

The department may establish a separate standard for shelter provided at no cost.

**Sec. 27.** RCW 74.08.043 and 2010 1st sp.s. c 8 s 24 are each amended to read as follows:

In determining the living requirements of otherwise eligible applicants and recipients of supplemental security income and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act, the department is authorized to consider the need for personal and special care and supervision due to physical and mental conditions.

**Sec. 28.** RCW 74.08.278 and 2010 1st sp.s. c 8 s 25 are each amended to read as follows:

In order to comply with federal statutes and regulations pertaining to federal matching funds and to provide for the prompt payment of initial grants and adjusting payments of grants the secretary is authorized to make provisions for the cash payment of assistance by the secretary or county administrators by the establishment of a central operating fund. The secretary may establish such a fund with the approval of the state auditor from moneys appropriated to the department for the payment of ~~((disability lifeline))~~ benefits under section 3 of this act in a sum not to exceed one million dollars. Such funds shall be deposited as agreed upon by the secretary and the state auditor in accordance with the laws regulating the deposits of public funds. Such security shall be required of the depository in connection with the fund as the state treasurer may prescribe. Moneys remaining in the fund shall be returned to the general fund at the end of the biennium, or an accounting of proper expenditures from the fund shall be made to the state auditor. All expenditures from such central operating fund shall be reimbursed out of and charged to the proper program appropriated by the use of such forms and vouchers as are approved by the secretary of the department and the state auditor. Expenditures from such fund shall be audited by the director of financial management and the state auditor from time to time and a report shall be made by the state auditor and the secretary as are required by law.

**Sec. 29.** RCW 74.08.335 and 2010 1st sp.s. c 8 s 26 are each amended to read as follows:

Temporary assistance for needy families and ~~((disability lifeline))~~ benefits under sections 3 and 4 of this act shall not be granted to any person who has made an assignment or transfer of

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property for the purpose of rendering himself or herself eligible for the assistance. There is a rebuttable presumption that a person who has transferred or transfers any real or personal property or any interest in property within two years of the date of application for the assistance without receiving adequate monetary consideration therefor, did so for the purpose of rendering himself or herself eligible for the assistance. Any person who transfers property for the purpose of rendering himself or herself eligible for assistance, or any person who after becoming a recipient transfers any property or any interest in property without the consent of the secretary, shall be ineligible for assistance for a period of time during which the reasonable value of the property so transferred would have been adequate to meet the person's needs under normal conditions of living; PROVIDED, That the secretary is hereby authorized to allow exceptions in cases where undue hardship would result from a denial of assistance.

**Sec. 30.** RCW 74.08A.210 and 2010 1st sp.s. c 8 s 27 are each amended to read as follows:

(1) In order to prevent some families from developing dependency on temporary assistance for needy families, the department shall make available to qualifying applicants a diversion program designed to provide brief, emergency assistance for families in crisis whose income and assets would otherwise qualify them for temporary assistance for needy families.

(2) Diversion assistance may include cash or vouchers in payment for the following needs:

- (a) Child care;
- (b) Housing assistance;
- (c) Transportation-related expenses;
- (d) Food;
- (e) Medical costs for the recipient's immediate family;
- (f) Employment-related expenses which are necessary to keep or obtain paid unsubsidized employment.

(3) Diversion assistance is available once in each twelve-month period for each adult applicant. Recipients of diversion assistance are not included in the temporary assistance for needy families program.

(4) Diversion assistance may not exceed one thousand five hundred dollars for each instance.

(5) To be eligible for diversion assistance, a family must otherwise be eligible for temporary assistance for needy families.

(6) Families ineligible for temporary assistance for needy families or ~~((disability lifeline))~~ benefits under section 3 of this act due to sanction, noncompliance, the lump sum income rule, or any other reason are not eligible for diversion assistance.

(7) Families must provide evidence showing that a bona fide need exists according to subsection (2) of this section in order to be eligible for diversion assistance.

An adult applicant may receive diversion assistance of any type no more than once per twelve-month period. If the recipient of diversion assistance is placed on the temporary assistance for needy families program within twelve months of receiving diversion assistance, the prorated dollar value of the assistance shall be treated as a loan from the state, and recovered by deduction from the recipient's cash grant.

**Sec. 31.** RCW 74.08A.440 and 2010 1st sp.s. c 8 s 32 are each amended to read as follows:

Recipients exempted from active work search activities due to incapacity or a disability shall receive ~~((disability lifeline))~~ services for which they are eligible, including aged, blind, or disabled assistance benefits as they relate to the facilitation of enrollment in the federal supplemental security income program, referrals to essential needs and housing support benefits, access to chemical dependency treatment, referrals to vocational rehabilitation, and other services needed to assist the recipient in becoming

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employable. ~~((Disability lifeline))~~ Aged, blind, or disabled assistance and essential needs and housing support benefits shall not supplant cash assistance and other services provided through the temporary assistance for needy families program. To the greatest extent possible, services shall be funded through the temporary assistance for needy families appropriations.

**Sec. 32.** RCW 74.09.555 and 2010 1st sp.s. c 8 s 30 are each amended to read as follows:

(1) The department shall adopt rules and policies providing that when persons with a mental disorder, who were enrolled in medical assistance immediately prior to confinement, are released from confinement, their medical assistance coverage will be fully reinstated on the day of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law.

(2) The department, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, and the regional support networks, shall establish procedures for coordination between department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for persons who are likely to be eligible for medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services immediately upon their release from confinement; and

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the department with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The department shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

(5) For purposes of this section, "likely to be eligible" means that a person:

(a) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or

(b) Was enrolled in medicaid or supplemental security income or the ~~((disability lifeline))~~ medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.

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(6) The economic services administration shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person who is likely to be eligible for medicaid.

**Sec. 33.** RCW 74.50.060 and 2010 1st sp.s. c 8 s 31 are each amended to read as follows:

((+)) The department shall establish a shelter assistance program to provide, within available funds, shelter for persons eligible under this chapter. "Shelter," "shelter support," or "shelter assistance" means a facility under contract to the department providing room and board in a supervised living arrangement, normally in a group or dormitory setting, to eligible recipients under this chapter. This may include supervised domiciliary facilities operated under the auspices of public or private agencies. No facility under contract to the department shall allow the consumption of alcoholic beverages on the premises. The department may contract with counties and cities for such shelter services. To the extent possible, the department shall not displace existing emergency shelter beds for use as shelter under this chapter. In areas of the state in which it is not feasible to develop shelters, due to low numbers of people needing shelter services, or in which sufficient numbers of shelter beds are not available, the department may provide shelter through an intensive protective payee program, unless the department grants an exception on an individual basis for less intense supervision.

((2) Persons continuously eligible for the disability lifeline program since July 25, 1987, who transfer to the program established by this chapter, have the option to continue their present living situation, but only through a protective payee.))

**NEW SECTION. Sec. 34.** The following acts or parts of acts are each repealed:

(1) RCW 43.330.175 (Disability lifeline housing voucher program) and 2010 1st sp.s. c 8 s 8;

(2) RCW 74.04.120 (Basis of state's allocation of federal aid funds--County budget) and 2010 1st sp.s. c 8 s 19, 1979 c 141 s 301, & 1959 c 26 s 74.04.120; and

(3) RCW 74.04.810 (Study of disability lifeline program terminations--Report) and 2010 1st sp.s. c 8 s 11.

**NEW SECTION. Sec. 35.** The code reviser shall alphabetize the subsections containing definitions in RCW 74.04.005.

**NEW SECTION. Sec. 36.** Sections 1 through 3 and 7 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 37.** Section 11 of this act expires June 30, 2013.

**NEW SECTION. Sec. 38.** Except for sections 6 and 8 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 39.** Section 6 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 22, 2011.

**NEW SECTION. Sec. 40.** Section 8 of this act takes effect November 1, 2011."

Senators Regala and Zarelli spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala and Zarelli to Engrossed Substitute House Bill No. 2082.

The motion by Senator Regala carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 6 of the title, after "funding;" strike the remainder of the title and insert "amending RCW 74.09.035, 74.04.005, 74.09.510, 74.50.055, 70.96A.530, 10.101.010, 26.19.071, 31.04.540, 70.123.110, 73.08.005, 74.04.0052, 74.04.225, 74.04.230, 74.04.266, 74.04.620, 74.04.652, 74.04.655, 74.04.657, 74.04.770, 74.08.043, 74.08.278, 74.08.335, 74.08A.210, 74.08A.440, 74.09.555, and 74.50.060; reenacting and amending RCW 13.34.030; adding new sections to chapter 43.185C RCW; adding a new chapter to Title 74 RCW; creating a new section; repealing RCW 43.330.175, 74.04.120, and 74.04.810; providing effective dates; providing an expiration date; and declaring an emergency."

POINT OF INQUIRY

Senator Regala: "Would Senator Zarelli yield to a question? Senator Zarelli, the bill clearly ends the disability lifeline program and creates other support programs in its place. Can you clarify for me if it's your understanding that there is no intent for current recipients to be required to reapply?"

Senator Zarelli: "Thank you Senator for the question. A lot of effort has been put in to trying to clarify that within the bill. It is the intent in rewriting this that they do not have to reapply but have already been qualified for the disability lifeline program."

MOTION

On motion of Senator Regala, the rules were suspended, Engrossed Substitute House Bill No. 2082 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2082 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2082 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 1; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Ericksen and Holmquist Newbry

Absent: Senator Hobbs

Excused: Senators Benton, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator White, Senator Hobbs was excused.

SECOND READING

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ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088, by House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie and Rivers)

Creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs.

The measure was read the second time.

#### MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that, despite increases in degree production, there remain acute shortages in high employer demand programs of study, particularly in the science, technology, engineering, and mathematics (STEM) and health care fields of study. According to the workforce training and education coordinating board, seventeen percent of Washington businesses had difficulty finding job applicants in 2010. Eleven thousand employers did not fill a vacancy because they lacked qualified job applicants. Fifty-nine percent of projected job openings in Washington state from now until 2017 will require some form of postsecondary education and training.

It is the intent of the legislature to provide jobs and opportunity by making Washington the place where the world's most productive companies find the world's most talented people. The legislature intends to accomplish this through the creation of the opportunity scholarship and the opportunity expansion programs to help mitigate the impact of tuition increases, increase the number of baccalaureate degrees in high employer demand and other programs, and invest in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the higher education coordinating board or its successor.

(2) "Eligible education programs" means high employer demand and other programs of study as determined by the opportunity scholarship board.

(3) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the board and the state board for community and technical colleges.

(4) "Eligible student" means a resident student who received their high school diploma or GED in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree; or

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(b) Declares an intention to obtain a baccalaureate degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(5) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(6) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(7) "Program administrator" means a college scholarship organization that is a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, with expertise in managing scholarships and college advising.

(8) "Resident student" has the same meaning as provided in RCW 28B.15.012.

**NEW SECTION. Sec. 3.** (1) The opportunity scholarship board is created. The opportunity scholarship board consists of seven members:

(a) Three members appointed by the governor. For two of the three appointments, the governor shall consider names from a list provided by the president of the senate and the speaker of the house of representatives; and

(b) Four foundation or business and industry representatives appointed by the governor from among the state's most productive industries such as aerospace, manufacturing, health sciences, information technology, and others. The foundation or business and industry representatives shall be selected from among nominations provided by the private sector donors to the opportunity scholarship and opportunity expansion programs. However, the governor may request, and the private sector donors shall provide, an additional list or lists from which the governor shall select these representatives.

(2) Board members shall hold their offices for a term of four years from the first day of September and until their successors are appointed. No more than the terms of two members may expire simultaneously on the last day of August in any one year.

(3) The members of the opportunity scholarship board shall elect one of the business and industry representatives to serve as chair.

(4) Five members of the board constitute a quorum for the transaction of business. In case of a vacancy, or when an appointment is made after the date of expiration of the term, the governor or the president of the senate or the speaker of the house of representatives, depending upon which made the initial appointment to that position, shall fill the vacancy for the remainder of the term of the board member whose office has become vacant or expired.

(5) The opportunity scholarship board shall be staffed by the program administrator.

(6) The purpose of the opportunity scholarship board is to provide oversight and guidance for the opportunity expansion and the opportunity scholarship programs in light of established legislative priorities and to fulfill the duties and responsibilities under this chapter, including but not limited to determining eligible education programs for purposes of the opportunity scholarship program. Duties, exercised jointly with the program administrator, include soliciting funds and setting annual fund-raising goals.

(7) The opportunity scholarship board may report to the governor and the appropriate committees of the legislature with recommendations as to:

(a) Whether some or all of the scholarships should be changed to conditional scholarships that must be repaid in the event the participant does not complete the eligible education program; and

(b) A source or sources of funds for the opportunity expansion program in addition to the voluntary contributions of the high technology research and development tax credit under section 10 of this act.

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**NEW SECTION. Sec. 4.** (1) The program administrator, under contract with the board, shall staff the opportunity scholarship board and shall have the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the opportunity scholarship board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the opportunity scholarship board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage two separate accounts into which to receive grants and contributions from private sources as well as state matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into one or both of the two accounts created in this subsection (2)(b) in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every May 1st thereafter;

(ii) The "endowment account," from which scholarship moneys may be disbursed from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account;

(B) The state appropriations for the state need grant under RCW 28B.92.010 meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for state need grant recipients is at least seventy percent of state median family income; and

(C) The state has demonstrated progress toward the goal of total per-student funding levels, from state appropriations plus tuition and fees, of at least the sixtieth percentile of total per-student funding at similar public institutions of higher education in the global challenge states, as defined, measured, and reported in RCW 28B.15.068. In any year in which the office of financial management reports that the state has not made progress toward this goal, no new scholarships may be awarded. In any year in which the office of financial management reports that the percentile of total per-student funding is less than the sixtieth percentile and at least five percent less than the prior year, pledges of future grants and contributions may, at the request of the donor, be released and grants and contributions already received refunded to the extent that opportunity scholarship awards already made can be fulfilled from the funds remaining in the endowment account; and

(iii) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the account, after which time the private donors may designate whether their contributions must be deposited to the scholarship or the endowment account. The opportunity scholarship board and the program administrator must work to maximize private sector contributions to both the scholarship account and the endowment account, to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the two accounts in the case of undesignated

grants and contributions, taking into account the need for a long-term funding mechanism and the short-term needs of families and students in Washington. The first five million dollars in state match, as provided in section 5 of this act, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the two accounts in equal proportion to the private funds deposited in each account;

(c) Provide proof of receipt of grants and contributions from private sources to the board, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship or the endowment account;

(d) In consultation with the higher education coordinating board and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs identified by the opportunity scholarship board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in baccalaureate degree programs identified by the opportunity scholarship board;

(h) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall be automatically renewed until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first, and as long as the participant annually submits documentation of filing both a free application for federal student aid and for available federal education tax credits, including but not limited to the American opportunity tax credit; and

(i) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the opportunity scholarship board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

**NEW SECTION. Sec. 5.** (1) The opportunity scholarship program is established.

(2) The purpose of this scholarship program is to provide scholarships that will help low and middle-income Washington residents earn baccalaureate degrees in high employer demand and other programs of study and encourage them to remain in the state to work. The program must be designed for both students starting at two-year institutions of higher education and intending to transfer to four-year institutions of higher education and students starting at four-year institutions of higher education.

(3) The opportunity scholarship board shall determine which programs of study, including but not limited to high employer demand programs, are eligible for purposes of the opportunity scholarship.

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(4) The source of funds for the program shall be a combination of private grants and contributions and state matching funds. A state match may be earned under this section for private contributions made on or after the effective date of this section. A state match, up to a maximum of fifty million dollars annually, shall be provided beginning the later of January 1, 2014, or January 1st next following the end of the fiscal year in which collections of state retail sales and use tax, state business and occupation tax, and state public utility tax exceed, by ten percent the amounts collected from these tax resources in the fiscal year that ended June 30, 2008, as determined by the department of revenue.

**NEW SECTION. Sec. 6.** (1) The opportunity scholarship match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the opportunity scholarship program created in section 5 of this act. The purpose of the account is to provide matching funds for the opportunity scholarship program.

(2) Revenues to the account shall consist of appropriations by the legislature into the account and any gifts, grants, or donations received by the director of the board for this purpose.

(3) No expenditures from the account may be made except upon receipt of proof, by the director of the board from the program administrator, of private contributions to the opportunity scholarship program. Expenditures, in the form of matching funds, may not exceed the total amount of private contributions.

(4) Only the director of the board or the director's designee may authorize expenditures from the opportunity scholarship match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (3) of this section.

**NEW SECTION. Sec. 7.** (1) The opportunity expansion program is established.

(2) The opportunity scholarship board shall select institutions of higher education to receive opportunity expansion awards. In so doing, the opportunity scholarship board must:

(a) Solicit, receive, and evaluate proposals from institutions of higher education that are designed to directly increase the number of baccalaureate degrees produced in high employer demand and other programs of study, and that include annual numerical targets for the number of such degrees, with a strong emphasis on serving students who received their high school diploma or GED in Washington or are adult Washington residents who are returning to school to gain a baccalaureate degree;

(b) Develop criteria for evaluating proposals and awarding funds to the proposals deemed most likely to increase the number of baccalaureate degrees and degrees produced in high employer demand and other programs of study;

(c) Give priority to proposals that include a partnership between public and private partnership entities that leverage additional private funds;

(d) Give priority to proposals that are innovative, efficient, and cost-effective, given the nature and cost of the particular program of study;

(e) Consult and operate in consultation with existing higher education stakeholders, including but not limited to: Faculty, labor, student organizations, and relevant higher education agencies; and

(f) Determine which proposals to improve and accelerate the production of baccalaureate degrees in high employer demand and other programs of study will receive opportunity expansion awards for the following state fiscal year, notify the state treasurer, and announce the awards.

(3) The state treasurer, at the direction of the opportunity scholarship board, must distribute the funds that have been awarded to the institutions of higher education from the opportunity expansion account.

(4) Institutions of higher education receiving awards under this section may not supplant existing general fund state revenues with opportunity expansion awards.

(5) Annually, the office of financial management shall report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the percentage of Washington households with incomes in the middle-income bracket or higher. For purposes of this section, "middle-income bracket" means household incomes between two hundred and five hundred percent of the 2010 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

(6) Annually, the higher education coordinating board must report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the increase in the number of degrees in high employer demand and other programs of study awarded by institutions of higher education over the average of the preceding ten academic years.

(7) In its comprehensive plan, the workforce training and education coordinating board shall include specific strategies to reach the goal of increasing the percentage of Washington households living in the middle-income bracket or higher, as calculated by the office of financial management and developed by the agency or education institution that will lead the strategy.

**NEW SECTION. Sec. 8.** (1) By December 1, 2012, and annually each December 1st thereafter, the opportunity scholarship board, together with the program administrator, shall report to the board, the governor, and the appropriate committees of the legislature regarding the opportunity scholarship and opportunity expansion programs, including but not limited to:

(a) Which education programs the opportunity scholarship board determined were eligible for purposes of the opportunity scholarship;

(b) The number of applicants for the opportunity scholarship, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(c) The number of participants in the opportunity scholarship program, disaggregated, to the extent possible, by race, ethnicity, gender, county of origin, age, and median family income;

(d) The number and amount of the scholarships actually awarded, and whether the scholarships were paid from the scholarship account or the endowment account;

(e) The institutions and eligible education programs in which opportunity scholarship participants enrolled, together with data regarding participants' completion and graduation;

(f) The total amount of private contributions and state match moneys received for the opportunity scholarship program, how the funds were distributed between the scholarship and endowment accounts, the interest or other earnings on the accounts, and the amount of any administrative fee paid to the program administrator; and

(g) Identification of the programs the opportunity scholarship board selected to receive opportunity expansion awards and the amount of such awards.

(2) In the next succeeding legislative session following receipt of a report required under subsection (1) of this section, the appropriate committees of the legislature shall review the report and consider whether any legislative action is necessary with respect to either the opportunity scholarship program or the opportunity expansion program, including but not limited to consideration of whether any legislative action is necessary with respect to the nature and level of focus on high employer demand fields and the number and amount of scholarships.

**NEW SECTION. Sec. 9.** (1) Beginning in 2018, the joint legislative audit and review committee shall evaluate the

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opportunity scholarship and opportunity expansion programs, and submit a report to the appropriate committees of the legislature by December 1, 2018. The committee's evaluation shall include, but not be limited to:

(a) The number and type of eligible education programs as determined by the opportunity scholarship board;

(b) The number of participants in the opportunity scholarship program in relation to the number of participants who completed a baccalaureate degree;

(c) The total cumulative number of students who received opportunity scholarships, and the total cumulative number of students who gained a baccalaureate degree after receiving an opportunity scholarship and the types of baccalaureate degrees awarded;

(d) The amount of private contributions to the opportunity scholarship program, annually and in total;

(e) The amount of state match moneys to the opportunity scholarship program, annually and in total;

(f) The amount of any administrative fees paid to the program administrator, annually and in total;

(g) The source and amount of funding, annually and cumulatively, for the opportunity expansion program;

(h) The number and type of proposals submitted by institutions for opportunity expansion awards, the number and type of proposals that received an award of opportunity expansion funds, and the amount of such awards;

(i) The total cumulative number of additional high employer demand degrees produced in Washington state due to the opportunity expansion program, including both the initial opportunity expansion awards and the subsequent inclusion in base funding; and

(j) Evidence that the existence of the opportunity scholarship and opportunity expansion programs have contributed to the achievement of the public policy objectives of helping to mitigate the impact of tuition increases, increasing the number of baccalaureate degrees in high employer demand and other programs, and investing in programs and students to meet market demands for a knowledge-based economy while filling middle-income jobs with a sufficient supply of skilled workers.

(2) In the event that the joint legislative audit and review committee is charged with completing an evaluation of other aspects of degree production, funding, or other aspects of higher education in 2018, and to the extent that it is economical and feasible to do so, the committee shall combine the multiple evaluations and submit a single report.

**NEW SECTION. Sec. 10.** A new section is added to chapter 82.32 RCW to read as follows:

A person eligible for the high technology research and development tax credit under RCW 82.04.4452 may contribute all or any portion of the credit to the opportunity expansion account hereby created in the state treasury. The department must create the forms and processes to allow a person to make such an election easily and quickly by means of checking a box. By May 1, 2012, and by May 1st of every year thereafter, the department must report the amount so contributed and certify the amount to the state treasurer. By July 1, 2012, and by July 1st of every year thereafter, the state treasurer must transfer the amount into the opportunity expansion account. Money in the account may only be appropriated for the purposes specified in section 7 of this act.

**NEW SECTION. Sec. 11.** This chapter may be known and cited as the opportunity scholarship act.

**NEW SECTION. Sec. 12.** Sections 1 through 9 and 11 of this act constitute a new chapter in Title 28B RCW.

**NEW SECTION. Sec. 13.** This act is necessary for the immediate preservation of the public peace, health, or safety, or

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support of the state government and its existing public institutions, and takes effect immediately."

## MOTION

Senator Rockefeller moved that the following amendment by Senator Rockefeller and others to the committee striking amendment be adopted:

On page 3, beginning on line 18, after "governor" strike all material through "position," on line 20

On page 5, line 26, after "account" insert "or to the college bound scholarship program established in chapter 28B.118 RCW"

On page 5, beginning on line 35, after "shall" strike all material through "account" on line 37 and insert "follow the private contributions into either of the opportunity scholarship accounts or to the college bound scholarship program, in equal proportion to the private funds so contributed"

On page 6, line 4, after "account" insert "or directed to the board for purposes of the college bound scholarship program pursuant to RCW 28B.118.050"

On page 7, line 32, after "opportunity" insert "and college bound"

On page 7, line 35, after "act" insert "and the college bound scholarship program created in chapter 28B.118 RCW"

On page 8, line 2, after "program" insert "and the college bound scholarship program"

On page 8, line 6, after "account" insert "for purposes of the opportunity scholarship program"

On page 8, line 12, after "opportunity" insert "and college bound"

On page 12, after line 20, insert the following:

**NEW SECTION. Sec. 11.** RCW 28B.118.010 and 2008 c 321 s 9 are each amended to read as follows:

The higher education coordinating board shall design the Washington college bound scholarship program in accordance with this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the higher education coordinating board by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

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(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) ~~((the difference between--))~~ the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives and less the value of any financial assistance the student receives from the opportunity scholarship program; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Re-number the remaining sections consecutively and correct any internal references accordingly.

Senators Rockefeller and Kilmer spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Tom and Hill spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller and others on page 3, line 18 to the committee striking amendment to Engrossed Substitute House Bill No. 2088.

The motion by Senator Rockefeller failed and the amendment to the committee striking amendment was not adopted by a rising vote.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Hobbs to the committee striking amendment be adopted:

On page 7, line 35, after "act" insert ", the Washington award for vocational excellence established in chapter 28C.04 RCW, and the Washington scholars program established in chapter 28A.600 RCW"

On page 8, after line 15, insert the following:

"(5) Each fiscal year, expenditures from any state appropriations to the opportunity scholarship match transfer account shall be allocated as follows:

(a) Unless other state general fund moneys are appropriated for new awards in at least the amount specified in this subsection (a), eight hundred fifty thousand dollars to the higher education coordinating board for new awards to eligible students in the Washington award for vocational excellence established in chapter 28C.04 RCW and the Washington scholars program established in chapter 28A.600 RCW. If the amount allocated in this subsection (a) is insufficient to fund the full amount of all new awards for eligible students, then the new awards shall be reduced proportionally in a manner that reflects the cost differential between the two award programs; and

(b) The remaining moneys to the opportunity scholarship program."

Senators McAuliffe, Pridemore and Conway spoke in favor of adoption of the amendment to the committee striking amendment.

Senator Hill spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Hobbs on page 7, line 35 to the committee striking amendment to Engrossed Substitute House Bill No. 2088.

The motion by Senator McAuliffe failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2088.

The motion by Senator Kilmer carried and the committee amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, beginning on line 3 of the title, after "programs;" strike the remainder of the title and insert "adding a new section to chapter 82.32 RCW; adding a new chapter to Title 28B RCW; and declaring an emergency."

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 2088 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2088 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2088 as amended by the

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Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist, Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Pflug and Pridemore

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

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MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

## THIRD SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1497 by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Warnick)

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 39.35B.050, 28B.20.725, 28B.30.750, 28B.50.360, 43.43.944, 43.63A.125, 82.16.020, 82.16.020, 82.18.040, and 82.45.060; amending 2009 c 497 ss 3136 and 3155 (uncodified); amending 2010 1st sp.s. c 36 s 1017 (uncodified); amending 2010 1st sp.s. c 3 s 6005 (uncodified); amending 2011 c 5 s 801 (uncodified); reenacting and amending RCW 28B.15.210, 28B.15.310, and 28B.35.370; adding a new section to chapter 43.155 RCW; adding new sections to 2009 c 497 (uncodified); creating new sections; providing an effective date; providing an expiration date; and declaring an emergency.

ESHB 2020 by House Committee on Capital Budget (originally sponsored by Representative Dunshee)

AN ACT Relating to funding capital projects; amending RCW 43.99Q.130; amending 2009 c 497 ss 1050, 1016, 1017, 1020, 1036, 1041, 1042, 1069, 1076, 1078, 2016, 2025,

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2012, 2017, 2041, 2045, 2048, 2043, 2044, 2046, 2049, 2050, 2051, 2052, 2053, 2055, 2056, 2057, 2058, 2062, 2063, 2066, 2074, 2073, 3026, 3011, 3006, 3004, 3008, 3005, 3039, 3055, 3077, 3082, 3135, 3157, 3186, 3174, 3184, 3166, 3175, 3193, 3194, 3195, 3189, 3192, 5015, 5077, 5082, 5144, 5161, 5228, and 5216 (uncodified); amending 2010 1st sp.s. c 36 ss 1001, 1002, 1005, 1003, 1008, 1009, 1011, 1014, 1015, 1016, 1021, 1034, 2006, 2016, 2010, 3015, 3020, 3017, 3024, 5007, 5012, 5041, 5078, and 5080 (uncodified); adding a new section to 2009 c 497 (uncodified); adding a new section to chapter 43.991 RCW; adding a new section to chapter 43.99N RCW; adding a new section to chapter 43.99P RCW; adding a new section to chapter 43.99Q RCW; adding a new chapter to Title 43 RCW; creating new sections; and declaring an emergency.

## MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 1497 and Engrossed Substitute House Bill No. 2020 were placed on the second reading calendar under suspension of the rules.

## MOTION

On motion of Senator Eide and without objection, Senate Bill 5091 which had been referred to the Committee on Rules under the provisions of House Concurrent Resolution No. 4405, was placed on the second reading calendar under suspension of the rules.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065, by House Committee on Ways & Means (originally sponsored by Representative Hunt)

Regarding the allocation of funding for students enrolled in alternative learning experiences.

The measure was read the second time.

## MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) Under Article IX of the Washington state Constitution, all children are entitled to an opportunity to receive a basic education. Although the state must assure that students in public schools have opportunities to participate in the instructional program of basic education, there is no obligation for either the state or school districts to provide that instruction using a particular delivery method or through a particular program.

(2) The legislature finds ample evidence of the need to examine and reconsider policies under which alternative learning that occurs outside the classroom using an individual student learning plan may

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be considered equivalent to full-time attendance in school, including for funding purposes. Previous legislative studies have raised questions about financial practices and accountability in alternative learning experience programs. Since 2005, there has been significant enrollment growth in alternative learning experience online programs, with evidence of unexpected financial impact when large numbers of nonresident students enroll in programs. Based on this evidence, there is a rational basis on which to conclude that there are different costs associated with providing a program not primarily based on full-time, daily contact between teachers and students and not primarily occurring on-site in a classroom.

(3) For these reasons, the legislature intends to allow for continuing review and revision of the way in which state funding allocations are used to support alternative learning experience programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) For purposes of this chapter, "alternative learning experience program" means a course or set of courses that is:

(a) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(b) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or under contract as permitted by applicable rules; and

(c) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's policy and rules adopted by the superintendent of public instruction for alternative learning experiences.

(2) Alternative learning experience programs include, but are not limited to:

(a) Alternative learning experience online programs as defined in RCW 28A.150.262;

(b) Programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and

(c) Programs that use a written student learning plan to direct the student in independent study.

(3) School districts that offer alternative learning experience programs may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience programs if the purchase is consistent with the district's approved curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion. School districts may not purchase or contract for instructional or co-curricular experiences and services that are included in an alternative learning experience written student learning plan, including but not limited to lessons, trips, and other activities, unless substantially similar experiences and services are available to students enrolled in the district's regular instructional program. School districts that purchase or contract for such experiences and services for students enrolled in an alternative learning experience program must submit an annual report to the office of the superintendent of public instruction detailing the costs and purposes of the expenditures. These requirements extend to contracted providers of alternative learning experience programs, and each district shall be responsible for monitoring the compliance

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of its providers with these requirements. However, nothing in this section shall prohibit school districts from contracting with online providers approved by the office of the superintendent of public instruction pursuant to chapter 28A.250 RCW.

(4) To count as a full-time equivalent student or portion thereof for purposes of state funding under RCW 28A.150.260, students participating in alternative learning experience programs must receive one hour per week of face-to-face, in-person instructional contact time from a certificated teacher. The one hour per week need not occur in a single sixty minute block of time but may occur in multiple blocks of time throughout the week that add up to sixty minutes. The supervising teacher may rely on synchronous digital communication, including telephone or interactive audio or video communications, to meet the requirement for face-to-face, in-person contact with students due to reasons of medical necessity or when the student's temporary travel makes the in-person contact infeasible. For alternative learning experience online programs under RCW 28A.150.262, this requirement may be satisfied by one hour per week of direct personal contact in compliance with RCW 28A.150.262(11).

(5) Part-time enrollment in alternative learning experiences is subject to the provisions of RCW 28A.150.350.

(6) The superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs.

**Sec. 3.** RCW 28A.150.262 and 2009 c 542 s 9 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through alternative learning experience online programs. As used in this section and section 2 of this act, an "alternative learning experience online program" is a set of online courses or an online school program as defined in RCW 28A.250.010 that is delivered to students in whole or in part independently from a regular classroom schedule. ~~((The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs.))~~ Beginning in the 2012-13 school year, alternative learning experience online programs must be offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.020 to meet the definition in this section. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer an alternative learning experience online program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the alternative learning experience online program be provided by a certificated (~~(instructional staff)~~) teacher;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

(11) Requiring that each student enrolled in the program have direct personal contact with a certificated (~~(instructional staff)~~) teacher at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication. At least one hour per week of the direct personal contact must be synchronous between the teacher and the student. For purposes of this section, the one hour per week of synchronous contact time need not occur in a single sixty minute block of time but may occur in multiple blocks of time throughout the week that add up to sixty minutes;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning programs to receive accreditation through the Northwest (~~(association of accredited schools)~~) accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**Sec. 4.** RCW 28A.250.005 and 2009 c 542 s 1 are each amended to read as follows:

(1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for (~~(multidistrict)~~) online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

**Sec. 5.** RCW 28A.250.010 and 2009 c 542 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course (~~(that)~~) where:

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(i) More than half of the course content is delivered ~~((primarily))~~ electronically using the internet or other computer-based methods; and

(ii) (Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both)) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools.

(b) "Online school program" means a school program that:

(i) Offers courses or grade-level coursework that is delivered primarily electronically using the internet or other computer-based methods;

(ii) Offers courses or grade-level coursework that is taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) ~~((Delivers a part-time or full-time sequential program))~~ Offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

(3) "Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all regional online learning programs.

**Sec. 6.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving ~~((multidistrict))~~ online providers; a process for monitoring and if necessary rescinding the approval of courses or programs offered by an online ~~((course))~~ provider; and an appeals process. The criteria and processes for multidistrict online providers shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest ~~((association of accredited schools))~~ accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing ~~((multidistrict))~~ online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of ~~((multidistrict))~~ online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons

or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. The first round of decisions regarding approval of online providers that are not multidistrict online providers shall be made by April 1, 2012. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 7.** RCW 28A.250.030 and 2009 c 542 s 4 are each amended to read as follows:

The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by ~~((multidistrict))~~ online providers that have been approved in accordance with RCW 28A.250.020. The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving ~~((multidistrict))~~ online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved ~~((multidistrict))~~ online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with ~~((multidistrict))~~ online providers to offer the ~~((multidistrict))~~ online provider's courses and programs to students in the district. The agreements may address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the

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development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

**Sec. 8.** RCW 28A.250.060 and 2009 c 542 s 7 are each amended to read as follows:

(1) Beginning with the 2011-12 school year, school districts may claim state (~~basic education~~) funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under RCW 28A.250.020 by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Beginning with the 2012-13 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

**Sec. 9.** RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that

schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act. The allocations calculated under subsections (4) through (12) of this section may be adjusted as provided in the omnibus appropriations act for students whose full-time equivalent enrollment status is calculated based on enrollment in an alternative learning experience program as defined in section 2 of this act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

|                                      |       |
|--------------------------------------|-------|
| General education average class size |       |
| Grades K-3                           | 25.23 |
| Grade 4                              | 27.00 |
| Grades 5-6                           | 27.00 |
| Grades 7-8                           | 28.53 |
| Grades 9-12                          | 28.74 |

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

|   |       |
|---|-------|
| Career and technical education average class size   |       |
| Approved career and technical education offered at the middle school and high school level                        | 26.57 |
| Skill center programs meeting the standards established by the office of the superintendent of public instruction | 22.76 |

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(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

|   | Elem<br>entary<br>Schoo<br>l | Mi<br>ddl<br>e Sch<br>ool | Hig<br>h Sch<br>ool |
|---|------------------------------|---------------------------|---------------------|
| Principals, assistant principals, and other certificated building-level administrators.....   | 1.253                        | 1.3<br>53                 | 1.8<br>80           |
| Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs ..... | 0.663                        | 0.5<br>19                 | 0.5<br>23           |
| Health and social services:   |                              |                           |                     |
| School nurses.....  | 0.076                        | 0.0<br>60                 | 0.0<br>96           |
| Social workers .....  | 0.042                        | 0.0<br>06                 | 0.0<br>15           |
| Psychologists.....  | 0.017                        | 0.0<br>02                 | 0.0<br>07           |
| Guidance counselors, a function that includes parent outreach and graduation advising.....  | 0.493                        | 1.1<br>16                 | 1.9<br>09           |
| Teaching assistance, including any aspect of educational instructional services provided by classified employees ....                   | 0.936                        | 0.7<br>00                 | 0.6<br>52           |
| Office support and other noninstructional aides .....   | 2.012                        | 2.3<br>25                 | 3.2<br>69           |
| Custodians.....   | 1.657                        | 1.9<br>42                 | 2.9<br>65           |
| Classified staff providing student and staff safety .....   | 0.079                        | 0.0<br>92                 | 0.1<br>41           |
| Parent involvement coordinators .....   | 0.00                         | 0.0<br>0                  | 0.0<br>0            |

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

| Staff per 1,000 K-12 students        |       |
|--------------------------------------|-------|
| Technology                           | 0.628 |
| Facilities, maintenance, and grounds | 1.813 |
| Warehouse, laborers, and mechanics   | 0.332 |

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center

administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

| Per annual average full-time equivalent student in grades K-12            |          |
|---|----------|
| Technology  | \$54.43  |
| Utilities and insurance   | \$147.90 |
| Curriculum and textbooks  | \$58.44  |
| Other supplies and library materials                                      | \$124.07 |
| Instructional professional development for certified and classified staff | \$9.04   |
| Facilities maintenance  | \$73.27  |
| Security and central office   | \$50.76  |

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

| Per annual average full-time equivalent student in grades K-12               |          |
|--|----------|
| Technology   | \$113.80 |
| Utilities and insurance  | \$309.21 |
| Curriculum and textbooks   | \$122.17 |
| Other supplies and library materials   | \$259.39 |
| Instructional professional development for certificated and classified staff | \$18.89  |
| Facilities maintenance   | \$153.18 |
| Security and central office administration                                   | \$106.12 |

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

(a) Exploratory career and technical education courses for students in grades seven through twelve;

(b) Laboratory science courses for students in grades nine through twelve;

(c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

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(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4,7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2,1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 10.** RCW 28A.150.100 and 2010 c 236 s 13 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services

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staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience programs as defined in section 2 of this act.

**NEW SECTION. Sec. 11.** Sections 9 and 10 of this act take effect September 1, 2011."

On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 28A.150.262, 28A.250.005, 28A.250.010, 28A.250.020, 28A.250.030, 28A.250.060, 28A.150.260, and 28A.150.100; adding a new section to chapter 28A.150 RCW; creating a new section; and providing an effective date."

The President declared the question before the Senate to be motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2065.

The motion by Senator McAuliffe carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator McAuliffe moved that the following striking amendment by Senators Zarelli and Murray be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1) Under Article IX of the Washington state Constitution, all children are entitled to an opportunity to receive a basic education. Although the state must assure that students in public schools have opportunities to participate in the instructional program of basic education, there is no obligation for either the state or school districts to provide that instruction using a particular delivery method or through a particular program.

(2) The legislature finds ample evidence of the need to examine and reconsider policies under which alternative learning that occurs outside the classroom using an individual student learning plan may be considered equivalent to full-time attendance in school, including for funding purposes. Previous legislative studies have raised questions about financial practices and accountability in alternative learning experience programs. Since 2005, there has been significant enrollment growth in alternative learning experience online programs, with evidence of unexpected financial impact when large numbers of nonresident students enroll in programs. Based on this evidence, there is a rational basis on which to conclude that there are different costs associated with providing a program not primarily based on full-time, daily contact between teachers and students and not primarily occurring on-site in a classroom.

(3) For these reasons, the legislature intends to allow for continuing review and revision of the way in which state funding allocations are used to support alternative learning experience programs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) For purposes of this chapter, "alternative learning experience program" means a course or set of courses that is:

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(a) Provided in whole or in part independently from a regular classroom setting or schedule, but may include some components of direct instruction;

(b) Supervised, monitored, assessed, evaluated, and documented by a certificated teacher employed by the school district or under contract as permitted by applicable rules; and

(c) Provided in accordance with a written student learning plan that is implemented pursuant to the school district's policy and rules adopted by the superintendent of public instruction for alternative learning experiences.

(2) The broad categories of alternative learning experience programs include, but are not limited to:

(a) Online programs as defined in RCW 28A.150.262;

(b) Parent partnership programs that include significant participation and partnership by parents and families in the design and implementation of a student's learning experience; and

(c) Contract-based learning programs.

(3) School districts that offer alternative learning experience programs may not provide any compensation, reimbursement, gift, reward, or gratuity to any parents, guardians, or students for participation. School district employees are prohibited from receiving any compensation or payment as an incentive to increase student enrollment of out-of-district students in an alternative learning experience program. This prohibition includes, but is not limited to, providing funds to parents, guardians, or students for the purchase of educational materials, supplies, experiences, services, or technological equipment. A district may purchase educational materials, equipment, or other nonconsumable supplies for students' use in alternative learning experience programs if the purchase is consistent with the district's approved curriculum, conforms to applicable laws and rules, and is made in the same manner as such purchases are made for students in the district's regular instructional program. Items so purchased remain the property of the school district upon program completion. School districts may not purchase or contract for instructional or co-curricular experiences and services that are included in an alternative learning experience written student learning plan, including but not limited to lessons, trips, and other activities, unless substantially similar experiences and services are available to students enrolled in the district's regular instructional program. School districts that purchase or contract for such experiences and services for students enrolled in an alternative learning experience program must submit an annual report to the office of the superintendent of public instruction detailing the costs and purposes of the expenditures. These requirements extend to contracted providers of alternative learning experience programs, and each district shall be responsible for monitoring the compliance of its providers with these requirements. However, nothing in this section shall prohibit school districts from contracting with online providers approved by the office of the superintendent of public instruction pursuant to chapter 28A.250 RCW.

(4) Part-time enrollment in alternative learning experiences is subject to the provisions of RCW 28A.150.350.

(5) The superintendent of public instruction shall adopt rules defining minimum requirements and accountability for alternative learning experience programs.

**Sec. 3.** RCW 28A.150.262 and 2009 c 542 s 9 are each amended to read as follows:

Under RCW 28A.150.260, the superintendent of public instruction shall revise the definition of a full-time equivalent student to include students who receive instruction through alternative learning experience online programs. As used in this section and section 2 of this act, an "alternative learning experience online program" is a set of online courses or an online school program as defined in RCW 28A.250.010 that is delivered to students in whole or in part independently from a regular classroom

schedule. ~~((The superintendent of public instruction has the authority to adopt rules to implement the revised definition beginning with the 2005-2007 biennium for school districts claiming state funding for the programs.))~~ Beginning in the 2013-14 school year, alternative learning experience online programs must be offered by an online provider approved by the superintendent of public instruction under RCW 28A.250.020 to meet the definition in this section. The rules shall include but not be limited to the following:

(1) Defining a full-time equivalent student under RCW 28A.150.260 or part-time student under RCW 28A.150.350 based upon the district's estimated average weekly hours of learning activity as identified in the student's learning plan, as long as the student is found, through monthly evaluation, to be making satisfactory progress; the rules shall require districts providing programs under this section to nonresident students to establish procedures that address, at a minimum, the coordination of student counting for state funding so that no student is counted for more than one full-time equivalent in the aggregate;

(2) Requiring the board of directors of a school district offering, or contracting under RCW 28A.150.305 to offer, an alternative learning experience online program to adopt and annually review written policies for each program and program provider and to receive an annual report on its digital alternative learning experience online programs from its staff;

(3) Requiring each school district offering or contracting to offer an alternative learning experience online program to report annually to the superintendent of public instruction on the types of programs and course offerings, and number of students participating;

(4) Requiring completion of a program self-evaluation;

(5) Requiring documentation of the district of the student's physical residence;

(6) Requiring that supervision, monitoring, assessment, and evaluation of the alternative learning experience online program be provided by a certificated ~~((instructional staff))~~ teacher;

(7) Requiring each school district offering courses or programs to identify the ratio of certificated instructional staff to full-time equivalent students enrolled in such courses or programs, and to include a description of their ratio as part of the reports required under subsections (2) and (3) of this section;

(8) Requiring reliable methods to verify a student is doing his or her own work; the methods may include proctored examinations or projects, including the use of web cams or other technologies. "Proctored" means directly monitored by an adult authorized by the school district;

(9) Requiring, for each student receiving instruction in an alternative learning experience online program, a learning plan that includes a description of course objectives and information on the requirements a student must meet to successfully complete the program or courses. The rules shall allow course syllabi and other additional information to be used to meet the requirement for a learning plan;

(10) Requiring that the district assess the educational progress of enrolled students at least annually, using, for full-time students, the state assessment for the student's grade level and using any other annual assessments required by the school district. Part-time students shall also be assessed at least annually. However, part-time students who are either receiving home-based instruction under chapter 28A.200 RCW or who are enrolled in an approved private school under chapter 28A.195 RCW are not required to participate in the assessments required under chapter 28A.655 RCW. The rules shall address how students who reside outside the geographic service area of the school district are to be assessed;

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(11) Requiring that each student enrolled in the program have direct personal contact with a certified ~~((instructional staff))~~ teacher at least weekly until the student completes the course objectives or the requirements in the learning plan. Direct personal contact is for the purposes of instruction, review of assignments, testing, evaluation of student progress, or other learning activities. Direct personal contact may include the use of telephone, e-mail, instant messaging, interactive video communication, or other means of digital communication;

(12) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning programs to receive accreditation through the Northwest ~~((association of accredited schools))~~ accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning;

(13) Requiring state-funded public schools or public school programs whose primary purpose is to provide alternative learning experience online learning to provide information to students and parents on whether or not the courses or programs: Cover one or more of the school district's learning goals or of the state's essential academic learning requirements or whether they permit the student to meet one or more of the state's or district's graduation requirements; and

(14) Requiring that a school district that provides one or more alternative learning experience online courses to a student provide the parent or guardian of the student, prior to the student's enrollment, with a description of any difference between home-based education as described in chapter 28A.200 RCW and the enrollment option selected by the student. The parent or guardian shall sign documentation attesting to his or her understanding of the difference and the documentation shall be retained by the district and made available for audit.

**Sec. 4.** RCW 28A.250.005 and 2009 c 542 s 1 are each amended to read as follows:

(1) The legislature finds that online learning provides tremendous opportunities for students to access curriculum, courses, and a unique learning environment that might not otherwise be available. The legislature supports and encourages online learning opportunities.

(2) However, the legislature also finds that there is a need to assure quality in online learning, both for the programs and the administration of those programs. The legislature is the steward of public funds that support students enrolled in online learning and must ensure an appropriate accountability system at the state level.

(3) Therefore, the legislature intends to take a first step in improving oversight and quality assurance of online learning programs, and intends to examine possible additional steps that may need to be taken to improve financial accountability.

(4) The first step in improving quality assurance is to:

(a) Provide objective information to students, parents, and educators regarding available online learning opportunities, including program and course content, how to register for programs and courses, teacher qualifications, student-to-teacher ratios, prior course completion rates, and other evaluative information;

(b) Create an approval process for ~~((multidistrict))~~ online providers;

(c) Enhance statewide equity of student access to high quality online learning opportunities; and

(d) Require school district boards of directors to develop policies and procedures for student access to online learning opportunities.

**Sec. 5.** RCW 28A.250.010 and 2009 c 542 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Multidistrict online provider" means:

(i) A private or nonprofit organization that enters into a contract with a school district to provide online courses or programs to K-12 students from more than one school district;

(ii) A private or nonprofit organization that enters into contracts with multiple school districts to provide online courses or programs to K-12 students from those districts; or

(iii) Except as provided in (b) of this subsection, a school district that provides online courses or programs to students who reside outside the geographic boundaries of the school district.

(b) "Multidistrict online provider" does not include a school district online learning program in which fewer than ten percent of the students enrolled in the program are from other districts under the interdistrict student transfer provisions of RCW 28A.225.225. "Multidistrict online provider" also does not include regional online learning programs that are jointly developed and implemented by two or more school districts or an educational service district through an interdistrict cooperative program agreement that addresses, at minimum, how the districts share student full-time equivalency for state basic education funding purposes and how categorical education programs, including special education, are provided to eligible students.

(2)(a) "Online course" means a course ~~((that))~~ where:

(i) More than half of the course content is delivered ~~((primarily))~~ electronically using the internet or other computer-based methods; and

(ii) ((Is taught by a teacher primarily from a remote location. Students enrolled in an online course may have access to the teacher synchronously, asynchronously, or both)) More than half of the teaching is conducted from a remote location through an online course learning management system or other online or electronic tools.

(b) "Online school program" means a school program that:

(i) Offers courses or grade-level coursework that is delivered primarily electronically using the internet or other computer-based methods;

(ii) Offers courses or grade-level coursework that is taught by a teacher primarily from a remote location using online or other electronic tools. Students enrolled in an online program may have access to the teacher synchronously, asynchronously, or both;

(iii) ~~((Delivers a part-time or full-time sequential program))~~ Offers a sequential set of online courses or grade-level coursework that may be taken in a single school term or throughout the school year in a manner that could provide a full-time basic education program if so desired by the student. Students may enroll in the program as part-time or full-time students; and

(iv) Has an online component of the program with online lessons and tools for student and data management.

(c) An online course or online school program may be delivered to students at school as part of the regularly scheduled school day. An online course or online school program also may be delivered to students, in whole or in part, independently from a regular classroom schedule, but such courses or programs must comply with RCW 28A.150.262 to qualify for state basic education funding.

(3) "Online provider" means any provider of an online course or program, including multidistrict online providers, all school district online learning programs, and all regional online learning programs.

**Sec. 6.** RCW 28A.250.020 and 2009 c 542 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in collaboration with the state board of education, shall develop and implement approval criteria and a process for approving ~~((multidistrict))~~ online providers; a process for monitoring and if necessary rescinding the

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approval of courses or programs offered by an online (~~(course)~~) provider; and an appeals process. The criteria and processes for multidistrict online providers shall be adopted by rule by December 1, 2009.

(2) When developing the approval criteria, the superintendent of public instruction shall require that providers offering online courses or programs have accreditation through the Northwest (~~(association of accredited schools)~~) accreditation commission or another national, regional, or state accreditation program listed by the office of the superintendent of public instruction after consultation with the Washington coalition for online learning. In addition to other criteria, the approval criteria shall include the degree of alignment with state academic standards and require that all teachers be certificated in accordance with Washington state law. When reviewing (~~(multidistrict)~~) online providers that offer high school courses, the superintendent of public instruction shall assure that the courses offered by the provider are eligible for high school credit. However, final decisions regarding the awarding of high school credit shall remain the responsibility of school districts.

(3) Initial approval of (~~(multidistrict)~~) online providers by the superintendent of public instruction shall be for four years. The superintendent of public instruction shall develop a process for the renewal of approvals and for rescinding approvals based on noncompliance with approval requirements. Any multidistrict online provider that was approved by the digital learning commons or accredited by the Northwest association of accredited schools before July 26, 2009, and that meets the teacher certification requirements of subsection (2) of this section, is exempt from the initial approval process under this section until August 31, 2012, but must comply with the process for renewal of approvals and must comply with approval requirements.

(4) The superintendent of public instruction shall make the first round of decisions regarding approval of multidistrict online providers by April 1, 2010. The first round of decisions regarding approval of online providers that are not multidistrict online providers shall be made by April 1, 2013. Thereafter, the superintendent of public instruction shall make annual approval decisions no later than November 1st of each year.

(5) The superintendent of public instruction shall establish an online learning advisory committee within existing resources that shall provide advice to the superintendent regarding the approval criteria, major components of the web site, the model school district policy, model agreements, and other related matters. The committee shall include a representative of each of the following groups: Private and public online providers, parents of online students, accreditation organizations, educational service districts, school principals, teachers, school administrators, school board members, institutions of higher education, and other individuals as determined by the superintendent. Members of the advisory committee shall be selected by the superintendent based on nominations from statewide organizations, shall serve three-year terms, and may be reappointed. The superintendent shall select the chair of the committee.

**Sec. 7.** RCW 28A.250.030 and 2009 c 542 s 4 are each amended to read as follows:

The superintendent of public instruction shall create an office of online learning. In the initial establishment of the office, the superintendent shall hire staff who have been employed by the digital learning commons to the extent such hiring is in accordance with state law and to the extent funds are available. The office shall:

(1) Develop and maintain a web site that provides objective information for students, parents, and educators regarding online learning opportunities offered by (~~(multidistrict)~~) online providers that have been approved in accordance with RCW 28A.250.020.

The web site shall include information regarding the online course provider's overall instructional program, specific information regarding the content of individual online courses and online school programs, a direct link to each online course provider's web site, how to register for online learning programs and courses, teacher qualifications, student-to-teacher ratios, course completion rates, and other evaluative and comparative information. The web site shall also provide information regarding the process and criteria for approving (~~(multidistrict)~~) online providers. To the greatest extent possible, the superintendent shall use the framework of the course offering component of the web site developed by the digital learning commons;

(2) Develop model agreements with approved (~~(multidistrict)~~) online providers that address standard contract terms and conditions that may apply to contracts between a school district and the approved provider. The purpose of the agreements is to provide a template to assist individual school districts, at the discretion of the district, in contracting with (~~(multidistrict)~~) online providers to offer the (~~(multidistrict)~~) online provider's courses and programs to students in the district. The agreements may address billing, fees, responsibilities of online course providers and school districts, and other issues; and

(3) In collaboration with the educational service districts:

(a) Provide technical assistance and support to school district personnel through the educational technology centers in the development and implementation of online learning programs in their districts; and

(b) To the extent funds are available, provide online learning tools for students, teachers, administrators, and other educators.

**Sec. 8.** RCW 28A.250.060 and 2009 c 542 s 7 are each amended to read as follows:

(1) Beginning with the 2011-12 school year, school districts may claim state (~~(basic education)~~) funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are:

(a) Offered by a multidistrict online provider approved under RCW 28A.250.020 by the superintendent of public instruction;

(b) Offered by a school district online learning program if the program serves students who reside within the geographic boundaries of the school district, including school district programs in which fewer than ten percent of the program's students reside outside the school district's geographic boundaries; or

(c) Offered by a regional online learning program where courses are jointly developed and offered by two or more school districts or an educational service district through an interdistrict cooperative program agreement.

(2) Beginning with the 2013-14 school year, school districts may claim state funding under RCW 28A.150.260, to the extent otherwise allowed by state law, for students enrolled in online courses or programs only if the online courses or programs are offered by an online provider approved under RCW 28A.250.020 by the superintendent of public instruction.

(3) Criteria shall be established by the superintendent of public instruction to allow online courses that have not been approved by the superintendent of public instruction to be eligible for state funding if the course is in a subject matter in which no courses have been approved and, if it is a high school course, the course meets Washington high school graduation requirements.

**Sec. 9.** RCW 28A.150.260 and 2010 c 236 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic

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education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) The total aggregate statewide allocations calculated under subsections (4) through (12) of this section for full-time equivalent student enrollment in alternative learning experience programs as defined in section 2 of this act shall be reduced by fifteen percent for the 2011-12 and 2012-13 school years. The superintendent of public instruction shall determine how to implement this aggregate fifteen percent reduction among the different alternative learning experience programs. No program may receive less than a ten percent reduction and no program may receive greater than a twenty percent reduction. In determining how to implement the reductions among the alternative learning experience programs, the superintendent of public instruction must look to both how a program is currently operating as well as how it has operated in the past, to the extent that data is available, and must give consideration to the following criteria:

- (i) The category of program;
- (ii) The certificated instructional staffing ratio maintained by the program;
- (iii) The amount and type of direct personal student-to-teacher contact used by the program on a weekly basis;
- (iv) Whether the program uses any classroom-based instructional time to meet requirements in the written student learning plan for enrolled students; and
- (v) For online programs, whether the program is approved by the superintendent of public instruction under RCW 28A.250.020.

(c) The superintendent of public instruction shall report to the legislature by December 31, 2011, regarding how the reductions in (b) of this subsection were implemented.

(d) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

|                   |       |
|-------------------|-------|
| General education |       |
| average           |       |
| class size        |       |
| Grades K-3        | 25.23 |
| Grade 4           | 27.00 |
| Grades 5-6        | 27.00 |
| Grades 7-8        | 28.53 |
| Grades 9-12       | 28.74 |

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

|   |       |
|---|-------|
| Career and technical  |       |
| education average   |       |
| class size  |       |
| Approved career and technical education offered at the middle school and high school level                        | 26.57 |
| Skill center programs meeting the standards established by the office of the superintendent of public instruction | 22.76 |

(d) In addition, the omnibus appropriations act shall at a minimum specify:

(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(ii) A specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:

|        |     |     |
|--------|-----|-----|
| Elem   | Mi  | Hig |
| entary | ddl | h   |
| Schoo  | e   | Sch |

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|   |       |     |     |       |
|---|-------|-----|-----|-------|
|   | 1     | Sch | ool |       |
|   |       | ool |     |       |
| Principals, assistant principals, and other certificated building-level administrators.....   | 1.253 | 1.3 | 1.8 | 53 80 |
| Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs ..... | 0.663 | 0.5 | 0.5 | 19 23 |
| Health and social services:   |       |     |     |       |
| School nurses.....  | 0.076 | 0.0 | 0.0 | 60 96 |
| Social workers .....  | 0.042 | 0.0 | 0.0 | 06 15 |
| Psychologists .....   | 0.017 | 0.0 | 0.0 | 02 07 |
| Guidance counselors, a function that includes parent outreach and graduation advising.....  | 0.493 | 1.1 | 1.9 | 16 09 |
| Teaching assistance, including any aspect of educational instructional services provided by classified employees ....                   | 0.936 | 0.7 | 0.6 | 00 52 |
| Office support and other noninstructional aides .....   | 2.012 | 2.3 | 3.2 | 25 69 |
| Custodians.....   | 1.657 | 1.9 | 2.9 | 42 65 |
| Classified staff providing student and staff safety.....  | 0.079 | 0.0 | 0.1 | 92 41 |
| Parent involvement coordinators .....   | 0.00  | 0.0 | 0.0 | 0 0   |

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

|                                      |       |
|--------------------------------------|-------|
| Staff per 1,000 K-12 students        |       |
| Technology                           | 0.628 |
| Facilities, maintenance, and grounds | 1.813 |
| Warehouse, laborers, and mechanics   | 0.332 |

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

|  |          |
|--|----------|
| Per annual average full-time equivalent student in grades K-12 |          |
| Technology   | \$54.43  |
| Utilities and insurance  | \$147.90 |
| Curriculum and textbooks                                       | \$58.44  |
| Other supplies and library materials                           | \$124.07 |

|   |         |
|---|---------|
| Instructional professional development for certified and classified staff | \$9.04  |
| Facilities maintenance  | \$73.27 |
| Security and central office   | \$50.76 |

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

|  |          |
|--|----------|
| Per annual average full-time equivalent student in grades K-12               |          |
| Technology   | \$113.80 |
| Utilities and insurance  | \$309.21 |
| Curriculum and textbooks   | \$122.17 |
| Other supplies and library materials   | \$259.39 |
| Instructional professional development for certificated and classified staff | \$18.89  |
| Facilities maintenance   | \$153.18 |
| Security and central office administration                                   | \$106.12 |

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide

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average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

**Sec. 10.** RCW 28A.150.100 and 2010 c 236 s 13 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full-time equivalent students. This requirement does not apply to that portion of a district's annual average full-time equivalent enrollment that is enrolled in alternative learning experience programs as defined in section 2 of this act.

**NEW SECTION. Sec. 11.** Sections 9 and 10 of this act take effect September 1, 2011.

**NEW SECTION. Sec. 12.** Section 9 of this act expires July 1, 2013."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

## MOTION

Senator Tom moved that the following amendment by Senators Tom and Litzow to the striking amendment be adopted:

On page 9, beginning on line 7 of the amendment, after "credit." strike all material through "districts." on line 9 and insert "However, final decisions regarding (~~the awarding of high school credit~~) whether credit meets the school district's graduation requirements shall remain the responsibility of the school districts."

On page 19, after line 28 of the amendment, insert the following:

**"Sec. 11.** RCW 28A.250.050 and 2009 c 542 s 6 are each amended to read as follows:

(1) By August 31, 2010, all school district boards of directors shall develop policies and procedures regarding student access to online courses and online learning programs. The policies and procedures shall include but not be limited to: Student eligibility criteria; the types of online courses available to students through the school district; the methods districts will use to support student success, which may include a local advisor; when the school district will and will not pay course fees and other costs; the granting of high school credit; and a process for students and parents or guardians to formally acknowledge any course taken for which no credit is given. The policies and procedures shall take effect beginning with the 2010-11 school year. School districts shall submit their policies to the superintendent of public instruction by September 15, 2010. By December 1, 2010, the superintendent of public instruction shall summarize the school district policies regarding student access to online courses and submit a report to the legislature.

(2) School districts must award credit for online high school courses successfully completed by a student that meet the school district's graduation requirements and are provided by an approved online provider.

(3) School districts shall provide students with information regarding online courses that are available through the school district. The information shall include the types of information described in subsection (1) of this section.

~~((3))~~ (4) When developing local or regional online learning programs, school districts shall incorporate into the program design the approval criteria developed by the superintendent of public instruction under RCW 28A.250.020."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Tom spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Tom and Litzow on page 9, line 7 to the striking amendment to Engrossed Substitute House Bill No. 2065.

The motion by Senator Tom carried and the amendment to the striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Zarelli and Murray as amended to Engrossed Substitute House Bill No. 2065.

The motion by Senator McAuliffe carried and the striking amendment as amended was adopted by voice vote.

## MOTION

There being no objection, the following title amendments were adopted:

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On page 1, line 2 of the title, after "experiences;" strike the remainder of the title and insert "amending RCW 28A.150.262, 28A.250.005, 28A.250.010, 28A.250.020, 28A.250.030, 28A.250.060, 28A.150.260, and 28A.150.100; adding a new section to chapter 28A.150 RCW; creating a new section; providing an effective date; and providing an expiration date."

On page 20, line 4 of the title amendment, after "28A.150.260," strike "and 28A.150.100" and insert "28A.150.100, and 28A.250.050"

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2065 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Hatfield: "Would Senator McAuliffe yield to a question? Thank you Senator McAuliffe. Does this bill impact the assessment requirements for students participating in alternative learning experience programs in any way?"

Senator McAuliffe: "Thank you Senator. No. This current law requires that districts assess the educational progress of students enrolled in alternative learning programs in the same way as any other students enrolled in their district. This bill does not change those requirements. Thank you for asking."

Senators Carrell and Ranker spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2065 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2065 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Baxter, Brown, Carrell, Chase, Conway, Delvin, Eide, Fraser, Hargrove, Haugen, Hewitt, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Becker, Ericksen, Fain, Harper, Hatfield, Hill, Holmquist Newbry, Honeyford, Roach and Swecker

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5919, by Senators Murray and Zarelli

Regarding education funding.

On motion of Senator McAuliffe, Substitute Senate Bill No. 5919 was substituted for Senate Bill No. 5919 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senator Murray be adopted:

On page 11, starting on line 36, strike all of section 4, through page 14, line 21.

On page 15, starting on line 9, strike all of section 6, through page 16, line 19.

On page 19, starting on line 14, strike all of section 8, through page 19, line 18.

On page 1, line 3, after, "28A.630.016; ", strike, " reenacting and amending RCW 28A.290.010 and 28A.505.220; repealing RCW 28A.505.220;"  
Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Murray on page 11, line 36 to Substitute Senate Bill No. 5919.

The motion by Senator McAuliffe carried and the amendment was adopted by voice vote.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Litzow be adopted:

On page 19, after line 13, insert the following:

"Sec. 8. RCW 28A.655.061 and 2010 c 244 s 1 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may

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use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning ~~((no later than))~~ with the graduating class of ~~((2013))~~ 2015, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of

education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection. Student learning plans are required for eighth grade students who were not successful on any or all of the content areas of the state assessment during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

(a) The student's results on the state assessment;

(b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

(c) Any credit deficiencies;

(d) The student's attendance rates over the previous two years;

(e) The student's progress toward meeting state and local graduation requirements;

(f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

(g) Remediation strategies and alternative education options available to students, including informing students of the option to

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continue to receive instructional services after grade twelve or until the age of twenty-one;

(h) The alternative assessment options available to students under this section and RCW 28A.655.065;

(i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

(j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 19, line 16, after "c ... s" strike "5" and insert "6"

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Litzow on page 19, after line 13 to Substitute Senate Bill No. 5919.

The motion by Senator McAuliffe carried and the amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "28A.300.380," strike "and" and after "28A.630.016" insert ", and 28A.655.061"

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 5919 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Roach: "Would Senator McAuliffe yield to a question? Thank you Senator. So, in the effect of the changes made by Ways and Means, it seems to me in the original bill there was going to be a removing of the national board bonuses. So, then when we read in the effect here of the amendment it says, 'Previous revisions regarding I-732 COLAs and teachers national board bonuses are removed' that is to say again that the teacher national bonuses, board bonuses are in fact retained?"

Senator McAuliffe: "Yes, they are Senator."

Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5919.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5919 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Brown, Chase, Conway, Eide, Ericksen, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala,

Roach, Rockefeller, Schoesler, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Carrell, Delvin, Fain, Hill, Holmquist Newbry, Honeyford, Litzow, Pflug and Sheldon

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5919, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5459 with the following amendment(s): 5459-S2 AMH WAYS H2891.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that:

(1) A developmental disability is a natural part of human life and the presence of a developmental disability does not diminish a person's rights or the opportunity to participate in the life of the local community;

(2) The system of services for people with developmental disabilities should provide a balanced range of health, social, and supportive services at home or in other residential settings. The receipt of services should be coordinated so as to minimize administrative cost and service duplication, and eliminate unnecessarily complex system organization;

(3) The public interest would best be served by a broad array of services that would support people with developmental disabilities at home or in the community, whenever practicable, and that promote individual autonomy, dignity, and choice;

(4) In Washington state, people living in residential habilitation centers and their families are satisfied with the services they receive, and deserve to continue receiving services that meet their needs if they choose to receive those services in a community setting;

(5) As other care options for people with developmental disabilities become more available, the relative need for residential habilitation center beds is likely to decline. The legislature recognizes, however, that residential habilitation centers will continue to be a critical part of the state's long-term care options; and that such services should promote individual dignity, autonomy, and a home-like environment; and

(6) In a time of fiscal restraint, the state should consider the needs of all persons with developmental disabilities and spend its limited resources in a manner that serves more people, while not compromising the care people require.

NEW SECTION. **Sec. 2.** It is the intent of the legislature that:

(1) Community-based residential services supporting people with developmental disabilities should be available in the most integrated setting appropriate to individual needs; and

(2) An extensive transition planning and placement process should be used to ensure that people moving from a residential habilitation center to a community setting have the services and supports needed to meet their assessed health and welfare needs.

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**Sec. 3.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read as follows:

As used in this title, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Community residential support services," or "community support services," and "in-home services" means one or more of the services listed in RCW 71A.12.040.

(2) "Crisis stabilization services" means services provided to persons with developmental disabilities who are experiencing behaviors that jeopardize the safety and stability of their current living situation. Crisis stabilization services include:

(a) Temporary intensive services and supports, typically not to exceed sixty days, to prevent psychiatric hospitalization, institutional placement, or other out-of-home placement; and

(b) Services designed to stabilize the person and strengthen their current living situation so the person may continue to safely reside in the community during and beyond the crisis period.

(3) "Department" means the department of social and health services.

~~((3))~~ (4) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole determinant of these conditions, and notify the legislature of this action.

~~((4))~~ (5) "Eligible person" means a person who has been found by the secretary under RCW 71A.16.040 to be eligible for services.

~~((5))~~ (6) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy.

~~((6))~~ (7) "Legal representative" means a parent of a person who is under eighteen years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney-at-law, a person's attorney-in-fact, or any other person who is authorized by law to act for another person.

~~((7))~~ (8) "Notice" or "notification" of an action of the secretary means notice in compliance with RCW 71A.10.060.

~~((8))~~ (9) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW.

~~((9))~~ (10) "Respite services" means relief for families and other caregivers of people with disabilities, typically not to exceed ninety days, to include both in-home and out-of-home respite care on an hourly and daily basis, including twenty-four hour care for several consecutive days. Respite care workers provide supervision, companionship, and personal care services temporarily replacing those provided by the primary caregiver of the person with disabilities. Respite care may include other services needed by the client, including medical care which must be provided by a licensed health care practitioner.

(11) "Secretary" means the secretary of social and health services or the secretary's designee.

~~((10))~~ (12) "Service" or "services" means services provided by state or local government to carry out this title.

~~((11))~~ (13) "State-operated living alternative" means programs for community residential services which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports to individuals who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. State-operated living alternatives are operated and staffed with state employees.

(14) "Supported living" means community residential services and housing which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports provided to individuals with disabilities who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. Supported living services are provided under contracts with private agencies or with individuals who are not state employees.

(15) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biennially budgeted capacity.

**Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to read as follows:

(1) This chapter covers the operation of residential habilitation centers. The selection of persons to be served at the centers is governed by chapters 71A.16 and 71A.18 RCW. The purposes of this chapter are: To provide for those ~~((children and adults))~~ persons who are exceptional in their needs for care, treatment, and education by reason of developmental disabilities, residential care designed to develop their individual capacities to their optimum; to provide for admittance, withdrawal and discharge from state residential habilitation centers upon application; and to insure a comprehensive program for the education, guidance, care, treatment, and rehabilitation of all persons admitted to residential habilitation centers.

(2) Effective no later than July 1, 2012, no person under the age of sixteen years may be admitted to receive services at a residential habilitation center. Effective no later than July 1, 2012, no person under the age of twenty-one years may be admitted to receive services at a residential center, unless there are no service options available in the community to appropriately meet the needs of the individual. Such admission is limited to the provision of short-term respite or crisis stabilization services.

**Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the following residential habilitation centers are permanently established to provide services to persons with developmental disabilities: Lakeland Village, located at Medical Lake, Spokane county; Rainier School, located at Buckley, Pierce county; Yakima Valley School, located at Selah, Yakima county; and Fircrest School, located at Seattle, King county ~~((and Frances Haddon Morgan Children's Center, located at Bremerton, Kitsap county))~~.

(2) The Yakima Valley School, located at Selah, Yakima county, shall cease to operate as a residential habilitation center when the conditions in section 6(2)(b) are met.

NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.20 RCW to read as follows:

(1) By December 31, 2011, the department shall:

(a) Close Frances Haddon Morgan residential rehabilitation center and relocate current residents consistent with the requirements of section 7 of this act; and

(b) Establish at least two state operating living alternatives on the campus of the Frances Haddon Morgan center, if residents have

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chosen to receive care in such a setting and subject to federal requirements related to the receipt of federal medicaid matching funds.

(2)(a) Upon the effective date of this section, the department shall not permit any new admission to Yakima Valley School unless such admission is limited to the provision of short-term respite or crisis stabilization services. Except as provided in (b) of this subsection, no current permanent resident of Yakima Valley School shall be required or compelled to relocate to a different care setting as a result of this act.

(b) The Yakima Valley School shall continue to operate as a residential habilitation center until such time that the census of permanent residents has reached sixteen persons. As part of the closure plan, at least two cottages will be converted to state-operated living alternatives, subject to federal requirements related to the receipt of federal medicaid matching funds.

(3) To assure the successful implementation of subsections (1) and (2) of this section, the department, within available funds:

(a) Shall establish state-operated living alternatives to provide community residential services to residential habilitation center residents transitioning to the community under this act who prefer a state-operated living alternative. The department shall offer residential habilitation center employees opportunities to work in state-operated living alternatives as they are established;

(b) May use existing supported living program capacity in the community for former residential habilitation center residents who prefer and choose a supported living program;

(c) Shall continue to staff and operate at Yakima Valley School crisis stabilization beds and respite service beds at the existing bed capacity as of June 1, 2011, for individuals with developmental disabilities requiring such services;

(d) Shall establish up to eight state-staffed crisis stabilization beds and up to eight state-staffed respite beds based upon funding provided in the appropriations act and the geographic areas with the greatest need for those services; and

(e) Shall establish regional or mobile specialty services evenly distributed throughout the state, such as dental care, physical therapy, occupational therapy, and specialized nursing care, which can be made available to former residents of residential habilitation centers and, within available funds, other individuals with developmental disabilities residing in the community.

**NEW SECTION. Sec. 7.** A new section is added to chapter 71A.20 RCW to read as follows:

The department:

(1) May, within sixty days of admission to a residential habilitation center, ensure that each resident's individual habilitation plan includes a plan for discharge to the community;

(2) Shall use a person-centered approach in developing the discharge plan to assess the resident's needs and identify services the resident requires to successfully transition to the community, including:

(a) Engaging families and guardians of residents by offering family-to-family mentoring provided by family members who themselves experienced moving a family member with developmental disabilities from an institution to the community. The department shall contract with the developmental disabilities council to provide mentoring services;

(b) Employees of the residential habilitation centers and the department providing transition planning for residents. To strengthen continuity of care for residents leaving residential habilitation centers, the department shall provide opportunities for residential habilitation center employees to obtain employment in state-operated living alternatives;

(c) Providing choice of community living options and providers, consistent with federal requirements, including offering

to place, with the consent of the resident or his or her guardian, each resident of the residential habilitation center on the appropriate home and community-based waiver, as authorized under 42 U.S.C. Sec. 1396n, and provide continued access to the services that meet his or her assessed needs;

(d) Providing residents and their families or guardians opportunities to visit state-operated living alternatives and supported living options in the community;

(e) Offering residents leaving a residential habilitation center a "right to return" to a residential habilitation center during the first year following their move;

(f) Addressing services in addition to those that will be provided by residential services providers that are necessary to address the resident's assessed needs, including:

(i) Medical services;

(ii) Nursing services;

(iii) Dental care;

(iv) Behavioral and mental health supports;

(v) Habilitation services;

(vi) Employment or other day support; and

(vii) Transportation or other supports needed to assist family and friends in maintaining regular contact with the resident;

(3) Shall assure that, prior to discharge from a residential habilitation center, clients continue to be eligible for services for which they have an assessed need;

(4) Shall maximize federal funding for transitioning clients through the roads to community living grant;

(5) Shall limit the ability of a state-operated living alternative to reject clients;

(6) Shall use any savings achieved through efficiencies to extend services, including state-staffed crisis stabilization and respite services, to people with developmental disabilities currently receiving limited or no services; and

(7)(a) Shall employ the quality assurance process currently in use by the department to monitor the adjustment of each resident who leaves a residential habilitation center; and

(b) Convene a work group to review findings from the quality assurance for people moving process and provide feedback on the transition process. The work group shall include representatives of the developmental disabilities council, disability rights Washington, University of Washington center for human development and disability, providers, and families and advocates of persons with disabilities.

**NEW SECTION. Sec. 8.** A new section is added to chapter 70.02 RCW to read as follows:

(1) A developmental disability service system task force is established.

(2) The task force shall be convened by September 1, 2011, and consist of the following members:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives, from different political caucuses;

(b) Two members of the senate appointed by the president of the senate, from different political caucuses;

(c) The following members appointed by the governor:

(i) Two advocates for people with developmental disabilities;

(ii) A representative from the developmental disabilities council;

(iii) A representative of families of residents in residential habilitation centers;

(iv) Two representatives of labor unions representing workers who serve residents in residential habilitation centers;

(d) The secretary of the department of social and health services or their designee; and

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(e) The secretary of the department of general administration or their designee.

(3) The members of the task force shall select the chair or cochairs of the task force.

(4) Staff assistance for the task force will be provided by legislative staff and staff from the agencies listed in subsection (2) of this section.

(5) The task force shall make recommendations on:

(a) The development of a system of services for persons with developmental disabilities that is consistent with the goals articulated in section 1 of this act;

(b) The state's long-term needs for residential habilitation center capacity, including the benefits and disadvantages of maintaining one center in eastern Washington and one center in western Washington;

(c) A plan for efficient consolidation of institutional capacity, including whether one or more centers should be downsized or closed and, if so, a time frame for closure;

(d) Mechanisms through which any savings that result from the downsizing, consolidation, or closure of residential habilitation center capacity can be used to create additional community-based capacity;

(e) Strategies for the use of surplus property that results from the closure of one or more centers;

(f) Strategies for reframing the mission of Yakima Valley School consistent with this act that consider:

(i) The opportunity, where cost-effective, to provide medical services, including centers of excellence, to other clients served by the department; and

(ii) The creation of a treatment team consisting of crisis stabilization and short-term respite services personnel, with the long-term goal of expanding to include the provisions of specialty services such as dental care, physical therapy, occupational therapy, and specialized nursing care to individuals with developmental disabilities residing in the surrounding community.

(6) The task force shall report their recommendations to the appropriate committees of the legislature by December 1, 2012.

**Sec. 9.** RCW 71A.18.040 and 1989 c 175 s 142 are each amended to read as follows:

(1) A person who is receiving a service under this title or the person's legal representative may request the secretary to authorize a service that is available under this title in place of a service that the person is presently receiving.

(2) The secretary upon receiving a request for change of service shall consult in the manner provided in RCW 71A.10.070 and within ninety days shall determine whether the following criteria are met:

(a) The alternative plan proposes a less dependent program than the person is participating in under current service;

(b) The alternative service is appropriate under the goals and objectives of the person's individual service plan;

(c) The alternative service is not in violation of applicable state and federal law; and

(d) The service can reasonably be made available.

(3) If the requested alternative service meets all of the criteria of subsection (2) of this section, the service shall be authorized as soon as reasonable, but not later than one hundred twenty days after completion of the determination process, unless the secretary determines that:

(a) The alternative plan is more costly than the current plan;

(b) Current appropriations are not sufficient to implement the alternative service without reducing services to existing clients; or

(c) Providing alternative service would take precedence over other priorities for delivery of service.

(4) The secretary shall give notice as provided in RCW 71A.10.060 of the grant of a request for a change of service. The secretary shall give notice as provided in RCW 71A.10.060 of denial of a request for change of service and of the right to an adjudicative proceeding.

(5)(a) When the secretary has changed service from a residential habilitation center to a setting other than a residential habilitation center, the secretary shall reauthorize service at the residential habilitation center if the secretary in reevaluating the needs of the person finds that the person needs service in a residential habilitation center.

(b) A person who has moved from a residential habilitation center that has closed to a community-based setting shall be offered a right to return to a residential habilitation center during the first year following their move to the community.

(6) If the secretary determines that current appropriations are sufficient to deliver additional services without reducing services to persons who are presently receiving services, the secretary is authorized to give persons notice under RCW 71A.10.060 that they may request the services as new services or as changes of services under this section.

**Sec. 10.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to read as follows:

(1) Whenever in the judgment of the secretary, the treatment and training of any resident of a residential habilitation center has progressed to the point that it is deemed advisable to return such resident to the community, the secretary may grant placement on such terms and conditions as the secretary may deem advisable after consultation in the manner provided in RCW 71A.10.070. The secretary shall give written notice of the decision to return a resident to the community as provided in RCW 71A.10.060. The notice must include a statement advising the recipient of the right to an adjudicative proceeding under RCW 71A.10.050 and the time limits for filing an application for an adjudicative proceeding. The notice must also include a statement advising the recipient of the right to judicial review of an adverse adjudicative order as provided in chapter 34.05 RCW.

(2) A placement decision shall not be implemented at any level during any period during which an appeal can be taken or while an appeal is pending and undecided, unless authorized by court order so long as the appeal is being diligently pursued.

((The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the specific placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement.))

**NEW SECTION. Sec. 11.** A new section is added to chapter 71A.20 RCW to read as follows:

Beginning November 1, 2012, and annually thereafter, the department shall submit information to the appropriate committees of the legislature regarding persons who have transitioned from residential habilitation centers to the community, for the first two years following each person's new placement, including:

(1) Progress toward meeting the requirements of this act;

(2) Client and guardian satisfaction with services;

(3) Stability of placement and provider turnover, including information on returns to a residential habilitation center under section 7(2)(e) of this act;

(4) Safety and health outcomes;

(5) Types of services received by clients transitioned to the community; and

(6) Continued accessibility of former residents to family.

**Sec. 12.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to read as follows:

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(1) The developmental disabilities community trust account is created in the state treasury. All net proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study or other studies of the division of developmental disabilities residential habilitation centers ((~~at Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center, and Rainier school~~)) that would not impact current residential habilitation center operations must be deposited into the account.

(2) Proceeds may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property, except as permitted under section 7 of this act.

(3) "Excess property" includes that portion of the property at Rainier school previously under the cognizance and control of Washington State University for use as a dairy/forage research facility.

(4) Only investment income from the principal of the proceeds deposited into the trust account may be spent from the account. For purposes of this section, "investment income" includes lease payments, rent payments, or other periodic payments deposited into the trust account. For purposes of this section, "principal" is the actual excess land from which proceeds are assigned to the trust account.

(5) Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

(6) The account shall be known as the Dan Thompson memorial developmental disabilities community trust account.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 15. Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2011."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5459.

Senator Hargrove spoke in favor of the motion.

Senator Chase spoke against the motion.

PARLIAMENTARY INQUIRY

Senator Stevens: "I have four orders of consideration and I find this bill on none of them. Have I missed one of the orders of consideration sheets or can somebody...?"

REPLY BY THE PRESIDENT

President Owen: "No, they're not on the orders of consideration. It's on the concurrence calendar."

Senator Roach spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5459.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5459 by voice vote.

Senators Hargrove, King and Kline spoke in favor of passage of the bill.

Senators Roach and Chase spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5459, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5459, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Brown, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Kastama, Keiser, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baxter, Becker, Carrell, Chase, Conway, Honeyford, Kilmer, Morton, Pridemore, Roach, Rockefeller, Schoesler and Sheldon

Excused: Senators Benton, Hobbs, Nelson and Shin

SECOND SUBSTITUTE SENATE BILL NO. 5459, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Tom as to the application of Initiative Number 1053 to Engrossed Substitute Senate Bill 5942 as amended by the House, the President finds and rules as follows:

As Sen. Tom states, this bill privatizes the distribution of liquor within the state. In part, it requires that the state issue a Request for Proposal regarding such distribution. Section 2 of the bill requires that any person responding to that RFP must provide a variety of information, including a description of any "changes to retail profits generated as a result of the lease or contract." In essence, Sen. Tom's argument is that, to the extent that the contract changes the amounts paid by retail establishments, the contract will result in increased taxes paid by those establishments.

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It is possible that Senator Tom is correct: the contract may alter the prices paid by retail establishments, and this could have a corresponding impact on prices paid by consumers. If retail prices are increased, then an argument can be made that taxes have increased through passage of this bill. This is not, however, the only possible outcome. It is possible that there will be no change; it is possible that changes at the wholesale level will not be passed on to consumers; it is even possible that efficiencies utilized by a private distributor could result in lower consumer prices. However, as the President has previously stated, on a challenge made to a prior bill involving the sale of liquor: "it is not possible, at this point in time, to determine with precision which scenario will ultimately come to pass." (Ruling re ESHB 1087; April 18, 2011.)

Each potential outcome depends on several factors: the nature and content of each response to the RFP, the market for the sale of liquor, and the actual contract, if any, entered into by the state. Each of these actions will occur outside of the legislature, and the provisions of I-1053 are triggered only by legislative action.

For these reasons, only a constitutional majority vote of twenty-five is necessary and Senator Tom's point is not well-taken."

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5942 which had been deferred earlier in the day.

Senators Sheldon and Tom spoke against passage of the bill. Senator Zarelli spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5942, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5942, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 26; Nays, 19; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Brown, Carrell, Conway, Delvin, Eide, Fain, Harper, Hatfield, Hewitt, Honeyford, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Pflug, Ranker, Regala, Rockefeller, Schoesler, White and Zarelli

Voting nay: Senators Baxter, Becker, Chase, Ericksen, Fraser, Hargrove, Haugen, Hill, Holmquist Newbry, Kastama, Morton, Parlette, Prentice, Pridemore, Roach, Sheldon, Stevens, Swecker and Tom

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5942, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through May 25, 2011."

The President declared the question before the Senate to be the motion by Senator Eide to limit debate.

The motion by Senator Eide carried and debate was limited through May 25, 2011 by voice vote.

#### PERSONAL PRIVILEGE

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Senator Eide: "Well, I just want to apologize to Senator Kohl-Welles for yesterday because I did state the rule wrong. So, Jeanne I am sorry."

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346, by House Committee on Ways & Means (originally sponsored by Representative Hunter)

Making tax law changes that do not create any new or broaden any existing tax preferences as defined in RCW 43.136.021 or increase any person's tax burden.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1346 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1346.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1346 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 0; Absent, 2; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senators Kline and Pridemore

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE JOINT MEMORIAL NO. 8011, by Senators Swecker, Morton, Ranker, Haugen, Rockefeller, Pridemore and White

Regarding runoff from dams on the Snake and Columbia rivers and the impact on the state's fish resources.

The measure was read the second time.

#### MOTION

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On motion of Senator Swecker, the rules were suspended, Senate Joint Memorial No. 8011 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Swecker, Ranker, Parlette, Rockefeller and Morton spoke in favor of passage of the memorial.

MOTION

On motion of Senator White, Senators Kline and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8011.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8011 and the memorial passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton, Hobbs, Nelson and Shin

SENATE JOINT MEMORIAL NO. 8011, having received the constitutional majority, was declared passed.

SECOND READING

SENATE BILL NO. 5091, by Senators Keiser and Shin

Delaying the implementation of the family leave insurance program.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 5091 was substituted for Senate Bill No. 5091 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Holmquist Newbry moved that the following striking amendment by Senators Holmquist Newbry and Keiser be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.86.030 and 2009 c 544 s 1 are each amended to read as follows:

Beginning October 1, ~~((2012))~~2015, family leave insurance benefits are payable to an individual during a period in which the individual is unable to perform his or her regular or customary work because he or she is on family leave if the individual:

(1) Files a claim for benefits in each week in which the individual is on family leave, and as required by rules adopted by the director;

(2) Has been employed for at least six hundred eighty hours in employment during the individual's qualifying year;

(3) Establishes an application year. An application year may not be established if the qualifying year includes hours worked before establishment of a previous application year;

(4) Consents to the disclosure of information or records deemed private and confidential under chapter 50.13 RCW. Initial disclosure of this information and these records by the employment security department to the department is solely for purposes related to the administration of this chapter. Further disclosure of this information or these records is subject to RCW 49.86.020(3);

(5) Discloses whether or not he or she owes child support obligations as defined in RCW 50.40.050; and

(6) Documents that he or she has provided the employer from whom family leave is to be taken with written notice of the individual's intention to take family leave in the same manner as an employee is required to provide notice in RCW 49.78.250.

Sec. 2. RCW 49.86.210 and 2009 c 544 s 2 are each amended to read as follows:

Beginning September 1, ~~((2013))~~ 2016, the department shall report to the legislature by September 1st of each year on projected and actual program participation, premium rates, fund balances, and outreach efforts."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Holmquist Newbry spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Holmquist Newbry and Keiser to Substitute Senate Bill No. 5091.

The motion by Senator Holmquist Newbry carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "49.86.030", strike the remainder of the title and insert "and 49.86.210."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 5091 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5091.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5091 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Parlette, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Absent: Senator Pflug

Excused: Senators Benton, Hobbs, Nelson and Shin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## PERSONAL PRIVILEGE

Senator Rockefeller: “Thank you Mr. President. Over the years I’ve learned that there are very few lasting secrets here in Olympia and sometimes rumors are true. Well this is one of those times. I’m deeply honored and humbled by the action of Governor Gregoire who yesterday appointed me to the Northwest Power and Conservation Council and I wish to thank the Governor for extending this opportunity to me which I’m pleased to accept. In that role I look forward to addressing a host of energy issues that are important to our state and its consumers and businesses. I also look forward to working on the issues of the fish and wildlife in the Columbian Snake River system and the interplay between energy and the stewardship of those resources. The very issue that Senator Swecker brought to our attention this afternoon symbolizes what those issues are like and how difficult they can be. There are no easy answers, we just manage those problems to the best of our ability. Extinction is not an option and I expect that addressing these issues will be just as challenging at the Council as they have been here in the Legislature. At the same time Mr. President, I’ve had to recognize that this appointment will bring to a close my service. So, it’s with distinctly mixed emotions that I must advise you that I will be leaving the Senate. The work of the Senate is never done but my work here is concluding and I know that everyone that’s served here understands that there must be an end point for our service whenever it begins but seldom do we hold that foremost in our minds. And yet now that that moments approaches for me I’m saddened indeed by that prospect and I know I will remember and miss this strong sense of family that connects the members of this body and offer support and caring to every one of us in times of stress or events of loss and challenge. I’ve seen it personally some three years ago when I fell from the roof of my home and out pouring of support and that meant a great deal to me and I wish to thank you again for that kindness and I know I will remember and miss the unity amidst the diversity here that shines forth in this body when we are faced with hardship or emergency conditions. In fact, years from now I think this Legislature and this Senate will go down in history as one of the best ever and the reason is the Senate exceeded everyone’s expectation including our own by coming together, rising together as a body to the challenges that we faced building a balanced budget and passing the NTIBs and some important policy bills along the way. I think the senate can be enormously powerful when it works in that manner and I hope we can learn from this experience and carry on in that tradition. Mr. President, I personally will miss those occasional suspenseful rulings from the President that you deliver on parliamentary questions. I may be the only member of this body who has a personal copy of the annotated rulings of the Lieutenant Governor Brad Owen. In fact, when I asked Mike Hoover for something like this he said, ‘It’s never been printed before’ So, it may not be a best seller, it may not be best seller Mr. President but and it does have its moments, well not passion but wisdom. So, I hope you will autograph my copy. It might someday be a hot item on Ebay. And to the members of the senate, my colleagues here and to the remarkable staff who have kept us functional and informed, may I say how much, how much I have treasured working here and being part of the process. It is a joy working with you. I love the give and take. I like the diversity of views and experience and the views and proposals that are articulated here by just about everyone. I’ve loved listening to the floor debates and the sometimes heartfelt eloquent and occasionally humorous speeches. Most of the time I love committee hearings and executive sessions even though Ways &

Means can go on and on and on. I’ve appreciated as well the candid caucus discussions and the bill reviews that we’ve had in our caucus. And I guess you could say I love this institution and what it stands for and the people that keep in humming and alive and functional. We are blessed to participate in the life of this wonderful body. I love the dignity of these marbled chambers. I love the morning flag ceremony. I love the way the American flag is fluffed a little bit after it’s been posted. It’s a sign of respect and love of the United States. And like so many of you I take inspiration from the opening prayers, reflections, especially from fellow legislators. Our Washington State experiment and self-government in a representative democracy with citizen legislators like ourselves is an amazing blend of personal values, life experience, advocacy and compromise all in the ongoing search for the public good. It’s not perfect but it does work and I cherish the process and all of you and I respect the outcomes. Well, now it’s time for me to conclude Mr. President. I will hold all of you in my heart and I wish you all farewell. Thank you.”

## PERSONAL PRIVILEGE

Senator Delvin: “Well, thank you Mr. President. I want to tell the good Senator, Phil Rockefeller that I’ll certainly miss him. The time on our committee, I don’t know how many times you changed that name of that committee just to keep me confused but I appreciate that. I will miss that ‘You’re out of order, Senator Delvin,’ I’ll certainly miss our time on climate change. I think in another year I would have had you convinced it was all a fraud to begin with. I needed just one more year for that. I think I would have had you. But seriously Phil, certainly going to miss you and the discussions we had on that committee and I appreciate your service to your districts constituents but also to the people of the state of Washington and I hope we’ll keep in contact now and then in your new position. Thank you.”

## PERSONAL PRIVILEGE

Senator Roach: “Thank you Mr. President. I just want to thank Phil. You know ladies and gentlemen of the senate, this is a real gentleman. This is a person that treats a person fairly and honestly. I can’t think of anyone that the Governor could of picked a more aptly to begin service on this new assignment that you have and I wish you well. I wish that we could attain the kind of level of respect that you have for every individual and the way you treat people is beyond. I’ve been treated pretty badly in some places so I really do respect and admire someone that treats an individual fairly and with respect. Thank you Senator for your good service. We will miss you.”

## PERSONAL PRIVILEGE

Senator Kilmer: “Thank you Mr. President. Well, I wanted to rise and also express my gratitude to Senator Rockefeller. You know I’m grateful for three things: first, I’m grateful as a father for the difference he has made in the lives of my kids and all kids in our state; for his championship when it comes to environmental issues. We know that our kids are only as safe as the water they drink and the air they breathe and the earth that we will pass on to them and he has made a difference in their lives and also for his championship on education issues. He’s someone who understands that as Benjamin Franklin wrote two and half centuries ago, ‘An investment in knowledge pays the greatest interest’ and he has fought to make sure that their future was brighter. I’m grateful to him, secondly, as a fellow legislator from Kitsap County who understands how passionately and

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thoughtfully he has fought for his constituents over the years when it comes to ferry issues and other local issues. He is a fighter for his constituents and that is something I think that all of us are grateful for and all of us will miss. And, finally, I am grateful to him simply as a friend, you know Senator Roach used the word gentleman and as I was thinking about what to say that was the first word that I thought of. Senator Rockefeller is a true gentleman. He has good humor, he mentioned his fall from his roof a few years back and even I think even with a broken pelvis I think he's a better dancer than I am. Feels a little weird to talk about his pelvis on the floor of the senate but he really is quite a fine dancer. I think all of us will miss the collegiality and good humor that he brings to this body and I want to thank you for your service to our community and I'm sure we'll be in touch."

## PERSONAL PRIVILEGE

Senator Hargrove: "Thank you Mr. President. A couple of things that I think of first most, or first most, first he's eloquent unlike me but the thing I think of most often is how thoughtful and analytically he is as he goes through every issue because I know that I've come to him with issues that probably his perspective would have generically said, 'Nah, I'm not with you on that' but as he thoughtfully goes through every issue and looks at it and I think the trial lawyers regret that as a matter of fact. A couple years ago, as we started to get in deep into some of these liability issues and he had a very thoughtful look at it and came up with some solutions that were very creative. Another thing I remember is few years ago when we were doing the mental health legislation and he got up and gave a speech and basically said, 'You know, the ships leaving and we need to follow Captain Hargrove on this one.' I will always forever remember that. Your trust with people that have worked on things and again having looked through every little piece of it and saw that it actually made sense. I think that if we did a training video on what a Senator should be like we could just take a video of Senator Rockefeller and because of his thoughtfulness, analytical nature, willingness to think maybe outside the box, to be courteous, to keep his word. I think those are all the things that are exactly what he's like and actually what we all ought to be like but I think we could look to him and see that. And another thing I'd like to say, we do need to confirm you so I hope your counting votes in your last few hours here but I don't think there will be any problems, in fact, I'll be glad to speak on that behalf when it comes up. Thanks for serving the state of Washington and thanks for being my colleague here in the Senate. Thank you."

## PERSONAL PRIVILEGE

Senator Eide: "Thank you Mr. President. Well, Senator Rockefeller has been my right wing man and he has had my back and I have absolutely loved his personality, his trustworthiness and his legal mind and I don't know what I'm going to do without you. Promise me you will never get up on a ladder again to clean your gutters. I tell you my heart went up to my throat. My husband in fact, I think we bought you a shirt and I can't remember about gravity or something about gravity, yes. We both thought, 'What in the world is he doing up there cleaning his gutters.' The next time you need somebody to do, call me, I'll hire someone for you. It's the fine people that we work and serve with down here that makes it fun. When times are tough and you wonder how you're going to make it through the day and you know you turn around and you look at a fine gentleman that I know I can trust to have my back. Man, you can cut a rug. I am going to miss those dances because my husband doesn't dance."

So, I'm going to have to call you every once in a while to come be my partner. The very best to you, God Bless you."

## PERSONAL PRIVILEGE

Senator Nelson: "When I was elected to the Senate Senator Rockefeller reached out to me and we already started discussing environmental issues and I truly have been honored and privileged to serve as his Vice Chair on his Environment, Water and Energy. I'd say in working with him, I have two words for him, he's a statesman and he is a gentleman. He has given me more time to serve a chair while he worked over different issues than any chair I've ever seen work with Vice Chair. I will truly miss you Phil. It has been a wonderful, wonderful time for me but I'm very pleased you're getting the appointment that you are because you deserve it. We will miss you but congratulations."

## PERSONAL PRIVILEGE

Senator Sheldon: "Well thank you Mr. President. Senator Rockefeller, we all are going to miss you a lot here and we both represent parts of Kitsap County. It's been a pleasure dealing with you and working with our constituents. You've always been up front, honest, well-spoken, a real example. I think also the Governor's made an excellent appointment to the Pacific Northwest Power and Conservation Council. There's only I think eight people on that board? If people don't know, two from each state, one from the east side of Washington, one from the west side of Washington. You are the perfect person for that role. You're an inquisitive mind, your abilities and I think the people of the state of Washington will be served very, very well. One thing else that I want to mention: If you've had, any member, if you've ever had the opportunity to sit down with Senator Rockefeller and his lovely wife and have dinner, have a conversation. You can tell what a special bond they have. How close they are. How well they work together. It's very exceptional. I must compliment you on what seems to me to be a very, very good marriage. Thank you."

## PERSONAL PRIVILEGE

Senator Fraser: "Well, thank you Mr. President. Well, I too would like to rise to congratulate Senator Rockefeller and also to thank the Governor for her wisdom in selecting such a highly capable person to be in this very, very significant role where you'll be playing a role in the big picture future of the Pacific Northwest. You are so qualified for this and some people talk about 'serving on the committee.' You know when you've been chair of a committee, when I chaired this committee for a number of years, you know issues never leave you. And I stayed on the committee so I have watched Senator Rockefeller, worked with him closely on a committee, and I must say he is truly a person of vision, who looks down the road in the future on a comprehensive basis. He always makes sure he is well educated on an issue. He's polite to everybody and that is sometimes a challenge around here. He is a person of courage and a person of high ethical standards and a person of determination that goes along with his vision. And so we have a lot of legislation here in the state of Washington that we wouldn't have if it had not been for the leadership of Senator Rockefeller. So, I think this is a perfect appointment. I am excited for you and am very pleased for the Pacific Northwest and the nice thing is we'll all still be interacting with you to one degree or the other and it will be fun when you come before your old committee for an appointment confirmation."

## PERSONAL PRIVILEGE

Senator Ericksen: “Thank you Mr. President. As a fellow member of the class of 1999 from the House of Representatives, I’d like to say congratulations on your new appointment and people have spoken tonight to your statesmanship, your dancing ability but you also have to remember that back in the day he had a mean hook shot on the basketball court also when we’d go out and play. What was interesting about it was he was old school there. I’m not sure if it was the Chuck Taylor’s or not but it was the classic old school hook shot and I think what it really speaks to, in a way, is your old school attitude here in the Legislature, the dignity and decorum and the way that you carry yourself here in the body. It will be missed by all of us here so. I know we haven’t shot too many hook shots lately on the basketball court but it definitely carries over in how you conduct yourself here and the way you’ve done it all these years since 1999. Thank you for your service and congratulations.”

## PERSONAL PRIVILEGE

Senator Swecker: “Thank you Mr. President. Senator Rockefeller, I certainly hate to see you go but I’ve had some great experiences with you and I think one of those was hearkening back to our service on the Permitting, Efficiency and Accountability committee where we worked to streamline permits, I have to admit that wasn’t anything quite so much fun as being on, a group with really smart people in a room trying to solve problems and you certainly were one of those. In fact, I have to remember that I was so impressed by that process that I enrolled in the master’s program at Evergreen in environmental studies. Before that nobody could of accused me of being an environmentalists so, I really enjoyed our experience together. One of the things that I enjoyed too was OUR trip back to Washington D. C. where you took me to visit your friend at NPR radio and I got a tour there of that area. So, it’s been a great experience and I also want to thank you for your leadership this year in dealing with the coal fire plant in the Lewis County area. It could have been much different without your leadership and I thank you for that. So, Godspeed and Lord be with you.”

## PERSONAL PRIVILEGE

Senator Pflug: “Thank you Mr. President. Well, I too will be left with some very good memories of working with this gentleman. Particularly I remember being new in the Senate and trying to negotiate some education bills and what a terrific help you were and what a stabilizing presence in some very difficult negotiations. I remember the dedication continuing into the interim and one particular meeting while we were both trying to represent our districts and everyone was driving through a few inches of snow, do you remember that meeting? We did come to some good conclusions and over a period of several years, I’ve really appreciated being able to work. I think my first experience of really good by-partisan and senate verses the house kind of outcome. So as I was listening to everyone come up with the same adjectives over and over I was thinking I agree and actually if they were to make a movie of your life I’m sure it would be an honorable and a gentleman. So, good luck, you certainly deserve to have a great retirement from this place. Everyone should eventually do that but we will miss you terribly. Thank you.”

## PERSONAL PRIVILEGE

Senator McAuliffe: “Thank you Mr. President. I would just like to say Senator, you asked to be on the education committee this year. You passionately wanted to serve. You served with thoughtfulness, with care and concern for every one of the one million children in our K-12 education system. They have benefited. Their lives are different because you cared, you took steps both in the house and the senate to make a difference in their lives. This is one of our toughest times in all my years of service and that is eighteen because we have had to make some drastic cuts that hurt our schools, our health care, our families and our children but you have done that with courage and I cannot say all this without recognizing this that in the wings behind every good man is a good woman, a better woman, and could we ask you to step out and also be recognized. Thank you. Thank you Mr. President.”

## PERSONAL PRIVILEGE

Senator Kohl-Welles: “Thank you Mr. President. Although the last tribute is probably an appropriate ending I can’t resist speaking as well. I have been fortunate to be the next door neighbor of Senator Rockefeller in terms of our office locations and we’ve had a litany of wonderful describers of this gentleman’s personal attributes, his talents just absolutely stellar but I think it’s also important to know that he’s a very good listener. When I’ve had to vent he’s been there willing to listen to me which is sometimes very important around here. But it’s also something that I cherish in him that he takes risks. He comes out for controversial positions on things that some people just won’t do and may not always be easy in his district and I really appreciated that. And lastly, it’s also important that we’re not ending with what he brought forward in his personal and very compelling and moving statement to all of us tonight but he’s having a party and sometime tonight outside of our offices and conference room 211, Senator Rockefeller and his wife, Anita, have spearheaded a party. And I hope that you all come by because that’s part of the real Senator Rockefeller too.”

## PERSONAL PRIVILEGE

Senator Ranker: “Phil, I began working with you before I was in the Senate on the creation of the Puget Sound Partnership and it was at that point I saw the statesmanship in you, the leadership qualities in you and really enjoyed that time. Since being here in the Senate getting to work with you on the environment committee on environmental issues but also on educational issues and just leadership issues for our state has been a wonderful opportunity for me and so with that I will miss you deeply in this body and I think your contribution to this state has been magnificent. Thank you.”

## REMARKS BY THE PRESIDENT

President Owen: “Senator Rockefeller you have served with great dignity and professionalism. It has been a real honor for me also to serve with you. I wish you the best in your new endeavor. I would like to give you some advice, if in fact you are having trouble sleeping, pull out my rulings, they’ll put you right to sleep.”

## MOTION

At 6:08 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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and the same are herewith transmitted.

The Senate was called to order at 7:37 p.m. by President Owen.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

MESSAGE FROM THE HOUSE

The President signed:  
 SECOND SUBSTITUTE SENATE BILL 5459,  
 ENGROSSED SUBSTITUTE SENATE BILL 5942.

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MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MR. PRESIDENT:  
 The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5931 with the following amendment(s): 5931-S.E AMH HUDG H2911.2

Strike everything after the enacting clause and insert the following:

MESSAGE FROM THE HOUSE

**"PART I**

**DEPARTMENT OF ENTERPRISE SERVICES CREATED**

May 25, 2011

MR. PRESIDENT:  
 The House has passed:  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5860.  
 and the same is herewith transmitted.

NEW SECTION. Sec. 101. To maximize the benefits to the public, state government should be operated in an efficient and effective manner. The department of enterprise services is created to provide centralized leadership in efficiently and cost-effectively managing resources necessary to support the delivery of state government services. The mission of the department is to implement a world-class, customer-focused organization that provides valued products and services to government and state residents.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

NEW SECTION. Sec. 102. A new section is added to chapter 43.19 RCW to read as follows:

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MR. PRESIDENT:  
 The Speaker has signed:  
 SUBSTITUTE SENATE BILL 5181,  
 SECOND ENGROSSED SUBSTITUTE SENATE BILL 5742,  
 ENGROSSED SUBSTITUTE SENATE BILL 5749,  
 SECOND ENGROSSED SENATE BILL 5764,  
 ENGROSSED SUBSTITUTE SENATE BILL 5891.  
 and the same are herewith transmitted.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

(1) "Department" means the department of enterprise services.

(2) "Director" means the director of enterprise services.

May 25, 2011

MR. PRESIDENT:  
 The Speaker has signed:  
 HOUSE BILL 1131,  
 SECOND SUBSTITUTE HOUSE BILL 1132,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1548,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1981,  
 ENGROSSED HOUSE BILL 2003,  
 SUBSTITUTE HOUSE BILL 2119.  
 and the same are herewith transmitted.

NEW SECTION. Sec. 103. A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of enterprise services is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this act and such other powers and duties as may be authorized by law.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

(2) In addition to the powers and duties as provided in this act, the department shall:

(a) Provide products and services to support state agencies, and may enter into agreements with any other governmental entity or a public benefit nonprofit organization, in compliance with RCW 39.34.055, to furnish such products and services as deemed appropriate by both parties. The agreement shall provide for the reimbursement to the department of the reasonable cost of the products and services furnished. All governmental entities of this state may enter into such agreements, unless otherwise prohibited; and

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MR. PRESIDENT:  
 The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
 ENGROSSED SUBSTITUTE HOUSE BILL 2082,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2088.

(b) Make available to state, local, and federal agencies, local governments, and public benefit nonprofit corporations on a full cost-recovery basis information and printing services to include equipment acquisition assistance, including leasing, brokering, and establishing master contracts. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

NEW SECTION. Sec. 104. A new section is added to chapter 43.19 RCW to read as follows:

(1) The executive powers and management of the department shall be administered as described in this section.

(2) The executive head and appointing authority of the department is the director. The director is appointed by the

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governor, subject to confirmation by the senate. The director serves at the pleasure of the governor. The director is paid a salary fixed by the governor in accordance with RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(3) The director may employ staff members, who are exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The director may delegate any power or duty vested in him or her by this act or other law, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW.

(4) The internal affairs of the department are under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director has complete charge and supervisory powers over the department. The director may create the administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

(5) Until June 30, 2018, at the beginning of each fiscal biennium, the office of financial management shall conduct a review of the programs and services that are performed by the department to determine whether the program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. In conducting this review, the office of financial management shall:

(a) Examine the existing activities currently being performed by the department, including but not limited to an examination of services for their performance, staffing, capital requirements, and mission. Programs may be broken down into discrete services or activities or reviewed as a whole; and

(b) Examine the activities to determine which specific services are available in the marketplace and what potential for efficiency gains or savings exist.

(i) As part of the review in this subsection (5), the office of financial management shall select up to six activities or services that have been determined as an activity that may be provided by the private sector in a cost-effective and efficient manner, including for the 2011-2013 fiscal biennium the bulk printing services. The office of financial management may consult with affected industry stakeholders in making its decision on which activities to contract for services. Priority for selection shall be given to agency activities or services that are significant, ongoing functions.

(ii) The office of financial management must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(iii) For each of the selected activities, the department shall use a request for information, request for proposal, or other procurement process to determine if a contract for the activity would result in the activity being provided at a reduced cost and with greater efficiency.

(iv) The request for information, request for proposal, or other procurement process must contain measurable standards for the performance of the contract.

(v) The department may contract with one or more vendors to provide the service as a result of the procurement process.

(vi) If the office of financial management determines via the procurement process that the activity cannot be provided by the private sector at a reduced cost and greater efficiency, the department of enterprise services may cancel the procurement

without entering into a contract and shall promptly notify the legislative fiscal committees of such a decision.

(vii) The department of enterprise services, in consultation with the office of financial management, must establish a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards. No contracts may be renewed without a review of these measures.

(viii) The office of financial management shall prepare a biennial report summarizing the results of the examination of the agency's programs and services. In addition to the programs and services examined and the result of the examination, the report shall provide information on any procurement process that does not result in a contract for the services. During each regular legislative session held in odd-numbered years, the legislative fiscal committees shall hold a public hearing on the report and the department's activities under this section.

(ix) The joint legislative audit and review committee shall conduct an audit of the implementation of this subsection (5), and report to the legislature by January 1, 2018, on the results of the audit. The report must include an estimate of additional costs or savings to taxpayers as a result of the contracting out provisions.

**NEW SECTION. Sec. 105.** (1) The department of enterprise services has powers and duties related to state contracting as provided in chapters 43.19 and 39.29 RCW. The process and procedures in each chapter differ from each other in many respects. In addition, the process and procedures may not represent the best practices for the agency or the public.

(2) In order to effect reform and consolidation of procurement practices, the department shall review current state procurement practices, not including public works, and provide a report to the governor with procurement reform recommendations. The department should review national best practices and the procedures used in other states and by the federal government. The department may also review private sector procedures and model codes such as the American bar association model procurement code. The department shall seek input from stakeholders and interested parties. The department shall submit a report to the governor and the office of financial management by December 31, 2011. The report shall include any draft legislation needed to accomplish the report's recommendations.

**NEW SECTION. Sec. 106.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, this chapter does not apply in the department of enterprise services to the director, the director's confidential secretary, deputy and assistant directors, and any other exempt staff members provided for in section 104 of this act.

**Sec. 107.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of (~~general administration~~) enterprise services, (9) the department of commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with

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such powers and required to perform such duties, as the legislature may provide.

**Sec. 108.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of ~~((general administration))~~ enterprise services, (9) the director of commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

**Sec. 109.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, ~~((the director of general administration,))~~ the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, ~~((the director of the department of information services,))~~ the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, ~~((the director of personnel,))~~ the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, ~~((information services board,))~~ state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, liquor control board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

**Sec. 110.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the chief information officer of the office of chief information officer, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of ~~((general administration))~~ enterprise services, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the human resources director, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, ~~((the director of the department of information services,))~~ the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, ~~((the director of personnel,))~~ the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College,

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and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, ~~((information services board,))~~ recreation and conservation funding board, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearings board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

**NEW SECTION. Sec. 111.** Section 109 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 112.** Section 110 of this act expires January 1, 2012.

## PART II POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF GENERAL ADMINISTRATION

**Sec. 201.** RCW 43.19.011 and 1999 c 229 s 2 are each amended to read as follows:

(1) The director of ~~((general administration))~~ enterprise services shall supervise and administer the activities of the department of ~~((general administration))~~ enterprise services and shall advise the governor and the legislature with respect to matters under the jurisdiction of the department.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Appoint ~~((a))~~ deputy ~~((director))~~ and ~~((such))~~ assistant directors and such other special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; ~~((and))~~

(f) Apply for grants from public and private entities, and receive and administer any grant funding received for the purpose and intent of this chapter; and

(g) Perform other duties as are necessary and consistent with law.

(3) The director may establish additional advisory groups as may be necessary to carry out the purposes of this chapter.

~~((4))~~ The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.)

**Sec. 202.** RCW 43.19.025 and 2002 c 332 s 3 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account is created in the custody of the state treasurer and shall be used for all activities previously budgeted and accounted for in the following internal service funds: The motor transport account, the ~~((general administration))~~ enterprise services management fund, the ~~((general administration))~~ enterprise services facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, and the energy efficiency services account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW.

**Sec. 203.** RCW 43.19.035 and 2005 c 16 s 1 are each amended to read as follows:

(1) The commemorative works account is created in the custody of the state treasurer and shall be used by the department of ~~((general administration))~~ enterprise services for the ongoing care, maintenance, and repair of commemorative works on the state capitol grounds. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not necessary for expenditures.

(2) For purposes of this section, "state capitol grounds" means buildings and land owned by the state and otherwise designated as state capitol grounds, including the west capitol campus, the east capitol campus, the north capitol campus, the Tumwater campus, the Lacey campus, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake.

**Sec. 204.** RCW 43.19.125 and 2007 c 520 s 6014 are each amended to read as follows:

(1) The director of ~~((general administration, through the division of capitol buildings,))~~ enterprise services shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials.

(2) During the 2007-2009 biennium, responsibility for development of the "Wheeler block" on the capitol campus as authorized in section 6013, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the

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department of information services. ~~((The department of general administration and the department of information services shall develop a joint operating agreement for the new facilities on the "Wheeler block" and provide copies of that agreement to the appropriate committees of the legislature by December 30, 2008.~~

~~(3) During the 2007-2009 biennium, responsibility for development of the Pritchard building rehabilitation on the capitol campus as authorized in section 1090, chapter 520, Laws of 2007 shall be transferred from the department of general administration to the statute law committee.))~~

**Sec. 205.** RCW 43.19.180 and 2009 c 549 s 5063 are each amended to read as follows:

The director of ((general administration shall appoint and deputize an assistant director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he or she)) enterprise services shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

((With the approval of the director of general administration, he or she may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division.))

**Sec. 206.** RCW 43.19.185 and 1987 c 47 s 1 are each amended to read as follows:

(1) The director ~~((of general administration through the state purchasing and material control director))~~ shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director ((of general administration through the state purchasing and material control director)) shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section.

**Sec. 207.** RCW 43.19.190 and 2002 c 200 s 3 are each amended to read as follows:

The director ((of general administration, through the state purchasing and material control director,)) shall:

(1) ((Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939)) Develop rules and standards governing the acquisition and disposition of goods and services;

(2) ((Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state)) Enter into contracts on behalf of the state to carry out the following: To purchase, lease, rent or otherwise acquire, dispose of, and maintain assets, licenses, purchased goods and services, client services, and personal services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent or otherwise acquire, dispose of, and maintain assets, licenses, purchased goods and services, client services, and personal services. Agencies and institutions of state government are expressly prohibited from acquiring or disposing of such assets, licenses, purchased services, and personal services without such delegation

of authority: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the ((state purchasing and material control)) director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the ((division of purchasing)) department of enterprise services in obtaining personal services and resources are available within the ((division)) department to provide such assistance: ((PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935:)) PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029: PROVIDED FURTHER, That the authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance shall rest with the department of social and health services in consultation with the department;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) ((Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division)) Develop statewide or interagency procurement policies, standards, and procedures;

(6) ((Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed)) Provide direction concerning strategic planning goals and objectives related to state purchasing and contracts activities. The director shall seek input from the legislature and the judiciary;

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~~(7) ((Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information))~~ Develop and implement a process for the resolution of appeals by:

(a) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(b) A customer agency concerning the provision of services by the department or by other state providers;

(8) Establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(a) Planning, management, purchasing control, and use of purchased services and personal services;

(b) Training and education; and

(c) Project management;

~~((8))~~ (9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

~~((9))~~ Provide for the maintenance of inventory records of supplies, materials, and other property;)

(10) Prepare rules and regulations governing the relationship and procedures between the ~~((division of purchasing))~~ department and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes.

**Sec. 208.** RCW 43.19.1905 and 2009 c 486 s 10 are each amended to read as follows:

(1) The director of ~~((general administration))~~ enterprise services shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(a) Development of a state commodity coding system((, including common stock numbers for items maintained in stores for reissue;

(b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(f) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;

(g) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a);

~~(b)~~ A standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the ~~((division of purchasing))~~ department, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

~~((b))~~ (c) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

~~((i))~~ Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(k) Formulation of criteria for)

(d) Determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

~~((d))~~ (e) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

~~((m))~~ Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(n)) (f) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

~~((n))~~ (g) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

~~((p))~~ (h) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

~~((p))~~ (i) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

~~((r))~~ (j) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

~~((s))~~ (k) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

~~((t))~~ (l) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

~~((u))~~ (m) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations;

~~((v))~~ (n) Development of procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments;

~~((w))~~ (o) Development of food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the maximum extent practicable and consistent with international trade agreement commitments; and

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~~((\*)~~) (p) Development of policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract.

(2) ((The department of general administration shall convene a working group including representatives of the office of financial management, the department of information services, and the state printer. The purpose of the working group is to work collaboratively to develop common policies and procedures that encourage and facilitate state government purchases from Washington small businesses, as required in subsection (1)(v) of this section, and in RCW 39.29.065, 43.78.110, and 43.105.041(1)(j). By December 1, 2009, these central services agencies shall jointly provide a written progress report to the governor and legislature on actions taken and planned, barriers identified, and solutions recommended to reach this goal.

(3)) The definitions in this subsection apply throughout this section and RCW 43.19.1908.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006.

(c) "Washington grown" has the definition in RCW 15.64.060.

**Sec. 209.** RCW 43.19.19052 and 1998 c 245 s 54 are each amended to read as follows:

Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director in future biennia as required to maintain an efficient and up-to-date state supply management system.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director(~~through the state purchasing and material control director, shall have~~) has the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters.

**Sec. 210.** RCW 43.19.1906 and 2008 c 215 s 5 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the (~~state purchasing and material control~~) director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) ((Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost)) Direct buy purchases and informal competitive bidding, as designated by the director of enterprise services. The director of enterprise services shall establish policies annually to define criteria and dollar thresholds for direct buy purchases and informal competitive bidding limits. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management (~~division~~) office under RCW 43.41.310 (as recodified by this act);

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the (~~state purchasing and material control~~) director of enterprise services, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the (~~state purchasing and material control~~) director of enterprise services, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express

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purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education ((not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes)) under RCW 43.19.190(2), direct buy purchases, and informal competitive bidding, as designated by the director of enterprise services; and

(9) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education, under delegated authority granted in accordance with RCW 43.19.190 or under RCW 28B.10.029(=and

~~(10) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties).~~

Beginning on July 1, 1995, and on July 1st of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. ~~((However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.))~~

As used in this section, "Washington grown" has the definition in RCW 15.64.060.

**Sec. 211.** RCW 43.19.1908 and 2009 c 486 s 11 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the ~~((division of purchasing)) department.~~ Bids may be solicited by the ~~((purchasing division)) department~~ from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the ~~((division of purchasing)) department.~~

**Sec. 212.** RCW 43.19.1913 and 1965 c 8 s 43.19.1913 are each amended to read as follows:

The ~~((division of purchasing)) department~~ may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state.

**Sec. 213.** RCW 43.19.1915 and 2009 c 549 s 5064 are each amended to read as follows:

When any bid has been accepted, the ~~((division of purchasing)) department~~ may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the ~~((division of purchasing)) department,~~ conditioned that he or she will fully, faithfully and accurately execute the terms of the contract into which he or she has entered. The bond shall be filed in the ~~((office of the division of purchasing)) department.~~ Bidders who regularly do business with the state shall be permitted to file with the ~~((division of purchasing)) department~~ an annual bid bond in an amount established by the ~~((division of purchasing)) department~~ and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids.

**Sec. 214.** RCW 43.19.1917 and 1979 c 88 s 3 are each amended to read as follows:

All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the ~~((division of purchasing)) department~~ all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management.

**Sec. 215.** RCW 43.19.1919 and 2000 c 183 s 1 are each amended to read as follows:

The ~~((division of purchasing)) department~~ shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(1) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(2) Sales of capital assets may be made by the ~~((division of purchasing)) department~~ and a credit established ~~((in central stores))~~ for future purchases of capital items as provided for in RCW 43.19.190 through 43.19.1939;

(3) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the ~~((division of purchasing)) department~~ to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director ~~((of general administration))~~ to be in the best interest of the state. The

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~~((division of purchasing))~~ department shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(4) This section does not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts;

(5) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements.

**Sec. 216.** RCW 43.19.1919 and 1999 c 186 s 1 are each amended to read as follows:

(1) In addition to disposing of property under RCW 28A.335.180, 39.33.010, 43.19.1919, and 43.19.1920, state-owned, surplus computers and computer-related equipment may be donated to any school district or educational service district under the guidelines and distribution standards established pursuant to subsection (2) of this section.

(2) ~~((By September 1, 1999,))~~ The department and office of the superintendent of public instruction shall jointly develop guidelines and distribution standards for the donation of state-owned, surplus computers and computer-related equipment to school districts and educational service districts. The guidelines and distribution standards shall include considerations for quality, school-district needs, and accountability, and shall give priority to meeting the computer-related needs of children with disabilities, including those disabilities necessitating the portability of laptop computers. The guidelines must be updated as needed.

**Sec. 217.** RCW 43.19.1920 and 1995 c 399 s 63 are each amended to read as follows:

The ~~((division of purchasing))~~ department may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the department of ~~((community, trade, and economic development's))~~ commerce's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The ~~((division of purchasing))~~ department has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the ~~((division of purchasing))~~ department to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director ~~((of general administration))~~ has determined that the donation of such property is in the best interest of the state.

**Sec. 218.** RCW 43.19.1920 and 1995 c 399 s 64 are each amended to read as follows:

(1) The department ~~((of general administration))~~ shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department ~~((of general administration))~~ shall provide a copy of the inventory to the

department of ~~((community, trade, and economic development))~~ commerce by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department ~~((of general administration))~~ shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land.

**Sec. 219.** RCW 43.19.1921 and 1979 c 151 s 100 are each amended to read as follows:

The director ~~((of general administration, through the division of purchasing,))~~ shall:

(1) Establish and maintain warehouses ~~((hereinafter referred to as "central stores"))~~ for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide ~~((central stores))~~ warehouse facilities the ~~((division of purchasing))~~ department may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage ~~((maintenance, repair, and servicing))~~ of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. ~~((Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management.))~~

**Sec. 220.** RCW 43.19.1932 and 1989 c 185 s 2 are each amended to read as follows:

The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, ~~((43.19.1925,))~~ and 43.19.200.

**Sec. 221.** RCW 43.19.200 and 2009 c 549 s 5066 are each amended to read as follows:

(1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his or her directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director ~~((of general administration))~~. This notification shall contain a description of the purchase, description of the emergency and the circumstances

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leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director (~~(of general administration)~~) shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management.

**Sec. 222.** RCW 43.19.450 and 1994 c 264 s 15 are each amended to read as follows:

The director (~~(of general administration)~~) shall appoint (~~(and deputize an assistant director to be known as the)~~) a supervisor of engineering and architecture (~~(who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division)~~).

~~((No))~~ A person (~~(shall be)~~) is not eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director (~~(of general administration, through the division of engineering and architecture)~~) or the director's designee shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

~~((The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable.))~~

**Sec. 223.** RCW 43.19.455 and 2005 c 36 s 6 are each amended to read as follows:

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director (~~(of general administration)~~), and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement,

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acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director (~~(of general administration)~~).

**Sec. 224.** RCW 43.19.500 and 2005 c 330 s 6 are each amended to read as follows:

The (~~(general administration)~~) enterprise services account shall be used by the department (~~(of general administration)~~) for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of public and historic facilities at the state capitol, as defined in RCW 79.24.710. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of state capitol public and historic facilities as separate operating entities within the account for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be determined jointly by the director (~~(of general administration)~~) and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department (~~(of general administration)~~) with funds to meet its anticipated expenditures during any allotment period.

The director (~~(of general administration)~~) may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department (~~(of general administration)~~) and such other entities.

**Sec. 225.** RCW 43.19.501 and 2009 c 564 s 932 are each amended to read as follows:

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department (~~(of general administration)~~) in Thurston county. For the 2007-2009 biennium, moneys in the account may be used for pre-design identified in section 1037, chapter 328, Laws of 2008.

During the 2009-2011 fiscal biennium, the legislature may transfer from the Thurston county capital facilities account to the state general fund such amounts as reflect the excess fund balance of the account.

**Sec. 226.** RCW 43.19.530 and 2005 c 204 s 2 are each amended to read as follows:

The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by (~~(=~~ ~~—(4))~~) community rehabilitation programs of the department of social and health services (~~(=~~ ~~and~~ ~~—(2) Until December 31, 2009, businesses owned and operated by persons with disabilities)~~).

Such purchases shall be at the fair market price of such products and services as determined by the (~~(division of purchasing of the)~~) department of (~~(general administration)~~) enterprise services. To determine the fair market price the (~~(division)~~) department shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price.

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Upon the establishment of the fair market price as provided for in this section the ~~((division))~~ department is hereby empowered to negotiate directly for the purchase of products or services with officials in charge of the community rehabilitation programs of the department of social and health services ~~((and, until December 31, 2007, businesses owned and operated by persons with disabilities))~~.

**Sec. 227.** RCW 43.19.534 and 2009 c 470 s 717 are each amended to read as follows:

(1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department ~~((of general administration))~~ finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this ~~((section))~~ subsection for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department ~~((of general administration))~~ shall adopt administrative rules that implement this section.

(2) During the 2009-2011 fiscal biennium, and in conformance with section 223(11), chapter 470, Laws of 2009, this section does not apply to the purchase of uniforms by the Washington state ferries.

**Sec. 228.** RCW 43.19.538 and 1991 c 297 s 5 are each amended to read as follows:

(1) The director ~~((of general administration, through the state purchasing director,))~~ shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the database of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020.

**Sec. 229.** RCW 43.19.539 and 2006 c 183 s 36 are each amended to read as follows:

(1) The department ~~((of general administration))~~ shall establish purchasing and procurement policies that establish a preference for electronic products that meet environmental performance standards relating to the reduction or elimination of hazardous materials.

(2) The department ~~((of general administration))~~ shall ensure that their surplus electronic products, other than those sold individually to private citizens, are managed only by registered transporters and by processors meeting the requirements of RCW 70.95N.250 ~~((and section 26 of this act))~~.

(3) The department ~~((of general administration))~~ shall ensure that their surplus electronic products are directed to legal secondary materials markets by requiring a chain of custody record that documents to whom the products were initially delivered through to the end use manufacturer.

**Sec. 230.** RCW 43.19.560 and 1983 c 187 s 3 are each amended to read as follows:

As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the Washington state school director's association ~~((and the state printer))~~, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business.

**Sec. 231.** RCW 43.19.565 and 2005 c 214 s 1 are each amended to read as follows:

The department ~~((of general administration))~~ shall establish a motor vehicle transportation service which is hereby empowered to:

(1) Provide suitable motor vehicle transportation services to ~~((any))~~ state ~~((agency))~~ agencies on either a temporary or permanent basis ~~((upon requisition from a state agency))~~ and upon such demonstration of need as the department may require;

(2) Provide motor pools for the use of state agencies located in the Olympia area and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department;

(3) Establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to ~~((cover replacement of vehicles, the purchase of additional vehicles, and to))~~ recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles; and

(4) Establish guidelines, procedures, and standards for fleet operations that other state agencies and institutions of higher education may adopt. The guidelines, procedures, and standards shall be consistent with and carry out the objectives of any general

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policies adopted by the office of financial management under RCW 43.41.130.

Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1), (2), and (4) of this section.

**Sec. 232.** RCW 43.19.585 and 1975 1st ex.s. c 167 s 7 are each amended to read as follows:

The director ~~((of general administration shall appoint a supervisor of motor transport, who))~~ or the director's designee shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. ~~((The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.~~

~~—With the approval of) The director(, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2))~~ or the director's designee shall (1) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, ((3)) (2) provide for necessary ((storage,)) upkeep((,)) and repair, and ((4)) (3) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements.

**Sec. 233.** RCW 43.19.600 and 2009 c 549 s 5068 are each amended to read as follows:

(1) ~~((On or after July 1, 1975,))~~ Any passenger motor vehicles currently owned or hereafter acquired by any state agency((, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may)) shall be purchased by or transferred to the department ((of general administration with the consent of the state agency concerned)). The director ~~((of general administration))~~ may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he or she deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall ~~((recommend))~~ direct the transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, ~~((or after a public hearing held by the department,))~~ if a finding is made based on ~~((testimony and))~~ data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of ~~((testimony and))~~ data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the ~~((governor or the governor's designee))~~ director and the director of financial management. Unless otherwise determined by the director after consultation with the office of financial management, vehicles owned and managed by the department of transportation, the department of natural resources, and the Washington state patrol are exempt from the requirements of subsections (1) through (3) of this section.

**Sec. 234.** RCW 43.19.610 and 1998 c 105 s 12 are each amended to read as follows:

All moneys, funds, proceeds, and receipts as ~~((provided in RCW 43.19.615 and as may otherwise be))~~ provided by law shall be paid into the ~~((general administration))~~ enterprise services account. Disbursements therefrom shall be made in accordance with the

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provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by law.

**Sec. 235.** RCW 43.19.620 and 2009 c 549 s 5069 are each amended to read as follows:

The director ~~((of general administration, through the supervisor of motor transport,))~~ shall adopt~~((, promulgate,))~~ and enforce ~~((such regulations))~~ rules as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. ~~((Such regulations))~~ The rules, in addition to other matters, shall provide authority for any agency director or his or her delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

~~((Such regulations))~~ The rules shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130.

**Sec. 236.** RCW 43.19.635 and 2009 c 549 s 5071 are each amended to read as follows:

(1) The governor, acting through the department ~~((of general administration))~~ and any other appropriate agency or agencies as he or she may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforcement. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any ~~((wilful))~~ willful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay.

**Sec. 237.** RCW 43.19.646 and 2006 c 338 s 12 are each amended to read as follows:

(1) The department ~~((of general administration))~~ must assist state agencies seeking to meet the biodiesel fuel requirements in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years, when purchasing from in-state suppliers who use predominantly in-state feedstock, to secure a sufficient and stable supply of biodiesel for use by state agencies.

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(2) The department shall compile and analyze the reports submitted under RCW 43.19.642(~~((4))~~) (3) and report in an electronic format its findings and recommendations to the governor and committees of the legislature with responsibility for energy issues, within sixty days from the end of each reporting period. The governor shall consider these reports in determining whether to temporarily suspend minimum renewable fuel content requirements as authorized under RCW 19.112.160.

**Sec. 238.** RCW 43.19.663 and 2002 c 285 s 4 are each amended to read as follows:

(1) The department (~~((of general administration))~~), in cooperation with public agencies, shall investigate opportunities to aggregate the purchase of clean technologies with other public agencies to determine whether or not combined purchasing can reduce the unit cost of clean technologies.

(2) State agencies that are retail electric customers shall investigate opportunities to aggregate the purchase of electricity produced from generation resources that are fueled by wind or solar energy for their facilities located within a single utility's service area, to determine whether or not combined purchasing can reduce the unit cost of those resources.

(3) No public agency is required under this section to purchase clean technologies at prohibitive costs.

(4)(a) "Electric utility" shall have the same meaning as provided under RCW 19.29A.010.

(b) "Clean technology" includes, but may not be limited to, alternative fueled hybrid-electric and fuel cell vehicles, and distributive power generation.

(c) "Distributive power generation" means the generation of electricity from an integrated or stand-alone power plant that generates electricity from wind energy, solar energy, or fuel cells.

(d) "Retail electric customer" shall have the same meaning as provided under RCW 19.29A.010.

(e) "Facility" means any building owned or leased by a public agency.

**Sec. 239.** RCW 43.19.685 and 1982 c 48 s 4 are each amended to read as follows:

The director (~~((of general administration))~~) shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director (~~((of general administration))~~), in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet.

**Sec. 240.** RCW 43.19.702 and 1983 c 183 s 2 are each amended to read as follows:

The director (~~((of general administration))~~) shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list.

**Sec. 241.** RCW 43.19.704 and 1983 c 183 s 3 are each amended to read as follows:

The director (~~((of general administration))~~) shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director (~~((of general administration))~~) shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted.

**Sec. 242.** RCW 43.19.708 and 2010 c 5 s 5 are each amended to read as follows:

The department (~~((of general administration))~~) shall identify in the department's vendor registry all vendors that are veteran-owned businesses as certified by the department of veterans affairs under RCW 43.60A.195.

**Sec. 243.** RCW 43.19.710 and 1993 c 219 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) ("Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5)) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

~~((6))~~ (3) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

~~((7))~~ (4) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees.

**Sec. 244.** RCW 19.27.070 and 2010 c 275 s 1 are each amended to read as follows:

There is hereby established a state building code council, to be appointed by the governor.

(1) The state building code council shall consist of fifteen members:

(a) Two members must be county elected legislative body members or elected executives;

(b) Two members must be city elected legislative body members or mayors;

(c) One member must be a local government building code enforcement official;

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(d) One member must be a local government fire service official;

(e) One member shall represent general construction, specializing in commercial and industrial building construction;

(f) One member shall represent general construction, specializing in residential and multifamily building construction;

(g) One member shall represent the architectural design profession;

(h) One member shall represent the structural engineering profession;

(i) One member shall represent the mechanical engineering profession;

(j) One member shall represent the construction building trades;

(k) One member shall represent manufacturers, installers, or suppliers of building materials and components;

(l) One member must be a person with a physical disability and shall represent the disability community; and

(m) One member shall represent the general public.

(2) At least six of these fifteen members shall reside east of the crest of the Cascade mountains.

(3) The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership.

(4)(a) Terms of office shall be for three years, or for so long as the member remains qualified for the appointment.

(b) The council shall elect a member to serve as chair of the council for one-year terms of office.

(c) Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment.

(d) Any member who is appointed to represent a specific private sector industry must maintain sufficiently similar employment or circumstances throughout the term of office to remain qualified to represent the specified industry. Retirement or unemployment is not cause for termination. However, if a councilmember enters into employment outside of the industry he or she has been appointed to represent, then he or she shall be removed from the council.

(e) Any member who no longer qualifies for appointment under this section may not vote on council actions, but may participate as an ex officio, nonvoting member until a replacement member is appointed. A member must notify the council staff and the governor's office within thirty days of the date the member no longer qualifies for appointment under this section. The governor shall appoint a qualified replacement for the member within sixty days of notice.

(5) Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests identified in this section.

(6) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The department of ~~((commerce))~~ enterprise services shall provide administrative and clerical assistance to the building code council.

**Sec. 245.** RCW 19.27A.140 and 2010 c 271 s 305 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(8) "Energy service company" has the same meaning as in RCW 43.19.670.

(9) ~~((General administration))~~ Enterprise services means the department of ~~((general administration))~~ enterprise services.

(10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of ~~((general administration))~~ enterprise services.

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(17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(18) "Qualifying public agency" includes all state agencies, colleges, and universities.

(19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 246.** RCW 39.34.055 and 1994 c 98 s 1 are each amended to read as follows:

The (~~office of state procurement within the~~) department of (~~general administration~~) enterprise services may enter into an agreement with a public benefit nonprofit corporation to allow the public benefit nonprofit corporation to participate in state contracts for purchases administered by the (~~office of state procurement~~) department. Such agreement must comply with the requirements of RCW 39.34.030 through 39.34.050. For the purposes of this section "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

**Sec. 247.** RCW 39.35.030 and 2001 c 214 s 16 are each amended to read as follows:

For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Department" means the state department of (~~general administration~~) enterprise services.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Energy management system" means a program, energy efficiency equipment, technology, device, or other measure including, but not limited to, a management, educational, or promotional program, smart appliance, meter reading system that provides energy information capability, computer software or hardware, communications equipment or hardware, thermostat or other control equipment, together with related administrative or operational programs, that allows identification and management of

opportunities for improvement in the efficiency of energy use, including but not limited to a measure that allows:

(a) Energy consumers to obtain information about their energy usage and the cost of energy in connection with their usage;

(b) Interactive communication between energy consumers and their energy suppliers;

(c) Energy consumers to respond to energy price signals and to manage their purchase and use of energy; or

(d) For other kinds of dynamic, demand-side energy management.

(8) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the department. The department shall update these projections at least every two years.

(9) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(10) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(11) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems, and one of which shall comply at a minimum with the sustainable design guidelines of the United States green building council leadership in energy and environmental design silver standard or similar design standard as may be adopted by rule by the department;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(12) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, hydroelectric power, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(13) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source.

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Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply.

(14) "Selected buildings" means educational, office, residential care, and correctional facilities that are designed to comply with the design standards analyzed and recommended by the department.

(15) "Design standards" means the heating, air-conditioning, ventilating, and renewable resource systems identified, analyzed, and recommended by the department as providing an efficient energy system or systems based on the economic life of the selected buildings.

**Sec. 248.** RCW 39.35C.010 and 2007 c 39 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. If these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

(2) "Conservation" means reduced energy consumption or energy cost, or increased efficiency in the use of energy, and activities, measures, or equipment designed to achieve such results, but does not include thermal or electric energy production from cogeneration. "Conservation" also means reductions in the use or cost of water, wastewater, or solid waste.

(3) "Cost-effective" means that the present value to a state agency or school district of the energy reasonably expected to be saved or produced by a facility, activity, measure, or piece of equipment over its useful life, including any compensation received from a utility or the Bonneville power administration, is greater than the net present value of the costs of implementing, maintaining, and operating such facility, activity, measure, or piece of equipment over its useful life, when discounted at the cost of public borrowing.

(4) "Energy" means energy as defined in RCW 43.21F.025((+)) (5).

(5) "Energy audit" has the definition provided in RCW 43.19.670, and may include a determination of the water or solid waste consumption characteristics of a facility.

(6) "Energy efficiency project" means a conservation or cogeneration project.

(7) "Energy efficiency services" means assistance furnished by the department to state agencies and school districts in identifying, evaluating, and implementing energy efficiency projects.

(8) "Department" means the state department of (~~general administration~~) enterprise services.

(9) "Performance-based contracting" means contracts for which payment is conditional on achieving contractually specified energy savings.

(10) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(11) "Public facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency or school district.

(12) "State agency" means every state office or department, whether elective or appointive, state institutions of higher education, and all boards, commissions, or divisions of state government, however designated.

(13) "State facility" means a building or structure, or a group of buildings or structures at a single site, owned by a state agency.

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(14) "Utility" means privately or publicly owned electric and gas utilities, electric cooperatives and mutuals, whether located within or without Washington state.

(15) "Local utility" means the utility or utilities in whose service territory a public facility is located.

**Sec. 249.** RCW 39.35D.020 and 2006 c 263 s 330 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of (~~general administration~~) enterprise services.

(2) "High-performance public buildings" means high-performance public buildings designed, constructed, and certified to a standard as identified in this chapter.

(3) "Institutions of higher education" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(4) "LEED silver standard" means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

(5)(a) "Major facility project" means: (i) A construction project larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code; or (ii) a building renovation project when the cost is greater than fifty percent of the assessed value and the project is larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code.

(b) "Major facility project" does not include: (i) Projects for which the department, public school district, or other applicable agency and the design team determine the LEED silver standard or the Washington sustainable school design protocol to be not practicable; or (ii) transmitter buildings, pumping stations, hospitals, research facilities primarily used for sponsored laboratory experimentation, laboratory research, or laboratory training in research methods, or other similar building types as determined by the department. When the LEED silver standard is determined to be not practicable for a project, then it must be determined if any LEED standard is practicable for the project. If LEED standards or the Washington sustainable school design protocol are not followed for the project, the public school district or public agency shall report these reasons to the department.

(6) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

(7) "Public school district" means a school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

(8) "Washington sustainable school design protocol" means the school design protocol and related information developed by the office of the superintendent of public instruction, in conjunction with school districts and the school facilities advisory board.

**Sec. 250.** RCW 43.19A.010 and 1992 c 174 s 12 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of (~~general administration~~) enterprise services.

(3) "Director" means the director of the department of (~~general administration~~) enterprise services.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

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(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations.

**Sec. 251.** RCW 43.19A.022 and 2009 c 356 s 2 are each amended to read as follows:

(1) ~~(By December 31, 2009,)~~ All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life-cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper;

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by ~~(the state printer, department of information services, and)~~ the department of ~~(general administration)~~ enterprise services, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The ~~((state printer,))~~ department of ~~((general administration,))~~ enterprise services and ~~the~~ department of information services shall work together to identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies.

**Sec. 252.** RCW 39.32.035 and 1998 c 105 s 3 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account shall be administered by the director of ~~((general administration))~~ enterprise services and be used for the purchase, lease or other acquisition from time to time of surplus property from any federal, state, or local government surplus property disposal agency. The director may purchase, lease or acquire such surplus property on the requisition of an eligible donee and without such requisition at such time or times as he or she deems it advantageous to do so; and in either case he or she shall be responsible for the care and custody of the property purchased so long as it remains in his or her possession.

**Sec. 253.** RCW 43.01.225 and 1995 c 215 s 2 are each amended to read as follows:

There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of ~~((general administration))~~ enterprise services under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW 70.94.521 through 70.94.551.

**Sec. 254.** RCW 43.82.120 and 1998 c 105 s 14 are each amended to read as follows:

All rental income collected by the department of ~~((general administration))~~ enterprise services from rental of state buildings shall be deposited in the ~~((general administration))~~ enterprise services account.

**Sec. 255.** RCW 43.82.125 and 1998 c 105 s 15 are each amended to read as follows:

The ~~((general administration))~~ enterprise services account shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the ~~((general administration))~~ enterprise services account shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency; PROVIDED, That moneys received into the account for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of ~~((general administration))~~ enterprise services shall be immediately transmitted to the general fund.

**Sec. 256.** RCW 43.99H.070 and 1995 c 215 s 6 are each amended to read as follows:

In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of ~~((general administration))~~ enterprise services may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW

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43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of (~~general administration~~) enterprise services shall deposit the payment in the capitol campus reserve account.

(2) The director of (~~general administration~~) enterprise services may pledge a portion of the parking rental income collected by the department of (~~general administration~~) enterprise services from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of (~~general administration~~) enterprise services, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account.

**Sec. 257.** RCW 73.24.020 and 1937 c 36 s 1 are each amended to read as follows:

The director of the department of (~~finance, budget and business~~) enterprise services is hereby authorized and directed to contract with Olympia Lodge No. 1, F.& A.M., a corporation for the improvement and perpetual care of the state veterans' plot in the Masonic cemetery at Olympia; such care to include the providing of proper curbs and walks, cultivating, reseeding and fertilizing grounds, repairing and resetting the bases and monuments in place on the ground, leveling grounds, and transporting and setting headstones for graves of persons hereafter buried on the plot.

**NEW SECTION. Sec. 258.** The following acts or parts of acts are each repealed:

(1) RCW 43.19.010 (Director--Authority, appointment, salary) and 1999 c 229 s 1, 1993 c 472 s 19, 1988 c 25 s 10, 1975 1st ex.s. c 167 s 1, & 1965 c 8 s 43.19.010;

(2) RCW 43.19.1923 (General administration services account--Use) and 2001 c 292 s 3, 1998 c 105 s 6, 1991 sp.s. c 16 s 921, 1987 c 504 s 17, 1975-76 2nd ex.s. c 21 s 12, 1967 ex.s. c 104 s 5, & 1965 c 8 s 43.19.1923;

(3) RCW 43.19.1925 (Combined purchases of commonly used items-- Advance payments by state agencies--Costs of operating central stores) and 1998 c 105 s 7, 1975 c 40 s 8, 1973 c 104 s 2, & 1965 c 8 s 43.19.1925;

(4) RCW 43.19.590 (Motor vehicle transportation service--Transfer of employees--Retention of employment rights) and 1975 1st ex.s. c 167 s 8;

(5) RCW 43.19.595 (Motor vehicle transportation service--Transfer of motor vehicles, property, etc., from motor pool to department) and 2009 c 549 s 5067 & 1975 1st ex.s. c 167 s 9;

(6) RCW 43.19.615 (Motor vehicle transportation service--Deposits-- Disbursements) and 2005 c 214 s 2, 1998 c 105 s 13, & 1975 1st ex.s. c 167 s 13;

(7) RCW 43.19.675 (Energy audits of state-owned facilities required--Completion dates) and 2001 c 214 s 26, 1982 c 48 s 2, & 1980 c 172 s 4;

(8) RCW 43.19.680 (Implementation of energy conservation and maintenance procedures after walk-through survey--Investment

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grade audit--Reports--Contracts with energy service companies, staffing) and 2001 c 214 s 27, 1996 c 186 s 506, 1986 c 325 s 2, 1983 c 313 s 1, 1982 c 48 s 3, & 1980 c 172 s 5; and

(9) 2010 c 271 s 301.

**NEW SECTION. Sec. 259.** RCW 43.19.123 is decodified.

### PART III POWERS AND DUTIES TRANSFERRED FROM THE PUBLIC PRINTER

**Sec. 301.** RCW 1.08.039 and 1955 c 235 s 8 are each amended to read as follows:

The committee may enter into contracts or otherwise arrange for the publication and/or distribution, provided for in RCW 1.08.038, with or without calling for bids, by the (~~public printer or by private printer~~) department of enterprise services, upon specifications formulated under the authority of RCW 1.08.037, and upon such basis as the committee deems to be most expeditious and economical. Any such contract may be upon such terms as the committee deems to be most advantageous to the state and to potential purchasers of such publications. The committee shall fix terms and prices for such publications.

**Sec. 302.** RCW 28A.300.040 and 2009 c 556 s 10 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be made available online and which shall be sold at approximate actual cost of publication and distribution per volume to public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine(~~(- Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount));~~

(6) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

(7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every president, manager, or

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principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

(8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

(9) To issue certificates as provided by law;

(10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

(11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

(12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

(13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

(14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

(15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

(16) To perform such other duties as may be required by law.

**Sec. 303.** RCW 28B.10.029 and 2010 c 61 s 1 are each amended to read as follows:

(1)(a) An institution of higher education may exercise independently those powers otherwise granted to the director of (~~general administration~~) enterprise services in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of (~~general administration~~) enterprise services.

(c) Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637.

(d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.41.310, 43.41.290, and 43.41.350 (as recodified by this act).

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685, 43.19.534, and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of (~~general administration~~) enterprise services. Thereafter the director of (~~general administration~~) enterprise services shall not be required to provide those services for that institution for the duration of the (~~general administration~~) enterprise services contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

((5) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78 RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.))

**Sec. 304.** RCW 40.06.030 and 2006 c 199 s 5 are each amended to read as follows:

(1) Every state agency shall promptly submit to the state library copies of published information that are state publications.

(a) For state publications available only in print format, each state agency shall deposit, at a minimum, two copies of each of its publications with the state library. For the purposes of broad public access, state agencies may deposit additional copies with the state library for distribution to additional depository libraries.

(b) For state publications available only in electronic format, each state agency shall deposit one copy of each of its publications with the state library.

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(c) For state publications available in both print and electronic format, each state agency shall deposit two print copies and one electronic copy of the publication with the state library.

(2) Annually, each state agency shall provide the state library with a listing of all its publications made available to state government and the public during the preceding year, including those published in electronic form. The secretary of state shall, by rule, establish the annual date by which state agencies must provide the list of its publications to the state library.

(3) In the interest of economy and efficiency, the state librarian may specifically or by general rule exempt a given state publication or class of publications from the requirements of this section in full or in part.

((4) Upon consent of the issuing state agency, such state publications as are printed by the public printer shall be delivered directly to the center.))

**Sec. 305.** RCW 43.08.061 and 1993 c 38 s 1 are each amended to read as follows:

The ~~((public printer shall print))~~ department of enterprise services is responsible for the printing of all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW.

**NEW SECTION. Sec. 306.** The following acts or parts of acts are each repealed:

(1) RCW 43.78.010 (Appointment of public printer) and 2009 c 549 s 5146, 1981 c 338 s 6, & 1965 c 8 s 43.78.010;

(2) RCW 43.78.020 (Bond) and 2009 c 549 s 5147 & 1965 c 8 s 43.78.020;

(3) RCW 43.78.030 (Duties--Exceptions) and 2010 1st sp.s. c 37 s 927, 1994 c 82 s 1, 1993 c 379 s 104, 1988 c 102 s 1, 1987 c 72 s 1, 1982 c 164 s 2, 1971 c 81 s 114, & 1965 c 8 s 43.78.030;

(4) RCW 43.78.040 (Requisitions) and 1965 c 8 s 43.78.040;

(5) RCW 43.78.050 (Itemized statement of charges) and 1965 c 8 s 43.78.050;

(6) RCW 43.78.070 (Use of state plant--Conditions--Public printer's salary) and 2009 c 549 s 5148, 1979 c 151 s 134, & 1965 c 8 s 43.78.070;

(7) RCW 43.78.080 (Printing specifications) and 1972 ex.s. c 1 s 1, 1969 c 6 s 7, & 1965 c 8 s 43.78.080;

(8) RCW 43.78.090 (Reprinting) and 1965 c 8 s 43.78.090;

(9) RCW 43.78.100 (Stock to be furnished) and 1993 c 379 s 106 & 1965 c 8 s 43.78.100;

(10) RCW 43.78.105 (Printing for institutions of higher education-- Interlocal agreements) and 1993 c 379 s 105;

(11) RCW 43.78.110 (Securing printing from private sources-- Definitions) and 2009 c 486 s 12, 1993 c 379 s 107, 1982 c 164 s 3, 1969 c 79 s 1, & 1965 c 8 s 43.78.110;

(12) RCW 43.78.170 (Recycled copy and printing paper requirement) and 2009 c 356 s 5, 1996 c 198 s 3, & 1991 c 297 s 10;

(13) RCW 15.24.085 (Promotional printing not restricted by public printer laws) and 2002 c 313 s 121 & 1961 c 11 s 15.24.085;

(14) RCW 15.62.190 (Promotional printing and literature--Exempt from public printing requirements) and 1989 c 5 s 19;

(15) RCW 16.67.170 (Promotional printing not restricted by public printer laws) and 1969 c 133 s 16;

(16) RCW 40.04.030 (Session laws, legislative journals, supreme court and court of appeals reports--Duties of public printer, publisher) and 1995 c 24 s 1, 1971 c 42 s 2, & 1941 c 150 s 3; and

(17) RCW 40.07.050 (Prohibition of state publications not in accordance with RCW 40.07.030--Exceptions) and 1986 c 158 s 5 & 1977 ex.s. c 232 s 5.

**NEW SECTION. Sec. 307.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The public printing revolving account is created in the custody of the state treasurer. All receipts from public printing must be deposited in the account. Expenditures from the account may be used only for administrative and operating purposes related to public printing. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) On the effective date of this section, the state treasurer shall transfer any residual funds remaining in the state printing plant revolving fund to the public printing revolving account established in this section.

**NEW SECTION. Sec. 308.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department shall broker print management contracts for state agencies that are required to utilize print management contracts under this section.

(2) The department is authorized to broker print management contracts for other state agencies that choose to utilize these services.

(3) Except as provided under subsection (6) of this section, all state agencies with total annual average full-time equivalent staff that exceeds one thousand as determined by the office of financial management shall utilize print management services brokered by the department, as follows:

(a) Any agency with a copier and multifunctional device contract that is set to expire on or before December 31, 2011, may opt to:

(i) Renew the copier and multifunctional device contract; or

(ii) Enter a print management contract;

(b) Any agency with a copier and multifunctional device contract that is set to expire on or after January 1, 2012, shall begin planning for the transition to a print management contract six months prior to the expiration date of the contract. Upon expiration of the copier and multifunctional device contract, the agency shall utilize a print management contract; and

(c) Any agency with a copier and multifunctional device contract that is terminated on or after January 1, 2012, shall enter a print management contract.

(4) Until December 31, 2016, for each agency transitioning from a copier and multifunctional device contract to a print management contract, the print management contract should result in savings in comparison with the prior copier and multifunctional device contract.

(5) If an agency has more full-time equivalent employees than it had when it entered its most recently completed print management contract, the cost of a new print management contract may exceed the cost of the most recently completed print management contract.

(6) The director of financial management may exempt a state agency, or a program within a state agency, from the requirements of this section if the director deems it unfeasible or the department and agency could not reasonably reach an agreement regarding print management.

**NEW SECTION. Sec. 309.** A new section is added to chapter 43.19 RCW to read as follows:

(1) State agencies, boards, commissions, and institutions of higher education requiring the services of a print shop may use public printing services provided by the department. If a print job is put out for bid, the department must be included in the bid solicitation. All solicitations must be posted on the state's common vendor registration and bid notification system and results provided to the department. All bid specifications must encourage the use of

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recycled paper and biodegradable ink must be used if feasible for the print job.

(2)(a) Except as provided in (b) of this subsection, the department shall print all agency materials that contain sensitive or personally identifiable information not publicly available.

(b) If it is more economically feasible to contract with a private vendor for the printing of agency materials that contain sensitive or personally identifiable information, the department shall require the vendor to enter into a confidentiality agreement with the department to protect the information that is provided as part of the print job.

**NEW SECTION. Sec. 310.** A new section is added to chapter 43.09 RCW to read as follows:

By November 1, 2016, building on the findings of the 2011 audit, the state auditor shall conduct a comprehensive performance audit of state printing services in accordance with RCW 43.09.470. Following the audit in 2016, the state auditor shall conduct follow-up audits as deemed necessary to ensure effective implementation of this act.

**NEW SECTION. Sec. 311.** A new section is added to chapter 43.19 RCW to read as follows:

For every printing job and binding job ordered by a state agency, the agency shall consult with the department on how to choose more economic and efficient options to reduce costs.

**NEW SECTION. Sec. 312.** A new section is added to chapter 43.19 RCW to read as follows:

To improve the efficiency and minimize the costs of agency-based printing, the department shall establish rules and guidelines for all agencies to use in managing their printing operations, including both agency-based printing and those jobs that require the services of a print shop, as based on the successes of implementation of existing print management programs in state agencies. At a minimum, the rules and guidelines must implement managed print strategies to track, manage, and reduce agency-based printing.

**NEW SECTION. Sec. 313.** A new section is added to chapter 43.19 RCW to read as follows:

The department must determine which agencies have print shops and prepare a recommendation, including proposed legislation by November 15, 2011, to transfer print shop personnel, equipment, and activities of state agencies and institutions of higher education, as defined in RCW 28B.10.016, to the department. A transfer under this section does not imply that any print shop operations will close at the affected agencies and institutions of higher education.

**NEW SECTION. Sec. 314.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department shall consult with the office of financial management and state agencies to more efficiently manage the use of envelopes by standardizing them to the extent feasible given the business needs of state agencies.

(2) All state agencies with total annual average full-time equivalent staff that exceeds five hundred as determined by the office of financial management shall cooperate with the department in efforts to standardize envelopes under subsection (1) of this section. In the event that an agency is updating a mailing, the agency shall transition to an envelope recommended by the department, unless the office of financial management considers the change unfeasible.

(3) State agencies with five hundred total annual average full-time equivalent staff or less, as determined by the office of financial management, are encouraged to cooperate with the office to standardize envelopes under this section.

**NEW SECTION. Sec. 315.** RCW 43.78.130, 43.78.140, 43.78.150, and 43.78.160 are each recodified as sections in chapter 43.19.

#### PART IV POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF PERSONNEL

**Sec. 401.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to read as follows:

Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Agency" means an office, department, board, commission, or other separate unit or division, however designated, of the state government and all personnel thereof; it includes any unit of state government established by law, the executive officer or members of which are either elected or appointed, upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature.

(2) "Board" means the Washington personnel resources board established under the provisions of RCW 41.06.110, except that this definition does not apply to the words "board" or "boards" when used in RCW 41.06.070.

(3) "Classified service" means all positions in the state service subject to the provisions of this chapter.

(4) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(5) "Comparable worth" means the provision of similar salaries for positions that require or impose similar responsibilities, judgments, knowledge, skills, and working conditions.

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required.

(7) "Department" means an agency of government that has as its governing officer a person, or combination of persons such as a commission, board, or council, by law empowered to operate the agency responsible either to (a) no other public officer or (b) the governor.

(8) "Career development" means the progressive development of employee capabilities to facilitate productivity, job satisfaction, and upward mobility through work assignments as well as education and training that are both state-sponsored and are achieved by individual employee efforts, all of which shall be consistent with the needs and obligations of the state and its agencies.

(9) "Training" means activities designed to develop job-related knowledge and skills of employees.

(10) "Director" means the human resources director ((~~or personnel appointed under the provisions of RCW 41.06.130~~)) within the office of financial management and appointed under section 430 of this act.

(11) "Affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

(12) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(13) "Related boards" means the state board for community and technical colleges; and such other boards, councils, and commissions related to higher education as may be established.

**Sec. 402.** RCW 41.06.076 and 1997 c 386 s 1 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of social

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and health services to the secretary; the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors; one confidential secretary for each of the above-named officers; not to exceed six bureau chiefs; ~~((all social worker V positions;))~~ and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents ~~((: PROVIDED, That each such confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.~~

~~— This section expires June 30, 2005).~~

**Sec. 403.** RCW 41.06.080 and 1970 ex.s. c 12 s 2 are each amended to read as follows:

Notwithstanding the provisions of this chapter, the ~~((department of personnel))~~ office of financial management and the department of enterprise services may make ~~((its))~~ their human resource services available on request, on a reimbursable basis, to:

- (1) Either the legislative or the judicial branch of the state government;
- (2) Any county, city, town, or other municipal subdivision of the state;
- (3) The institutions of higher learning;
- (4) Any agency, class, or position set forth in RCW 41.06.070.

**Sec. 404.** RCW 41.06.093 and 1993 c 281 s 24 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff ~~((: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the Washington personnel resources board.))~~

**Sec. 405.** RCW 41.06.110 and 2002 c 354 s 210 are each amended to read as follows:

(1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director ~~((of personnel))~~ shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals. Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions

of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts.

**Sec. 406.** RCW 41.06.120 and 1981 c 311 s 17 are each amended to read as follows:

(1) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action and may hold hearings, such hearings to be called by (a) the chairman of the board, or (b) a majority of the members of the board. An official notice of the calling of the hearing shall be filed with the secretary, and all members shall be notified of the hearing within a reasonable period of time prior to its convening.

(2) No release of material or statement of findings shall be made except with the approval of a majority of the board;

(3) In the conduct of hearings or investigations, a member of the board or the director ~~((of personnel))~~, or the hearing officer, may administer oaths.

**Sec. 407.** RCW 41.06.133 and 2010 c 2 s 3 and 2010 c 1 s 2 are each reenacted and amended to read as follows:

(1) The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The reduction, dismissal, suspension, or demotion of an employee;

(b) Training and career development;

(c) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except ~~((that))~~ as follows:

(i) Entry level state park rangers shall serve a probationary period of twelve months; and

(ii) The probationary period of campus police officer appointees who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required. The director shall adopt rules to ensure that employees promoting to campus police officer who are required to attend the Washington state criminal justice training commission basic law enforcement academy shall have the trial service period extend from the date of appointment until twelve months from the date of successful completion of the basic law enforcement academy, or twelve months from the date of appointment if academy training is not required;

(d) Transfers;

(e) Promotional preferences;

(f) Sick leaves and vacations;

(g) Hours of work;

(h) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;

(i) The number of names to be certified for vacancies;

(j) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;

(k) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service. From February 18, 2009, through June 30, 2011,

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a salary or wage increase shall not be granted to any exempt position under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(i) The salary increase can be paid within existing resources; and

(ii) The salary increase will not adversely impact the provision of client services;

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases;

(l) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(m) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

(3) Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130. The supersession of such rules shall only affect employees in the respective collective bargaining units.

(4)(a) The director shall require that each state agency report annually the following data:

(i) The number of classified, Washington management service, and exempt employees in the agency and the change compared to the previous report;

(ii) The number of bonuses and performance-based incentives awarded to agency staff and the base wages of such employees; and  
(iii) The cost of each bonus or incentive awarded.

(b) A report that compiles the data in (a) of this subsection for all agencies will be provided annually to the governor and the appropriate committees of the legislature and must be posted for the public on the ~~((department of personnel's))~~ office of financial management's agency web site.

(5) From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**Sec. 408.** RCW 41.06.142 and 2008 c 267 s 9 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The ~~((director of personnel))~~ department of enterprise services, with the advice and assistance of the ~~((department of~~

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~~general administration~~) office of financial management, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of (~~general administration~~) enterprise services, with the advice and assistance of the (~~department of personnel~~) office of financial management, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of (~~general administration~~) enterprise services to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The (~~requirements~~) processes set forth in subsections (1), (4), and (5) of this section do not apply to:

(a) RCW 74.13.031(5);

(b) The acquisition of printing services by a state agency; and

(c) Contracting for services or activities by the department of enterprise services under section 104 of this act and the department may continue to contract for such services and activities after June 30, 2018.

(7) The processes set forth in subsections (1), (4), and (5) of this section do not apply to the consolidated technology services agency when contracting for services or activities as follows:

(a) Contracting for services and activities that are necessary to establish, operate, or manage the state data center, including architecture, design, engineering, installation, and operation of the facility that are approved by the technology services board created in section 715 of this act.

(b) Contracting for services and activities recommended by the chief information officer through a business plan and approved by the technology services board created in section 715 of this act.

**Sec. 409.** RCW 41.06.150 and 2002 c 371 s 906, 2002 c 354 s 203, 2002 c 354 s 202, and 2002 c 110 s 1 are each reenacted and amended to read as follows:

The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) Certification of names for vacancies;

(2) Examinations for all positions in the competitive and noncompetitive service;

(3) Appointments;

(4) (~~Adoption and revision of a comprehensive classification plan, in accordance with rules adopted by the board under RCW 41.06.136, for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position and allocation and reallocation of positions within the classification plan.~~

(a) The director shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Reclassifications, class studies, and salary adjustments are governed by (a) of this subsection and RCW 41.06.152;

(5)) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the director may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

((~~6~~)) (5) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

((~~7~~)) (6) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The director shall consult with the human rights commission in the development of rules pertaining to affirmative action. ((The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.))

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

**Sec. 410.** RCW 41.06.152 and 2007 c 489 s 1 are each amended to read as follows:

(1) The director shall adopt only those job classification revisions, class studies, and salary adjustments under (~~RCW 41.06.150(4))~~ section 411 of this act that:

(a) As defined by the director, are due to documented recruitment or retention difficulties, salary compression or inversion, classification plan maintenance, higher level duties and responsibilities, or inequities; and

(b) Are such that the office of financial management has reviewed the affected agency's fiscal impact statement and has concurred that the affected agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

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(2) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under ~~(RCW 41.06.150(4))~~ section 411 of this act that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

**NEW SECTION. Sec. 411.** A new section is added to chapter 41.06 RCW to read as follows:

(1) To promote the most effective use of the state's workforce and improve the effectiveness and efficiency of the delivery of services to the citizens of the state, the director shall adopt and maintain a comprehensive classification plan for all positions in the classified service. The classification plan must:

- (a) Be simple and streamlined;
- (b) Support state agencies in responding to changing technologies, economic and social conditions, and the needs of its citizens;
- (c) Value workplace diversity;
- (d) Facilitate the reorganization and decentralization of governmental services;
- (e) Enhance mobility and career advancement opportunities; and
- (f) Consider rates in other public employment and private employment in the state.

(2) An appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes may jointly request the human resources director to initiate a classification study.

(3) For institutions of higher education and related boards, the director may adopt special salary ranges to be competitive with positions of a similar nature in the state or the locality in which the institution of higher education or related board is located.

(4) The director may undertake salary surveys of positions in other public and private employment to establish market rates. Any salary survey information collected from private employers which identifies a specific employer with salary rates which the employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**NEW SECTION. Sec. 412.** A new section is added to chapter 41.06 RCW to read as follows:

The director of financial management shall adopt and maintain a state salary schedule. Such adoption and revision is subject to approval by the director in accordance with chapter 43.88 RCW.

**Sec. 413.** RCW 41.06.167 and 2005 c 274 s 279 are each amended to read as follows:

The ~~((department of personnel))~~ human resources director shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.56 RCW.

**Sec. 414.** RCW 41.06.169 and 1985 c 461 s 3 are each amended to read as follows:

After consultation with state agency heads, employee organizations, and other interested parties, the ~~((state personnel))~~ director shall develop standardized employee performance evaluation procedures and forms which shall be used by state agencies for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual agencies may supplement the standardized evaluation

process with special performance factors peculiar to specific organizational needs. Performance evaluation procedures shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling state agency and job objectives.

**Sec. 415.** RCW 41.06.170 and 2009 c 534 s 3 are each amended to read as follows:

(1) The director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the director, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action ~~((to the personnel appeals board through June 30, 2005, and))~~ to the Washington personnel resources board ~~((after June 30, 2005))~~. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing. Decisions of the Washington personnel resources board on appeals filed after June 30, 2005, shall be final and not subject to further appeal.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal, either individually or through his or her authorized representative, not later than thirty days after the effective date of such action to the ~~((personnel appeals board through June 30, 2005, and to the))~~ Washington personnel resources board ~~((after June 30, 2005))~~. If the position being exempted is vacant, the exclusive bargaining unit representative may act in lieu of an employee for the purposes of appeal.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the ~~((personnel appeals board through December 31, 2005, and to the))~~ Washington personnel resources board ~~((after December 31, 2005))~~. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

(5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under RCW 41.80.001 and 41.80.010 through 41.80.130.

**Sec. 416.** RCW 41.06.220 and 1961 c 1 s 22 are each amended to read as follows:

~~((1))~~ An employee who is terminated from state service may request the board to place his name on an appropriate reemployment list and the board shall grant this request where the circumstances are found to warrant reemployment.

~~((2))~~ Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits.

**Sec. 417.** RCW 41.06.260 and 1961 c 1 s 26 are each amended to read as follows:

If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the

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remainder of this chapter in its application to the agencies concerned. The ~~((board)) office of financial management and the department of enterprise services, as appropriate,~~ shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the state.

**Sec. 418.** RCW 41.06.270 and 2002 c 354 s 217 are each amended to read as follows:

A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations and orders issued hereunder. The directors of ~~((personnel)) enterprise services~~ and financial management shall jointly establish procedures for the certification of payrolls.

**Sec. 419.** RCW 41.06.280 and 1993 c 379 s 309 are each amended to read as follows:

There is hereby created a fund within the state treasury, designated as the "~~((department of)) personnel service fund,"~~ to be used by the ~~((board)) office of financial management and the department of enterprise services~~ as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, applicable provisions of chapter 41.04 RCW, and chapter 41.60 RCW. An amount not to exceed one and one-half percent of the ~~((approved allotments of))~~ salaries and wages for all positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the ~~((department of))~~ personnel service fund as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director from time to time which, together with income derived from services rendered under RCW 41.06.080, will provide the ~~((department)) office of financial management and the department of enterprise services~~ with funds to meet its anticipated expenditures during the allotment period, including the training requirements in RCW 41.06.50041.06.530.

The director ~~((of personnel))~~ shall fix the terms and charges for services rendered by the department of ~~((personnel)) enterprise services~~ and the office of financial management pursuant to RCW 41.06.080, which amounts shall be credited to the ~~((department of))~~ personnel service fund and charged against the proper fund or appropriation of the recipient of such services on a ~~((quarterly))~~ monthly basis. Payment for services so rendered under RCW 41.06.080 shall be made on a ~~((quarterly))~~ monthly basis to the state treasurer and deposited ~~((by him))~~ in the ~~((department of))~~ personnel service fund.

Moneys from the ~~((department of))~~ personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the ~~((board)) office of financial management and the department of enterprise services.~~

**Sec. 420.** RCW 41.06.285 and 1998 c 245 s 41 are each amended to read as follows:

(1) There is hereby created a fund within the state treasury, designated as the "higher education personnel service fund," to be used by the ~~((board)) office of financial management~~ as a revolving fund for the payment of salaries, wages, and operations required for the administration of ~~((institutions of higher education and related boards, the budget for which shall be subject to review and approval and appropriation by the legislature))~~ the provisions of chapter 41.06 RCW and applicable provisions of chapters 41.04 and 41.60 RCW. Subject to the requirements of subsection (2) of this section, an amount not to exceed one-half of one percent of the salaries and wages for all positions in the classified service shall be contributed from the operations appropriations of each institution and the state

board for community and technical colleges and credited to the higher education personnel service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time, which will provide the ~~((board)) office of financial management~~ with funds to meet its anticipated expenditures during the allotment period.

(2) If employees of institutions of higher education cease to be classified under this chapter pursuant to an agreement authorized by RCW 41.56.201, each institution of higher education and the state board for community and technical colleges shall continue, for six months after the effective date of the agreement, to make contributions to the higher education personnel service fund based on employee salaries and wages that includes the employees under the agreement. At the expiration of the six-month period, the director of financial management shall make across-the-board reductions in allotments of the higher education personnel service fund for the remainder of the biennium so that the charge to the institutions of higher education and state board for community and technical colleges based on the salaries and wages of the remaining employees of institutions of higher education and related boards classified under this chapter does not increase during the biennium, unless an increase is authorized by the legislature.

(3) Moneys from the higher education personnel service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the ~~((board)) office of financial management.~~

**Sec. 421.** RCW 41.06.350 and 2002 c 354 s 218 are each amended to read as follows:

The director is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the ~~((department of))~~ personnel service fund established by RCW 41.06.280.

**Sec. 422.** RCW 41.06.395 and 2007 c 76 s 1 are each amended to read as follows:

The director shall adopt rules establishing guidelines for policies, procedures, and mandatory training programs on sexual harassment for state employees to be adopted by state agencies ~~((and establishing)).~~ The department of enterprise services shall establish reporting requirements for state agencies on compliance with RCW 43.01.135.

**Sec. 423.** RCW 41.06.400 and 2002 c 354 s 219 are each amended to read as follows:

(1) In addition to other powers and duties specified in this chapter, the ~~((director)) department of enterprise services in consultation with the office of financial management shall~~(:);

~~— (a) By rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees(;~~

~~— (2) In addition to other powers and duties specified in this chapter, the director shall:~~

~~— (a) Provide for the evaluation of training and career development programs and plans of agencies. The director shall report the results of such evaluations to the agency which is the subject of the evaluation(;~~

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state

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to provide equal employment opportunities are diligently carried out.

~~((3))~~ (2) At an agency's request, the ~~((director))~~ department of enterprise services may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of ~~((personnel))~~ enterprise services.

**Sec. 424.** RCW 41.06.410 and 2002 c 354 s 220 are each amended to read as follows:

Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the ~~((director. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2)))~~ department of enterprise services;

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) (Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the director;

(4)) Budget for training and career development in accordance with procedures of the office of financial management.

**Sec. 425.** RCW 41.06.420 and 1980 c 118 s 6 are each amended to read as follows:

(1) The ~~((board))~~ office of financial management, by rule, shall prescribe the conditions under which an employee appointed to a supervisory or management position after June 12, 1980, shall be required to successfully complete an entry-level management training course as approved by the director. Such training shall not be required of any employee who has completed a management training course prior to the employee's appointment which is, in the judgment of the director, at least equivalent to the entry-level course required by this section.

(2) The ~~((board))~~ office of financial management, by rule, shall establish procedures for the suspension of the entry-level training requirement in cases where the ability of an agency to perform its responsibilities is adversely affected, or for the waiver of this requirement in cases where a person has demonstrated experience as a substitute for training.

(3) Agencies subject to the provisions of this chapter, in accordance with rules prescribed by the ~~((board))~~ office of financial management, shall designate individual positions, or groups of positions, as being "supervisory" or "management" positions. Such designations shall be subject to review by the director ~~((as part of the director's evaluation of training and career development programs prescribed by RCW 41.06.400(2))).~~

**Sec. 426.** RCW 41.06.476 and 2001 c 296 s 6 are each amended to read as follows:

(1) The ~~((board))~~ office of financial management shall amend any existing rules established under RCW 41.06.475 and adopt rules developed in cooperation and agreement with the department of social and health services to implement the provisions of chapter 296, Laws of 2001.

(2) The legislature's delegation of authority to the agency under chapter 296, Laws of 2001 is strictly limited to:

(a) The minimum delegation necessary to administer the clear and unambiguous directives of chapter 296, Laws of 2001; and

(b) The administration of circumstances and behaviors foreseeable at the time of enactment.

**Sec. 427.** RCW 41.06.490 and 2002 c 354 s 223 are each amended to read as follows:

~~((+))~~ In addition to the rules adopted under RCW 41.06.150, the director shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

~~((a))~~ (1) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

~~((b))~~ (2) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

~~((c))~~ Allow opportunity for return-to-work statewide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

~~((d))~~ (3) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

~~((e))~~ (4) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

~~((f))~~ (5) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

~~((g))~~ (6) Coordinate participation of applicable employee assistance programs, as appropriate.

~~((2))~~ The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of the return-to-work program and the net increase in full-time equivalents shall be temporary.)

**Sec. 428.** RCW 41.06.510 and 1993 c 281 s 10 are each amended to read as follows:

Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules adopted under this chapter. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the department of ~~((personnel))~~ enterprise services and the office of financial management may also be used by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community and technical colleges shall have general supervision and control over activities undertaken by the various community colleges pursuant to this section.

**Sec. 429.** RCW 41.06.530 and 1993 c 281 s 12 are each amended to read as follows:

(1) The legislature recognizes that:

(a) The labor market and the state government workforce are diverse in terms of gender, race, ethnicity, age, and the presence of disabilities.

(b) The state's personnel resource and management practices must be responsive to the diverse nature of its workforce composition.

(c) Managers in all agencies play a key role in the implementation of all critical personnel policies.

It is therefore the policy of the state to create an organizational culture in state government that respects and values individual differences and encourages the productive potential of every employee.

(2) To implement this policy~~((, the department shall))~~:

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(a) The office of financial management shall, in consultation with agencies, employee organizations, employees, institutions of higher education, and related boards, review civil service rules and related policies to ensure that they support the state's policy of valuing and managing diversity in the workplace; and

(b) ((In consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop model policies, procedures, and technical information to be made available to such entities for the support of workplace diversity programs, including, but not limited to:

(i) Voluntary mentorship programs;

(ii) Alternative testing practices for persons of disability where deemed appropriate;

(iii) Career counseling;

(iv) Training opportunities, including management and employee awareness and skills training, English as a second language, and individual tutoring;

(v) Recruitment strategies;

(vi) Management performance appraisal techniques that focus on valuing and managing diversity in the workplace; and

(vii) Alternative work arrangements;

(c)) The department of enterprise services, in consultation with agencies, employee organizations, and employees, institutions of higher education, and related boards, develop training programs for all managers to enhance their ability to implement diversity policies and to provide a thorough grounding in all aspects of the state civil service law and merit system rules, and how the proper implementation and application thereof can facilitate and further the mission of the agency.

(3) The department of enterprise services and the office of financial management shall coordinate implementation of this section with the ((~~office of financial management and~~) institutions of higher education and related boards to reduce duplication of effort.

**NEW SECTION. Sec. 430.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The office of financial management shall direct and supervise the personnel policy and application of the civil service laws, chapter 41.06 RCW.

(2) The human resources director is created in the office of financial management. The human resources director shall be appointed by the governor, and shall serve at the pleasure of the governor. The director shall receive a salary in an amount fixed by the governor.

(3) The human resources director has the authority and shall perform the functions as prescribed in chapter 41.06 RCW, or as otherwise prescribed by law.

(4) The human resources director may delegate to any agency the authority to perform administrative and technical personnel activities if the agency requests such authority and the human resources director is satisfied that the agency has the personnel management capabilities to effectively perform the delegated activities. The human resources director shall prescribe standards and guidelines for the performance of delegated activities. If the human resources director determines that an agency is not performing delegated activities within the prescribed standards and guidelines, the director shall withdraw the authority from the agency to perform such activities.

**Sec. 431.** RCW 34.05.030 and 2006 c 300 s 4 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board ((~~or the director of personnel~~)), the human resources director, or the office of financial management and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**Sec. 432.** RCW 41.04.340 and 2002 c 354 s 227 are each amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary

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compensation of the employee for each four full days of accrued sick leave.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the human resources director (~~(of personnel)~~) for persons subject to chapter 41.06 RCW: PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

(6) Should the legislature revoke any remuneration or benefits granted under this section, no affected employee shall be entitled thereafter to receive such benefits as a matter of contractual right.

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the human resources director (~~(of personnel)~~). For eligible employees exempt from chapter 41.06 RCW, and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the human resources director (~~(of personnel)~~) or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the director of personnel; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

**Sec. 433.** RCW 41.04.385 and 2006 c 265 s 201 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of ~~(personnel)~~ enterprise services in consultation with the director of the department of early learning and state employee representatives.

**Sec. 434.** RCW 41.04.395 and 1994 sp.s. c 9 s 801 are each amended to read as follows:

(1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of ~~(the department of personnel)~~ financial management or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of ~~(the department of personnel)~~ financial management or the director's designee shall consult with the governor's committee on disability issues and employment regarding requests for disbursements from the disability accommodation revolving fund. The department shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium.

**Sec. 435.** RCW 41.04.665 and 2010 1st sp.s. c 32 s 10 and 2010 c 168 s 1 are each reenacted and amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a)(i) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(ii) The employee has been called to service in the uniformed services;

(iii) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has needed skills to assist in responding to the emergency or its aftermath and volunteers his or her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(iv) The employee is a victim of domestic violence, sexual assault, or stalking; or

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(v) During the 2009-2011 fiscal biennium only, the employee is eligible to use leave in lieu of temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess.;

(b) The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequence of domestic violence, sexual assault, temporary layoff under section 3(5), chapter 32, Laws of 2010 1st sp. sess., or stalking has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(c) The employee's absence and the use of shared leave are justified;

(d) The employee has depleted or will shortly deplete his or her:

(i) Annual leave and sick leave reserves if he or she qualifies under (a)(i) of this subsection;

(ii) Annual leave and paid military leave allowed under RCW 38.40.060 if he or she qualifies under (a)(ii) of this subsection; or

(iii) Annual leave if he or she qualifies under (a)(iii), (iv), or (v) of this subsection;

(e) The employee has abided by agency rules regarding:

(i) Sick leave use if he or she qualifies under (a)(i) or (iv) of this subsection; or

(ii) Military leave if he or she qualifies under (a)(ii) of this subsection; and

(f) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if he or she qualifies under (a)(i) of this subsection.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than five hundred twenty-two days of leave, except that, a supervisor may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for the shared leave program because he or she is suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. Shared leave received under the uniformed service shared leave pool in RCW 41.04.685 is not included in this total.

(3) An employee may transfer annual leave, sick leave, and his or her personal holiday, as follows:

(a) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days. For purposes of this subsection (3)(a), annual leave does not accrue if the employee receives compensation in lieu of accumulating a balance of annual leave.

(b) An employee may transfer a specified amount of sick leave to an employee requesting shared leave only when the donating employee retains a minimum of one hundred seventy-six hours of sick leave after the transfer.

(c) An employee may transfer, under the provisions of this section relating to the transfer of leave, all or part of his or her personal holiday, as that term is defined under RCW 1.16.050, or as such holidays are provided to employees by agreement with a school district's board of directors if the leave transferred under this subsection does not exceed the amount of time provided for personal holidays under RCW 1.16.050.

(4) An employee of an institution of higher education under RCW 28B.10.016, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than twenty-two

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days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer that would result in his or her sick leave account going below twenty-two days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.400.300(2) or 28A.310.240(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

(6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency.

(7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

(8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

(9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred or for any other qualifying condition. Before the agency head makes a determination to return unused leave in connection with an illness or injury, or any other qualifying condition, he or she must receive from the affected employee a statement from the employee's doctor verifying that the illness or injury is resolved. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

(10) An employee who uses leave that is transferred to him or her under this section may not be required to repay the value of the leave that he or she used.

(11) The human resources director ~~((of personnel))~~ may adopt rules as necessary to implement subsection (2)~~((a) through (e))~~ of this section.

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**Sec. 436.** RCW 41.04.670 and 1993 c 281 s 18 are each amended to read as follows:

The (~~Washington personnel resources board~~) office of financial management and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

**Sec. 437.** RCW 41.04.680 and 2006 c 356 s 1 are each amended to read as follows:

The (~~department of personnel~~) office of financial management and other personnel authorities shall adopt rules or policies governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave, annual leave, and compensatory leave that has been personally accrued by him or her. Each department or agency of the state may allow employees to participate in a sick leave pool established by the (~~department of personnel~~) office of financial management and other personnel authorities.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) The (~~department~~) office of financial management and other personnel authorities, except the personnel authorities for higher education institutions, shall adopt rules which provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer

from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the department of personnel.

(3) Personnel authorities for higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

**Sec. 438.** RCW 41.04.685 and 2007 c 25 s 1 are each amended to read as follows:

(1) The uniformed service shared leave pool is created to allow employees to donate leave to be used as shared leave for any employee who has been called to service in the uniformed services and who meets the requirements of RCW 41.04.665. Participation in the pool shall, at all times, be voluntary on the part of the employee. The military department, in consultation with the (~~department of personnel and the~~) office of financial management, shall administer the uniformed service shared leave pool.

(2) Employees as defined in subsection (10) of this section who are eligible to donate leave under RCW 41.04.665 may donate leave to the uniformed service shared leave pool.

(3) An employee as defined in subsection (10) of this section who has been called to service in the uniformed services and is eligible for shared leave under RCW 41.04.665 may request shared leave from the uniformed service shared leave pool.

(4) It shall be the responsibility of the employee who has been called to service to provide an earnings statement verifying military salary, orders of service, and notification of a change in orders of service or military salary.

(5) Shared leave under this section may not be granted unless the pool has a sufficient balance to fund the requested shared leave for the expected term of service.

(6) Shared leave paid under this section, in combination with military salary, shall not exceed the level of the employee's state monthly salary.

(7) Any leave donated shall be removed from the personally accumulated leave balance of the employee donating the leave.

(8) An employee who receives shared leave from the pool is not required to recontribute such leave to the pool, except as otherwise provided in this section.

(9) Leave that may be donated or received by any one employee shall be calculated as in RCW 41.04.665.

(10) As used in this section:

(a) "Employee" has the meaning provided in RCW 41.04.655, except that "employee" as used in this section does not include employees of school districts and educational service districts.

(b) "Service in the uniformed services" has the meaning provided in RCW 41.04.655.

(c) "Military salary" includes base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(d) "Monthly salary" includes monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. "Monthly salary" does not include:

(i) Overtime pay;

(ii) Call back pay;

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- (iii) Standby pay; or
- (iv) Performance bonuses.

(11) The ~~((department of personnel))~~ office of financial management, in consultation with the military department ~~((and the office of financial management))~~, shall adopt rules and policies governing the donation and use of shared leave from the uniformed service shared leave pool, including definitions of pay and allowances and guidelines for agencies to use in recordkeeping concerning shared leave.

(12) Agencies shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing, the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool.

(13) Higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

**Sec. 439.** RCW 41.04.720 and 1990 c 60 s 303 are each amended to read as follows:

The director of ~~((human resources))~~ enterprise services shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of RCW 41.04.700 through 41.04.730.

**Sec. 440.** RCW 41.04.770 and 1997 c 287 s 4 are each amended to read as follows:

The department of social and health services and the department of ~~((personnel))~~ enterprise services shall, after consultation with supported employment provider associations and other interested parties, encourage, educate, and assist state agencies in implementing supported employment programs. The department of ~~((personnel))~~ enterprise services shall provide human resources technical assistance to agencies implementing supported employment programs. ~~((The department of personnel shall make available, upon request of the legislature, an annual report that evaluates the overall progress of supported employment in state government.))~~

**Sec. 441.** RCW 41.07.020 and 1979 c 151 s 62 are each amended to read as follows:

The department of ~~((personnel))~~ enterprise services is authorized to administer, maintain, and operate the central personnel-payroll system and to provide its services for any state agency designated jointly by the director of the department of ~~((personnel))~~ enterprise services and the director of financial management.

The system shall be operated through state data processing centers. State agencies shall convert personnel and payroll processing to the central personnel-payroll system as soon as

administratively and technically feasible as determined by the office of financial management and the department of ~~((personnel))~~ enterprise services. It is the intent of the legislature to provide, through the central personnel-payroll system, for uniform reporting to the office of financial management and to the legislature regarding salaries and related costs, and to reduce present costs of manual procedures in personnel and payroll record keeping and reporting.

**Sec. 442.** RCW 41.07.030 and 1975 1st ex.s. c 239 s 3 are each amended to read as follows:

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of ~~((personnel))~~ enterprise services shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of ~~((personnel))~~ enterprise services is authorized to utilize the data processing revolving fund created by RCW 43.105.080 ~~((as recodified by this act))~~ and the ~~((department of))~~ personnel service fund created by RCW 41.06.280.

**Sec. 443.** RCW 41.60.015 and 2000 c 139 s 1 are each amended to read as follows:

(1) There is hereby created the productivity board, which may also be known as the employee involvement and recognition board. The board shall administer the employee suggestion program and the teamwork incentive program under this chapter.

(2) The board shall be composed of:

(a) The secretary of state who shall act as chairperson;

(b) ~~((The director of personnel appointed under the provisions of RCW 41.06.130 or the director's designee;~~

~~((c)))~~ (c) The director of financial management or the director's designee;

~~((d)))~~ (c) The director of ~~((general administration))~~ enterprise services or the director's designee;

~~((e)))~~ (d) Three persons with experience in administering incentives such as those used by industry, with the governor, lieutenant governor, and speaker of the house of representatives each appointing one person. The governor's appointee shall be a representative of an employee organization certified as an exclusive representative of at least one bargaining unit of classified employees;

~~((f)))~~ (e) Two persons representing state agencies and institutions with employees subject to chapter 41.06 RCW, and one person representing those subject to chapter 28B.16 RCW, both appointed by the governor; and

~~((g)))~~ (f) In addition, the governor and board chairperson may jointly appoint persons to the board on an ad hoc basis. Ad hoc members shall serve in an advisory capacity and shall not have the right to vote.

Members under subsection (2)~~((e))~~(d) and ~~((f))~~ (e) of this section shall be appointed to serve three-year terms.

Members of the board appointed pursuant to subsection (2)~~((e))~~(d) of this section may be compensated in accordance with RCW 43.03.240. Any board member who is not a state employee may be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

**Sec. 444.** RCW 41.80.005 and 2002 c 354 s 321 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

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(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, ~~((or the department of personnel))~~ or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington

management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

**Sec. 445.** RCW 41.80.020 and 2010 c 283 s 16 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the human resources director ~~((of personnel))~~, the director of enterprise services, or the Washington personnel resources board adopted under ~~((section 203, chapter 354, Laws of 2002))~~ section 411 of this act.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of RCW 41.80.010(4).

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

**Sec. 446.** RCW 42.16.010 and 2008 c 186 s 1 are each amended to read as follows:

(1) Except as provided otherwise in subsections (2) and (3) of this section, all state officers and employees shall be paid for services rendered from the first day of the month through the fifteenth day of the month and for services rendered from the sixteenth day of the month through the last calendar day of the month. Paydates for these two pay periods shall be established by the director of financial management through the administrative

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hearing process and the official paydates shall be established six months prior to the beginning of each subsequent calendar year. Under no circumstance shall the paydate be established more than ten days after the pay period in which the wages are earned except when the designated paydate falls on Sunday, in which case the paydate shall not be later than the following Monday. Payment shall be deemed to have been made by the established paydates if: (a) The salary warrant is available at the geographic work location at which the warrant is normally available to the employee; or (b) the salary has been electronically transferred into the employee's account at the employee's designated financial institution; or (c) the salary warrants are mailed at least two days before the established paydate for those employees engaged in work in remote or varying locations from the geographic location at which the payroll is prepared, provided that the employee has requested payment by mail.

The office of financial management shall develop the necessary policies and operating procedures to assure that all remuneration for services rendered including basic salary, shift differential, standby pay, overtime, penalty pay, salary due based on contractual agreements, and special pay provisions, as provided for by law, (~~Washington personnel resources board rules~~) agency policy or rule, or contract, shall be available to the employee on the designated paydate. Overtime, penalty pay, and special pay provisions may be paid by the next following paydate if the postponement of payment is attributable to: The employee's not making a timely or accurate report of the facts which are the basis for the payment, or the employer's lack of reasonable opportunity to verify the claim.

Compensable benefits payable because of separation from state service shall be paid with the earnings for the final period worked unless the employee separating has not provided the agency with the proper notification of intent to terminate.

One-half of the employee's basic monthly salary shall be paid in each pay period. Employees paid on an hourly basis or employees who work less than a full pay period shall be paid for actual salary earned.

(2) Subsection (1) of this section shall not apply in instances where it would conflict with contractual rights or, with the approval of the office of financial management, to short-term, intermittent, noncareer state employees, to student employees of institutions of higher education, to national or state guard members participating in state active duty, and to liquor control agency managers who are paid a percentage of monthly liquor sales.

(3) When a national or state guard member is called to participate in state active duty, the paydate shall be no more than seven days following completion of duty or the end of the pay period, whichever is first. When the seventh day falls on Sunday, the paydate shall not be later than the following Monday. This subsection shall apply only to the pay a national or state guard member receives from the military department for state active duty.

(4) Notwithstanding subsections (1) and (2) of this section, a bargained contract at an institution of higher education may include a provision for paying part-time academic employees on a pay schedule that coincides with all the paydays used for full-time academic employees.

**Sec. 447.** RCW 42.17.370 and 2010 1st sp.s. c 7 s 4 are each amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a

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general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the (~~department of personnel~~) office of financial management under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards

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established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; ~~(and)~~

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985; and

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

**Sec. 448.** RCW 42.17A.110 and 2010 1st sp.s. c 7 s 4 and 2010 c 204 s 303 are each reenacted and amended to read as follows:

The commission is empowered to:

(1) Adopt, promulgate, amend, and rescind suitable administrative rules to carry out the policies and purposes of this chapter, which rules shall be adopted under chapter 34.05 RCW. Any rule relating to campaign finance, political advertising, or related forms that would otherwise take effect after June 30th of a general election year shall take effect no earlier than the day following the general election in that year;

(2) Appoint and set, within the limits established by the ~~((committee on agency officials' salaries))~~ office of financial management under RCW 43.03.028, the compensation of an executive director who shall perform such duties and have such powers as the commission may prescribe and delegate to implement and enforce this chapter efficiently and effectively. The commission shall not delegate its authority to adopt, amend, or rescind rules nor shall it delegate authority to determine whether an actual violation of this chapter has occurred or to assess penalties for such violations;

(3) Prepare and publish such reports and technical studies as in its judgment will tend to promote the purposes of this chapter, including reports and statistics concerning campaign financing, lobbying, financial interests of elected officials, and enforcement of this chapter;

(4) Make from time to time, on its own motion, audits and field investigations;

(5) Make public the time and date of any formal hearing set to determine whether a violation has occurred, the question or questions to be considered, and the results thereof;

(6) Administer oaths and affirmations, issue subpoenas, and compel attendance, take evidence and require the production of any books, papers, correspondence, memorandums, or other records

relevant or material for the purpose of any investigation authorized under this chapter, or any other proceeding under this chapter;

(7) Adopt and promulgate a code of fair campaign practices;

(8) Relieve, by rule, candidates or political committees of obligations to comply with the provisions of this chapter relating to election campaigns, if they have not received contributions nor made expenditures in connection with any election campaign of more than one thousand dollars;

(9) Adopt rules prescribing reasonable requirements for keeping accounts of and reporting on a quarterly basis costs incurred by state agencies, counties, cities, and other municipalities and political subdivisions in preparing, publishing, and distributing legislative information. The term "legislative information," for the purposes of this subsection, means books, pamphlets, reports, and other materials prepared, published, or distributed at substantial cost, a substantial purpose of which is to influence the passage or defeat of any legislation. The state auditor in his or her regular examination of each agency under chapter 43.09 RCW shall review the rules, accounts, and reports and make appropriate findings, comments, and recommendations in his or her examination reports concerning those agencies;

(10) After hearing, by order approved and ratified by a majority of the membership of the commission, suspend or modify any of the reporting requirements of this chapter in a particular case if it finds that literal application of this chapter works a manifestly unreasonable hardship and if it also finds that the suspension or modification will not frustrate the purposes of the chapter. The commission shall find that a manifestly unreasonable hardship exists if reporting the name of an entity required to be reported under RCW 42.17.241(1)(g)(ii) would be likely to adversely affect the competitive position of any entity in which the person filing the report or any member of his or her immediate family holds any office, directorship, general partnership interest, or an ownership interest of ten percent or more. Any suspension or modification shall be only to the extent necessary to substantially relieve the hardship. The commission shall act to suspend or modify any reporting requirements only if it determines that facts exist that are clear and convincing proof of the findings required under this section. Requests for renewals of reporting modifications may be heard in a brief adjudicative proceeding as set forth in RCW 34.05.482 through 34.05.494 and in accordance with the standards established in this section. No initial request may be heard in a brief adjudicative proceeding and no request for renewal may be heard in a brief adjudicative proceeding if the initial request was granted more than three years previously or if the applicant is holding an office or position of employment different from the office or position held when the initial request was granted. The commission shall adopt administrative rules governing the proceedings. Any citizen has standing to bring an action in Thurston county superior court to contest the propriety of any order entered under this section within one year from the date of the entry of the order; and

(11) Revise, at least once every five years but no more often than every two years, the monetary reporting thresholds and reporting code values of this chapter. The revisions shall be only for the purpose of recognizing economic changes as reflected by an inflationary index recommended by the office of financial management. The revisions shall be guided by the change in the index for the period commencing with the month of December preceding the last revision and concluding with the month of December preceding the month the revision is adopted. As to each of the three general categories of this chapter (reports of campaign finance, reports of lobbyist activity, and reports of the financial affairs of elected and appointed officials), the revisions shall equally affect all thresholds within each category. Revisions shall be

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adopted as rules under chapter 34.05 RCW. The first revision authorized by this subsection shall reflect economic changes from the time of the last legislative enactment affecting the respective code or threshold through December 1985;

(12) Develop and provide to filers a system for certification of reports required under this chapter which are transmitted by facsimile or electronically to the commission. Implementation of the program is contingent on the availability of funds.

**Sec. 449.** RCW 43.01.040 and 2009 c 549 s 5001 are each amended to read as follows:

Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his or her contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: PROVIDED, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is ~~((filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer))~~ retained by the agency, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred.

**Sec. 450.** RCW 43.01.135 and 2007 c 76 s 2 are each amended to read as follows:

Agencies as defined in RCW 41.06.020, except for institutions of higher education, shall:

(1) Update or develop and disseminate among all agency employees and contractors a policy that:

(a) Defines and prohibits sexual harassment in the workplace;

(b) Includes procedures that describe how the agency will address concerns of employees who are affected by sexual harassment in the workplace;

(c) Identifies appropriate sanctions and disciplinary actions; and

(d) Complies with guidelines adopted by the director of personnel under RCW 41.06.395;

(2) Respond promptly and effectively to sexual harassment concerns;

(3) Conduct training and education for all employees in order to prevent and eliminate sexual harassment in the organization;

(4) Inform employees of their right to file a complaint with the Washington state human rights commission under chapter 49.60

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RCW, or with the federal equal employment opportunity commission under Title VII of the civil rights act of 1964; and

(5) Report to the department of ~~((personnel))~~ enterprise services on compliance with this section.

The cost of the training programs shall be borne by state agencies within existing resources.

**Sec. 451.** RCW 43.03.028 and 2010 1st sp.s. c 7 s 2 are each amended to read as follows:

(1) The ~~((department of personnel))~~ office of financial management shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; ~~((the board of pharmacy;))~~ the eastern Washington historical society; the Washington state historical society; the recreation and conservation office; the criminal justice training commission; ~~((the department of personnel; the state library;))~~ the traffic safety commission; the horse racing commission; ~~((the advisory council on vocational education;))~~ the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian Pacific American affairs; the state board for volunteer firefighters and reserve officers; the transportation improvement board; the public employment relations commission; ~~((the forest practices appeals board;))~~ and the energy facilities site evaluation council.

(2) The ~~((department of personnel))~~ office of financial management shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

**Sec. 452.** RCW 43.03.120 and 2009 c 549 s 5009 are each amended to read as follows:

Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his or her acceptance of state employment, pursuant to mutual agreement with such employee in advance of his or her employment ~~((: PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW)).~~ Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable ~~((regulations promulgated))~~ rules adopted by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his or her employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee.

**Sec. 453.** RCW 43.03.130 and 2000 c 153 s 1 are each amended to read as follows:

Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency(~~(:~~

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~~PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre employment interview).~~ Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of the state investment board, such travel expenses may also be paid for applicants being considered for investment officer positions. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions.

**Sec. 454.** RCW 43.06.013 and 2006 c 45 s 1 are each amended to read as follows:

When requested by the governor or the director of the department of ~~((personnel))~~ enterprise services, nonconviction criminal history fingerprint record checks shall be conducted through the Washington state patrol identification and criminal history section and the federal bureau of investigation on applicants for agency head positions appointed by the governor. Information received pursuant to this section shall be confidential and made available only to the governor or director of the department of personnel or their employees directly involved in the selection, hiring, or background investigation of the subject of the record check. When necessary, applicants may be employed on a conditional basis pending completion of the criminal history record check. "Agency head" as used in this section has the same definition as provided in RCW 34.05.010.

**Sec. 455.** RCW 43.06.410 and 1993 c 281 s 47 are each amended to read as follows:

There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

- (1) Consult with the secretary of state, the director of ~~((personnel))~~ enterprise services, the commissioner of the employment security department, and representatives of labor;
- (2) Encourage and assist agencies in developing intern positions;
- (3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;
- (4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants.

**Sec. 456.** RCW 43.06.425 and 2002 c 354 s 229 are each amended to read as follows:

The director of ~~((personnel))~~ financial management or the director's designee shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees.

**Sec. 457.** RCW 43.33A.100 and 2008 c 236 s 1 are each amended to read as follows:

The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: PROVIDED, That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the executive director, a confidential secretary, and all investment officers, including the deputy director for investment management, employed by the investment board shall be established by the state investment board. The investment board is authorized to maintain a retention pool within the state investment board expense account under RCW 43.33A.160, from the earnings of the funds managed by the board, pursuant to a performance management and compensation program developed by the investment board, in order to address recruitment and retention problems and to reward performance. The compensation levels and incentive compensation for investment officers shall be limited to the average of total compensation provided by state or other public funds of similar size, based upon a biennial survey conducted by the investment board, with review and comment by the joint legislative audit and review committee. However, in any fiscal year the incentive compensation granted by the investment board from the retention pool to investment officers pursuant to this section may not exceed thirty percent. Disbursements from the retention pool shall be from legislative appropriations and shall be on authorization of the board's executive director or the director's designee.

The investment board shall provide notice to ~~((the director of the department of personnel,))~~ the director of financial management~~((s))~~ and the chairs of the house of representatives and senate fiscal committees of proposed changes to the compensation

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levels for the positions. The notice shall be provided not less than sixty days prior to the effective date of the proposed changes.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in chapter 3, Laws of 1981 shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by chapter 3, Laws of 1981 shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981.

**Sec. 458.** RCW 43.130.060 and 1973 2nd ex.s. c 37 s 6 are each amended to read as follows:

In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the ~~((public employees' retirement board))~~ director of retirement systems shall, within thirty days of the date upon which any affected employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset ~~((said))~~ the increased cost, the ~~((retirement board))~~ director of retirement systems shall bill the department of ~~((personnel))~~ enterprise services for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose.

**Sec. 459.** RCW 43.131.090 and 2002 c 354 s 230 are each amended to read as follows:

Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the human resources director ~~((of personnel))~~ pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of ~~((general administration))~~ enterprise services;

(3) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

**Sec. 460.** RCW 48.37.060 and 2008 c 100 s 2 are each amended to read as follows:

(1) When the commissioner determines that other market conduct actions identified in RCW 48.37.040(4)(a) have not sufficiently addressed issues raised concerning company activities in Washington state, the commissioner has the discretion to conduct market conduct examinations in accordance with the NAIC market conduct uniform examination procedures and the NAIC market regulation handbook.

(2)(a) In lieu of an examination of an insurer licensed in this state, the commissioner shall accept an examination report of another state, unless the commissioner determines that the other state does not have laws substantially similar to those of this state, or does not have a market oversight system that is comparable to the market conduct oversight system set forth in this law.

(b) The commissioner's determination under (a) of this subsection is discretionary with the commissioner and is not subject to appeal.

(c) If the insurer to be examined is part of an insurance holding company system, the commissioner may also seek to simultaneously examine any affiliates of the insurer under common control and management which are licensed to write the same lines of business in this state.

(3) Before commencement of a market conduct examination, market conduct oversight personnel shall prepare a work plan consisting of the following:

(a) The name and address of the insurer being examined;

(b) The name and contact information of the examiner-in-charge;

(c) The name of all market conduct oversight personnel initially assigned to the market conduct examination;

(d) The justification for the examination;

(e) The scope of the examination;

(f) The date the examination is scheduled to begin;

(g) Notice of any noninsurance department personnel who will assist in the examination;

(h) A time estimate for the examination;

(i) A budget for the examination if the cost of the examination is billed to the insurer; and

(j) An identification of factors that will be included in the billing if the cost of the examination is billed to the insurer.

(4)(a) Within ten days of the receipt of the information contained in subsection (3) of this section, insurers may request the commissioner's discretionary review of any alleged conflict of interest, pursuant to RCW 48.37.090(2), of market conduct oversight personnel and noninsurance department personnel assigned to a market conduct examination. The request for review shall specifically describe the alleged conflict of interest in the proposed assignment of any person to the examination.

(b) Within five business days of receiving a request for discretionary review of any alleged conflict of interest in the proposed assignment of any person to a market conduct examination, the commissioner or designee shall notify the insurer of any action regarding the assignment of personnel to a market conduct examination based on the insurer's allegation of conflict of interest.

(5) Market conduct examinations shall, to the extent feasible, use desk examinations and data requests before an on-site examination.

(6) Market conduct examinations shall be conducted in accordance with the provisions set forth in the NAIC market regulation handbook and the NAIC market conduct uniform examinations procedures, subject to the precedence of the provisions of chapter 82, Laws of 2007.

(7) The commissioner shall use the NAIC standard data request.

(8) Announcement of the examination shall be sent to the insurer and posted on the NAIC's examination tracking system as

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soon as possible but in no case later than sixty days before the estimated commencement of the examination, except where the examination is conducted in response to extraordinary circumstances as described in RCW 48.37.050(2)(a). The announcement sent to the insurer shall contain the examination work plan and a request for the insurer to name its examination coordinator.

(9) If an examination is expanded significantly beyond the original reasons provided to the insurer in the notice of the examination required by subsection (3) of this section, the commissioner shall provide written notice to the insurer, explaining the expansion and reasons for the expansion. The commissioner shall provide a revised work plan if the expansion results in significant changes to the items presented in the original work plan required by subsection (3) of this section.

(10) The commissioner shall conduct a preexamination conference with the insurer examination coordinator and key personnel to clarify expectations at least thirty days before commencement of the examination, unless otherwise agreed by the insurer and the commissioner.

(11) Before the conclusion of the field work for market conduct examination, the examiner-in-charge shall review examination findings to date with insurer personnel and schedule an exit conference with the insurer, in accordance with procedures in the NAIC market regulation handbook.

(12)(a) No later than sixty days after completion of each market conduct examination, the commissioner shall make a full written report of each market conduct examination containing only facts ascertained from the accounts, records, and documents examined and from the sworn testimony of individuals, and such conclusions and recommendations as may reasonably be warranted from such facts.

(b) The report shall be certified by the commissioner or by the examiner-in-charge of the examination, and shall be filed in the commissioner's office subject to (c) of this subsection.

(c) The commissioner shall furnish a copy of the market conduct examination report to the person examined not less than ten days and, unless the time is extended by the commissioner, not more than thirty days prior to the filing of the report for public inspection in the commissioner's office. If the person so requests in writing within such period, the commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the commissioner have been made.

(d) Within thirty days of the end of the period described in (c) of this subsection, unless extended by order of the commissioner, the commissioner shall consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's work papers and enter an order:

(i) Adopting the market conduct examination report as filed or with modification or corrections. If the market conduct examination report reveals that the company is operating in violation of any law, rule, or order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure that violation;

(ii) Rejecting the market conduct examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling under this subsection; or

(iii) Calling for an investigatory hearing with no less than twenty days' notice to the company for purposes of obtaining additional documentation, data, information, and testimony.

(e) All orders entered under (d) of this subsection must be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the market conduct examination report, relevant examiner work papers, and any written submissions or rebuttals. The order is considered a final administrative decision and may be appealed under the administrative procedure act, chapter 34.05 RCW, and must be served upon the company by certified mail or certifiable electronic means, together with a copy of the adopted examination report. A copy of the adopted examination report must be sent by certified mail or certifiable electronic means to each director at the director's residential address or to a personal e-mail account.

(f)(i) Upon the adoption of the market conduct examination report under (d) of this subsection, the commissioner shall continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the person examined. Thereafter, the commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication.

(ii) If the commissioner determines that regulatory action is appropriate as a result of any market conduct examination, he or she may initiate any proceedings or actions as provided by law.

(iii) Nothing contained in this subsection requires the commissioner to disclose any information or records that would indicate or show the existence or content of any investigation or activity of a criminal justice agency.

(g) The insurer's response shall be included in the commissioner's order adopting the final report as an exhibit to the order. The insurer is not obligated to submit a response.

(13) The commissioner may withhold from public inspection any examination or investigation report for so long as he or she deems it advisable.

(14)(a) Market conduct examinations within this state of any insurer domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees shall, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(b) Every other examination, whatsoever, or any part of the market conduct examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, shall be made by the commissioner or by examiners designated by the commissioner and shall be at the expense of the person examined; but a domestic insurer shall not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(c) When making a market conduct examination under this chapter, the commissioner may contract, in accordance with applicable state contracting procedures, for qualified attorneys, appraisers, independent certified public accountants, contract actuaries, and other similar individuals who are independently practicing their professions, even though those persons may from time to time be similarly employed or retained by persons subject to examination under this chapter, as examiners as the commissioner deems necessary for the efficient conduct of a particular examination. The compensation and per diem allowances paid to such contract persons shall be reasonable in the market and time incurred, shall not exceed one hundred twenty-five percent of the compensation and per diem allowances for examiners set forth in the guidelines adopted by the national association of insurance commissioners, unless the commissioner demonstrates that one hundred twenty-five percent is inadequate under the circumstances of the examination, and subject to the provisions of (a) of this subsection.

(d)(i) The person examined and liable shall reimburse the state upon presentation of an itemized statement thereof, for the actual

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travel expenses of the commissioner's examiners, their reasonable living expenses allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem, salary, and expenses for employees examining insurers domiciled outside the state of Washington shall be established by the commissioner on the basis of the national association of insurance commissioner's recommended salary and expense schedule for zone examiners, or the salary schedule established by the human resources director (~~of the Washington department of personnel~~) and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer shall pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

(i) The commissioner or the commissioner's examiners shall not receive or accept any additional emolument on account of any examination.

(iii) Market conduct examination fees subject to being reimbursed by an insurer shall be itemized and bills shall be provided to the insurer on a monthly basis for review prior to submission for payment, or as otherwise provided by state law.

(e) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

(f) The commissioner shall maintain active management and oversight of market conduct examination costs, including costs associated with the commissioner's own examiners, and with retaining qualified contract examiners necessary to perform an examination. Any agreement with a contract examiner shall:

(i) Clearly identify the types of functions to be subject to outsourcing;

(ii) Provide specific timelines for completion of the outsourced review;

(iii) Require disclosure to the insurer of contract examiners' recommendations;

(iv) Establish and use a dispute resolution or arbitration mechanism to resolve conflicts with insurers regarding examination fees; and

(v) Require disclosure of the terms of the contracts with the outside consultants that will be used, specifically the fees and/or hourly rates that can be charged.

(g) The commissioner, or the commissioner's designee, shall review and affirmatively endorse detailed billings from the qualified contract examiner before the detailed billings are sent to the insurer.

**Sec. 461.** RCW 49.46.010 and 2010 c 160 s 2 and 2010 c 8 s 12040 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is

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generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director (~~of personnel~~) pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(o) Any farm intern providing his or her services to a small farm which has a special certificate issued under RCW 49.12.465;

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(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

**Sec. 462.** RCW 49.46.010 and 2010 c 8 s 12040 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director (~~(of personnel)~~) pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

**Sec. 463.** RCW 49.74.020 and 1993 c 281 s 57 are each amended to read as follows:

If the commission reasonably believes that a state agency, an institution of higher education, or the state patrol has failed to comply with an affirmative action rule adopted under RCW 41.06.150 or 43.43.340, the commission shall notify the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol of the noncompliance, as well as the human resources director (~~(of personnel)~~). The commission shall give the director of the state agency, president of the institution of higher education, or chief of the Washington state patrol an opportunity to be heard on the failure to comply.

**Sec. 464.** RCW 49.74.030 and 2002 c 354 s 246 are each amended to read as follows:

The commission in conjunction with the department of (~~personnel~~) enterprise services, the office of financial management, or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150(~~((6))~~)(5) and 43.43.340(5), whichever is appropriate.

**Sec. 465.** RCW 49.90.010 and 2009 c 294 s 5 are each amended to read as follows:

(1) Within this section, "sensory disability" means a sensory condition that materially limits, contributes to limiting, or, if not corrected or accommodated, will probably result in limiting an individual's activities or functioning.

(2) The (~~department of personnel~~) office of financial management shall adopt rules that authorize state agencies to provide allowances to employees with sensory disabilities who must attend training necessary to attain a new service animal. The

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employee's absence must be treated in the same manner as that granted to employees who are absent to attend training that supports or improves their job performance, except that the employee shall not be eligible for reimbursement under RCW 43.03.050 or 43.03.060. The ~~((department of personnel))~~ office of financial management shall adopt rules as necessary to implement this chapter.

(3) If the necessity to attend training for a new service animal is foreseeable and the training will cause the employee to miss work, the employee shall provide the employer with not less than thirty days' notice, before the date the absence is to begin, of the employee's impending absence. If the date of the training requires the absence to begin in less than thirty days, the employee shall provide notice as is practicable.

(4) An agency may require that a request to attend service animal training be supported by a certification issued by the relevant training organization. The employee must provide, in a timely manner, a copy of the certification to the agency. Certification provided under this section is sufficient if it states: (a) The date on which the service animal training session is scheduled to commence; and (b) the session's duration.

**Sec. 466.** RCW 50.13.060 and 2008 c 120 s 6 are each amended to read as follows:

(1) Governmental agencies, including law enforcement agencies, prosecuting agencies, and the executive branch, whether state, local, or federal shall have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in writing to the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the department; and

(b) The director, commissioner, chief executive, or other official of the agency has verified the need for the specific information in writing either on the application or on a separate document; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsections (1) and (9) of this section shall not apply to the state legislative branch. The state legislature shall have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes. If the employment security department does not make information or records available as provided in this subsection, the legislature may exercise its authority granted by chapter 44.16 RCW.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the

procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to governmental agencies where the procedures would frustrate the investigation of possible violations of criminal laws or to the release of employing unit names, addresses, number of employees, and aggregate employer wage data for the purpose of state governmental agencies preparing small business economic impact statements under chapter 19.85 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and (d). Information provided by the department and held to be private and confidential under state or federal laws must not be misused or released to unauthorized parties. A person who misuses such information or releases such information to unauthorized parties is subject to the sanctions in RCW 50.13.080.

(5) Governmental agencies shall have access to certain records or information, limited to such items as names, addresses, social security numbers, and general information about benefit entitlement or employer information possessed by the department, for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims, or to determine potential tax liability or employer compliance with registration and licensing requirements. In those cases the governmental agency shall not be required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are government agencies not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section must be satisfied. Information provided by the department and held to be private and confidential under state or federal laws shall not be misused or released to unauthorized parties subject to the sanctions in RCW 50.13.080.

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) The department may provide information for purposes of statistical analysis and evaluation of the WorkFirst program or any successor state welfare program to the department of social and health services, the office of financial management, and other governmental entities with oversight or evaluation responsibilities for the program in accordance with RCW 43.20A.080. The confidential information provided by the department shall remain the property of the department and may be used by the authorized requesting agencies only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. The department of social and health services, the office of financial management, or other governmental entities with oversight or evaluation responsibilities for the program are not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section and

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applicable federal laws and regulations must be satisfied. The confidential information used for evaluation and analysis of welfare reform supplied to the authorized requesting entities with regard to the WorkFirst program or any successor state welfare program are exempt from public inspection and copying under chapter 42.56 RCW.

(9) The disclosure of any records or information by a governmental agency which has obtained the records or information under this section is prohibited unless the disclosure is (a) directly connected to the official purpose for which the records or information were obtained or (b) to another governmental agency which would be permitted to obtain the records or information under subsection (4) or (5) of this section.

(10) In conducting periodic salary or fringe benefit studies pursuant to law, the ~~((department of personnel))~~ office of financial management shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

(11)(a) To promote the reemployment of job seekers, the commissioner may enter into data-sharing contracts with partners of the one-stop career development system. The contracts shall provide for the transfer of data only to the extent that the transfer is necessary for the efficient provisions of workforce programs, including but not limited to public labor exchange, unemployment insurance, worker training and retraining, vocational rehabilitation, vocational education, adult education, transition from public assistance, and support services. The transfer of information under contracts with one-stop partners is exempt from subsection (1)(c) of this section.

(b) An individual who applies for services from the department and whose information will be shared under (a) of this subsection (11) must be notified that his or her private and confidential information in the department's records will be shared among the one-stop partners to facilitate the delivery of one-stop services to the individual. The notice must advise the individual that he or she may request that private and confidential information not be shared among the one-stop partners and the department must honor the request. In addition, the notice must:

(i) Advise the individual that if he or she requests that private and confidential information not be shared among one-stop partners, the request will in no way affect eligibility for services;

(ii) Describe the nature of the information to be shared, the general use of the information by one-stop partner representatives, and among whom the information will be shared;

(iii) Inform the individual that shared information will be used only for the purpose of delivering one-stop services and that further disclosure of the information is prohibited under contract and is not subject to disclosure under chapter 42.56 RCW; and

(iv) Be provided in English and an alternative language selected by the one-stop center or job service center as appropriate for the community where the center is located.

If the notice is provided in-person, the individual who does not want private and confidential information shared among the one-stop partners must immediately advise the one-stop partner representative of that decision. The notice must be provided to an individual who applies for services telephonically, electronically, or by mail, in a suitable format and within a reasonable time after applying for services, which shall be no later than ten working days from the department's receipt of the application for services. A one-stop representative must be available to answer specific questions regarding the nature, extent, and purpose for which the information may be shared.

(12) To facilitate improved operation and evaluation of state programs, the commissioner may enter into data-sharing contracts

with other state agencies only to the extent that such transfer is necessary for the efficient operation or evaluation of outcomes for those programs. The transfer of information by contract under this subsection is exempt from subsection (1)(c) of this section.

(13) The misuse or unauthorized release of records or information by any person or organization to which access is permitted by this chapter subjects the person or organization to a civil penalty of five thousand dollars and other applicable sanctions under state and federal law. Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

**Sec. 467.** RCW 28A.345.060 and 1986 c 158 s 3 are each amended to read as follows:

The association shall contract with the ~~((department of personnel for the department of personnel))~~ human resources director in the office of financial management to audit in odd-numbered years the association's staff classifications and employees' salaries. The association shall give copies of the audit reports to the office of financial management and the committees of each house of the legislature dealing with common schools.

**Sec. 468.** RCW 28A.400.201 and 2010 c 236 s 7 are each amended to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of the superintendent of public instruction, in collaboration with the human resources director in the office of financial management, shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any

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reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the (~~department of personnel~~) office of financial management, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in RCW 28A.290.010. The working group shall make an initial report to the legislature by June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 469.** RCW 34.12.100 and 2010 1st sp.s. c 7 s 3 are each amended to read as follows:

The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the (~~department of personnel~~) human resources director in the office of financial management. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the department of personnel.

**Sec. 470.** RCW 36.21.011 and 1995 c 134 s 12 are each amended to read as follows:

Any assessor who deems it necessary in order to complete the listing and the valuation of the property of the county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as assistants or deputies who shall not engage in the private practice of appraising within the county in which he or she is employed without the written permission of the assessor filed with the auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors, and (2) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

To assist each assessor in obtaining adequate and well qualified assistants or deputies, the (~~state department of personnel~~) office of financial management, after consultation with the Washington state association of county assessors, the Washington state association of counties, and the department of revenue, shall establish by July 1, 1967, and shall thereafter maintain, a classification and salary plan for those employees of an assessor who act as appraisers. The plan

shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

An assessor who intends to put such plan into effect shall inform the department of revenue and the county legislative authority of this intent in writing. The department of revenue and the county legislative authority may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the county legislative authority, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the county legislative authority. The committee may be formed only once in a period of four calendar years.

After such determination, the assessor may provide, in each of the four next succeeding annual budget estimates, for as many positions as are established in such determination. Each county legislative authority to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan.

**Sec. 471.** RCW 41.04.020 and 1998 c 116 s 1 are each amended to read as follows:

Any employee or group of employees of the state of Washington or any of its political subdivisions, or of any institution supported, in whole or in part, by the state or any of its political subdivisions, may authorize the deduction from his or her salaries or wages and payment to another, the amount or amounts of his or her subscription payments or contributions to any person, firm, or corporation administering, furnishing, or providing (1) medical, surgical, and hospital care or either of them, or (2) life insurance or accident and health disability insurance, or (3) any individual retirement account selected by the employee or the employee's spouse established under applicable state or federal law: PROVIDED, That such authorization by said employee or group of employees, shall be first approved by the head of the department, division office or institution of the state or any political subdivision thereof, employing such person or group of persons, and filed with the department of (~~personnel~~) enterprise services; or in the case of political subdivisions of the state of Washington, with the auditor of such political subdivision or the person authorized by law to draw warrants against the funds of said political subdivision.

**Sec. 472.** RCW 41.04.460 and 1992 c 234 s 10 are each amended to read as follows:

The department of (~~personnel~~) enterprise services, through the combined benefits communication project, shall prepare information encouraging individual financial planning for retirement and describing the potential consequences of early retirement, including members' assumption of health insurance costs, members' receipt of reduced retirement benefits, and the increased period of time before members will become eligible for cost-of-living adjustments. The department of retirement systems shall distribute the information to members who are eligible to retire under the provisions of chapter 234, Laws of 1992. Prior to retiring, such members who elect to retire shall sign a statement acknowledging their receipt and understanding of the information.

**Sec. 473.** RCW 41.60.050 and 1991 sp.s. c 16 s 918 are each amended to read as follows:

The legislature shall appropriate from the (~~department of~~) personnel service fund for the payment of administrative costs of the

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productivity board. However, during the 1991-93 fiscal biennium, the administrative costs of the productivity board shall be appropriated from the savings recovery account.

**Sec. 474.** RCW 41.68.030 and 1983 1st ex.s. c 15 s 3 are each amended to read as follows:

A claim under this chapter may be submitted to the department of ~~((personnel))~~ enterprise services for the reparation of salary losses suffered during the years 1942 through 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, and a social security number, or by evidence of official action of termination. The claimant shall also provide an address to which the department shall mail notification of its determination regarding the claimant's eligibility.

**Sec. 475.** RCW 41.68.040 and 1983 1st ex.s. c 15 s 4 are each amended to read as follows:

(1) The department of ~~((personnel))~~ enterprise services shall determine the eligibility of a claimant to receive reparations authorized by this chapter. The department shall then notify the claimant by mail of its determination regarding the claimant's eligibility.

(2) The department may adopt rules that will assist in the fair determination of eligibility and the processing of claims. The department, however, has no obligation to directly notify any person of possible eligibility for reparation of salary losses under this chapter.

**Sec. 476.** RCW 41.68.050 and 1983 1st ex.s. c 15 s 5 are each amended to read as follows:

A claimant under this chapter who is determined eligible by the department of ~~((personnel))~~ enterprise services shall receive two thousand five hundred dollars each year for two years. All claims which the department determines are eligible for reparation shall be immediately forwarded to the state treasurer, who shall issue warrants in the appropriate amounts upon demand and verification of identity. If a claimant dies after filing a claim but before receiving full payment, payments shall be made to the claimant's estate upon demand and verification of identity.

**Sec. 477.** RCW 47.28.251 and 2003 c 363 s 103 are each amended to read as follows:

(1) The department of transportation shall work with representatives of transportation labor groups to develop a financial incentive program to aid in retention and recruitment of employee classifications where problems exist and program delivery is negatively affected. The department's financial incentive program must be reviewed and approved by the legislature before it can be implemented. This program must support the goal of enhancing project delivery timelines as outlined in section 101, chapter 363, Laws of 2003. Upon receiving approval from the legislature, the ~~((department of personnel))~~ office of financial management shall implement, as required, specific aspects of the financial incentive package, as developed by the department of transportation.

(2) Notwithstanding chapter 41.06 RCW, the department of transportation may acquire services from qualified private firms in order to deliver the transportation construction program to the public. Services may be acquired solely for augmenting the department's workforce capacity and only when the department's transportation construction program cannot be delivered through its existing or readily available workforce. The department of transportation shall work with representatives of transportation labor groups to develop and implement a program identifying those projects requiring contracted services while establishing a program as defined in subsection (1) of this section to provide the classified personnel necessary to deliver future construction programs. The procedures for acquiring construction engineering services from private firms may not be used to displace existing state employees

nor diminish the number of existing classified positions in the present construction program. The acquisition procedures must be in accordance with chapter 39.80 RCW.

(3) Starting in December 2004, and biennially thereafter, the secretary shall report to the transportation committees of the legislature on the use of construction engineering services from private firms authorized under this section. The information provided to the committees must include an assessment of the benefits and costs associated with using construction engineering services, or other services, from private firms, and a comparison of public versus private sector costs. The secretary may act on these findings to ensure the most cost-effective means of service delivery.

**NEW SECTION. Sec. 478.** The following acts or parts of acts are each repealed:

(1) RCW 41.06.030 (Department of personnel established) and 2002 c 354 s 201, 1993 c 281 s 20, & 1961 c 1 s 3;

(2) RCW 41.06.111 (Personnel appeals board abolished--Powers, duties, and functions transferred to the Washington personnel resources board) and 2002 c 354 s 233;

(3) RCW 41.06.130 (Director of personnel--Appointment--Rules-- Powers and duties--Delegation of authority) and 1993 c 281 s 26, 1982 1st ex.s. c 53 s 3, & 1961 c 1 s 13;

(4) RCW 41.06.139 (Classification system for classified service-- Director implements--Rules of the board--Appeals) and 2002 c 354 s 206;

(5) RCW 41.06.480 (Background check disqualification--Policy recommendations) and 2001 c 296 s 7; and

(6) RCW 41.07.900 (Transfer of personnel, records, equipment, etc) and 1975 1st ex.s. c 239 s 4.

**NEW SECTION. Sec. 479.** RCW 41.06.136, 43.31.086, 41.80.900, 41.80.901, 41.80.902, 41.80.903, and 41.80.904 are each decodified.

**NEW SECTION. Sec. 480.** Section 447 of this act expires January 1, 2012.

**NEW SECTION. Sec. 481.** Section 448 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 482.** Section 459 of this act expires June 30, 2015.

**NEW SECTION. Sec. 483.** Section 461 of this act expires December 31, 2011.

**NEW SECTION. Sec. 484.** Section 462 of this act takes effect December 31, 2011.

#### PART V POWERS AND DUTIES TRANSFERRED FROM THE OFFICE OF FINANCIAL MANAGEMENT

**Sec. 501.** RCW 43.41.290 and 1977 ex.s. c 270 s 3 are each amended to read as follows:

As used in ((RCW 43.19.19361 and 43.19.19362)) this act:

(1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; ~~((and))~~

(2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss;

(3) "Department" means the department of enterprise services; and

(4) "Director" means the director of enterprise services.

**Sec. 502.** RCW 43.41.300 and 2002 c 332 s 7 are each amended to read as follows:

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There is hereby created ~~((#))~~ an office of risk management ~~((division))~~ within the ~~((office of financial management))~~ department of enterprise services. The director shall implement the risk management policy in RCW 43.41.280 (as recodified by this act) through the office of risk management ~~((division))~~. The director shall appoint a risk manager to supervise the office of risk management ~~((division))~~. The office of risk management ~~((division))~~ shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss.

**Sec. 503.** RCW 43.41.310 and 2002 c 332 s 5 are each amended to read as follows:

As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the office of risk management ~~((division))~~ periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the office of risk management ~~((division))~~ prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the risk management administration account which shall be reimbursed by the agency or agencies for which procurement is made.

**Sec. 504.** RCW 43.41.320 and 2002 c 332 s 6 are each amended to read as follows:

The director, through the office of risk management ~~((division))~~, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington.

**Sec. 505.** RCW 43.41.330 and 2002 c 332 s 8 are each amended to read as follows:

The director, through the office of risk management ~~((division))~~, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4).

**Sec. 506.** RCW 43.41.340 and 2002 c 332 s 9 are each amended to read as follows:

The ~~((office))~~ department shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account.

**Sec. 507.** RCW 43.41.360 and 2009 c 549 s 5121 are each amended to read as follows:

(In addition to other powers and duties prescribed by this chapter,) The director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his or her judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his or her judgment their powers and duties are such as not to require a bond.

**Sec. 508.** RCW 43.41.370 and 2002 c 333 s 2 are each amended to read as follows:

(1) The director ~~((of financial management))~~ shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, unless the director in his or her discretion determines that the incident does not merit review. A loss prevention review team may also be appointed when any other substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices. When the director decides not to appoint a loss prevention review team he or she shall issue a statement of the reasons for the director's decision. The statement shall be made available on the department's web site ~~((of the office of financial management))~~. The director's decision pursuant to this section to appoint or not appoint a loss prevention review team shall not be admitted into evidence in a civil or administrative proceeding.

(2) A loss prevention review team shall consist of at least three but no more than five persons, and may include independent consultants, contractors, or state employees, but it shall not include any person employed by the agency involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review.

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents, interviewing persons with relevant knowledge, and reporting its recommendations in writing to the director ~~((of financial management))~~ and the director of the agency involved in the loss or risk of loss within the time requested by the director ~~((of financial management))~~. The final report shall not disclose the contents of any documents required by law to be kept confidential.

(4) Pursuant to guidelines established by the director, state agencies must notify the ~~((office of financial management))~~ department immediately upon becoming aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency. State agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees.

**Sec. 509.** RCW 43.41.380 and 2002 c 333 s 3 are each amended to read as follows:

(1) The final report from a loss prevention review team to the director ~~((of financial management))~~ shall be made public by the director promptly upon receipt, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding.

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In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

(7) Within one hundred twenty days after completion of the final report of a loss prevention review team, the agency under review shall issue to the ~~((office of financial management))~~ department a response to the report. The response will indicate (a) which of the report's recommendations the agency hopes to implement, (b) whether implementation of those recommendations will require additional funding or legislation, and (c) whatever other information the director may require. This response shall be considered part of the final report and shall be subject to all provisions of this section that apply to the final report, including without limitation the restrictions on admissibility and use in civil or administrative proceedings and the obligation of the director to make the final report public.

(8) Nothing in RCW 43.41.370 or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review.

(9) Nothing in RCW 43.41.370 or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW.

**Sec. 510.** RCW 43.41.110 and 2002 c 332 s 23 are each amended to read as follows:

The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

~~((Carry out the provisions of this chapter and chapter 4.92 RCW relating to risk management.~~

~~—(9))~~ Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

~~((40))~~ (9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

~~((41))~~ (10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

~~((42))~~ (11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

~~((43))~~ (12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

~~((44))~~ (13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds.

**Sec. 511.** RCW 4.92.006 and 2002 c 332 s 10 are each amended to read as follows:

As used in this chapter:

(1) ~~("Office" means the office of financial management.)~~ "Department" means the department of enterprise services.

(2) "Director" means the director of ~~((financial management))~~ enterprise services.

(3) ~~("Risk management division")~~ "Office of risk management" means the ~~((division of the office of financial management))~~ office within the department of enterprise services that carries out the powers and duties under this chapter relating to claim filing, claims administration, and claims payment.

(4) "Risk manager" means the person supervising the office of risk management ~~((division))~~.

**Sec. 512.** RCW 4.92.040 and 2002 c 332 s 11 are each amended to read as follows:

(1) No execution shall issue against the state on any judgment.

(2) Whenever a final judgment against the state is obtained in an action on a claim arising out of tortious conduct, the claim shall be paid from the liability account.

(3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and

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furnish to the office of risk management ((~~division~~)) a duly certified copy of such judgment; the office of risk management ((~~division~~)) shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid from appropriations specifically provided for such purposes by law.

(4) Final judgments for which there are no provisions in state law for payment shall be transmitted by the office of risk management ((~~division~~)) to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the office of risk management ((~~division~~)) shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the office of risk management ((~~division~~)) shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the office of risk management ((~~division~~)), which shall retain the same as a record. All claims of two thousand dollars or less shall be approved or rejected by the office of risk management ((~~division~~)), and if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature. If the claimant accepts any part of his or her claim which is approved for payment by the office of risk management ((~~division~~)), such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The office of risk management ((~~division~~)) shall submit to the house and senate committees on ways and means, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding year. For all claims not approved by the office of risk management ((~~division~~)), the office of risk management ((~~division~~)) shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall be held for submission during the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the office of risk management ((~~division~~));

(b) An estimate by the office of risk management ((~~division~~)) of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

(6) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

(7) Subsections (3) through (6) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

**Sec. 513.** RCW 4.92.130 and 2009 c 560 s 15 are each amended to read as follows:

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expediently pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management ((~~division~~)). If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management ((~~division~~)) in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount shall be prorated back to the appropriate funds.

**Sec. 514.** RCW 4.92.150 and 2002 c 332 s 15 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers, employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the attorney general is defending pursuant to RCW 4.92.070, or upon petition by the state, the attorney general, with the prior approval of the office of risk management ((~~division~~)) and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer, employee, volunteer, or foster parent.

**Sec. 515.** RCW 4.92.160 and 2002 c 332 s 16 are each amended to read as follows:

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the office of risk management ((~~division~~)), and that ((~~division~~)) office shall authorize and direct the payment of moneys only from the liability account whenever:

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(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to the office of risk management (~~(division)~~) that a claim has been settled; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state.

**Sec. 516.** RCW 4.92.210 and 2002 c 332 s 17 are each amended to read as follows:

(1) All liability claims arising out of tortious conduct or under 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its officers, employees, or volunteers would be liable for shall be filed with the office of risk management (~~(division)~~).

(2) A centralized claim tracking system shall be maintained to provide agencies with accurate and timely data on the status of liability claims. Information in this claim file, other than the claim itself, shall be privileged and confidential.

(3) Standardized procedures shall be established for filing, reporting, processing, and adjusting claims, which includes the use of qualified claims management personnel.

(4) All claims shall be reviewed by the office of risk management (~~(division)~~) to determine an initial valuation, to delegate to the appropriate office to investigate, negotiate, compromise, and settle the claim, or to retain that responsibility on behalf of and with the assistance of the affected state agency.

(5) All claims that result in a lawsuit shall be forwarded to the attorney general's office. Thereafter the attorney general and the office of risk management (~~(division)~~) shall collaborate in the investigation, denial, or settlement of the claim.

(6) Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and confidential.

(7) All settlements shall be approved by the responsible agencies, or their designees, prior to settlement.

**Sec. 517.** RCW 4.92.270 and 2002 c 332 s 21 are each amended to read as follows:

The risk manager shall develop procedures for standard indemnification agreements for state agencies to use whenever the agency agrees to indemnify, or be indemnified by, any person or party. The risk manager shall also develop guidelines for the use of indemnification agreements by state agencies. On request of the risk manager, an agency shall forward to the office of risk management (~~(division)~~) for review and approval any contract or agreement containing an indemnification agreement.

**Sec. 518.** RCW 4.92.280 and 1998 c 217 s 4 are each amended to read as follows:

If chapter 217, Laws of 1998 mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the (~~office of financial management~~) department of enterprise services.

**Sec. 519.** RCW 10.92.020 and 2008 c 224 s 2 are each amended to read as follows:

(1) Tribal police officers under subsection (2) of this section shall be recognized and authorized to act as general authority Washington peace officers. A tribal police officer recognized and authorized to act as a general authority Washington peace officer under this section has the same powers as any other general authority Washington peace officer to enforce state laws in

Washington, including the power to make arrests for violations of state laws.

(2) A tribal police officer may exercise the powers of law enforcement of a general authority Washington peace officer under this section, subject to the following:

(a) The appropriate sovereign tribal nation shall submit to the (~~office of financial management~~) department of enterprise services proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.

(i) Within the thirty days of receipt of the information from the sovereign tribal nation, the (~~office of financial management~~) department of enterprise services shall either approve or reject the adequacy of insurance, giving consideration to the scope of the interlocal agreement. The adequacy of insurance under this chapter shall be subject to annual review by the (~~state office of financial management~~) department of enterprise services.

(ii) Each policy of insurance issued under this chapter must include a provision that the insurance shall be available to satisfy settlements or judgments arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority Washington peace officer, and that to the extent of policy coverage neither the sovereign tribal nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law, the determination of fault in a civil action, or the payment of a settlement or judgment arising from the tortious conduct.

(b) The appropriate sovereign tribal nation shall submit to the (~~office of financial management~~) department of enterprise services proof of training requirements for each tribal police officer. To be authorized as a general authority Washington peace officer, a tribal police officer must successfully complete the requirements set forth under RCW 43.101.157. Any applicant not meeting the requirements for certification as a tribal police officer may not act as a general authority Washington peace officer under this chapter. The criminal justice training commission shall notify the (~~office of financial management~~) department of enterprise services if:

(i) A tribal police officer authorized under this chapter as a general authority Washington state peace officer has been decertified pursuant to RCW 43.101.157; or

(ii) An appropriate sovereign tribal government is otherwise in noncompliance with RCW 43.101.157.

(3) A copy of any citation or notice of infraction issued, or any incident report taken, by a tribal police officer acting in the capacity of a general authority Washington peace officer as authorized by this chapter must be submitted within three days to the police chief or sheriff within whose jurisdiction the action was taken. Any citation issued under this chapter shall be to a Washington court, except that any citation issued to Indians within the exterior boundaries of an Indian reservation may be cited to a tribal court. Any arrest made or citation issued not in compliance with this chapter is not enforceable.

(4) Any authorization granted under this chapter shall not in any way expand the jurisdiction of any tribal court or other tribal authority.

(5) The authority granted under this chapter shall be coextensive with the exterior boundaries of the reservation, except that an officer commissioned under this section may act as authorized under RCW 10.93.070 beyond the exterior boundaries of the reservation.

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(6) For purposes of civil liability under this chapter, a tribal police officer shall not be considered an employee of the state of Washington or any local government except where a state or local government has deputized a tribal police officer as a specially commissioned officer. Neither the state of Washington and its individual employees nor any local government and its individual employees shall be liable for the authorization of tribal police officers under this chapter, nor for the negligence or other misconduct of tribal officers. The authorization of tribal police officers under this chapter shall not be deemed to have been a nondelegable duty of the state of Washington or any local government.

(7) Nothing in this chapter impairs or affects the existing status and sovereignty of those sovereign tribal governments whose traditional lands and territories lie within the borders of the state of Washington as established under the laws of the United States.

(8) Nothing in this chapter limits, impairs, or nullifies the authority of a county sheriff to appoint duly commissioned state or federally certified tribal police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the state of Washington.

(9) Nothing in this chapter limits, impairs, or otherwise affects the existing authority under state or federal law of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to enter Indian country in fresh pursuit, as defined in RCW 10.93.120, of a person suspected of violating state law, where the officer would otherwise not have jurisdiction.

(10) An interlocal agreement pursuant to chapter 39.34 RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect under this chapter. Nothing in this chapter shall limit, impair, or otherwise affect the implementation of an interlocal agreement completed pursuant to chapter 39.34 RCW by July 1, 2008, between a sovereign tribal government and a local government law enforcement agency for cooperative law enforcement.

(a) Sovereign tribal governments that meet all of the requirements of subsection (2) of this section, but do not have an interlocal agreement pursuant to chapter 39.34 RCW and seek authorization under this chapter, may submit proof of liability insurance and training certification to the ~~((office of financial management))~~ department of enterprise services. Upon confirmation of receipt of the information from the ~~((office of financial management))~~ department of enterprise services, the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter have one year to enter into an interlocal agreement pursuant to chapter 39.34 RCW. If the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter are not able to reach agreement after one year, the sovereign tribal governments and the local government law enforcement agencies shall submit to binding arbitration pursuant to chapter 7.04A RCW with the American arbitration association or successor agency for purposes of completing an agreement prior to authorization going into effect.

(b) For the purposes of (a) of this subsection, those sovereign tribal government and local government law enforcement agencies that must enter into binding arbitration shall submit to last best offer arbitration. For purposes of accepting a last best offer, the arbitrator must consider other interlocal agreements between sovereign tribal governments and local law enforcement agencies in Washington state, any model policy developed by the Washington association of sheriffs and police chiefs or successor agency, and national best practices.

**Sec. 520.** RCW 48.62.021 and 2004 c 255 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Local government entity" or "entity" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, water-sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasi-municipal corporations.

(2) "Risk assumption" means a decision to absorb the entity's financial exposure to a risk of loss without the creation of a formal program of advance funding of anticipated losses.

(3) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(4) "Health and welfare benefits" means a plan or program established by a local government entity or entities for the purpose of providing its employees and their dependents, and in the case of school districts, its district employees, students, directors, or any of their dependents, with health care, accident, disability, death, and salary protection benefits.

(5) "Property and liability risks" includes the risk of property damage or loss sustained by a local government entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the local government entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the local government entity.

(6) "State risk manager" means the risk manager of the office of risk management ((division)) within the ~~((office of financial management))~~ department of enterprise services.

(7) "Nonprofit corporation" or "corporation" has the same meaning as defined in RCW 24.03.005(3).

**Sec. 521.** RCW 48.64.010 and 2009 c 314 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented on a basis that is affordable to households with an income of eighty percent or less of the county median family income, adjusted for family size.

(2) "Affordable housing entity" means any of the following:

(a) A housing authority created under the laws of this state or another state and any agency or instrumentality of a housing authority including, but not limited to, a legal entity created to conduct a joint self-insurance program for housing authorities that is operating in accordance with chapter 48.62 RCW;

(b) A nonprofit corporation, whether organized under the laws of this state or another state, that is engaged in providing affordable housing and is necessary for the completion, management, or operation of a project because of its access to funding sources that are not available to a housing authority, as described in this section; or

(c) A general or limited partnership or limited liability company, whether organized under the laws of this state or another state, that is engaged in providing affordable housing as defined in this section. A partnership or limited liability company may only be considered an affordable housing entity if a housing authority or nonprofit corporation, as described in this subsection, satisfies any of the following conditions: (i) It has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company; (ii) it possesses the power to direct management or

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policies of the partnership or limited liability company; or (iii) it has entered into a contract to lease, manage, or operate the affordable housing owned by the partnership or limited liability company.

(3) "Property and liability risks" includes the risk of property damage or loss sustained by an affordable housing entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the entity.

(4) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(5) "State risk manager" means the risk manager of the office of risk management (~~(division)~~) within the (~~office of financial management~~) department of enterprise services.

**Sec. 522.** RCW 39.29.011 and 2009 c 486 s 7 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

- (1) Emergency contracts;
- (2) Sole source contracts;
- (3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than twenty thousand dollars shall have documented evidence of competition, which must include agency posting of the contract opportunity on the state's common vendor registration and bid notification system. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the (~~office of financial management~~) department of enterprise services when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

**Sec. 523.** RCW 39.29.016 and 1998 c 101 s 4 are each amended to read as follows:

Emergency contracts shall be filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection within three working days following the commencement of work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the (~~office of financial management~~) department of enterprise services when the contract is filed.

**Sec. 524.** RCW 39.29.018 and 2009 c 486 s 8 are each amended to read as follows:

(1) Sole source contracts shall be filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the (~~office of financial management~~) department of enterprise services when the contract is filed, and must include evidence that the agency posted the contract opportunity on the state's common vendor registration and bid notification system. For sole source contracts of twenty thousand dollars or more, documented justification shall also include evidence that the agency attempted to identify potential consultants by advertising through statewide or regional newspapers.

(2) The (~~office of financial management~~) department of enterprise services shall approve sole source contracts of twenty thousand dollars or more before any such contract becomes binding and before any services may be performed under the contract. These requirements shall also apply to sole source contracts of less than twenty thousand dollars if the total amount of such contracts

between an agency and the same consultant is twenty thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of twenty thousand dollars or more are reasonable.

**Sec. 525.** RCW 39.29.025 and 1998 c 101 s 6 are each amended to read as follows:

(1) Substantial changes in either the scope of work specified in the contract or in the scope of work specified in the formal solicitation document must generally be awarded as new contracts. Substantial changes executed by contract amendments must be submitted to the (~~office of financial management~~) department of enterprise services, and are subject to approval by the (~~office of financial management~~) department of enterprise services.

(2) An amendment or amendments to personal service contracts, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract must be provided to the (~~office of financial management~~) department of enterprise services.

(3) The (~~office of financial management~~) department of enterprise services shall approve amendments provided to it under this section before the amendments become binding and before services may be performed under the amendments.

(4) The amendments must be filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection at least ten working days prior to the proposed starting date of services under the amendments.

(5) The (~~office of financial management~~) department of enterprise services shall approve amendments provided to it under this section only if they meet the criteria for approval of the amendments established by the director of the (~~office of financial management~~) department of enterprise services.

**Sec. 526.** RCW 39.29.055 and 1998 c 101 s 8 are each amended to read as follows:

(1) Personal service contracts subject to competitive solicitation shall be (a) filed with the (~~office of financial management~~) department of enterprise services and made available for public inspection; and (b) reviewed and approved by the (~~office of financial management~~) department of enterprise services when those contracts provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

(2) Personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting shall be made available for public inspection at least ten working days before the proposed starting date of the contract. All other contracts shall be effective no earlier than the date they are filed with the (~~office of financial management~~) department of enterprise services.

**Sec. 527.** RCW 39.29.065 and 2009 c 486 s 9 are each amended to read as follows:

To implement this chapter, the director of the (~~office of financial management~~) department of enterprise services shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. The director shall develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments. For reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. At the beginning of each biennium, the

director may, by administrative policy, adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018, and 39.29.040 to levels not to exceed the percentage increase in the implicit price deflator. Adjusted dollar thresholds shall be rounded to the nearest five hundred dollar increment.

**Sec. 528.** RCW 39.29.068 and 1998 c 245 s 33 and 1998 c 101 s 10 are each reenacted and amended to read as follows:

The ~~((office of financial management))~~ department of enterprise services shall maintain a publicly available list of all personal service contracts entered into by state agencies during each fiscal year. The list shall identify the contracting agency, the contractor, the purpose of the contract, effective dates and periods of performance, the cost of the contract and funding source, any modifications to the contract, and whether the contract was competitively procured or awarded on a sole source basis. The ~~((office of financial management))~~ department of enterprise services shall also ensure that state accounting definitions and procedures are consistent with RCW 39.29.006 and permit the reporting of personal services expenditures by agency and by type of service. Designations of type of services shall include, but not be limited to, management and organizational services, legal and expert witness services, financial services, computer and information services, social or technical research, marketing, communications, and employee training or recruiting services. The ~~((office of financial management))~~ department of enterprise services shall report annually to the fiscal committees of the senate and house of representatives on sole source contracts filed under this chapter. The report shall describe: (1) The number and aggregate value of contracts for each category established in this section; (2) the number and aggregate value of contracts of five thousand dollars or greater but less than twenty thousand dollars; (3) the number and aggregate value of contracts of twenty thousand dollars or greater; (4) the justification provided by agencies for the use of sole source contracts; and (5) any trends in the use of sole source contracts.

**Sec. 529.** RCW 39.29.075 and 1987 c 414 s 9 are each amended to read as follows:

As requested by the legislative auditor, the ~~((office of financial management))~~ department of enterprise services shall provide information on contracts filed under this chapter for use in preparation of summary reports on personal services contracts.

**Sec. 530.** RCW 39.29.090 and 1998 c 101 s 11 are each amended to read as follows:

Personal service contracts awarded by institutions of higher education from nonstate funds do not have to be filed in advance and approved by the ~~((office of financial management))~~ department of enterprise services. Any such contract is subject to all other requirements of this chapter, including the requirements under RCW 39.29.068 for annual reporting of personal service contracts to the ~~((office of financial management))~~ department of enterprise services.

**Sec. 531.** RCW 39.29.100 and 2002 c 260 s 7 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall adopt uniform guidelines for the effective and efficient management of personal service contracts and client service contracts by all state agencies. The guidelines must, at a minimum, include:

- (a) Accounting methods, systems, measures, and principles to be used by agencies and contractors;
- (b) Precontract procedures for selecting potential contractors based on their qualifications and ability to perform;
- (c) Incorporation of performance measures and measurable benchmarks in contracts, and the use of performance audits;
- (d) Uniform contract terms to ensure contract performance and compliance with state and federal standards;

(e) Proper payment and reimbursement methods to ensure that the state receives full value for taxpayer moneys, including cost settlements and cost allowance;

(f) Postcontract procedures, including methods for recovering improperly spent or overspent moneys for disallowance and adjustment;

(g) Adequate contract remedies and sanctions to ensure compliance;

(h) Monitoring, fund tracking, risk assessment, and auditing procedures and requirements;

(i) Financial reporting, record retention, and record access procedures and requirements;

(j) Procedures and criteria for terminating contracts for cause or otherwise; and

(k) Any other subject related to effective and efficient contract management.

(2) The ~~((office of financial management))~~ department of enterprise services shall submit the guidelines required by subsection (1) of this section to the governor and the appropriate standing committees of the legislature no later than December 1, 2002.

(3) The ~~((office of financial management))~~ department of enterprise services shall publish a guidebook for use by state agencies containing the guidelines required by subsection (1) of this section.

**Sec. 532.** RCW 39.29.110 and 2002 c 260 s 8 are each amended to read as follows:

(1) A state agency entering into or renewing personal service contracts or client service contracts shall follow the guidelines required by RCW 39.29.100.

(2) A state agency that has entered into or renewed personal service contracts or client service contracts during a calendar year shall, on or before January 1st of the following calendar year, provide the ~~((office of financial management))~~ department of enterprise services with a report detailing the procedures the agency employed in entering into, renewing, and managing the contracts.

(3) The provisions of this section apply to state agencies entering into or renewing contracts after January 1, 2003.

**Sec. 533.** RCW 39.29.120 and 2002 c 260 s 9 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall provide a training course for agency personnel responsible for executing and managing personal service contracts and client service contracts. The course must contain training on effective and efficient contract management under the guidelines established under RCW 39.29.100. State agencies shall require agency employees responsible for executing or managing personal service contracts and client service contracts to complete the training course to the satisfaction of the ~~((office of financial management))~~ department of enterprise services. Beginning January 1, 2004, no agency employee may execute or manage personal service contracts or client service contracts unless the employee has completed the training course. Any request for exception to this requirement shall be submitted to the ~~((office of financial management))~~ department of enterprise services in writing and shall be approved by the ~~((office of financial management))~~ department of enterprise services prior to the employee executing or managing the contract.

(2)(a) The ~~((office of financial management))~~ department of enterprise services shall conduct risk-based audits of the contracting practices associated with individual personal service and client service contracts from multiple state agencies to ensure compliance with the guidelines established in RCW 39.29.110. The ~~((office of financial management))~~ department of enterprise services shall conduct the number of audits deemed appropriate by the director of

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the ~~((office of financial management))~~ department of enterprise services based on funding provided.

(b) The ~~((office of financial management))~~ department of enterprise services shall forward the results of the audits conducted under this section to the governor, the appropriate standing committees of the legislature, and the joint legislative audit and review committee.

**Sec. 534.** RCW 43.88.580 and 2008 c 326 s 3 are each amended to read as follows:

(1) The ~~((office of financial management))~~ department of enterprise services shall make electronically available to the public a database of state agency contracts for personal services required to be filed with the ~~((office of financial management))~~ department of enterprise services under chapter 39.29 RCW.

(2) The state expenditure information web site described in RCW 44.48.150 shall include a link to the ~~((office of financial management))~~ department of enterprise services database described in subsection (1) of this section.

**NEW SECTION. Sec. 535.** RCW 43.41.280, 43.41.290, 43.41.300, 43.41.310, 43.41.320, 43.41.330, 43.41.340, 43.41.350, and 43.41.360 are each recodified as sections in chapter 43.19 RCW.

## PART VI

### POWERS AND DUTIES TRANSFERRED FROM THE DEPARTMENT OF INFORMATION SERVICES

**Sec. 601.** RCW 43.105.080 and 2010 1st sp.s. c 37 s 931 are each amended to read as follows:

There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of ~~((personnel's))~~ enterprise services' personnel information systems ~~((division, the office of financial management's))~~ group and financial systems management group, and other users as ~~((jointly))~~ determined by the ~~((department and the))~~ office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. The chief information officer or the chief information officer's designee, with the approval of the technology services board, is authorized to expend up to one million dollars per fiscal biennium for the technology services board to conduct independent technical and financial analysis of proposed information technology projects, and such an expenditure does not require an appropriation. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the strategic planning and policy component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

During the 2009-2011 fiscal biennium, the legislature may transfer from the data processing revolving account to the state general fund such amounts as reflect the excess fund balance associated with the information technology pool.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's

responsibilities and authority to purchase supplies as described in RCW 43.19.190 and 43.19.200.

**Sec. 602.** RCW 43.105.320 and 1999 c 287 s 18 are each amended to read as follows:

The department of ~~((information))~~ enterprise services may become a licensed certification authority, under chapter 19.34 RCW, for the purpose of providing services to agencies, local governments, and other entities and persons for purposes of official state business. The department is not subject to RCW 19.34.100(1)(a). The department shall only issue certificates, as defined in RCW 19.34.020, in which the subscriber is:

(1) The state of Washington or a department, office, or agency of the state;

(2) A city, county, district, or other municipal corporation, or a department, office, or agency of the city, county, district, or municipal corporation;

(3) An agent or employee of an entity described by subsection (1) or (2) of this section, for purposes of official public business;

(4) Any other person or entity engaged in matters of official public business, however, such certificates shall be limited only to matters of official public business. The department may issue certificates to such persons or entities only if after issuing a request for proposals from certification authorities licensed under chapter 19.34 RCW and review of the submitted proposals, makes a determination that such private services are not sufficient to meet the department's published requirements. The department must set forth in writing the basis of any such determination and provide procedures for challenge of the determination as provided by the state procurement requirements; or

(5) An applicant for a license as a certification authority for the purpose of compliance with RCW 19.34.100(1)(a).

**Sec. 603.** RCW 43.105.370 and 2009 c 509 s 2 are each amended to read as follows:

(1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal ~~((grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I))~~ funding, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of RCW 43.105.372 through 43.105.376 ~~((as recodified by this act))~~. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department ~~((of information services))~~ is the single eligible entity in the state for purposes of the federal broadband ~~((data improvement act, P.L. 110-385, Title I))~~ mapping activities.

(3) Federal funding received by the department ~~((under the federal broadband data improvement act, P.L. 110-385, Title I))~~ for broadband mapping activities must be used in accordance with ~~((the))~~ any federal requirements ~~((of that act))~~ and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state ~~((to achieve the purposes of that act))~~.

(4) The department ~~((of information services))~~ shall consult with ~~((the department of community, trade, and economic development or its successor agency,))~~ the office of financial management~~((s))~~ and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies.

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**Sec. 604.** RCW 43.105.372 and 2009 c 509 s 3 are each amended to read as follows:

(1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and ~~((creating~~ ~~create~~) create a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency.

**Sec. 605.** RCW 43.105.374 and 2009 c 509 s 4 are each amended to read as follows:

(1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map or updates to a map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map or updates to a map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the ~~((completed))~~ map. For the purpose of RCW 42.56.010~~((2))~~ (3), the purchase by the department of a completed map or updates to a map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of July 1, 2009, will not cease to be publicly available due to any provision of chapter 509, Laws of 2009.

**Sec. 606.** RCW 43.105.376 and 2009 c 509 s 5 are each amended to read as follows:

(1) The department, in coordination with ~~((the department of~~ ~~community, trade, and economic development and))~~ the utilities and

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transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Any future reports prepared by the department based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year.

**Sec. 607.** RCW 43.105.380 and 2009 c 509 s 6 are each amended to read as follows:

The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the department ~~((of information services))~~. The department may contract for services in order to carry out the department's obligations under this section.

(1) In implementing the community technology opportunity program the ~~((administrator))~~ director must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the ~~((administrator))~~ director for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

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(g) Comply with such other requirements as the ~~((administrator))~~ director establishes.

(3) The ~~((administrator))~~ director may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The ~~((administrator))~~ director must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

**Sec. 608.** RCW 43.105.382 and 2009 c 509 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants to the state ~~((authorized under Division B, Title VI of the American recovery and reinvestment act of 2009)),~~ legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only as matching funds for federal and other grants to fund the operation of the community technology opportunity program under this chapter, and to fund other broadband-related activities authorized in chapter 509, Laws of 2009. Only the director or the director's designee may authorize expenditures from the account.

**Sec. 609.** RCW 43.105.390 and 2009 c 509 s 9 are each amended to read as follows:

(1) The governor may take all appropriate steps to ~~((carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and))~~ seek federal funding in order to maximize investment in broadband deployment and adoption in the state of Washington ~~((consistent with chapter 509, Laws of 2009)).~~ Such steps may include the designation of a broadband deployment and adoption coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts on behalf of the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 43.105.382 (as recodified by this act), may oversee implementation of federally funded or mandated broadband programs for the state and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet, computer, and related information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in

partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under RCW 43.105.380 and 43.105.382 (as recodified by this act);

(f) Creating additional programs to spur the development of high-speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing technology loan programs targeting small businesses or businesses located in unserved and underserved areas.

**Sec. 610.** RCW 43.105.400 and 2009 c 509 s 10 are each amended to read as follows:

~~((1))~~ Subject to the availability of federal or state funding, the department may ~~((reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is))~~ convene an advisory group ~~((to the department))~~ on digital inclusion and technology planning. The ~~((council must))~~ advisory group may include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities.

~~((2))~~ The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities.)

**Sec. 611.** RCW 41.07.030 and 1975 1st ex.s. c 239 s 3 are each amended to read as follows:

The costs of administering, maintaining, and operating the central personnel-payroll system shall be distributed to the using state agencies. In order to insure proper and equitable distribution of costs the department of personnel shall utilize cost accounting procedures to identify all costs incurred in the administration, maintenance, and operation of the central personnel-payroll system. In order to facilitate proper and equitable distribution of costs to the using state agencies the department of personnel is authorized to utilize the data processing revolving fund created by RCW 43.105.080 (as recodified by this act) and the ~~((department of))~~ personnel service fund created by RCW 41.06.280.

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**Sec. 612.** RCW 43.99I.040 and 1997 c 456 s 39 are each amended to read as follows:

(1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(4), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(5), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(6), the state treasurer shall transfer from the data processing revolving fund created in RCW 43.105.080 (as recodified by this act) to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99I.020(7), the Washington state dairy products commission shall cause the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury.

(5) The higher education operating fee accounts for the University of Washington, Washington State University, and Central Washington University established by chapter 231, Laws of 1992 and repealed by chapter 18, Laws of 1993 1st sp. sess. are reestablished in the state treasury for purposes of fulfilling debt service reimbursement transfers to the general fund required by bond resolutions and covenants for bonds issued for purposes of RCW 43.99I.020(5).

(6) For bonds issued for purposes of RCW 43.99I.020(5), on each date on which any interest or principal and interest payment is due, the board of regents or board of trustees of the University of Washington, Washington State University, or Central Washington University shall cause the amount as determined by the state treasurer to be paid out of the local operating fee account for deposit by the universities into the state treasury higher education operating fee accounts. The state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(6) to reimburse the general fund.

**NEW SECTION. Sec. 613.** The following acts or parts of acts are each repealed:

(1) RCW 43.105.300 (Education in use of technology encouraged) and 1996 c 171 s 14; and

(2) RCW 43.105.360 (Web directory--Public community technology programs) and 2008 c 262 s 5.

**NEW SECTION. Sec. 614.** RCW 43.105.080, 43.105.320, and 43.105.410 are each recodified as sections in chapter 43.19 RCW.

**NEW SECTION. Sec. 615.** RCW 43.105.370, 43.105.372, 43.105.374, 43.105.376, 43.105.380, 43.105.382, 43.105.390, and 43.105.400 are each recodified as sections in chapter 43.330 RCW.

## PART VII CREATING THE OFFICE OF CHIEF INFORMATION OFFICER

**NEW SECTION. Sec. 701.** Information technology is a tool used by state agencies to improve their ability to deliver public services efficiently and effectively. Advances in information technology - including advances in hardware, software, and business processes for implementing and managing these resources - offer new opportunities to improve the level of support provided to citizens and state agencies and to reduce the per-transaction cost of these services. These advances are one component in the process of reengineering how government delivers services to citizens.

To fully realize the service improvements and cost efficiency from the effective application of information technology to its business processes, state government must establish decision-making structures that connect business processes and information technology in an operating model. Many of these business practices transcend individual agency processes and should be worked at the enterprise level. To do this requires an effective partnership of executive management, business processes owners, and providers of support functions necessary to efficiently and effectively deliver services to citizens.

To maximize the potential for information technology to contribute to government business process reengineering the state must establish clear central authority to plan, set enterprise standards, and provide project oversight and management analysis of the various aspects of a business process.

Establishing the office of chief information officer and partnering it with the director of financial management will provide state government with the cohesive structure necessary to develop improved operating models with agency directors and reengineer business process to enhance service delivery while capturing savings.

**NEW SECTION. Sec. 702.** (1) The office of the chief information officer is created within the office of financial management.

(2) Powers, duties, and functions assigned to the department of information services as specified in this chapter shall be transferred to the office of chief information officer as provided in this chapter.

(3) The primary duties of the office are:

(a) To prepare and lead the implementation of a strategic direction and enterprise architecture for information technology for state government;

(b) To enable the standardization and consolidation of information technology infrastructure across all state agencies to support enterprise-based system development and improve and maintain service delivery;

(c) To establish standards and policies for the consistent and efficient operation of information technology services throughout state government;

(d) To establish statewide enterprise architecture that will serve as the organizing standard for information technology for state agencies;

(e) Educate and inform state managers and policymakers on technological developments, industry trends and best practices, industry benchmarks that strengthen decision making and

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professional development, and industry understanding for public managers and decision makers.

(4) In the case of institutions of higher education, the powers of the office and the provisions of this chapter apply to business and administrative applications but do not apply to (a) academic and research applications; and (b) medical, clinical, and health care applications, including the business and administrative applications for such operations. However, institutions of higher education must disclose to the office any proposed academic applications that are enterprise-wide in nature relative to the needs and interests of other institutions of higher education.

(5) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, are strongly encouraged to coordinate with the office and participate in shared services initiatives and the development of enterprise-based strategies, where appropriate.

**NEW SECTION. Sec. 703.** (1) The executive head and appointing authority of the office is the chief information officer. The chief information officer shall be appointed by the governor, subject to confirmation by the senate. The chief information officer shall serve at the pleasure of the governor. The chief information officer shall be paid a salary fixed by the governor. If a vacancy occurs in the position of chief information officer while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he or she shall present to that body his or her nomination for the position.

(2) The chief information officer may employ staff members, some of whom may be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter, and such other duties as may be authorized by law. The chief information officer may delegate any power or duty vested in him or her by this chapter or other law.

(3) The internal affairs of the office shall be under the control of the chief information officer in order that the chief information officer may manage the office in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the chief information officer shall have complete charge and supervisory powers over the office. The chief information officer may create such administrative structures as the chief information officer deems appropriate, except as otherwise specified by law, and the chief information officer may employ staff members as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law.

**NEW SECTION. Sec. 704.** The chief information officer shall:

(1) Supervise and administer the activities of the office of chief information officer;

(2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of this chapter including:

(a) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter; and

(b) Report to the governor any matters relating to abuses and evasions of this chapter.

(3) In addition to other powers and duties granted, the chief information officer has the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Accept and expend gifts and grants that are related to the purposes of this chapter, whether such grants be of federal or other funds;

(c) Apply for grants from public and private entities, and receive and administer any grant funding received for the purpose and intent of this chapter;

(d) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(e) Delegate powers, duties, and functions as the chief information officer deems necessary for efficient administration, but the chief information officer shall be responsible for the official acts of the officers and employees of the office; and

(f) Perform other duties as are necessary and consistent with law.

**NEW SECTION. Sec. 705.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.

(2) "Board" means the technology services board.

(3) "Committee" means the state interoperability executive committee.

(4) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the board.

(5) "Enterprise architecture" means an ongoing program for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(6) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

(7) "Information" includes, but is not limited to, data, text, voice, and video.

(8) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(9) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

(10) "K-20 network" means the network established in section 718 of this act.

(11) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

(12) "Office" means the office of the chief information officer.

(13) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

(14) "Proprietary software" means that software offered for sale or license.

(15) "State agency" or "agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

(16) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data

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communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. "Telecommunications" does not include public safety communications.

### STANDARDS AND POLICIES

**NEW SECTION. Sec. 706.** (1) The chief information officer shall establish standards and policies to govern information technology in the state of Washington.

(2) The office shall have the following powers and duties related to information services:

(a) To develop statewide standards and policies governing the acquisition and disposition of equipment, software, and personal and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To develop statewide or interagency technical policies, standards, and procedures;

(c) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services;

(d) To develop a detailed business plan for any service or activity to be contracted under RCW 41.06.142(7)(b) by the consolidated technology services agency;

(e) To provide direction concerning strategic planning goals and objectives for the state. The office shall seek input from the legislature and the judiciary; and

(f) To establish policies for the periodic review by the office of agency performance which may include but are not limited to analysis of:

(i) Planning, management, control, and use of information services;

(ii) Training and education; and

(iii) Project management.

(3) Statewide technical standards to promote and facilitate electronic information sharing and access are an essential component of acceptable and reliable public access service and complement content-related standards designed to meet those goals. The office shall:

(a) Establish technical standards to facilitate electronic access to government information and interoperability of information systems, including wireless communications systems; and

(b) Require agencies to include an evaluation of electronic public access needs when planning new information systems or major upgrades of systems.

In developing these standards, the office is encouraged to include the state library, state archives, and appropriate representatives of state and local government.

(4) The office shall perform other matters and things necessary to carry out the purposes and provisions of this chapter.

### STRATEGIC PLANNING

**NEW SECTION. Sec. 707.** (1) The office shall prepare a state strategic information technology plan which shall establish a statewide mission, goals, and objectives for the use of information technology, including goals for electronic access to government records, information, and services. The plan shall be developed in accordance with the standards and policies established by the office. The office shall seek the advice of the board in the development of this plan.

The plan shall be updated as necessary and submitted to the governor and the legislature.

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(2) The office shall prepare a biennial state performance report on information technology based on agency performance reports required under section 710 of this act and other information deemed appropriate by the office. The report shall include, but not be limited to:

(a) An analysis, based upon agency portfolios, of the state's information technology infrastructure, including its value, condition, and capacity;

(b) An evaluation of performance relating to information technology;

(c) An assessment of progress made toward implementing the state strategic information technology plan, including progress toward electronic access to public information and enabling citizens to have two-way access to public records, information, and services; and

(d) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under section 712 of this act. At a minimum, the portion of the report regarding major technology projects must include:

(i) The total cost data for the entire life-cycle of the project, including capital and operational costs, broken down by staffing costs, contracted service, hardware purchase or lease, software purchase or lease, travel, and training. The original budget must also be shown for comparison;

(ii) The original proposed project schedule and the final actual project schedule;

(iii) Data regarding progress towards meeting the original goals and performance measures of the project;

(iv) Discussion of lessons learned on the project, performance of any contractors used, and reasons for project delays or cost increases; and

(v) Identification of benefits generated by major information technology projects developed under section 712 of this act.

Copies of the report shall be distributed biennially to the governor and the legislature. The major technology section of the report must examine major information technology projects completed in the previous biennium.

### PORTFOLIO MANAGEMENT

**NEW SECTION. Sec. 708.** Management of information technology across state government requires managing resources and business processes across multiple agencies. It is no longer sufficient to pursue efficiencies within agency or individual business process boundaries. The state must manage the business process changes and information technology in support of business processes as a statewide portfolio. The chief information officer will use agency information technology portfolio planning as input to develop a statewide portfolio to guide resource allocation and prioritization decisions.

**NEW SECTION. Sec. 709.** An agency information technology portfolio shall serve as the basis for making information technology decisions and plans which may include, but are not limited to:

(1) System refurbishment, acquisitions, and development efforts;

(2) Setting goals and objectives for using information technology;

(3) Assessments of information processing performance, resources, and capabilities;

(4) Ensuring the appropriate transfer of technological expertise for the operation of new systems developed using external resources;

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(5) Guiding new investment demand, prioritization, selection, performance, and asset value of technology and telecommunications; and

(6) Progress toward providing electronic access to public information.

**NEW SECTION. Sec. 710.** (1) Each agency shall develop an information technology portfolio consistent with RCW 43.105.172 (as recodified by this act). The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services.

(2) Agency portfolios shall include, but not be limited to, the following:

(a) A baseline assessment of the agency's information technology resources and capabilities that will serve as the benchmark for subsequent planning and performance measures;

(b) A statement of the agency's mission, goals, and objectives for information technology, including goals and objectives for achieving electronic access to agency records, information, and services;

(c) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under section 707 of this act;

(d) An implementation strategy to provide electronic access to public records and information. This implementation strategy must be assembled to include:

(i) Compliance with Title 40 RCW;

(ii) Adequate public notice and opportunity for comment;

(iii) Consideration of a variety of electronic technologies, including those that help transcend geographic locations, standard business hours, economic conditions of users, and disabilities;

(iv) Methods to educate both state employees and the public in the effective use of access technologies;

(e) Projects and resources required to meet the objectives of the portfolio; and

(f) Where feasible, estimated schedules and funding required to implement identified projects.

(3) Portfolios developed under subsection (1) of this section shall be submitted to the office for review and approval. The chief information officer may reject, require modification to, or approve portfolios as deemed appropriate. Portfolios submitted under this subsection shall be updated and submitted for review and approval as necessary.

(4) Each agency shall prepare and submit to the office a biennial performance report that evaluates progress toward the objectives articulated in its information technology portfolio and the strategic priorities of the state. The superintendent of public instruction shall develop its portfolio in conjunction with educational service districts and statewide or regional providers of K-12 education information technology services. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency information technology portfolio;

(c) Progress toward electronic access to public information and enabling citizens to have two-way interaction for obtaining information and services from agencies; and

(d) An inventory of agency information services, equipment, and proprietary software.

(5) The office shall establish standards, elements, form, and format for plans and reports developed under this section.

(6) Agency activities to increase electronic access to public records and information, as required by this section, must be

implemented within available resources and existing agency planning processes.

(7) The office may exempt any agency from any or all of the requirements of this section.

## BUDGET REVIEW

**NEW SECTION. Sec. 711.** (1) At the request of the director of financial management, the office shall evaluate both state agency information technology current spending and technology budget requests, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The office shall submit recommendations for funding all or part of such requests to the director of financial management. The office shall also submit recommendations regarding consolidation and coordination of similar proposals or other efficiencies it finds in reviewing proposals.

(2) The office shall establish criteria, consistent with portfolio-based information technology management, for the evaluation of agency budget requests under this section. Technology budget requests shall be evaluated in the context of the state's information technology portfolio; technology initiatives underlying budget requests are subject to review by the office. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with the state strategic information technology plan and the state enterprise architecture, consistency with information technology portfolios, appropriate provision for public electronic access to information, evidence of business process streamlining and gathering of business and technical requirements, services, duration of investment, costs, and benefits.

## PROJECT MANAGEMENT OVERSIGHT

**NEW SECTION. Sec. 712.** (1) The office shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects, including those proposed by the superintendent of public instruction, in conjunction with educational service districts, or statewide or regional providers of K-12 education information technology services. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or statewide significance of the project; and

(b) Establish a model process and procedures which state agencies shall follow in developing and implementing projects within their information technology portfolios. This process may include project oversight experts or panels, as appropriate. Agencies may propose, for approval by the office, a process and procedures unique to the agency. The office may accept or require modification of such agency proposals or the office may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the office.

The chief information officer may suspend or terminate a major project, and direct that the project funds be placed into unallotted reserve status, if the chief information officer determines that the project is not meeting or is not expected to meet anticipated performance standards.

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(2) The office of financial management shall establish policies and standards consistent with portfolio-based information technology management to govern the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the chief information officer, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the office, that the previous phase is satisfactorily completed; and

(b) Other elements deemed necessary by the office of financial management.

**NEW SECTION. Sec. 713.** (1) Prior to making a commitment to purchase, acquire, or develop a major information technology project or service, state agencies must provide a proposal to the office outlining the business case of the proposed product or service, including the upfront and ongoing cost of the proposal.

(2) Within sixty days of receipt of a proposal, the office shall approve the proposal, reject it, or propose modifications.

(3) In reviewing a proposal, the office must determine whether the product or service is consistent with:

(a) The standards and policies developed by the office pursuant to section 706 of this act; and

(b) The state's enterprise-based strategy.

(4) If a substantially similar product or service is offered by the consolidated technology services agency established in RCW 43.105.047, the office may require the agency to procure the product or service through the consolidated technology services agency, if doing so would benefit the state as an enterprise.

(5) The office shall provide guidance to agencies as to what threshold of information technology spending constitutes a major information technology product or service under this section.

### ENTERPRISE ARCHITECTURE

**NEW SECTION. Sec. 714.** (1) The office shall develop an enterprise-based strategy for information technology in state government informed by portfolio management planning and information technology expenditure information collected from state agencies pursuant to RCW 43.88.092.

(2)(a) The office shall develop an ongoing enterprise architecture program for translating business vision and strategy into effective enterprise change. This program will create, communicate, and improve the key principles and models that describe the enterprise's future state and enable its evolution, in keeping with the priorities of government and the information technology strategic plan.

(b) The enterprise architecture program will facilitate business process collaboration among agencies statewide; improving the reliability, interoperability, and sustainability of the business processes that state agencies use.

In developing an enterprise-based strategy for the state, the office is encouraged to consider the following strategies as possible opportunities for achieving greater efficiency:

(i) Developing evaluation criteria for deciding which common enterprise-wide business processes should become managed as enterprise services;

(ii) Developing a roadmap of priorities for creating enterprise services;

(iii) Developing decision criteria for determining implementation criteria for centralized or decentralized enterprise services;

(iv) Developing evaluation criteria for deciding which technology investments to continue, hold, or drop; and

(v) Performing such other duties as may be assigned by the office to promote effective enterprise change.

(c) The program will establish performance measurement criteria for each of its initiatives; will measure the success of those initiatives; and will assess its quarterly results with the chief information officer to determine whether to continue, revise, or disband the initiative.

### ADVISORY BOARD--CREATION AND DUTIES

**NEW SECTION. Sec. 715.** The technology services board is created within the office of the chief information officer.

(1) The board shall be composed of thirteen members. Six members shall be appointed by the governor, three of whom shall be representatives of state agencies or institutions, and three of whom shall be representatives of the private sector. Of the state agency representatives, at least one of the representatives must have direct experience using the software projects overseen by the board or reasonably expect to use the new software developed under the oversight of the board. Two members shall represent the house of representatives and shall be selected by the speaker of the house of representatives with one representative chosen from each major caucus of the house of representatives; two members shall represent the senate and shall be appointed by the president of the senate with one representative chosen from each major caucus of the senate. One member shall be the chief information officer who shall be a voting member of the board and serve as chair. Two nonvoting members with information technology expertise must be appointed by the governor as follows:

(a) One member representing state agency bargaining units shall be selected from a list of three names submitted by each of the general government exclusive bargaining representatives; and

(b) One member representing local governments shall be selected from a list of three names submitted by commonly recognized local government organizations.

The governor may reject all recommendations and request new recommendations.

(2) Of the initial members, three must be appointed for a one-year term, three must be appointed for a two-year term, and four must be appointed for a three-year term. Thereafter, members must be appointed for three-year terms.

(3) Vacancies shall be filled in the same manner that the original appointments were made for the remainder of the member's term.

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The office shall provide staff support to the board.

**NEW SECTION. Sec. 716.** The board shall have the following powers and duties related to information services:

(1) To review and approve standards and procedures, developed by the office of the chief information officer, governing the acquisition and disposition of equipment, proprietary software, and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(2) To review and approve statewide or interagency technical policies, standards, and procedures developed by the office of the chief information officer;

(3) To review, approve, and provide oversight of major information technology projects to ensure that no major information technology project proposed by a state agency is approved or authorized funding by the board without consideration of the

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technical and financial business case for the project, including a review of:

- (a) The total cost of ownership across the life of the project;
- (b) All major technical options and alternatives analyzed, and reviewed, if necessary, by independent technical sources; and
- (c) Whether the project is technically and financially justifiable when compared against the state's enterprise-based strategy, long-term technology trends, and existing or potential partnerships with private providers or vendors;
- (4) To review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary education institutions, educational service districts, or statewide or regional providers of K-12 information technology services, and to assure the cost-effective development and incremental implementation of a statewide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local government; and the general public through public affairs programming;
- (5) To develop a policy to determine whether a proposed project, product, or service should undergo an independent technical and financial analysis prior to submitting a request to the office of financial management for the inclusion in any proposed operating, capital, or transportation budget;
- (6) To approve contracting for services and activities under RCW 41.06.142(7) for the consolidated technology service agency. To approve any service or activity to be contracted under RCW 41.06.142(7)(b), the board must also review the proposed business plan and recommendation submitted by the office;
- (7) To consider, on an ongoing basis, ways to promote strategic investments in enterprise-level information technology projects that will result in service improvements and cost efficiency;
- (8) To provide a forum to solicit external expertise and perspective on developments in information technology, enterprise architecture, standards, and policy development; and
- (9) To provide a forum where ideas and issues related to information technology plans, policies, and standards can be reviewed.

**INTEROPERABILITY COMMITTEE--TRANSFER FROM DEPARTMENT OF INFORMATION SERVICES**

NEW SECTION. **Sec. 717.** (1) The chief information officer shall appoint a state interoperability executive committee, the membership of which must include, but not be limited to, representatives of the military department, the Washington state patrol, the department of transportation, the office of the chief information officer, the department of natural resources, city and county governments, state and local fire chiefs, police chiefs, and sheriffs, and state and local emergency management directors. The chair and legislative members of the board will serve as nonvoting ex officio members of the committee. Voting membership may not exceed fifteen members.

(2) The chief information officer shall appoint the chair of the committee from among the voting members of the committee.

(3) The state interoperability executive committee has the following responsibilities:

- (a) Develop policies and make recommendations to the office for technical standards for state wireless radio communications systems, including emergency communications systems. The standards must address, among other things, the interoperability of systems, taking into account both existing and future systems and technologies;

- (b) Coordinate and manage on behalf of the office the licensing and use of state-designated and state-licensed radio frequencies, including the spectrum used for public safety and emergency communications, and serve as the point of contact with the federal communications commission on matters relating to allocation, use, and licensing of radio spectrum;

(c) Coordinate the purchasing of all state wireless radio communications system equipment to ensure that:

(i) After the transition from a radio over internet protocol network, any new trunked system shall be, at a minimum, project-25;

(ii) Any new system that requires advanced digital features shall be, at a minimum, project-25; and

(iii) Any new system or equipment purchases shall be, at a minimum, upgradable to project-25;

(d) Seek support, including possible federal or other funding, for state-sponsored wireless communications systems;

(e) Develop recommendations for legislation that may be required to promote interoperability of state wireless communications systems;

(f) Foster cooperation and coordination among public safety and emergency response organizations;

(g) Work with wireless communications groups and associations to ensure interoperability among all public safety and emergency response wireless communications systems; and

(h) Perform such other duties as may be assigned by the office to promote interoperability of wireless communications systems.

(4) The office shall provide administrative support to the committee.

**K-20 GOVERNANCE AND OPERATIONS OVERSIGHT--TRANSFER FROM DEPARTMENT OF INFORMATION SERVICES**

NEW SECTION. **Sec. 718.** (1) The office has the duty to govern and oversee the technical design, implementation, and operation of the K-20 network including, but not limited to, the following duties: Establishment and implementation of K-20 network technical policy, including technical standards and conditions of use; review and approval of network design; and resolving user/provider disputes.

(2) The office has the following powers and duties:

(a) In cooperation with the educational sectors and other interested parties, to establish goals and measurable objectives for the network;

(b) To ensure that the goals and measurable objectives of the network are the basis for any decisions or recommendations regarding the technical development and operation of the network;

(c) To adopt, modify, and implement policies to facilitate network development, operation, and expansion. Such policies may include but need not be limited to the following issues: Quality of educational services; access to the network by recognized organizations and accredited institutions that deliver educational programming, including public libraries; prioritization of programming within limited resources; prioritization of access to the system and the sharing of technological advances; network security; identification and evaluation of emerging technologies for delivery of educational programs; future expansion or redirection of the system; network fee structures; and costs for the development and operation of the network;

(d) To prepare and submit to the governor and the legislature a coordinated budget for network development, operation, and expansion. The budget shall include the chief information officer's recommendations on (i) any state funding requested for network transport and equipment, distance education facilities and hardware

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or software specific to the use of the network, and proposed new network end sites, (ii) annual copayments to be charged to public educational sector institutions and other public entities connected to the network, and (iii) charges to nongovernmental entities connected to the network;

(e) To adopt and monitor the implementation of a methodology to evaluate the effectiveness of the network in achieving the educational goals and measurable objectives;

(f) To establish by rule acceptable use policies governing user eligibility for participation in the K-20 network, acceptable uses of network resources, and procedures for enforcement of such policies. The office shall set forth appropriate procedures for enforcement of acceptable use policies, that may include suspension of network connections and removal of shared equipment for violations of network conditions or policies. The office shall have sole responsibility for the implementation of enforcement procedures relating to technical conditions of use.

**NEW SECTION. Sec. 719.** The office shall maintain, in consultation with the K-20 network users, the K-20 operations cooperative, which shall be responsible for day-to-day network management, technical network status monitoring, technical problem response coordination, and other duties as agreed to by the office and the educational sectors. Funding for the K-20 operations cooperative shall be provided from the education technology revolving fund under RCW 43.105.835 (as recodified by this act).

**NEW SECTION. Sec. 720.** The chief information officer, in conjunction with the K-20 network users, shall maintain a technical plan of the K-20 telecommunications system and ongoing system enhancements. The office shall ensure that the technical plan adheres to the goals and objectives established under section 706 of this act. The technical plan shall provide for:

(1) A telecommunications backbone connecting educational service districts, the main campuses of public baccalaureate institutions, the branch campuses of public research institutions, and the main campuses of community colleges and technical colleges.

(2)(a) Connection to the K-20 network by entities that include, but need not be limited to: School districts, public higher education off-campus and extension centers, and branch campuses of community colleges and technical colleges, as prioritized by the chief information officer; (b) distance education facilities and components for entities listed in this subsection and subsection (1) of this section; and (c) connection for independent nonprofit institutions of higher education, provided that:

(i) The chief information officer and each independent nonprofit institution of higher education to be connected agree in writing to terms and conditions of connectivity. The terms and conditions shall ensure, among other things, that the provision of K-20 services does not violate Article VIII, section 5 of the state Constitution and that the institution shall adhere to K-20 network policies; and

(ii) The chief information officer determines that inclusion of the independent nonprofit institutions of higher education will not significantly affect the network's eligibility for federal universal service fund discounts or subsidies.

(3) Subsequent phases may include, but need not be limited to, connections to public libraries, state and local governments, community resource centers, and the private sector.

**NEW SECTION. Sec. 721.** (1) In overseeing the technical aspects of the K-20 network, the office is not intended to duplicate the statutory responsibilities of the higher education coordinating board, the superintendent of public instruction, the state librarian, or the governing boards of the institutions of higher education.

(2) The office may not interfere in any curriculum or legally offered programming offered over the K-20 network.

(3) The responsibility to review and approve standards and common specifications for the K-20 network remains the responsibility of the office under section 706 of this act.

(4) The coordination of telecommunications planning for the common schools remains the responsibility of the superintendent of public instruction. Except as set forth in section 706(2)(f) of this act, the office may recommend, but not require, revisions to the superintendent's telecommunications plans.

**Sec. 722.** RCW 43.105.835 and 2004 c 276 s 910 are each amended to read as follows:

(1) The education technology revolving fund is created in the custody of the state treasurer. All receipts from billings under subsection (2) of this section must be deposited in the revolving fund. Only the ~~((director of the department of information services or the director's designee))~~ chief information officer or the chief information officer's designee may authorize expenditures from the fund. The revolving fund shall be used to pay for K-20 network operations, transport, equipment, software, supplies, and services, maintenance and depreciation of on-site data, and shared infrastructure, and other costs incidental to the development, operation, and administration of shared educational information technology services, telecommunications, and systems. The revolving fund shall not be used for the acquisition, maintenance, or operations of local telecommunications infrastructure or the maintenance or depreciation of on-premises video equipment specific to a particular institution or group of institutions.

(2) The revolving fund and all disbursements from the revolving fund are subject to the allotment procedure under chapter 43.88 RCW, but an appropriation is not required for expenditures. The ~~((department of information services))~~ office shall, ~~((in consultation with entities connected to the network under RCW 43.105.820 and))~~ subject to the review and approval of the office of financial management, establish and implement a billing structure for network services identified in subsection (1) of this section.

(3) The ~~((department))~~ office shall charge those public entities connected to the K-20 ~~((telecommunications [telecommunication system] under RCW 43.105.820))~~ telecommunications system under section 720 of this act an annual copayment per unit of transport connection as determined by the legislature after consideration of the ~~((K-20))~~ board's recommendations. This copayment shall be deposited into the revolving fund to be used for the purposes in subsection (1) of this section. It is the intent of the legislature to appropriate to the revolving fund such moneys as necessary to cover the costs for transport, maintenance, and depreciation of data equipment located at the individual public institutions, maintenance and depreciation of the K-20 network backbone, and services provided to the network under ~~((RCW 43.105.815.~~

~~—(4) During the 2003-05 biennium, the legislature may transfer moneys from the education technology revolving fund to the state general fund and the data processing revolving fund such amounts as reflect the excess fund balance of the account))~~ section 718 of this act.

#### GENERAL PROVISIONS RELATED TO OFFICE OF CHIEF INFORMATION OFFICER

**NEW SECTION. Sec. 723.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter do not apply in the office of the chief information officer to the chief information officer, the chief information officer's confidential secretary, assistant directors, and any other exempt staff members provided for in section 703 of this act.

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**Sec. 724.** RCW 43.105.290 and 1996 c 171 s 13 are each amended to read as follows:

The state library, with the assistance of the ~~((department of information services))~~ office and the state archives, shall establish a pilot project to design and test an electronic information locator system, allowing members of the public to locate and access electronic public records. In designing the system, the following factors shall be considered: (1) Ease of operation by citizens; (2) access through multiple technologies, such as direct dial and toll-free numbers, kiosks, and the internet; (3) compatibility with private online services; and (4) capability of expanding the electronic public records included in the system. The pilot project may restrict the type and quality of electronic public records that are included in the system to test the feasibility of making electronic public records and information widely available to the public.

**Sec. 725.** RCW 28A.650.015 and 2009 c 556 s 17 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of online information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The ~~((department of information services))~~ office of the chief information officer, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the workforce training and education coordinating board, and the state library.

(3) The plan adopted and implemented under this section may not impose on school districts any requirements that are not specifically required by federal law or regulation, including requirements to maintain eligibility for the federal schools and libraries program of the universal service fund.

**Sec. 726.** RCW 39.94.040 and 2010 1st sp.s. c 36 s 6015 and 2010 1st sp.s. c 35 s 406 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 28B.10.022, the state may not enter into any financing contract for itself if the aggregate principal amount payable thereunder is greater than an amount to be established from time to time by the state finance committee or participate in a program providing for the issuance of certificates of participation, including any contract for credit enhancement, without the prior approval of the state finance committee. Except as provided in RCW 28B.10.022, the state finance committee shall approve the form of all financing contracts or a standard format for all financing contracts. The state finance committee also may:

(a) Consolidate existing or potential financing contracts into master financing contracts with respect to property acquired by one or more agencies, departments, instrumentalities of the state, the

state board for community and technical colleges, or a state institution of higher learning; or to be acquired by another agency;

(b) Approve programs providing for the issuance of certificates of participation in master financing contracts for the state or for other agencies;

(c) Enter into agreements with trustees relating to master financing contracts; and

(d) Make appropriate rules for the performance of its duties under this chapter.

(2) In the performance of its duties under this chapter, the state finance committee may consult with representatives from the department of general administration, the office of financial management, and the ~~((department of information services))~~ office of the chief information officer.

(3) With the approval of the state finance committee, the state also may enter into agreements with trustees relating to financing contracts and the issuance of certificates of participation.

(4) Except for financing contracts for real property used for the purposes described under chapter 28B.140 RCW, the state may not enter into any financing contract for real property of the state without prior approval of the legislature. For the purposes of this requirement, a financing contract must be treated as used for real property if it is being entered into by the state for the acquisition of land; the acquisition of an existing building; the construction of a new building; or a major remodeling, renovation, rehabilitation, or rebuilding of an existing building. Prior approval of the legislature is not required under this chapter for a financing contract entered into by the state under this chapter for energy conservation improvements to existing buildings where such improvements include: (a) Fixtures and equipment that are not part of a major remodeling, renovation, rehabilitation, or rebuilding of the building, or (b) other improvements to the building that are being performed for the primary purpose of energy conservation. Such energy conservation improvements must be determined eligible for financing under this chapter by the office of financial management in accordance with financing guidelines established by the state treasurer, and are to be treated as personal property for the purposes of this chapter.

(5) The state may not enter into any financing contract on behalf of another agency without the approval of such a financing contract by the governing body of the other agency.

**Sec. 727.** RCW 40.14.020 and 2002 c 358 s 4 are each amended to read as follows:

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

(1) To manage the archives of the state of Washington;

(2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;

(3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;

(4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;

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(5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;

(6) To adopt rules under chapter 34.05 RCW:

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the ~~((department of information services))~~ office of the chief information officer for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter;

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records;

(11) To solicit, accept, and expend donations as provided in RCW 43.07.037 for the purpose of the archive program. These purposes include, but are not limited to, acquisition, accession, interpretation, and display of archival materials. Donations that do not meet the criteria of the archive program may not be accepted.

**Sec. 728.** RCW 42.17.460 and 1999 c 401 s 1 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the ~~((department of information services))~~ office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the ~~((department of information services))~~ office of the chief information officer in chapter 43.105 RCW as they relate to information technology.

**Sec. 729.** RCW 42.17.467 and 1999 c 401 s 5 are each amended to read as follows:

In preparing the information technology plan, the commission shall consult with affected state agencies, the ~~((department of information services))~~ office of the chief information officer, and stakeholders in the commission's work, including representatives of political committees, bona fide political parties, news media, and the general public.

**Sec. 730.** RCW 42.17.469 and 1999 c 401 s 6 are each amended to read as follows:

The commission shall submit the information technology plan to the senate and house of representatives fiscal committees, the governor, the senate state and local government committee, the house of representatives state government committee, and the ~~((department of information services))~~ office of the chief information officer by February 1, 2000. It is the intent of the legislature that the commission thereafter comply with the requirements of chapter 43.105 RCW with respect to preparation and submission of biennial performance reports on the commission's information technology.

**Sec. 731.** RCW 42.17.471 and 1999 c 401 s 7 are each amended to read as follows:

The commission shall prepare and submit to the ~~((department of information services))~~ office of the chief information officer a biennial performance report ~~((in accordance with chapter 43.105 RCW)).~~

The report must include:

(1) An evaluation of the agency's performance relating to information technology;

(2) An assessment of progress made toward implementing the agency information technology plan;

(3) An analysis of the commission's performance measures, set forth in RCW 42.17.463, that relate to the electronic filing of reports and timely public access to those reports via the commission's web site;

(4) A comprehensive description of the methods by which citizens may interact with the agency in order to obtain information and services from the commission; and

(5) An inventory of agency information services, equipment, and proprietary software.

**Sec. 732.** RCW 42.17A.060 and 1999 c 401 s 1 are each amended to read as follows:

It is the intent of the legislature to ensure that the commission provide the general public timely access to all contribution and expenditure reports submitted by candidates, continuing political committees, bona fide political parties, lobbyists, and lobbyists' employers. The legislature finds that failure to meet goals for full and timely disclosure threatens to undermine our electoral process.

Furthermore, the legislature intends for the commission to consult with the ~~((department of information services))~~ office of the chief information officer as it seeks to implement chapter 401, Laws of 1999, and that the commission follow the standards and procedures established by the ~~((department of information services))~~ office of the chief information officer in chapter 43.105 RCW as they relate to information technology.

**Sec. 733.** RCW 43.88.092 and 2010 c 282 s 3 are each amended to read as follows:

(1) As part of the biennial budget process, the office of financial management shall collect from agencies, and agencies shall provide, information to produce reports, summaries, and budget detail sufficient to allow review, analysis, and documentation of all current and proposed expenditures for information technology by state agencies. Information technology budget detail must be included as part of the budget submittal documentation required pursuant to RCW 43.88.030.

(2) The office of financial management must collect, and present as part of the biennial budget documentation, information for all existing information technology projects as defined by information services board policy. The office of financial management must work with the ~~((department of information services))~~ office of the chief information officer to maximize the ability to draw this information from the information technology portfolio management data collected by the department of

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information services pursuant to RCW 43.105.170. Connecting project information collected through the portfolio management process with financial data developed under subsection (1) of this section provides transparency regarding expenditure data for existing technology projects.

(3) The biennial budget documentation submitted by the office of financial management pursuant to RCW 43.88.030 must include an information technology plan and a technology budget for the state identifying current baseline funding for information technology, proposed ((large)) and ongoing major information technology projects, and their associated costs. This plan and technology budget must be presented using a method similar to the capital budget, identifying project costs through stages of the project and across fiscal periods and biennia from project initiation to implementation. This information must be submitted electronically, in a format to be determined by the office of financial management and the legislative evaluation and accountability program committee.

(4) The office of financial management shall also institute a method of accounting for information technology-related expenditures, including creating common definitions for what constitutes an information technology investment.

(5) For the purposes of this section, "major information technology projects" includes projects that have a significant anticipated cost, complexity, or are of statewide significance, such as enterprise-level solutions, enterprise resource planning, and shared services initiatives.

**Sec. 734.** RCW 43.105.410 and 2010 c 282 s 2 are each amended to read as follows:

(1) State agencies that are purchasing wireless devices or services must make such purchases through the state master contract, unless the state agency provides to the office of (~~financial management~~) the chief information officer evidence that the state agency is securing its wireless devices or services from another source for a lower cost than through participation in the state master contract.

(2) For the purposes of this section, "state agency" means any office, department, board, commission, or other unit of state government, but does not include a unit of state government headed by a statewide elected official, an institution of higher education as defined in RCW 28B.10.016, the higher education coordinating board, the state board for community and technical colleges, or agencies of the legislative or judicial branches of state government.

#### STATE DATA CENTER

**NEW SECTION. Sec. 735.** (1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new servers in the state data center.

(2) Agencies with a service requirement that requires servers to be located outside the state data center must receive a waiver from the office. Waivers must be based upon written justification from the requesting agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) The office, in consultation with the office of financial management, shall continue to develop the business plan and migration schedule for moving all state agencies into the state data center.

(4) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement with the office to migrate its servers into the state data center.

(5) This section does not apply to institutions of higher education.

#### MIGRATION TO A CENTRAL SERVICE PROVIDER

**NEW SECTION. Sec. 736.** (1) The office shall conduct a needs assessment and develop a migration strategy to ensure that, over time, all state agencies are moving towards using the consolidated technology services agency established in RCW 43.105.047 as their central service provider for all utility-based infrastructure services, including centralized PC and infrastructure support. Agency specific application services shall remain managed within individual agencies.

(2) The office shall develop short-term and long-term objectives as part of the migration strategy.

(3) For the purposes of this section, "utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, e-mail, and other information technology services commonly utilized by state agencies.

(4) This section does not apply to institutions of higher education.

#### PART VIII CREATING THE CONSOLIDATED TECHNOLOGY SERVICES AGENCY

**NEW SECTION. Sec. 801.** A new section is added to chapter 43.105 RCW to read as follows:

To achieve maximum benefit from advances in information technology the state establishes a centralized provider and procurer of certain information technology services as an agency to support the needs of state agencies. This agency shall be known as the consolidated technology services agency. To ensure maximum benefit to the state, state agencies shall rely on the consolidated technology services agency for those services with a business case of broad use, uniformity, scalability, and price sensitivity to aggregation and volume.

To successfully meet agency needs and meet its obligation as the primary service provider for these services, the consolidated technology services agency must offer high quality services at the lowest possible price. It must be able to attract an adaptable and competitive workforce, be authorized to procure services where the business case justifies it, and be accountable to its customers for the efficient and effective delivery of critical business services.

The consolidated technology services agency is established as an agency in state government. The agency is established with clear accountability to the agencies it serves and to the public. This accountability will come through enhanced transparency in the agency's operation and performance. The agency is also established with broad flexibility to adapt its operations and service catalog to address the needs of customer agencies, and to do so in the most cost-effective ways.

**Sec. 802.** RCW 43.105.020 and 2010 1st sp.s. c 7 s 64 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ("Administrator" means the community technology opportunity program administrator designated by the department.

(2) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network.

(3) "Board" means the information services board.

(4) "Broadband" means a high-speed, high capacity

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transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies.

(5) "Committee" means the state interoperability executive committee.

(6) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(7) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology.

(8) "Council" means the advisory council on digital inclusion created in RCW 43.105.400.

(9) "Department" means the department of information services.

(10)) "Agency" means the consolidated technology services agency.

(2) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

(3) "Director" means the director of the ((department)) consolidated technology services agency.

((11) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board.

(12)) (4) "Equipment" means the machines, devices, and transmission facilities used in information processing, ((such as)) including but not limited to computers, ((word processors,)) terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

((13) "High-speed internet" means broadband.

(14) "Information" includes, but is not limited to, data, text, voice, and video.

(15) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions.

(16) "Information services" means data processing, telecommunications, office automation, and computerized information systems.

(17)) (5) "Enterprise architecture" means an ongoing program for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

(6) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, and all related interactions between people and machines.

(7) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

((18) "K-20 network" means the network established in RCW 43.105.820.

—(19)) (8) "Local governments" includes all municipal and quasi

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municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

((20)) (9) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

((21)) (10) "Proprietary software" means that software offered for sale or license.

((22) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing.

(23) "Small business" has the definition in RCW 39.29.006.

(24) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means.

(25) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of commerce under chapter 43.330 RCW.) (11) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines. "Telecommunications" does not include public safety communications.

**Sec. 803.** RCW 43.105.047 and 1999 c 80 s 5 are each amended to read as follows:

There is created the ((department of information services)) consolidated technology services agency, an agency of state government. The ((department)) agency shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the ((department)) agency; and

(2) ((Maintain and fund a strategic planning and policy component separate from the services component of the department;

(3) Appoint, after consulting with the board, the assistant or deputy director for the planning component;

(4)) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter(;

(5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

(6) Recommend statutory changes to the governor and the board)).

**Sec. 804.** RCW 43.105.052 and 2010 1st sp.s. c 7 s 16 are each amended to read as follows:

The ((department)) agency shall:

(1) ((Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency information technology portfolios and related requests; and

(b) Implementation of statewide and interagency policies, standards, and guidelines;

(2)) Make available information services to ((state)) public agencies ((and local governments)) and public benefit nonprofit

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corporations ((on a full cost-recovery basis)). For the purposes of this section "public agency" means any agency of this state or another state; any political subdivision, or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the United States; and any Indian tribe recognized as such by the federal government and "public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state(. These services may include, but are not limited to:

- (a) Telecommunications services for voice, data, and video;
- (b) Mainframe computing services;
- (c) Support for departmental and microcomputer evaluation, installation, and use;
- (d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;
- (e) Facilities management services for information technology equipment, equipment repair, and maintenance service;
- (f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;
- (g) Office automation services;
- (h) System development services; and
- (i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years));

~~((3))~~ (2) Establish rates and fees for services provided by the ~~((department to assure that the services component of the department is self-supporting))~~ agency. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the office of financial management. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the ~~((department))~~ agency and the office of financial management. ~~((The same rate structure will apply to all user agencies of each cost center.))~~ The rate plan and any adjustments to rates shall be approved by the office of financial management~~((The services component shall not subsidize the operations of the strategic planning and policy component))~~);

~~((4))~~ (3) With the advice of the ~~((information services))~~ board and customer agencies, develop a state strategic information technology plan and performance reports as required under ~~((RCW 43.105.160))~~ section 707 of this act;

~~((5))~~ (4) Develop plans for the ~~((department's))~~ agency's achievement of statewide goals and objectives set forth in the state strategic information technology plan required under ~~((RCW 43.105.160. — These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of the board in the development of these plans;~~

~~—(6) Under direction of the information services board and in collaboration with the department of personnel, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;~~

~~—(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those~~

~~opportunities;~~

~~—(8) Assess agencies' projects, acquisitions, plans, information technology portfolios, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency requested reviews))~~ section 707 of this act;

~~((9))~~ Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the strategic planning and policy component to the board for:

- (a) Meeting preparation, notices, and minutes;
- (b) Promulgation of policies, standards, and guidelines adopted by the board;
- (c) Supervision of studies and reports requested by the board;
- (d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunication facilities as licensed by the federal communication commission on March 27, 1990;)) and

~~((43))~~ (5) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter.

**Sec. 805.** RCW 43.19.190 and 2002 c 200 s 3 are each amended to read as follows:

The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That the provisions of this section and RCW 43.19.1901 through 43.19.1925 do not apply to the acquisition and disposition of equipment, proprietary software, and information technology purchased services by the consolidated technology services agency created in RCW 43.105.047: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care

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programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW ((43.19.1935)) 43.41.310: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher education that choose to exercise independent purchasing authority under RCW 28B.10.029: PROVIDED FURTHER, That the authority to purchase interpreter services and interpreter brokerage services on behalf of limited-English speaking or sensory-impaired applicants and recipients of public assistance shall rest with the department of social and health services;

(3) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies. Acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director. Also, delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(4) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(5) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(6) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(7) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(8) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications;

(9) Provide for the maintenance of inventory records of supplies, materials, and other property;

(10) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(11) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(12) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes.

**NEW SECTION. Sec. 806.** A new section is added to chapter 43.105 RCW to read as follows:

The director shall set performance targets and approve plans for achieving measurable and specific goals for the agency. By January 2012, the appropriate organizational performance and accountability measures and performance targets shall be submitted to the governor. These measures and targets shall include measures of performance demonstrating specific and measurable improvements related to service delivery and costs, operational efficiencies, and overall customer satisfaction. The agency shall develop a dashboard of key performance measures that will be updated quarterly and made available on the agency public web site.

The director shall report to the governor on agency performance at least quarterly. The reports shall be included on the agency's web site and accessible to the public.

**Sec. 807.** RCW 43.105.057 and 1992 c 20 s 11 are each amended to read as follows:

The ((department of information services and the information services board, respectively,)) agency shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter.

**Sec. 808.** RCW 43.105.060 and 1987 c 504 s 10 are each amended to read as follows:

State and local government agencies are authorized to enter into any contracts with the ((department or its successor)) agency which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter.

**Sec. 809.** RCW 19.34.231 and 1999 c 287 s 12 are each amended to read as follows:

(1) If a signature of a unit of state or local government, including its appropriate officers or employees, is required by statute, administrative rule, court rule, or requirement of the office of financial management, that unit of state or local government shall become a subscriber to a certificate issued by a licensed certification authority for purposes of conducting official public business with electronic records.

(2) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.

(3) A unit of state government, except the secretary ((and the department of information services)), may not act as a certification authority.

**Sec. 810.** RCW 19.34.420 and 1998 c 33 s 2 are each amended to read as follows:

(1) The following information, when in the possession of the secretary((, the department of information services,)) or the state auditor for purposes of this chapter, shall not be made available for public disclosure, inspection, or copying, unless the request is made under an order of a court of competent jurisdiction based upon an express written finding that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records:

(a) A trade secret, as defined by RCW 19.108.010; and

(b) Information regarding design, security, or programming of a computer system used for purposes of licensing or operating a certification authority or repository under this chapter.

(2) The state auditor, or an authorized agent, must be given access to all information referred to in subsection (1) of this section for the purpose of conducting audits under this chapter or under other law, but shall not make that information available for public inspection or copying except as provided in subsection (1) of this section.

**Sec. 811.** RCW 46.20.157 and 1999 c 6 s 21 are each amended to read as follows:

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(1) Except as provided in subsection (2) of this section, the department shall annually provide to the ~~((department of information services))~~ consolidated technology services agency an electronic data file. The data file must:

(a) Contain information on all licensed drivers and identicaid holders who are eighteen years of age or older and whose records have not expired for more than two years;

(b) Be provided at no charge; and

(c) Contain the following information on each such person: Full name, date of birth, residence address including county, sex, and most recent date of application, renewal, replacement, or change of driver's license or identicaid.

(2) Before complying with subsection (1) of this section, the department shall remove from the file the names of any certified participants in the Washington state address confidentiality program under chapter 40.24 RCW that have been identified to the department by the secretary of state.

**Sec. 812.** RCW 2.36.054 and 1993 c 408 s 3 are each amended to read as follows:

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the ~~((department of information services))~~ consolidated technology services agency not later than March 1 of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the ~~((department of information services))~~ consolidated technology services agency. The ~~((department of information services))~~ consolidated technology services agency shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicaid holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the ~~((department of information services))~~ consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the department of information services. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicaid holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the ~~((department of information services))~~ consolidated technology services agency or by a county.

(2) Persons on the lists of registered voters and driver's license and identicaid holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicaid address change or date of voter registration.

(3) The ~~((department of information services))~~ consolidated technology services agency shall provide counties that elect to receive a jury source list merged by ~~((department of information services))~~ the consolidated technology services agency with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the

merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

**Sec. 813.** RCW 29A.08.760 and 2009 c 369 s 35 are each amended to read as follows:

The secretary of state shall provide a duplicate copy of the master statewide computer file or electronic data file of registered voters to the ~~((department of information services))~~ consolidated technology services agency for purposes of creating the jury source list without cost. Restrictions as to the commercial use of the information on the statewide computer tape or data file of registered voters, and penalties for its misuse, shall be the same as provided in RCW 29A.08.720 and 29A.08.740.

**Sec. 814.** RCW 43.63A.550 and 1998 c 245 s 71 are each amended to read as follows:

(1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department ~~((shall))~~ may contract with the ~~((department of information services))~~ consolidated technology services agency and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur.

**NEW SECTION. Sec. 815.** (1) The state auditor shall complete a two-part performance audit of the consolidated state data center. The first part of the performance audit may include, but is not limited to:

(a) A review of the business case developed prior to the state entering into financial agreements for the consolidated state data center, including an assessment of:

(i) The methodology used to determine the requisite size and scale of the project;

(ii) The cost assumptions developed as part of the business case for building a data center in Thurston county as compared to building a data center in other locations in the state;

(iii) To what extent private sector alternatives were considered; and

(iv) An assessment of the decision-making process leading up to the decision to enter into financial agreements for the consolidated state data center, including who made the decision to pursue the consolidated state data center over other alternatives; and

(b) A review of the timeline under which milestone decisions were made regarding the consolidated state data center.

(2) The first part of the performance audit conducted under this section will be used to inform the second part of the performance audit conducted under section 816 of this act. The full two-part performance audit must be completed and submitted to the governor and the legislature by December 1, 2012.

**NEW SECTION. Sec. 816.** (1) Upon completion of the first part of a two-part performance audit of the consolidated state data center as outlined under section 815 of this act, the state auditor shall complete the second part of the performance audit. The second part of the performance audit may include, but is not limited to, a

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technical and financial assessment of the current business plan developed for the consolidated state data center, which may include:

(a) A detailed comparison of the consolidated state data center business plan with business plans developed for state data centers in other states;

(b) The costs associated with transitioning to, and operating, the consolidated state data center, including analysis of the fixed lease costs, the up-front transition costs, and the ongoing maintenance and operation costs;

(c) The potential budgetary impacts on the general fund in the short and long term;

(d) The predictability of the cost of occupying the consolidated state data center for state agencies;

(e) The risks associated with transitioning to the consolidated state data center, including the possibility of service interruptions, cost overruns, and other unforeseen costs;

(f) The potential return on investment for state taxpayers, including the future value of the consolidated state data center once the state has paid the lease costs in full; and

(g) A review of the business and financial viability of the state receiving revenue from leasing equipment or excess capacity, or both, in data halls 3 and 4 of the consolidated state data center.

(2) The full performance audit must be completed and submitted to the governor and the legislature by December 1, 2012.

#### **PART IX EDUCATION RESEARCH AND DATA CENTER**

**Sec. 901.** RCW 43.41.400 and 2009 c 548 s 201 are each amended to read as follows:

((1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled

and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f)) The office of financial management shall:

(1) Track enrollment and outcomes through the public centralized higher education enrollment system;

~~((g))~~ (2) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

~~((h))~~ Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution))

(3) Develop data-sharing and research agreements with the legislative evaluation and accountability program and public institutions of higher education, consistent with applicable security and confidentiality requirements, to facilitate the work of the education research and data center under section 902 of this act; and

(4) Cooperate with the education research and data center to compile and analyze education data.

NEW SECTION. Sec. 902. A new section is added to chapter 44.48 RCW to read as follows:

(1) An education research and data center is established under the legislative evaluation and accountability program committee. The purpose of the center is to:

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(a) Serve as a data warehouse for education data across the P-20 education system, which includes the department of early learning, the office of the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the office of financial management, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system;

(c) Disseminate education data and information, consistent with applicable security and confidentiality requirements, to the education agencies and institutions that contribute data to the center and to school districts, policymakers, educators, researchers, and the public; and

(d) Develop and maintain a searchable web site with education data and information, including downloadable files and customizable reports.

(2) The education research and data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(3) The education research and data center shall:

(a) In consultation with the agencies and organizations participating in the center, identify the critical research and policy questions that are intended to be addressed by the center, the data needed to address the questions, key clients for the data and their needs, and the role these clients can play in addressing the questions;

(b) Collaborate with the office of financial management and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed;

(c) Annually provide to the K-12 data governance group under RCW 28A.300.507 a list of data elements and data quality improvements that are necessary to answer critical research and policy questions. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education research and data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(d) Monitor and evaluate the education data collection systems of the state educational agencies to ensure that data systems are flexible and able to adapt to evolving needs for information, and to the extent feasible and necessary, include data needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(e) Facilitate use of the data to support academic research and studies by the state educational agencies, independent academic researchers, legislative research agencies, and others; and

(f) Make recommendations to the legislature as necessary so that the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(4) The department of early learning, office of the superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, office of financial management, public four-year institutions of higher education, and

employment security department shall work with the education research and data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education research and data center, consistent with applicable security and confidentiality requirements.

(5) The education research and data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement this section, RCW 28A.655.210, and 28A.300.507.

**Sec. 903.** RCW 44.48.090 and 2001 c 259 s 14 are each amended to read as follows:

The committee shall have the following powers:

(1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;

(2) To suggest changes relative to state accounting and reporting systems to the office of financial management or its successor and to require timely written responses to such suggestions; ~~(and)~~

(3) Subject to RCW 44.04.260, to enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process; and

(4) To manage and oversee the education research and data center as provided in section 902 of this act.

**NEW SECTION. Sec. 904.** (1) The education data center in the office of financial management is abolished.

(2)(a) All reports, documents, surveys, books, records, files, papers, databases, or other written or electronic material in the possession of the education data center shall be delivered to the custody of the legislative evaluation and accountability program committee for purposes of the education research and data center established under section 902 of this act. Written or electronic materials and data sets pertaining solely to the public centralized higher education enrollment system shall be retained by the office of financial management, but written or electronic materials and data sets that are the result of the work of the education data center to link data in the public centralized higher education enrollment system to other educational databases shall be delivered to the legislative evaluation and accountability program committee. All funds, credits, or other monetary assets held by the education data center shall be assigned to the legislative evaluation and accountability program committee.

(b) Any appropriations made to the office of financial management for purposes of the education data center shall, on the effective date of this section, be transferred and credited to the legislative evaluation and accountability program committee.

(c) If any questions arise as to the transfer of any funds, books, documents, records, papers, files, databases, or other written or electronic material previously used or held in the exercise of the powers and performance of the education data center, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(d) The elimination of the education data center shall not affect the validity of any act performed before the effective date of this section.

(e) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial

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management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and property records in accordance with the certification.

(3) All data-sharing and research agreements developed between the state educational agencies under section 902 of this act and the education data center before the effective date of this section shall be transferred to the education research and data center under the legislative evaluation and accountability program committee and shall be continued and acted upon by the education research and data center as the successor agency and authorized representative of the state educational agencies. All existing contracts and obligations shall remain in full force and shall be performed by the education research and data center.

(4) The education research and data center under the legislative evaluation and accountability program committee shall assume the role of program director for purposes of the federal evergreen state P-20 longitudinal education data system grant.

**Sec. 905.** RCW 28A.300.500 and 2007 c 401 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction is authorized to establish a longitudinal student data system for and on behalf of school districts in the state. The primary purpose of the data system is to better aid research into programs and interventions that are most effective in improving student performance, better understand the state's public educator workforce, and provide information on areas within the educational system that need improvement.

(2) The confidentiality of personally identifiable student data shall be safeguarded consistent with the requirements of the federal family educational rights privacy act and applicable state laws. Consistent with the provisions of these federal and state laws, data may be disclosed for educational purposes and studies, including but not limited to:

(a) Educational studies authorized or mandated by the state legislature;

(b) Studies initiated by other state educational authorities and authorized by the office of the superintendent of public instruction, including analysis conducted by the education research and data center established under ~~((RCW 43.41.400))~~ section 902 of this act; and

(c) Studies initiated by other public or private agencies and organizations and authorized by the office of the superintendent of public instruction.

(3) Any agency or organization that is authorized by the office of the superintendent of public instruction to access student-level data shall adhere to all federal and state laws protecting student data and safeguarding the confidentiality and privacy of student records.

(4) Nothing in this section precludes the office of the superintendent of public instruction from collecting and distributing aggregate data about students or student-level data without personally identifiable information.

**Sec. 906.** RCW 28A.300.507 and 2009 c 548 s 203 are each amended to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education research and data center, the office of the superintendent of public instruction, ~~((the legislative~~

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~~evaluation and accountability program committee~~); the professional educator standards board, the state board of education, and school district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under RCW 28A.655.210;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

(i) Defining and maintaining standards for privacy and confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in ~~((RCW 43.41.400))~~ section 902 of this act, this section, or RCW 28A.655.210 should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education research and data center ~~((and the legislative evaluation and accountability program committee))~~.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the ~~((educational))~~ education research and data center ~~((and the legislative evaluation and accountability program committee))~~.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following

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minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:

(a) The percentage of data compliance and data accuracy by school district;

(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:

(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;

(ii) An approximate, prorated fraction of classroom or building costs used by the student;

(iii) An approximate, prorated fraction of transportation costs used by the student; and

(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;

(c) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;

(f) Number of K-12 students per classroom teacher on a per teacher basis;

(g) Number of K-12 classroom teachers per student on a per student basis;

(h) Percentage of a classroom teacher per student on a per student basis; and

(i) The cost of K-12 education per student by school district sorted by federal, state, and local dollars.

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section (~~and RCW 43.41.400~~), section 902 of this act, and RCW 28A.655.210 shall be made available in a manner consistent with the technical requirements of the (~~legislative evaluation and accountability program committee and the~~) education research and data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

**Sec. 907.** RCW 28A.655.210 and 2009 c 548 s 202 are each amended to read as follows:

(1) It is the legislature's intent to establish a comprehensive K-12 education data improvement system for financial, student, and educator data. The objective of the system is to monitor student progress, have information on the quality of the educator workforce, monitor and analyze the costs of programs, provide for financial integrity and accountability, and have the capability to link across these various data components by student, by class, by teacher, by school, by district, and statewide. Education data systems must be flexible and able to adapt to evolving needs for information, but there must be an objective and orderly data governance process for determining when changes are needed and how to implement them. It is the further intent of the legislature to provide independent review and evaluation of a comprehensive K-12 education data improvement system by assigning the review and monitoring responsibilities to the education research and data center (~~and the legislative evaluation and accountability program committee~~).

(2) It is the intent that the data system specifically service reporting requirements for teachers, parents, superintendents, school boards, the legislature, the office of the superintendent of public instruction, and the public.

(3) It is the legislature's intent that the K-12 education data improvement system used by school districts and the state include but not be limited to the following information and functionality:

(a) Comprehensive educator information, including grade level and courses taught, building or location, program, job assignment, years of experience, the institution of higher education from which the educator obtained his or her degree, compensation, class size, mobility of class population, socioeconomic data of class, number of languages and which languages are spoken by students, general resources available for curriculum and other classroom needs, and number and type of instructional support staff in the building;

(b) The capacity to link educator assignment information with educator certification information such as certification number, type of certification, route to certification, certification program, and certification assessment or evaluation scores;

(c) Common coding of secondary courses and major areas of study at the elementary level or standard coding of course content;

(d) Robust student information, including but not limited to student characteristics, course and program enrollment, performance on statewide and district summative and formative assessments to the extent district assessments are used, and performance on college readiness tests;

(e) A subset of student information elements to serve as a dropout early warning system;

(f) The capacity to link educator information with student information;

(g) A common, standardized structure for reporting the costs of programs at the school and district level with a focus on the cost of services delivered to students;

(h) Separate accounting of state, federal, and local revenues and costs;

(i) Information linking state funding formulas to school district budgeting and accounting, including procedures:

(i) To support the accuracy and auditing of financial data; and

(ii) Using the prototypical school model for school district financial accounting reporting;

(j) The capacity to link program cost information with student performance information to gauge the cost-effectiveness of programs;

(k) Information that is centrally accessible and updated regularly; and

(l) An anonymous, nonidentifiable replicated copy of data that is updated at least quarterly, and made available to the public by the state.

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(4) It is the legislature's goal that all school districts have the capability to collect state-identified common data and export it in a standard format to support a statewide K-12 education data improvement system under this section.

(5) It is the legislature's intent that the K-12 education data improvement system be developed to provide the capability to make reports as required under RCW 28A.300.507 available.

(6) It is the legislature's intent that school districts collect and report new data elements to satisfy the requirements of (~~RCW 43.41.400~~) section 902 of this act, this section, and RCW 28A.300.507, only to the extent funds are available for this purpose.

**Sec. 908.** RCW 28A.657.110 and 2010 c 235 s 111 are each amended to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition, for continuous improvement, and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance.

(3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.

(4) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(5) The state board of education shall work with the education research and data center (~~(established within the office of financial management)~~) and the technical working group established in (~~section 112, chapter 548, Laws of 2009~~) RCW 28A.290.020 to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

**NEW SECTION. Sec. 909.** RCW 43.41.405 (K-12 data--Securing federal funds) and 2009 c 548 s 204 are each repealed.

**PART X  
ADMINISTRATIVE AND MISCELLANEOUS  
PROVISIONS**

**NEW SECTION. Sec. 1001.** A new section is added to chapter 41.80 RCW to read as follows:

(1) By January 1, 2012, the public employment relations commission may review the appropriateness of the collective bargaining units transferred under sections 1002, 1003, 1004, 1008, and 1009 of this act. The employer or the exclusive bargaining representative may petition the public employment relations commission to review the bargaining units in accordance with this section.

(2) If the commission determines that an existing collective bargaining unit is appropriate pursuant to RCW 41.80.070, the exclusive bargaining representative certified to represent the bargaining unit prior to January 1, 2012, shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If the commission determines that existing collective bargaining units are not appropriate, the commission may modify the units and order an election pursuant to RCW 41.80.080. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

(4) The commission may require an election pursuant to RCW 41.80.080 if similarly situated employees are represented by more than one employee organization. Certified bargaining representatives will not be required to demonstrate a showing of interest to be included on the ballot.

**NEW SECTION. Sec. 1002.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration is hereby abolished and its powers, duties, and functions are transferred to the department of enterprise services. All references to the director or department of general administration in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of general administration shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of general administration shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of general administration shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of general administration shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of general administration shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of general administration shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and

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appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of general administration engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The bargaining units of employees at the department of general administration existing on the effective date of this section shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the bargaining units of employees at the department of general administration existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1003.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The public printer is hereby abolished and its powers, duties, and functions, to the extent provided in this act, are transferred to the department of enterprise services. All references to the public printer in the Revised Code of Washington shall be construed to mean the director or the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the public printer shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the public printer shall be made available to the department of enterprise services. All funds, credits, or other assets held by the public printer shall be assigned to the department of enterprise services.

(b) Any appropriations made to the public printer shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the public printer shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the public printer shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the public printer engaged in performing the powers, functions, and duties transferred to the department of

enterprise services are transferred to the department of enterprise services.

(a) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-bindery that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to employees in positions formerly covered under the expired commercial agreement.

(b) The commercial agreement between the graphic communications conference of the international brotherhood of teamsters, local 767M and the department of printing-litho that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired commercial agreement.

(c) The typographical contract between the communications workers of America, the newspaper guild, local 37082, and the department of printing-typographical that became effective July 1, 2007, shall remain in effect during its duration. Upon expiration, the parties may extend the terms of the agreement; however, the agreement may not be extended beyond September 30, 2011. Beginning October 1, 2011, chapter 41.80 RCW shall apply to the department of enterprise services with respect to the employees in positions formerly covered under the expired typographical contract.

(d) All other employees of the public printer not covered by the contracts and agreements specified in (a) through (c) of this subsection shall be exempt from chapter 41.06 RCW until October 1, 2011, at which time these employees shall be subject to chapter 41.06 RCW, unless otherwise deemed exempt in accordance with that chapter.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The bargaining units of printing craft employees existing on the effective date of this section shall be considered an appropriate unit at the department of enterprise services and will be so certified by the public employment relations commission; and

(b) The exclusive bargaining representatives recognized as representing the bargaining units of printing craft employees existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1004.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The powers, duties, and functions of the department of information services as set forth in sections 601, 602, and 614 of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department of information services in connection with

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the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of information services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall be considered appropriate units at the department of enterprise services and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall continue as the exclusive bargaining representative of the transferred bargaining units without the necessity of an election.

**NEW SECTION. Sec. 1005.** A new section is added to chapter 43.19 RCW to read as follows:

(1) Those powers, duties, and functions of the department of personnel being transferred to the office of financial management as set forth in Part IV of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the department

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of personnel in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of personnel pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of personnel engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

**NEW SECTION. Sec. 1006.** A new section is added to chapter 43.41 RCW to read as follows:

(1) Those powers, duties, and functions of the department of personnel being transferred to the office of financial management as set forth in Part IV of this act are hereby transferred to the office of financial management.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the office of financial management. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, duties, and functions transferred shall be made available to the office of financial management. All funds, credits, or other assets held by the department of personnel in connection with the powers, duties, and functions transferred shall be assigned to the office of financial management.

(b) Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the office of financial management.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of

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financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of personnel pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the office of financial management. All existing contracts and obligations shall remain in full force and shall be performed by the office of financial management.

(4) The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of personnel engaged in performing the powers, functions, and duties transferred to the office of financial management, are transferred to the office of financial management. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of financial management to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

**NEW SECTION. Sec. 1007.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The powers, duties, and functions of the office of financial management as set forth in Part V of this act are hereby transferred to the department of enterprise services.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the office of financial management pertaining to the powers, duties, and functions transferred shall be delivered to the custody of the department of enterprise services. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the office of financial management in carrying out the powers, duties, and functions transferred shall be made available to the department of enterprise services. All funds, credits, or other assets held by the office of financial management in connection with the powers, duties, and functions transferred shall be assigned to the department of enterprise services.

(b) Any appropriations made to the office of financial management for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of enterprise services.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the office of financial management pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the department of enterprise services. All existing contracts and obligations shall remain in full force and shall be performed by the department of enterprise services.

(4) The transfer of the powers, duties, functions, and personnel of the office of financial management shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial

management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the office of financial management engaged in performing the powers, functions, and duties transferred to the department of enterprise services, are transferred to the department of enterprise services. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to department of enterprise services to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

**NEW SECTION. Sec. 1008.** A new section is added to chapter 43.330 RCW to read as follows:

(1) All powers, duties, and functions of the department of information services pertaining to high-speed internet activities are transferred to the department of commerce. All references to the director or the department of information services in the Revised Code of Washington shall be construed to mean the director or the department of commerce when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services in carrying out the powers, functions, and duties transferred shall be made available to the department of commerce. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of commerce.

(b) Any appropriations made to the department of information services for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of information services engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of commerce. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of commerce to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of information services pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(5) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these

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shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of information services assigned to the department of commerce under this section whose positions are within an existing bargaining unit description at the department of commerce shall become a part of the existing bargaining unit at the department of commerce and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**NEW SECTION. Sec. 1009.** A new section is added to chapter 43.330 RCW to read as follows:

(1) Those powers, duties, and functions of the department of information services being transferred to the consolidated technology services agency as set forth in sections 801 through 816 of this act are hereby transferred to the consolidated technology services agency.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of information services shall be delivered to the custody of the consolidated technology services agency. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of information services shall be made available to the consolidated technology services agency. All funds, credits, or other assets held by the department of information services shall be assigned to the consolidated technology services agency.

(b) Any appropriations made to the department of information services shall, on the effective date of this section, be transferred and credited to the consolidated technology services agency.

(c) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the department of information services pertaining to the powers, duties, and functions transferred shall be continued and acted upon by the consolidated technology services agency. All existing contracts and obligations shall remain in full force and shall be performed by the consolidated technology services agency.

(4) The transfer of the powers, duties, functions, and personnel of the department of information services shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) All employees of the department of information services engaged in performing the powers, functions, and duties transferred to the consolidated technology services agency are transferred to the consolidated technology services agency. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the consolidated technology services agency to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service law.

(7) Unless or until modified by the public employment relations commission pursuant to section 1001 of this act:

(a) The portions of the bargaining units of employees at the department of information services existing on the effective date of

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this section shall be considered appropriate units at the consolidated technology services agency and will be so certified by the public employment relations commission.

(b) The exclusive bargaining representatives recognized as representing the portions of the bargaining units of employees at the department of information services existing on the effective date of this section shall continue as the exclusive bargaining representatives of the transferred bargaining units without the necessity of an election.

**Sec. 1010.** RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) ((The public printer or to any employees of or positions in the state printing plant;

(n))) Officers and employees of the Washington state fruit commission;

((~~o~~)) (n) Officers and employees of the Washington apple commission;

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~~((p))~~ (o) Officers and employees of the Washington state dairy products commission;

~~((q))~~ (p) Officers and employees of the Washington tree fruit research commission;

~~((r))~~ (q) Officers and employees of the Washington state beef commission;

~~((s))~~ (r) Officers and employees of the Washington grain commission;

~~((t))~~ (s) Officers and employees of any commission formed under chapter 15.66 RCW;

~~((u))~~ (t) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

~~((v))~~ (u) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

~~((w))~~ (v) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

~~((x))~~ (w) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

~~((y))~~ (x) All employees of the marine employees' commission;

~~((z))~~ (y) Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ (z) The manager of the energy facility site evaluation council;

~~((bb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((cc))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

(cc) Officers and employees of the consolidated technology services agency created in section 801 of this act that perform the following functions or duties: Systems integration; data center engineering and management; network systems engineering and management; information technology contracting; information technology customer relations management; and network and systems security.

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is

employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director ~~((of personnel))~~ may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the ~~((director of personnel))~~ office of financial management stating the reasons for requesting such exemptions. The director ~~((of personnel))~~ shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, or is a senior expert in enterprise information technology infrastructure, engineering, or systems, the director ~~((of personnel))~~ shall grant the request ~~((and such determination shall be final as to any decision made before July 1, 1993)).~~ The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through ~~((v))~~ (u) and ~~((x))~~ (x) and (2) of this section, shall be determined by the director ~~((of personnel))~~. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for

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which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

**NEW SECTION. Sec. 1011.** Sections 701 through 721 of this act constitute a new chapter in Title 43 RCW to be codified as chapter 43.41A RCW.

**NEW SECTION. Sec. 1012.** RCW 43.105.052, 43.105.172, 43.105.250, 43.105.260, 43.105.270, 43.105.280, 43.105.290, 43.105.310, and 43.105.835 are each recodified as sections in chapter 43.--- RCW (the new chapter created in section 1011 of this act).

**NEW SECTION. Sec. 1013.** The following acts or parts of acts are each repealed:

(1) RCW 43.105.005 (Purpose) and 1990 c 208 s 1 & 1987 c 504 s 1;

(2) RCW 43.105.013 (Finding--Intent) and 2010 c 282 s 1;

(3) RCW 43.105.019 (Enterprise-based strategy--Coordination with legislative and judicial branches) and 2010 c 282 s 10;

(4) RCW 43.105.032 (Information services board--Members--Chairperson--Vacancies--Quorum--Compensation and travel expenses) and 2007 c 158 s 1, 1999 c 241 s 2, 1996 c 137 s 10, 1992 c 20 s 8, 1987 c 504 s 4, 1984 c 287 s 86, 1975-'76 2nd ex.s. c 34 s 128, & 1973 1st ex.s. c 219 s 5;

(5) RCW 43.105.041 (Powers and duties of board) and 2010 1st sp.s. c 7 s 65, 2009 c 486 s 13, 2003 c 18 s 3, & 1999 c 285 s 5;

(6) RCW 43.105.095 (Management and oversight structure) and 1999 c 80 s 3;

(7) RCW 43.105.105 (Information technology decisions and plans) and 1999 c 80 s 4;

(8) RCW 43.105.160 (Strategic information technology plan--Biennial state performance report on information technology) and 2010 c 282 s 9, 2005 c 319 s 110, 1999 c 80 s 9, 1998 c 177 s 3, 1996 c 171 s 9, & 1992 c 20 s 1;

(9) RCW 43.105.170 (Information technology portfolios--Contents-- Performance reports) and 1999 c 80 s 10;

(10) RCW 43.105.180 (Evaluation of budget requests for information technology projects) and 2010 c 282 s 6 & 1999 c 80 s 11;

(11) RCW 43.105.190 (Major information technology projects standards and policies--Project evaluation and reporting) and 2005 c 319 s 111, 1999 c 80 s 12, 1998 c 177 s 4, 1996 c 137 s 15, & 1992 c 20 s 4;

(12) RCW 43.105.200 (Application to institutions of higher education) and 1992 c 20 s 5;

(13) RCW 43.105.210 (Data processing expenditures--Authorization-- Penalties) and 1993 sp.s. c 1 s 903;

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(14) RCW 43.105.330 (State interoperability executive committee) and 2006 c 76 s 2 & 2003 c 18 s 4;

(15) RCW 43.105.805 (Information services board--Powers and duties) and 2010 1st sp.s. c 9 s 1, 2010 1st sp.s. c 7 s 66, & 1999 c 285 s 3;

(16) RCW 43.105.815 (K-20 operations cooperative--Ongoing management) and 1999 c 285 s 8; and

(17) RCW 43.105.820 (K-20 telecommunication system--Technical plan) and 2010 1st sp.s. c 7 s 67, 1999 c 285 s 11, & 1996 c 137 s 8.

**NEW SECTION. Sec. 1014.** Sections 728 through 731 of this act expire January 1, 2012.

**NEW SECTION. Sec. 1015.** Section 732 of this act takes effect January 1, 2012.

**NEW SECTION. Sec. 1016.** The code reviser shall note wherever the director or department of any agency or agency's duties transferred or consolidated under this act is used or referred to in statute that the name of the director or department has changed. The code reviser shall prepare legislation for the 2012 regular session that (1) changes all statutory references to the director or department of any agency transferred or consolidated under this act, and (2) changes statutory references to sections recodified by this act but not amended in this act.

**NEW SECTION. Sec. 1017.** Except for sections 109, 448, 462, and 732 of this act, this act takes effect October 1, 2011." Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5931.

Senators Pridemore and Baumgartner spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5931.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5931 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5931, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5931, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 15; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Delvin, Eide, Ericksen, Fain, Hargrove, Hatfield, Haugen, Hewitt, Hill, Holmquist Newbry, Honeyford, Kastama, King, Litzow, Parlette, Pflug, Prentice, Pridemore, Regala, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Chase, Conway, Fraser, Harper, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Ranker, Roach and White

Excused: Senators Benton, Hobbs and Shin

THIRTIETH DAY, MAY 25, 2011

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ENGROSSED SUBSTITUTE SENATE BILL NO. 5931, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

ENGROSSED HOUSE BILL NO. 2069, by Representative Cody

Concerning hospital payments.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed House Bill No. 2069 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2069.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2069 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 20; Absent, 0; Excused, 3.

Voting yea: Senators Brown, Conway, Eide, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Keiser, Kilmer, King, Kline, Kohl-Welles, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Baxter, Becker, Carrell, Chase, Delvin, Ericksen, Fain, Harper, Hill, Holmquist Newbry, Honeyford, Kastama, Litzow, McAuliffe, Morton, Parlette, Roach, Sheldon and Stevens

Excused: Senators Benton, Hobbs and Shin

ENGROSSED HOUSE BILL NO. 2069, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

HOUSE BILL NO. 1131,  
SECOND SUBSTITUTE HOUSE BILL NO. 1132,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1548,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1981,  
ENGROSSED HOUSE BILL NO. 2003,  
SUBSTITUTE HOUSE BILL NO. 2119.

REMARKS BY THE PRESIDENT

President Owen: "Ladies and gentleman of the Senate, each year except for last year the President has had the opportunity to share with you some of his observations and perceptions. This year I've added one other category called, 'Things overheard'

which I have no control over they're just things I heard and so with your patience, if you're thin skinned you might leave the floor at this time. Bunch of babies.

So, the Senator who believes Elvis is still alive and lives within his body, Senator Hatfield.

The worst whine of the session is ironically from the only person in this room, maybe even this building that can bench press three-hundred fifty pounds that is Senator Hargrove's whine over a paper cut.

The Senator who most resembles a fog horn when voting, Senator Litzow.

The revered title of Senator 'No.' It is always a horse race, no reference to the Senators intended. This year it has been quite confusing for the President as the two major contenders have been both, unexplainably, voted yes and at different times. However, the President believes that something has caused the strange change in Senator Holmquist Newbry. It could be she has been softened through marriage, it could be outside influence from her very distinguished and accomplished grandfather-in-law, former Senator Newbry but, whatever it is, it has caused her to move a millimeter to the left and give a very rare and unexplainable yes vote, branding the most honorable and distinguished Senator Honeyford this year's title as Senator 'No.'

The President would add a foot note. Senator Baxter could have been considered in the running however the President chose not to include him in that he was not convinced the Senator knew exactly why he voted the way he did particularly since he appears to be getting his direction from Senator Carrell who could be just playing with him. We all know what a kidder Senator Carrell is.

The best line of the session was, 'The House has once again shown that a bill that cannot be improved can still be amended.' Senator Pridemore.

The Senators most likely to be put on detention if this was a middle school, while the President does not feel it appropriate to name them but I will note that they can be found in the back rows of the Senate and, for the most part, to my right over this area right over in here.

The most-worn seat cushion award for strict adherence to the rules by always being in their seats, listening and not talking or carrying on, doing the childish things a few other members do not think the President observes them doing would be Senator Morton, Senator Fraser, Senator Becker, Senator King and Senator Regala.

In a related category, the like-new, rarely-used, seat cushion award would be Senator Hewitt and Senator Brown.

In a related category, the most shocking moment goes to Senator Morton for one time actually not being in his seat during a vote and voted from the side of the chamber.

The Senator who has caused the President great consternation and his ego to be seriously deflated that would be Senator Prentice for disproving the myth the President has attempted to perpetuate for fifteen sessions that his job is difficult and complicated. The President would respectfully request that President Pro Tempore Prentice screw up once in a while.

Unfortunately he is not here but the Senator most likely to hear the words, 'Your point is not well taken,' Senator Benton.

The Senator for this session and only due to the relationship to the previous award receives the most likely to hear these words, 'Your point is well taken,' Senator Brown.

The Senator who claims to have great knowledge of technology but who has yet to be able to locate the off or even the vibrate only button on his cell phone, Senator Benton.

The Senator who generated the most 'Did he really say that' responses during a speech would be Senator Rodney Tom for the use of the word 'erectile dysfunction.'

Two Senators receive the next recognition for inadvertently combining to link subjects previously thought to be unlinkable, those subjects being Viagra, erectile dysfunction, family planning and cigars, Senator Tom and Senator Kline.

Now, a special message to all of you particularly, Senator Tom and Holmquist Newby and Senator Benton, who have provided the President with arguments to assist with his rulings. Underlining and bolding the words, 'It is clearly a tax' or 'It is clearly not a tax' does not make it so nor does it make it influence the President's decision although I do find it very entertaining.

The iron bladder award once again goes to the rostrum staff.

Now, a new category this year, things overheard: I overheard a very reliable source say that one night Senator Kohl-Welles woke up in a cold sweat and thrashing about crying 'Oh my God.' Her husband Alex grabbed her and said 'Senator, what's wrong?' She responded that she had a horrible nightmare. She said she dreamt that the Senate had just voted to make the three minute rule permanent. At that point her husband having great concern to the stress that she was feeling responded back, 'Senator, you try to calm yourself down while I hurry over to the peace and love dispensary in Fremont for some medicine.'"

Many years ago, three little baby brothers were accidentally separated at birth being raised by separate families, all within the state of Washington. Ironically, they were all brought together upon being elected the same year to the State Senate; that would be Senators Fain, Hill and Baumgartner.

In a related matter, due to similarities in hair color, height and general philosophy, authorities have requested a DNA sample to test for parentage from Senator Kastama.

[Picks up telephone] I'm sorry, excuse me, I wouldn't normally do this but, excuse me just a second. Hi, oh yeah, I loved your last, particularly the fifth track, that was great. Senator who? Just a minute. Senator McAuliffe, could you stand up a minute? Step out here. Yeah? No, she doesn't have them on. No, I believe that was yesterday. The ones with the flames? I think those were last week, I'm not sure. The pointed ones, Yeah, that was the week before. Oh, yeah, the ones that came up to the knee, knee cap, had a bunch of buttons or something like that? I saw them. Yeah, I saw those too. Oh those other, yeah, they looked like they had a couple dozen runs or something like that. I don't know which they were, let's just go with nylons. Ok, ok I will tell her. [Hangs up the telephone] Senator McAuliffe, that was Lady Gaga. She wants her clothes and her shoes back.

Old friend of mine. The 'Noble', the Noble Peace Prize goes to Senators Murray, Zarelli, Brown, Hewitt and Governor Gregoire.

And now, on a personal note, for years I have spoken to organizations, individuals and many, many of you about my strong personal beliefs that people are better served when we work as a single entity to solve the critical issues facing our people in our state in a bipartisan way and that all of you should be taken into consideration and all parties involved as much as possible. After thirty-five years in this process, involved in the House and the Senate and the last fifteen years as the Lt. Governor and President of the Senate, it finally happened. You did it on the biggest most critical and most difficult issues facing Washington State. You did it with incredible patience, personal sacrifice and great dignity. So, should I have the power to do so, I would give you an A+ for statesmanship and a great big heart thank you on behalf of the people of the State of Washington and a big hug. Now, on a side note, because I have been waiting for this moment for thirty-five years, I thought to myself. 'Maybe now's the time to retire.' Nah, not yet. Senator Brown, I didn't expect you to respond to that."

Senator Brown: "Thank you Mr. President. We're all delighted with your recent awards and announcement. Thank you very much for your incredible patience, and of course, the wisdom of your rulings. I just wanted to say that we discovered something and I knew that there'd been a lot of important people who have served in the legislature in the past and I know that some of our new members think that they are pretty darned special. For example, I know that Senator Litzow is known for his hair and his grooming but I just have to say, you're no Aaron Reardon. When it comes to good looks many people will comment on one of our colleagues in Spokane, Senator Baumgartner, but I inquired with a few of the women senators including Senator Prentice, Senator Haugen and others and they said, 'Senator, your no Jim Jesernig.' So, Mr. President, I could go on, however, I did discover, you know I am a music fan, we share that, we like the early rock n roll and so forth but Mr. President I didn't realize that Davey Jones used to serve in the Washington State Senate. [Holds up campaign poster, ca 1976 with photo of the President] What a good looking guy. Thank you Mr. President."

#### REPLY BY THE PRESIDENT

President Owen: "Thank you. Where did he go? Well, thank you Senator, I think. A rare find."

#### SECOND READING

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087, by House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille)

Making 2011-2013 operating appropriations. Revised for 1st Substitute: Making 2009-2011 and 2011-2013 fiscal biennia operating appropriations.

The measure was read the second time.

#### MOTION

On motion of Senator Murray, the rules were suspended, Second Engrossed Substitute House Bill No. 1087 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray, Zarelli, Schoesler, Hargrove, Kilmer and Keiser spoke in favor of passage of the bill.

#### POINT OF INQUIRY

Senator Keiser: "Would Senator Murray yield to a question? Thank you. Section 206 of this budget bill appropriates funds for the states nursing home reimbursement program and provides a formula for calculating an add on payment to the states facility based payment rate. I noticed that the formula used in this budget bill is different than the formula specified in section 11 of Engrossed Substitute Senate Bill No. 5581 which was enacted earlier this session. The budget bill uses the facility payment rate in effect on June 30, 2010 as the bench mark for calculating the add on payment. While Senate Bill No. 5581 uses June 30, 2011. Which is correct?"

Senator Murray: "Thank you Senator Keiser for the question. Yes, you are correct. The two bills are not consistent.

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There is a technical error in Section 11 of Senate Bill No. 5581 and the correct date is reflected in the budget bill before us. The date for purposes of calculation is June 30, 2010.”

Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Swecker, Tom, White and Zarelli

Senator Hobbs spoke in favor of passage of the bill.

Voting nay: Senator Stevens

Excused: Senators Benton and Shin

The President declared the question before the Senate to be the final passage of Second Engrossed Substitute House Bill No. 1087.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

ROLL CALL

SIGNED BY THE PRESIDENT

The Secretary called the roll on the final passage of Second Engrossed Substitute House Bill No. 1087 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 5931.

Voting yea: Senators Baumgartner, Becker, Brown, Conway, Eide, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Nelson, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Swecker, Tom, White and Zarelli

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL 5860.

Voting nay: Senators Baxter, Carrell, Chase, Delvin, Ericksen, Fain, Hill, Holmquist Newbry, Litzow, Pflug, Roach, Sheldon and Stevens

Excused: Senators Benton and Shin

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497, by House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Warnick)

Adopting a 2011-2013 capital budget. Revised for 1st Substitute: Regarding the capital budget.

The measure was read the second time.

SECOND READING

MOTION

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020, by House Committee on Capital Budget (originally sponsored by Representative Dunshee)

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 1497 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Parlette spoke in favor of passage of the bill.

Relating to funding capital projects. Revised for 1st Substitute: Funding capital projects.

The measure was read the second time.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1497.

MOTION

ROLL CALL

On motion of Senator Kilmer, the rules were suspended, Engrossed Substitute House Bill No. 2020 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kilmer and Parlette spoke in favor of passage of the bill.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1497 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Excused: Senators Benton and Shin

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2020.

ROLL CALL

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2020 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Baxter, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray,

MOTION

On motion of Senator Ericksen, Senator Pflug was excused.

## REMARKS BY THE PRESIDENT

President Owen: "Before we go to the next bill the President would like to offer his upmost congratulations to Senator Hobbs. For those of you who don't know, he wasn't here earlier because he was attending his graduation where he received his executive master's in public administration degree from the University of Washington. Congratulations Senator Hobbs."

## REMARKS BY THE PRESIDENT

President Owen: "Ladies and gentlemen of the Senate. If the President could have your attention for one minute? You know I've been up here doing this for fifteen years but there is one person who works their tail off throughout the session and sometimes I don't know if I should call her Senator Boss or Mom because she has to deal with forty-eight other people at varying times when they are under great excitement, stress or fear or anxiety and yet she's there holding down the fort and always here and that's your Majority Floor Leader, Senator Eide. I just want to say my compliments. You've always done a great job. Thank you."

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

FIFTH SUPPLEMENTAL INTRODUCTION AND FIRST  
READING OF HOUSE BILLS

ESHB 1410 by House Committee on Education (originally sponsored by Representative Santos, Dammeier, Probst and Liias; by request of Public Instruction)

Regarding science end-of course assessments.

## MOTION

On motion of Senator Eide and without objection, Engrossed Substitute House Bill No. 1410 was placed on the second reading calendar under suspension of the rules.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

On motion of Senator Ericksen, Senators Delvin and Morton were excused.

## SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410, by House Committee on Education (originally sponsored by Representatives Santos, Dammeier, Probst and Liias)

Regarding science end-of-course assessments.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed Substitute House Bill No. 1410 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Murray and Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1410.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1410 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 3; Absent, 0; Excused, 5.

Voting yea: Senators Baxter, Becker, Brown, Carrell, Chase, Conway, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Prentice, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom, White and Zarelli

Voting nay: Senators Baumgartner, Holmquist Newbry and Pridemore

Excused: Senators Benton, Delvin, Morton, Pflug and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

## MOTION

At 9:01 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:00 p.m. by President Owen.

## MOTION

On motion of Senator Rockefeller, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

May 25, 2011

The measure was read the second time.

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5834,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5919,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5834.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5919.

MOTION

On motion of Senator Rockefeller, the Senate advanced to the fifth order of business.

FOURTH SUPPLEMENTAL  
INTRODUCTION AND FIRST READING

SCR 8403 by Senators Brown and Hewitt

Returning bills to their house of origin.

SCR 8404 by Senators Brown and Hewitt

Adjourning sine die.

MOTION

On motion of Senator Rockefeller, and without objection, Senate Concurrent Resolution No. 8403 and Senate Concurrent Resolution No. 8404 were placed on the second reading calendar under suspension of the rules.

MOTION

On motion of Senator Rockefeller, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8403, by Senators Brown and Hewitt

Returning bills to their house of origin.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Concurrent Resolution No. 8403 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8403.

SENATE CONCURRENT RESOLUTION NO. 8403, was adopted on third reading by voice vote.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8404, by Senators Brown and Hewitt

Adjourning sine die.

The measure was read the second time.

MOTION

On motion of Senator Rockefeller, the rules were suspended, Senate Concurrent Resolution No. 8404 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8404.

SENATE CONCURRENT RESOLUTION NO. 8404, was adopted on third reading by voice vote.

MOTION

On motion of Senator Rockefeller and without objection, the measures on the second and third reading calendars were returned to the Committee on Rules.

MOTION

On motion of Senator Rockefeller, the reading of the Journal for the 30<sup>th</sup> day of the 2011 First Special Session of the 62<sup>nd</sup> Legislature was dispensed with and it was approved.

MOTION

On motion of Senator Rockefeller, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8403,  
SENATE CONCURRENT RESOLUTION NO. 8404,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 24, 2011

MR. PRESIDENT:  
The House has passed SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065,  
ENGROSSED HOUSE BILL NO. 2069,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1346,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1410,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1497,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2020,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2065,  
ENGROSSED HOUSE BILL NO. 2069,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2082,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2088.

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5091,  
SECOND SUBSTITUTE SENATE BILL NO. 5459,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5834,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5860,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5919,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5931.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5942.  
and the same is herewith transmitted.

SIGNED BY THE PRESIDENT

The President signed:  
SENATE CONCURRENT RESOLUTION NO. 8403,  
SENATE CONCURRENT RESOLUTION NO. 8404.

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1087.

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
The Speaker has signed:  
SENATE CONCURRENT RESOLUTION NO. 8403,  
SENATE CONCURRENT RESOLUTION NO. 8404.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:  
Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8403, the following Senate bills were returned to the Senate:

SUBSTITUTE SENATE BILL NO. 5114,  
SUBSTITUTE SENATE BILL NO. 5222,  
SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5251,  
SUBSTITUTE SENATE BILL NO. 5534,  
SECOND SUBSTITUTE SENATE BILL NO. 5539,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5542,  
SUBSTITUTE SENATE BILL NO. 5587,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5669,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5844,  
SENATE BILL NO. 5852,  
ENGROSSED SENATE BILL NO. 5873,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5924,  
SUBSTITUTE SENATE BILL NO. 5935,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5960,  
SENATE JOINT MEMORIAL NO. 8009,  
SUBSTITUTE SENATE JOINT RESOLUTION NO. 8215.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

THIRTIETH DAY, MAY 25, 2011

2011 1ST SPECIAL SESSION

## MESSAGE FROM THE HOUSE

May 25, 2011

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8403, the following Senate bills was returned to the Senate:

SENATE JOINT MEMORIAL NO. 8011,  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8403, the following House Bills were returned to the House of Representatives:

SUBSTITUTE HOUSE BILL NO. 1250,  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1365,  
SUBSTITUTE HOUSE BILL NO. 1632,  
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1701,  
SUBSTITUTE HOUSE BILL NO. 1815,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2053,  
HOUSE BILL NO. 2111.

## MOTION

At 10:26 p.m., on motion of Senator Rockefeller, the 2011 First Special Session of the Sixty-Second Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

**SENATE ROSTER**

**AND**

**COMMITTEE ASSIGNMENTS**

| Name of Member       | District | Party | County                      | Mailing Address   | Birth<br>Year Place | Occupation                       | Previous Years Served         |                |
|----------------------|----------|-------|-----------------------------|---|---------------------|----------------------------------|-------------------------------|----------------|
|                      |          |       |                             |   |                     |                                  | House                         | Senate         |
| Baumgartner, Michael | 6        | R     | Spokane (P)                 | PO Box 40406 Olympia, WA 98504-0406                               | 1975 - WA           | Consultant                       |                               | 2011-          |
| Baxter, Jeff         | 4        | R     | Spokane (P)                 | PO Box 40404 Olympia, WA 98504-0404                               | 1960 - WA           | Business Owner                   |                               | Appt. 2011-    |
| Becker, Randi        | 2        | R     | Pierce (P),<br>Thurston (P) | PO Box 40402<br>Olympia, WA 98504-0402                            | 1948 - WA           | Health Care<br>Administrator     |                               | 2009-          |
| Benton, Don          | 17       | R     | Clark (P)                   | PO Box 40417 Olympia, WA 98504-0417                               | 1957 - CA           | CIO - National<br>Advtsg Consltn | 1995-1996                     | 1997-          |
| Brown, Lisa          | 3        | D     | Spokane (P)                 | PO Box 40403 Olympia, WA 98504-0403                               | 1956 - IL           | Assoc. Prof.<br>Economics        | 1993-1996                     | 1997-          |
| Carrell, Mike        | 28       | R     | Pierce (P)                  | 10210 Lk Louise Dr SW Tacoma, WA 98498                            | 1944 - WA           | Teacher {retired}                | 1995-2004                     | Appt. 7/6/04-  |
| Chase, Maralyn       | 32       | D     | King (P),<br>Snohomish (P)  | 18560 1 <sup>st</sup> Ave. NE<br>Ste E-750<br>Shoreline, WA 98155 | WA                  | Legislator                       | Appt. 1/7/2002,<br>2003-10    | 2011-          |
| Conway, Steve        | 29       | D     | Pierce (P)                  | PO Box 40429 Olympia, WA 98504-0429                               | 1944 - OR           | Labor Relations<br>Specialist    | Appt. 1/25/1993,<br>1994-2010 | 2011-          |
| Delvin, Jerome       | 8        | R     | Benton (P)                  | PO Box 40408 Olympia, WA 98504-0408                               | 1956 - WA           | Retired                          | Appt. 11/28/94-2004           | Appt. 5/12/04- |

| Name of Member           | District | Party | County  | Mailing Address                           | Birth<br>Year Place | Occupation                   | Previous Years Served |                 |
|--------------------------|----------|-------|---|---|---------------------|------------------------------|-----------------------|-----------------|
|                          |          |       |   |   |                     |                              | House                 | Senate          |
| Eide, Tracey             | 30       | D     | King (P)  | PO Box 40430 Olympia, WA<br>98504-0430    | 1954 - WA           | Senator                      | 1993-1994             | 1999-           |
| Ericksen, Doug           | 42       | R     | Whatcom (P)   | PO Box 40442 Olympia, WA<br>98504-0442    | 1969 - WA           | Legislator                   | 1999-2010             | 2011-           |
| Fain, Joe                | 47       | R     | King (P)  | PO Box 40447 Olympia, WA<br>98504-0447    | 1980 - WA           | Legislator                   |                       | 2011-           |
| Fraser, Karen            | 22       | D     | Thurston (P)  | PO Box 40422<br>Olympia, WA 98504-0422    | 1944 - WA           | Senator                      | 1989-1992             | 1993-           |
| Hargrove, James          | 24       | D     | Clallam, Grays<br>Harbor (P),<br>Jefferson              | PO Box 40424 Olympia, WA<br>98504-0424    | 1953 - OR           | Forester                     | 1985-1992             | 1993-           |
| Harper, Nick             | 38       | D     | Snohomish (P)   | P. O. Box 40438 Olympia, WA<br>98504-0438 | 1979 - WA           | Conservation<br>Director     |                       | 2011-           |
| Hatfield, Brian          | 19       | D     | Cowlitz (P), Grays<br>Harbor (P), Pacific,<br>Wahkiakum | PO Box 40419 Olympia, WA<br>98504-0419    | 1966 - WA           | Ec Development<br>Specialist | Appt. 9/26/94-2004    | Appt. 11/17/06- |
| Haugen, Mary<br>Margaret | 10       | D     | Island, Skagit (P),<br>Snohomish (P)                    | PO Box 40410 Olympia, WA<br>98504-0410    | 1941 - WA           | Legislator                   | 1983-1992             | 1993-           |
| Hewitt, Mike             | 16       | R     | Benton (P),<br>Columbia, Franklin<br>(P), Walla Walla   | PO Box 40416 Olympia, WA<br>98504-0416    | 1946 - WA           | Legislator                   |                       | 2001-           |

| Name of Member   | District | Party | County  | Mailing Address                            | Birth<br>Year Place | Occupation                 | Previous Years Served    |                  |
|------------------|----------|-------|---|--|---------------------|----------------------------|--------------------------|------------------|
|                  |          |       |   |  |                     |                            | House                    | Senate           |
| Hill, Andy       | 45       | R     | King (P)  | PO Box 40445 Olympia, WA<br>98504-0445     | 1962 - CO           | Consultant                 |                          | 2011-            |
| Hobbs, Steve     | 44       | D     | Snohomish (P)                                       | PO Box 40444 Olympia, WA<br>98504-0444     | 1970 - WA           | UW Facilities<br>Manager   |                          | 2007-            |
| Holmquist, Janéa | 13       | R     | Grant (P), Kittitas,<br>Yakima (P)                  | PO Box 40413 Olympia, WA<br>98504-0413     | 1974 - AK           | Self Employed              | Appt. 12/7/2001-<br>2006 | 12/6/06-         |
| Honeyford, Jim   | 15       | R     | Clark (P),<br>Klickitat,<br>Skamania, Yakima<br>(P) | PO Box 40415 Olympia, WA<br>98504-0415     | 1939 - OR           | Farmer/Retired<br>Educator | 1995-1998                | 1999-            |
| Kastama, Jim     | 25       | D     | Pierce (P)  | PO Box 40425 Olympia, WA<br>98504-0425     | 1959 - WA           | Legislator                 | 1997-2000                | 2001-            |
| Keiser, Karen    | 33       | D     | King (P)  | PO Box 40433 Olympia, WA<br>98504-0433     | 1947 - IA           | Ret=d Comm. Dir.           | 1996-2000                | 2001-            |
| Kilmer, Derek    | 26       | D     | Kitsap (P), Pierce<br>(P)                           | PO Box 40426 Olympia, WA<br>98504-0426     | 1974 - WA           | Economic Dev.<br>Manager   | 2005-2006                | 2007-            |
| King, Curtis     | 14       | R     | Yakima  | PO Box 40414<br><br>Olympia, WA 98504-0414 | 1946 - WA           | Business<br><br>Manager    |                          | elected 11/6/07- |
| Kline, Adam      | 37       | D     | King (P)  | PO Box 40437 Olympia, WA<br>98504-0437     | 1944 - NJ           | Lawyer                     |                          | Appt. 1/20/97-   |

| Name of Member           | District | Party | County   | Mailing Address                              | Birth<br>Year Place | Occupation                        | Previous Years Served         |                 |
|--------------------------|----------|-------|--|--|---------------------|-----------------------------------|-------------------------------|-----------------|
|                          |          |       |  |  |                     |                                   | House                         | Senate          |
| Kohl-Welles,<br>Jeanne   | 36       | D     | King (P)   | PO Box 40436 Olympia, WA<br>98504-0436       | 1942 - WI           | Sociologist<br>Lecturer, UW       | 1992-1994                     | Appt. 10/14/94- |
| Litzow, Steve            | 41       | R     | King (P)   | PO Box 40441 Olympia, WA<br>98504-0441       | 1961 - WI           | Marketing<br>Consultant           |                               | 2010-           |
| McAuliffe,<br>Rosemary   | 1        | D     | King (P),<br>Snohomish (P)   | PO Box 40401 Olympia, WA<br>98504-0401       | 1940 - WA           | Ownr/Mgr<br>Hollywood Schoolhouse |                               | 1993-           |
| Morton, Bob              | 7        | R     | Ferry, Lincoln,<br>Okanogan (P),<br>Pend Oreille,<br>Spokane (P),<br>Stevens | PO Box 40407 Olympia, WA<br>98504-0407       | 1934 - NY           | Legislator                        | 1991-93                       | Appt. 1/5/94-   |
| Murray, Ed               | 43       | D     | King (P)   | 3302 Fuhrman Ave E #103 Seattle,<br>WA 98102 | 1955 - WA           | Legislator                        | Appt.<br>11/4/1995, 1996-2006 | 2007-           |
| Nelson, Sharon           | 34       | D     | King (P)   | PO Box 40434 Olympia, WA<br>98504-0434       | 1951 - MN           | Legislator                        | Appt. 11/5/2007-10            | 2010-           |
| Parlette, Linda<br>Evans | 12       | R     | Chelan, Douglas,<br>Grant (P),<br>Okanogan (P)                               | PO Box 40412 Olympia, WA<br>98504-0412       | 1945 - WA           | Pharmacist &<br>Orchardist        | 1997-2000                     | 2001-           |
| Pflug, Cheryl            | 5        | R     | King (P)   | PO Box 40405 Olympia, WA<br>98504-0405       | 1957 - WA           | Registered Nurse                  | 1999-2004                     | Appt. 1/5/04-   |

| Name of Member      | District | Party | County   | Mailing Address                        | Birth<br>Year Place | Occupation                         | Previous Years Served |                  |
|---------------------|----------|-------|--|--|---------------------|------------------------------------|-----------------------|------------------|
|                     |          |       |  |  |                     |                                    | House                 | Senate           |
| Prentice, Margarita | 11       | D     | King (P)   | PO Box 40411 Olympia, WA<br>98504-0411 | 1931 - CA           | Registered Nurse,<br>Retired       | Appt. 5/31/88-1992    | 1993-            |
| Pridemore, Craig    | 49       | D     | Clark (P)  | PO Box 40449 Olympia, WA<br>98504-0449 | 1961 - CA           | Legislator                         |                       | 2005-            |
| Ranker, Kevin       | 40       | D     | San Juan, Skagit<br>(P), Whatcom (P)                                 | PO Box 40440<br>Olympia, WA 98504-0440 | 1970 - England      | Coastal/Ocean<br>Policy Consultant |                       | 2009-            |
| Regala, Debbie      | 27       | D     | Pierce (P)   | PO Box 40427 Olympia, WA<br>98504-0427 | 1945 - WA           | Community<br>Volunteer             | 1995-2000             | 2001-            |
| Roach, Pam          | 31       | R     | King (P), Pierce<br>(P)  | PO Box 40431 Olympia, WA<br>98504-0431 | 1948 - CA           | Self-Employed                      |                       | 1991-            |
| Rockefeller, Phil   | 23       | D     | Kitsap (P)   | PO Box 40423 Olympia, WA<br>98504-0423 | 1938 - NY           | Attorney (retired)                 | 1999-2004             | 2005-            |
| Schoesler, Mark     | 9        | R     | Adams, Asotin,<br>Franklin (P),<br>Garfield, Spokane<br>(P), Whitman | PO Box 40409 Olympia, WA<br>98504-0409 | 1957 - WA           | Self-Employed<br>Farmer            | 1993-2004             | 2005-            |
| Sheldon, Tim        | 35       | D     | Grays Harbor (P),<br>Kitsap (P), Mason,<br>Thurston (P)              | PO Box 40435 Olympia, WA<br>98504-0435 | 1947 - WA           | Tree Farmer                        | 1991-1997             | Elected 11/4/97- |
| Shin, Paull         | 21       | D     | Snohomish (P)  | PO Box 40421 Olympia, WA<br>98504-0421 | 1935 - Korea        | Professor-Retired                  | 1993-1994             | 1999-            |

| Name of Member    | District | Party | County   | Mailing Address                                 | Birth<br>Year Place | Occupation                     | Previous Years Served |                              |
|-------------------|----------|-------|--|---|---------------------|--------------------------------|-----------------------|------------------------------|
|                   |          |       |  |   |                     |                                | House                 | Senate                       |
| Stevens, Val      | 39       | R     | King (P), Skagit (P), Snohomish (P), Whatcom (P) | PO Box 40439 Olympia, WA 98504-0439             | 1939 - WA           | Legislator                     | 1993-1996             | 1997-                        |
| Swecker, Dan      | 20       | R     | Lewis, Thurston (P)                              | PO Box 40420 Olympia, WA 98504-0420             | 1947 - MT           | Sec/Treas Wa. Fish Growers     |                       | Appt. 1/5/95-                |
| Tom, Rodney       | 48       | D     | King (P)   | PO Box 594 Medina, WA 98039                     | 1963 - WA           | Real Estate Agent              | 2003-2006             | 2007-                        |
| White, Scott      | 46       | D     | King (P)   | 9009 27 <sup>th</sup> Ave. NE Seattle, WA 98115 | 1970 - WA           | Legislator                     | 2009-10               | 2010-                        |
| Zarelli, Joseph   | 18       | R     | Clark (P), Cowlitz (P)                           | PO Box 40418 Olympia, WA 98504-0418             | 1961 - WA           | Business Devlpmnt & Risk Mngt  |                       | Elected 11/7/95-             |
| Hoemann, Thomas   |          |       |  | PO Box 40482 Olympia, WA 98504-0482             | 1952 - NE           | Secretary of the Senate        |                       | 2005-                        |
| Hendrickson, Brad |          |       |  | PO Box 40482 Olympia, WA 98504-0482             | 1960 - WA           | Deputy Secretary of the Senate |                       | (1993-1996, 1999-2002) 2005- |
| Ruble, Jim        |          |       |  | PO Box 40482 Olympia, WA 98504-0482             | 1943 - WA           | Sergeant At Arms               |                       | 2005-                        |

**Membership of  
Senate Standing Committees  
2011**

**Agriculture & Rural Economic Development (8) -- Hatfield, Chair; Shin, Vice Chair; \*Delvin; Becker; Haugen; Hobbs; Honeyford; Schoesler**

**Early Learning & K-12 Education (11) -- McAuliffe, Chair; Rolfes, Vice Chair; \*Litzow; Eide; Fain; Harper; Hill; Hobbs; King; Nelson; Tom**

**Economic Development, Trade & Innovation (9) -- Kastama, Chair; Chase, Vice Chair; \*Baumgartner; Ericksen; Hatfield; Holmquist Newbry; Kilmer; Shin; Zarelli**

**Environment, Water & Energy (9) -- Nelson, Chair; Rolfes, Vice Chair; \*Honeyford; Chase; Delvin; Fraser; Holmquist Newbry; Morton; Ranker**

**Financial Institutions, Housing & Insurance (7) -- Hobbs, Chair; Prentice, Vice Chair; \*Benton; Fain; Haugen; Keiser; Litzow**

**Government Operations, Tribal Relations & Elections (7) -- Pridemore, Chair; Prentice, Vice Chair; \*Swecker; Benton; Chase; Nelson; Roach**

**Health & Long-Term Care (9) -- Keiser, Chair; Conway, Vice Chair; \*Becker; Carrell; Kline; Murray; Parlette; Pflug; Pridemore**

**Higher Education & Workforce Development (9) -- Tom, Chair; Shin, Vice Chair; \*Hill; Baumgartner; Becker; Ericksen; Kastama; Kilmer; White**

**Human Services & Corrections (7) -- Hargrove, Chair; Regala, Vice Chair; \*Stevens; Baxter; Carrell; Harper; McAuliffe**

**Judiciary (9) -- Kline, Chair; Harper, Vice Chair; \*Pflug; Baxter; Carrell; Hargrove; Kohl-Welles; Regala; Roach**

**Labor, Commerce & Consumer Protection (7) -- Kohl-Welles, Chair; Conway, Vice Chair; \*Holmquist Newbry; \*\*King; Hewitt; Keiser; Kline**

**Natural Resources & Marine Waters (7) -- Ranker, Chair; Regala, Vice Chair; \*Morton; Fraser; Hargrove; Stevens; Swecker**

**Rules (21) -- Lieutenant Governor, Chair; Prentice, Vice Chair; \*Hewitt; Brown; Carrell; Eide; Fraser; Harper; Haugen; Keiser; King; Kline; Kohl-Welles; McAuliffe; Parlette; Pflug; Regala; Schoesler; Stevens; White; Zarelli**

**Transportation (16) -- Haugen, Chair; White, Vice Chair; \*King; \*\*Fain; Delvin; Eide; Ericksen; Hill; Hobbs; Litzow; Prentice; Ranker; Rolfes; Sheldon; Shin; Swecker**

**Ways & Means (22) -- Murray, Chair; Kilmer, Vice Chair Capital Budget; \*Zarelli; \*\*\*Parlette; Baumgartner; Baxter; Brown; Conway; Fraser; Harper; Hatfield; Hewitt; Holmquist Newbry; Honeyford; Kastama; Keiser; Kohl-Welles; Pflug; Pridemore; Regala; Schoesler; Tom**

**Membership Assignments to  
Senate Standing Committees  
2011**

**Baumgartner, Michael** \*Economic Development, Trade & Innovation; Higher Education & Workforce Development; Ways & Means

**Baxter, Jeff** Human Services & Corrections; Judiciary; Ways & Means

**Becker, Randi** \*Health & Long-Term Care; Agriculture & Rural Economic Development; Higher Education & Workforce Development

**Benton, Don** \*Financial Institutions, Housing & Insurance; Government Operations, Tribal Relations & Elections

**Brown, Lisa** Rules; Ways & Means

**Carrell, Mike** Health & Long-Term Care; Human Services & Corrections; Judiciary; Rules

**Chase, Maralyn** Economic Development, Trade & Innovation, Vice Chair; Environment, Water & Energy; Government Operations, Tribal Relations & Elections

**Conway, Steve** Health & Long-Term Care, Vice Chair; Labor, Commerce & Consumer Protection, Vice Chair; Ways & Means

**Delvin, Jerome** \*Agriculture & Rural Economic Development; Environment, Water & Energy; Transportation

**Eide, Tracey** Early Learning & K-12 Education; Rules; Transportation

**Ericksen, Doug** Economic Development, Trade & Innovation; Higher Education & Workforce Development; Transportation

**Fain, Joe** \*\*Transportation; Early Learning & K-12 Education; Financial Institutions, Housing & Insurance

**Fraser, Karen** Environment, Water & Energy; Natural Resources & Marine Waters; Rules; Ways & Means

**Hargrove, James** Human Services & Corrections, Chair; Judiciary; Natural Resources & Marine Waters

**Harper, Nick** Judiciary, Vice Chair; Early Learning & K-12 Education; Human Services & Corrections; Rules; Ways & Means

**Hatfield, Brian** Agriculture & Rural Economic Development, Chair; Economic Development, Trade & Innovation; Ways & Means

**Haugen, Mary Margaret** Transportation, Chair; Agriculture & Rural Economic Development; Financial Institutions, Housing & Insurance; Rules

**Hewitt, Mike** \*Rules; Labor, Commerce & Consumer Protection; Ways & Means

**Hill, Andy** \*Higher Education & Workforce Development; Early Learning & K-12 Education; Transportation

**Hobbs, Steve** Financial Institutions, Housing & Insurance, Chair; Agriculture & Rural Economic Development; Early Learning & K-12 Education; Transportation

**Holmquist Newbry, Janéa** \*Labor, Commerce & Consumer Protection; Economic Development, Trade & Innovation; Environment, Water & Energy; Ways & Means

**Honeyford, Jim** \*Environment, Water & Energy; Agriculture & Rural Economic Development; Ways & Means

**Kastama, Jim** Economic Development, Trade & Innovation, Chair; Higher Education & Workforce Development; Ways & Means

\* Ranking Minority Member

\*\* Assistant Ranking Minority Member

**Keiser, Karen** Health & Long-Term Care, Chair; Financial Institutions, Housing & Insurance; Labor, Commerce & Consumer Protection; Rules; Ways & Means

**Kilmer, Derek** Ways & Means, Vice Chair Capital Budget; Economic Development, Trade & Innovation; Higher Education & Workforce Development

**King, Curtis** \*Transportation; \*\*Labor, Commerce & Consumer Protection; Early Learning & K-12 Education; Rules

**Kline, Adam** Judiciary, Chair; Health & Long-Term Care; Labor, Commerce & Consumer Protection; Rules

**Kohl-Welles, Jeanne** Labor, Commerce & Consumer Protection, Chair; Judiciary; Rules; Ways & Means

**Litzow, Steve** \*Early Learning & K-12 Education; Financial Institutions, Housing & Insurance; Transportation

**McAuliffe, Rosemary** Early Learning & K-12 Education, Chair; Human Services & Corrections; Rules

**Morton, Bob** \*Natural Resources & Marine Waters; Environment, Water & Energy

**Murray, Ed** Ways & Means, Chair; Health & Long-Term Care

**Nelson, Sharon** Environment, Water & Energy, Chair; Early Learning & K-12 Education; Government Operations, Tribal Relations & Elections

**Parlette, Linda Evans** \*\*\*Ways & Means; Health & Long-Term Care; Rules

**Pflug, Cheryl** \*Judiciary; Health & Long-Term Care; Rules; Ways & Means

**Prentice, Margarita** Financial Institutions, Housing & Insurance, Vice Chair; Government Operations, Tribal Relations & Elections, Vice Chair; Rules, Vice Chair; Transportation

**Pridemore, Craig** Government Operations, Tribal Relations & Elections, Chair; Health & Long-Term Care; Ways & Means

**Ranker, Kevin** Natural Resources & Marine Waters, Chair; Environment, Water & Energy; Transportation

**Regala, Debbie** Human Services & Corrections, Vice Chair; Natural Resources & Marine Waters, Vice Chair; Judiciary; Rules; Ways & Means

**Roach, Pam** Government Operations, Tribal Relations & Elections; Judiciary

**Rolfes, Christine** Early Learning & K-12 Education, Vice Chair; Environment, Water & Energy, Vice Chair; Transportation

**Schoesler, Mark** Agriculture & Rural Economic Development; Rules; Ways & Means

**Sheldon, Tim** Transportation

\* Ranking Minority Member

\*\* Assistant Ranking Minority Member

**Shin, Paull** Agriculture & Rural Economic Development, Vice Chair; Higher Education & Workforce Development, Vice Chair; Economic Development, Trade & Innovation; Transportation

**Stevens, Val** \*Human Services & Corrections; Natural Resources & Marine Waters; Rules

**Swecker, Dan** \*Government Operations, Tribal Relations & Elections; Natural Resources & Marine Waters; Transportation

**Tom, Rodney** Higher Education & Workforce Development, Chair; Early Learning & K-12 Education; Ways & Means

**White, Scott** Transportation, Vice Chair; Higher Education & Workforce Development; Rules

**Zarelli, Joseph** \*Ways & Means; Economic Development, Trade & Innovation; Rules

\* Ranking Minority Member

\*\* Assistant Ranking Minority Member

## MESSAGE FROM THE GOVERNOR

February 11, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on February 11, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 5135**

Relating to responding to the current economic conditions by temporarily modifying the unemployment insurance program.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

March 14, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on March 14, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 5763**

Relating to amending the existing nonresident retail sales tax exemption.

**Substitute Senate Bill No. 5801**

Relating to establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 5, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 5, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5124**

Relating to elections by mail.

**Substitute Senate Bill No. 5157**

Relating to the operation of foreign trade zones on property adjacent to but outside a port district.

**Engrossed Substitute Senate Bill No. 5747**

Relating to Washington horse racing funds.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 13, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 13, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 5057**

Relating to the income tax required to be paid by a trustee.

**Engrossed Senate Bill No. 5058**

Relating to receivership.

**Substitute Senate Bill No. 5071**

Relating to providing licensed midwives and marriage and family therapists online access to the University of Washington health sciences library.

**Substitute Senate Bill No. 5115**

Relating to private transfer fee obligations.

**Senate Bill No. 5116**

Relating to public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property.

**Senate Bill No. 5149**

Relating to requiring the department of health to collect current and past employment information in the cancer registry program.

**Substitute Senate Bill No. 5152**

Relating to naturopathic physicians.

**Senate Bill No. 5170**

Relating to increasing the number of judges to be elected in Grant county.

**Senate Bill No. 5174**

Relating to encouraging instruction in the history of civil rights.

**Substitute Senate Bill No. 5184**

Relating to second-class school districts and compliance reports.

**Substitute Senate Bill No. 5195**

Relating to requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions.

**Senate Bill No. 5213**

Relating to insurance.

**Senate Bill No. 5224**

Relating to preparation charges for condominium resale certificates.

**Engrossed Senate Bill No. 5242**

Relating to motorcycle profiling.

**Senate Bill No. 5295**

Relating to leases of irrigation district property.

**Engrossed Substitute Senate Bill No. 5307**

Relating to evaluating military training and experience toward meeting licensing requirements in medical professions.

**Substitute Senate Bill No. 5337**

Relating to financial assistance to privately owned airports available for general use of the public.

**Senate Bill No. 5375**

Relating to the department of financial institutions' regulation of trust companies.

**Senate Bill No. 5388**

Relating to the liability of owners of recreational land and water areas.

**Senate Bill No. 5492**

Relating to the Washington beer commission.

**Substitute Senate Bill No. 5495**

Relating to shareholder quorum and voting requirements under the Washington business corporation act.

**Senate Bill No. 5501**

Relating to the taxation of employee meals provided without specific charge.

**Substitute Senate Bill No. 5538**

Relating to members of certain nonprofit conservation corps programs.

**Substitute Senate Bill No. 5574**

Relating to collection agencies.

**Engrossed Substitute Senate Bill No. 5594**

Relating to handling of hazardous drugs.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR

April 15, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 15, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 5011**

Relating to victimization of homeless persons.

**Substitute Senate Bill No. 5018**

Relating to wound care management in occupational therapy.

**Engrossed Substitute Senate Bill No. 5020**

Relating to protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education.

**Senate Bill No. 5033**

Relating to the sale of water-sewer district real property.

**Engrossed Substitute Senate Bill No. 5068**

Relating to the abatement of violations of the Washington industrial safety and health act during an appeal.

**Substitute Senate Bill No. 5070**

Relating to prevailing wage records requests.

**Senate Bill No. 5076**

Relating to the subpoena authority of the department of financial institutions.

**Engrossed Substitute Senate Bill No. 5105**

Relating to the conditional release of persons committed as criminally insane to their county of origin.

**Senate Bill No. 5117**

Relating to the population restrictions for a geographic area to qualify as a rural public hospital district.

**Substitute Senate Bill No. 5168**

Relating to reducing maximum sentences for gross misdemeanors by one day.

**Senate Bill No. 5172**

Relating to authorizing the use of short-term, on-site child care for the children of facility employees.

**Senate Bill No. 5241**

Relating to the authority of a watershed management partnership.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 18, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 18, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 5300**

Relating to enhancing the use of Washington natural resources in public buildings.

**Substitute Senate Bill No. 5352**

Relating to providing eyeglasses for medicaid enrollees.

**Substitute Senate Bill No. 5359**

Relating to contiguous land under current use open space property tax programs.

**Substitute Senate Bill No. 5364**

Relating to public water system operating permits.

**Substitute Senate Bill No. 5374**

Relating to making technical, nonsubstantive changes to department of agriculture-related sections.

**Substitute Senate Bill No. 5386**

Relating to establishing a work group to increase organ donation in Washington state.

**Senate Bill No. 5395**

Relating to domestic violence fatality review panels.

**Substitute Senate Bill No. 5423**

Relating to legal financial obligations.

**Substitute Senate Bill No. 5428**

Relating to notification to schools regarding the release of certain offenders.

**Substitute Senate Bill No. 5442**

Relating to an accelerated baccalaureate degree program.

**Senate Bill No. 5463**

Relating to common student identifiers for community and technical colleges.

**Senate Bill No. 5482**

Relating to authorizing existing funding to house victims of human trafficking and their families.

**Substitute Senate Bill No. 5546**

Relating to the crime of human trafficking.

**Engrossed Substitute Senate Bill No. 5555**

Relating to interbasin transfers of water rights.

**Engrossed Substitute Senate Bill No. 5585**

Relating to street rod and custom vehicles.

**Senate Bill No. 5589**

Relating to heavy haul industrial corridors.

**Senate Bill No. 5633**

Relating to exempting agricultural fair premiums from the unclaimed property act.

**Substitute Senate Bill No. 5635**

Relating to changes in the point of diversion under a surface water right permit located between Columbia river miles 215.6 and 292.

**Substitute Senate Bill No. 5664**

Relating to the Lake Washington Institute of Technology.

**Substitute Senate Bill No. 5788 (Partial Veto)**

Relating to regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.

**Substitute Senate Bill No. 5797**

Relating to eliminating the urban arterial trust account.

**Substitute Senate Bill No. 5800**

Relating to authorizing the use of modified off-road motorcycles on public roads.

**Senate Bill No. 5849**

Relating to estates and trusts.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 22, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 22, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5021**

Relating to enhancing election campaign disclosure requirements to promote greater transparency for the public.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 27, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 27, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Second Substitute Senate Bill No. 5000**

Relating to mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence of alcohol or drugs or being in physical control of a vehicle while under the influence of alcohol or drugs.

**Senate Bill No. 5035**

Relating to the manufactured/mobile home landlord-tenant act.

**Substitute Senate Bill No. 5036**

Relating to the derelict vessel and invasive species removal fee.

**Substitute Senate Bill No. 5042**

Relating to protection of vulnerable adults.

**Engrossed Senate Bill No. 5061**

Relating to reconciling changes made to vehicle and vessel registration and title provisions during the 2010 legislative sessions.

**Substitute Senate Bill No. 5065**

Relating to prevention of animal cruelty.

**Engrossed Substitute Senate Bill No. 5098**

Relating to exempting personal information from public inspection and copying.

**Substitute Senate Bill No. 5167**

Relating to tax statute clarifications and technical corrections, including for the purposes of local rental car taxes.

**Senate Bill No. 5278**

Relating to information contained in rate notices under the industrial insurance laws.

**Senate Bill No. 5367**

Relating to authorizing the economic development finance authority to continue issuing bonds.

**Senate Bill No. 5389**

Relating to the membership of the early learning advisory council.

**Senate Bill No. 5480**

Relating to physician and physician assistants license renewal requirements.

**Senate Bill No. 5526**

Relating to incentives for sterling converters.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

April 29, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 29, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Second Substitute Senate Bill No. 5034**

Relating to private infrastructure development.

**Engrossed Second Substitute Senate Bill No. 5073 (Partial Veto)**

Relating to medical use of cannabis.

**Engrossed Second Substitute Senate Bill No. 5769**

Relating to coal-fired electric generation facilities.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR

May 3, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 3, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 5023**

Relating to nonlegal immigration-related services.

**Substitute Senate Bill No. 5072**

Relating to the authority of the department of agriculture to accept and expend gifts.

**Senate Bill No. 5141**

Relating to limiting the issuance of motorcycle instruction permits.

**Substitute Senate Bill No. 5271**

Relating to abandoned or derelict vessels.

**Substitute Senate Bill No. 5436**

Relating to the use of antifouling paints on recreational water vessels.

**Senate Bill No. 5500**

Relating to the rule-making process for state economic policy.

**Substitute Senate Bill No. 5784**

Relating to advancing the regional ocean partnership.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR

May 5, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 5, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5186**

Relating to skiing in an area closed to the public.

**Substitute Senate Bill No. 5192**

Relating to provisions for notifications and appeals timelines under the shoreline management act.

**Substitute Senate Bill No. 5239**

Relating to the allocation method used for the distribution of federal forest revenue to public schools.

**Substitute Senate Bill No. 5350**

Relating to the unlawful dumping of solid waste.

**Substitute Senate Bill No. 5392**

Relating to including technology as an educational core concept and principle.

**Engrossed Substitute Senate Bill No. 5748**

Relating to cottage food operations.

**Engrossed Senate Bill No. 5907**

Relating to implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

May 10, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 10, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Senate Bill No. 5005**

Relating to exemption from immunization.

**Substitute Senate Bill No. 5025**

Relating to making requests by or on behalf of an inmate under the public records act ineligible for penalties.

**Substitute Senate Bill No. 5067**

Relating to changing the certified and registered mail requirements of the department of labor and industries and employment security department.

**Substitute Senate Bill No. 5187**

Relating to the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent- initiated mental health treatment.

**Substitute Senate Bill No. 5232**

Relating to prize-linked savings deposits.

**Senate Bill No. 5304**

Relating to forecasting the caseloads of the state need grant program and the Washington college bound scholarship program.

**Substitute Senate Bill No. 5452**

Relating to improving communication, collaboration, and expedited Medicaid attainment with regard to persons diverted, arrested, confined or to be released from confinement or commitment who have mental health or chemical dependency

disorders.

**Substitute Senate Bill No. 5487**

Relating to eggs and egg products in intrastate commerce.

**Substitute Senate Bill No. 5504**

Relating to unlicensed child care.

**Substitute Senate Bill No. 5579**

Relating to harassment.

**Senate Bill No. 5584**

Relating to conforming with federal labor standards for apprenticeship programs.

**Senate Bill No. 5625**

Relating to authorizing implementation of a nonexpiring license for early learning providers.

**Engrossed Substitute Senate Bill No. 5656**

Relating to a state Indian child welfare act.

**Senate Bill No. 5731**

Relating to Washington manufacturing services.

**Substitute Senate Bill No. 5741**

Relating to the economic development commission.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR

May 11, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 11, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5122**

Relating to changes for implementation of the affordable care act in Washington state.

**Engrossed Substitute Senate Bill No. 5371**

Relating to guaranteed issue health insurance for persons under age nineteen.

**Substitute Senate Bill No. 5394**

Relating to primary care health homes and chronic care management.

**Substitute Senate Bill No. 5445**

Relating to the creation of a health benefit exchange.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR

May 12, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 12, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Senate Bill No. 5044**

Relating to the tax preference review process.

**Senate Bill No. 5045**

Relating to making technical corrections to gender-based terms.

**Senate Bill No. 5083**

Relating to clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction.

**Senate Bill No. 5119**

Relating to cancellation of the 2012 presidential primary.

**Substitute Senate Bill No. 5156**

Relating to airport lounges under the alcohol beverage control act.

**Substitute Senate Bill No. 5203**

Relating to improving the administration and efficiency of sex and kidnapping offender registration.

**Substitute Senate Bill No. 5204**

Relating to juveniles who have been adjudicated of a sex offense.

**Engrossed Substitute Senate Bill No. 5253**

Relating to tax increment financing for landscape conservation and local infrastructure.

**Substitute Senate Bill No. 5385**

Relating to increasing revenue to the state wildlife account.

**Second Substitute Senate Bill No. 5427**

Relating to the assessment of students in state-funded full- day kindergarten classrooms.

**Substitute Senate Bill No. 5451**

Relating to shoreline structures in a master program adopted under the shoreline management act.

**Engrossed Substitute Senate Bill No. 5485**

Relating to maximizing the use of our state's natural resources.

**Engrossed Senate Bill No. 5505**

Relating to allowing the use of federal census data to determine the resident population of annexed territory.

**Substitute Senate Bill No. 5531**

Relating to the judicial costs of commitments for involuntary mental health treatment.

**Substitute Senate Bill No. 5614**

Relating to requests for funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements with the University of Washington under chapter 41.80 RCW.

**Second Substitute Senate Bill No. 5622**

Relating to recreation access on state lands.

**Second Substitute Senate Bill No. 5636**

Relating to expanding opportunities in higher education in north Puget Sound.

**Second Substitute Senate Bill No. 5662**

Relating to establishing a preference for resident contractors on public works.

**Substitute Senate Bill No. 5688**

Relating to shark finning activities.

**Substitute Senate Bill No. 5691**

Relating to crime victims' compensation.

**Substitute Senate Bill No. 5722**

Relating to the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

May 16, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 16, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Second Engrossed Substitute Senate Bill No. 5171**

Relating to facilitating voting for service and overseas voters.

**Substitute Senate Bill No. 5326**

Relating to negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way.

**Engrossed Substitute Senate Bill No. 5457**

Relating to providing a congestion reduction charge to fund the operational and capital needs of transit agencies.

**Substitute Senate Bill No. 5502**

Relating to the regulation, operations, and safety of limousine carriers.

**Substitute Senate Bill No. 5525**

Relating to hospital benefit zones that have already formed.

**Substitute Senate Bill No. 5540**

Relating to automated school bus safety cameras.

**Substitute Senate Bill No. 5590**

Relating to lien holder requirements for certain foreclosure sales.

**Second Substitute Senate Bill No. 5595**

Relating to distribution of the public utility district privilege tax.

**Senate Bill No. 5628**

Relating to a limited property tax exemption from the emergency medical services levy.

**Substitute Senate Bill No. 5658**

Relating to the sale or exchange of surplus real property by the department of transportation.

**Substitute Senate Bill No. 5700 (Partial Veto)**

Relating to certain toll facilities.

**Engrossed Substitute Senate Bill No. 5708**

Relating to reshaping the delivery of long-term care services.

**Substitute Senate Bill No. 5791**

Relating to commercial activity at certain park and ride lots.

**Senate Bill No. 5806**

Relating to a veteran lottery raffle.

**Substitute Senate Bill No. 5836**

Relating to allowing certain private transportation providers to use certain public transportation facilities.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

May 31, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on May 31, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5581**

Relating to nursing homes.

**Engrossed Second Substitute Senate Bill No. 5596**

Relating to creating flexibility in the medicaid program.

**Second Engrossed Senate Bill No. 5773**

Relating to making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees.

**Engrossed Substitute Senate Bill No. 5927**

Relating to limiting payments for health care services provided to low-income enrollees in state purchased health care programs.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

June 6, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on June 6, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Second Substitute Senate Bill No. 5182 (Partial Veto)**

Relating to establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities.

**Engrossed Substitute Senate Bill No. 5749 (Partial Veto)**

Relating to the Washington advanced college tuition payment program.

Sincerely,

Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

June 7, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on June 7, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Engrossed Substitute Senate Bill No. 5091**

Relating to delaying the implementation of the family leave insurance program.

**Senate Bill No. 5289**

Relating to a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

**Second Engrossed Senate Bill No. 5638**

Relating to the exemption of certain taxing districts.

**Second Engrossed Substitute Senate Bill No. 5742 (Partial Veto)**

Relating to the Washington state ferry system.

**Second Engrossed Senate Bill No. 5764 (Partial Veto)**

Relating to innovate Washington.

**Engrossed Substitute Senate Bill No. 5919 (Partial Veto)**

Relating to education funding.

**Senate Bill No. 5956**

Relating to the prohibited practices of collection agencies.

Sincerely,  
Jim Justin, Legislative Director

## MESSAGE FROM THE GOVERNOR

June 15, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on June 15, 2011, Governor Gregoire approved the following Senate Bills entitled:

**Substitute Senate Bill No. 5181**

Relating to limitations on state debt.

**Second Substitute Senate Bill No. 5459**

Relating to services for people with developmental disabilities.

**Engrossed Substitute Senate Bill No. 5834**

Relating to permitting counties to direct an existing portion of local lodging taxes to programs for arts, culture, heritage, tourism, and housing.

**Engrossed Substitute Senate Bill No. 5860**

Relating to temporary compensation reductions for state government employees during the 2011-2013 fiscal biennium.

**Engrossed Substitute Senate Bill No. 5891**

Relating to criminal justice cost savings.

**Substitute Senate Bill No. 5912**

Relating to the expansion of family planning services to two hundred fifty percent of the federal poverty level.

**Engrossed Substitute Senate Bill No. 5921**

Relating to social services.

**Engrossed Substitute Senate Bill No. 5931**

Relating to reorganizing and streamlining central service functions, powers, and duties of state government.

**Senate Bill No. 5941**

Relating to judicial branch funding.

**Engrossed Substitute Senate Bill No. 5942**

Relating to the warehousing and distribution of liquor, including the lease and modernization of the state's liquor warehousing and distribution facilities.

Sincerely,  
Jim Justin, Legislative Director

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL NO. 5788

April 18, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 501, Substitute Senate Bill No. 5788 entitled:

“AN ACT Relating to regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.”

The emergency clause in Section 501 provides that three sections of Substitute Senate Bill 5788 take effect on July 1, 2011. All sections of the bill will be effective ninety days after the adjournment of the session at which it was enacted, which will be no later than July 24, 2011. There is no need to provide an earlier effective date for the sections listed in Section 501. Therefore, this emergency clause is unnecessary.

For these reasons, I have vetoed Section 501 of Substitute Senate Bill 5788.

With the exception of Section 501, Substitute Senate Bill 5788 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5073

April 29, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill No. 5073 entitled:

“AN ACT Relating to medical use of cannabis.”

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients’ physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient’s use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislation may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers, processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry

established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
VETO ON SUBSTITUTE SENATE BILL NO. 5097

May 10, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5097 entitled:

“AN ACT Relating to juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails.”

This bill would establish a work group to address issues relating to juveniles with developmental disabilities who are confined in juvenile detention or correctional facilities. The work group would be required to report to the Legislature by December 1, 2011, with recommendations concerning specific topics related to juveniles with developmental disabilities and the juvenile justice system. If recommended by the work group, a screening tool and related materials would be developed by September 1, 2012, to assist juvenile detention and correction institutions and facilities in identification of offenders with the most common types of developmental disabilities. The work group would expire on January 1, 2013.

I support the intent behind this bill, but not the process established. As I have stated many times, I believe that, in most cases, work groups that are charged with making recommendations on policy objectives should not be created in statute. However, development of the information and recommendations outlined in the bill would be useful to executive agencies and the Legislature. The Washington Developmental Disabilities Council has indicated it would participate in the work group and underwrite related costs with monies allocated from federal funds. I am confident the Washington Developmental Disabilities Council will be able to coordinate with the parties listed in the bill and accomplish the tasks outlined without a statute. Representatives of the Juvenile Rehabilitation Administration have indicated a willingness to participate in a work group established by the Washington Developmental Disabilities Council.

For this reason, I have vetoed Substitute Senate Bill 5097 in its entirety.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SENATE BILL NO. 5045

May 12, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have approved, except for Sections 34, 508, 520 and 590, Senate Bill No. 5045 entitled:

“AN ACT Relating to making technical corrections to gender-based terms.”

I am vetoing Section 34 because it incorrectly amends the phrase "his widow" to "his or her widow" in RCW 2.12.037. I am vetoing the following sections due to conflicting amendments in other bills already signed into law in the 2011 session: Sections 508, 520 and 590.

With the exception of Sections 34, 508, 520 and 590, Senate Bill 5045 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SENATE BILL NO. 5083

May 12, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 3, Senate Bill No. 5083 entitled:

"AN ACT Relating to clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transition."

Senate Bill 5083 provides that when a real estate commission on a particular transaction is divided among real estate firms at the closing of the transaction, each firm must pay the tax only upon its respective share.

Section 3 would apply this act both prospectively and retroactively. The retroactive application of the bill would reward delinquent taxpayers while those who paid on time would not receive a refund under the prohibition on the gift of state funds in Article VIII, Section 5 of the Washington Constitution, as interpreted by the Washington Supreme Court.

For this reason, I have vetoed Section 3 of Senate Bill 5083.

With the exception of Section 3, Senate Bill 5083 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL NO. 5691

May 12, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 402, 503, 804 and 805, Substitute Senate Bill No. 5691 entitled:

"AN ACT Relating to crime victims' compensation."

With this bill, the Legislature has taken important steps to ensure the sustainability of our Crime Victims' Compensation program. Administrative efficiencies, coupled with painful but necessary benefit reductions, will allow the program to maintain its viability for the foreseeable future. However, only temporarily reducing these benefits will only temporarily strengthen the Crime Victims' Compensation program. An increase in crime victims' benefits is a discussion that should occur if and when state revenues improve, but not before that time.

For these reasons, I have vetoed Sections 402, 503, 804 and 805 of Substitute Senate Bill 5691.

With the exception of Sections 402, 503, 804 and 805, Substitute Senate Bill 5691 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SUBSTITUTE SENATE BILL NO. 5700

May 16, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Substitute Senate Bill No. 5700 entitled:

“AN ACT Relating to certain toll facilities.”

I am vetoing Section 1, the intent section. As outlined in an informal Attorney General Opinion, Initiative 1053 does not constrain the manner in which the legislature approves imposition or increases in fees. Section 1 could be misconstrued to constrain the form of legislative approvals. Vetoing the intent section does not impede implementation of the bill.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill 5700.

With the exception of Section 1, Substitute Senate Bill 5700 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SECOND SUBSTITTUTE SENATE BILL NO. 5182

June 6, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 246, Engrossed Second Substitute Senate Bill No. 5182 entitled:

“AN ACT Relating to establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities.”

Section 246 transfers powers, duties and functions of the higher education coordinating board pertaining to student financial assistance to the new office of student financial assistance. Due to a technical bill drafting error, the effective date of the transfer of powers would occur prior to the creation of the new office of student financial assistance on July 1, 2012.

For this reason, I am vetoing Section 246. The new higher education steering committee will make recommendations concerning higher education governance prior to the 2012 legislative session. I expect the committee to consider the transfers of authority set forth in Section 246 and recommend any statutory changes necessary in the 2012 session to successfully achieve the appropriate transfers.

For these reasons, I have vetoed Section 246 of Engrossed Second Substitute Senate Bill 5182.

With the exception of Section 246, Engrossed Second Substitute Senate Bill 5182 is approved.

Respectfully submitted,

Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5749

June 6, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill No. 5749 entitled:

“AN ACT Relating to the Washington advanced college tuition payment program.”

Section 1 would expand the membership of the Committee on Advanced Tuition Payment, limit private sector and citizen representatives on the committee to four year terms and require Senate confirmation of citizen and business representatives. The work of this committee involves oversight of complex financial issues. The bill does not stagger the terms of the committee members, and expands the number of term-limited members to four of the committee's seven members. Unstaggered and limited terms for a majority of the committee members would leave the committee highly vulnerable to the loss of expertise accumulated by citizen and business representatives and inhibit the work of this committee.

For these reasons, I have vetoed Section 1 of Engrossed Substitute Senate Bill 5749.

With the exception of Section 1, Engrossed Substitute Senate Bill 5749 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5742

June 7, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 11, 13, 14 and 15, Second Engrossed Substitute Senate Bill No. 5742 entitled:

“AN ACT Relating to the Washington state ferry system.”

Section 11 requires the Washington State Department of Transportation (WSDOT) to provide quarterly on-time performance reports to the Legislature and to post the data on vessels, at terminals, and on the WSDOT's website. I am vetoing this section because Washington State Ferries already reports on-time performance through the Government Management Accountability and Performance program (GMAP), and quarterly reports are posted on the GMAP website.

Sections 13 and 14 contain conflicting requirements for actions that must be taken if Washington State Ferries does not meet at least eighty percent of performance measure targets. Section 13 requires that the governor appoint a management representative and Section 14 requires WSDOT to solicit requests for qualifications to privatize Washington State Ferries management. In addition, I do not believe either of these requirements is necessary or practicable.

Section 15 requires the Office of Financial Management's (OFM) Attainment Report to include the performance measures in Sections 10 and 11. Once the ad hoc committee in Section 10 completes its work, a determination will be made regarding the high-level performance indicators that should be included in the Attainment Report. Accordingly, I am vetoing this section so the ad hoc committee's recommendations can be considered.

For these reasons, I have vetoed Sections 11, 13, 14 and 15 of Second Engrossed Substitute Senate Bill 5742.

With the exception of Sections 11, 13, 14 and 15, Second Engrossed Substitute Senate Bill 5742 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SECOND ENGROSSED SENATE BILL NO. 5764

June 7, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 18, Second Engrossed Senate Bill No. 5764 entitled:

“AN ACT Relating to Innovate Washington.”

This bill creates Innovate Washington as the successor agency to the Washington Technology Center and the Spokane Intercollegiate Research and Technology Institute.

Section 1 provides that Innovate Washington will act as the primary agency focused on growing innovation-based sectors of our economy and will work with business to meet technology transfer needs. This section defines the mission of Innovate Washington as making our state the best place to develop, build, and deploy innovative products with collaborative partnerships among academic institutions, industry and government. Among the means Section 1 outlines to carry out this mission is leveraging state investments in sector-focused, innovation-based economic development initiatives. Innovate Washington is designated as the lead entity to coordinate and approve state funding “for programs targeted at expanding the clean energy sector” while maintaining policy and regulatory functions at the state energy office housed at the Department of Commerce.

Given Innovate Washington’s mission, the definition of “lead entity” is Section 1(7) to mean “the organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support of clean energy initiatives” is limited to approval of state funding awards for the primary purpose of economic development in the clean energy sector. Approval would not extend to state funding of initiatives not specifically targeted to grow the clean energy sector. Moreover, as stated in a colloquy on the Senate floor and consistent with the terminology clean energy “initiatives,” the approval required under Section 1(7) applies to new programs begun after the effective date of the act. The above understanding and interpretation of the bill is shared by the legislature as set forth in a letter to me from Senator Jim Kastama and Representative Deb Eddy dated May 25, 2011 encouraging me to give clarifying direction to the agencies involved. It is with this understanding that I approve Section 1.

I am vetoing Section 18 of Second Engrossed Senate Bill 5764 which requires the joint legislative audit and review committee to review performance of Innovate Washington and to make recommendations regarding the effectiveness of its programs by December 1, 2015. Innovate Washington is required to submit its first five year business plan to the legislature by December 1, 2012, which will identify its activities and programs, and set forth its operational plan and strategy for carrying out its mission. The timing of a study to determine the effectiveness of its programs is best determined based on the schedule in the business plan. When the business plan is completed, the joint legislative audit and review committee can determine the appropriate timing and content of a review based on experience without the need for a statutory provision.

For this reason, I am vetoing Section 18 of Second Engrossed Senate Bill 5764.

With the exception of Section 18, Second Engrossed Senate Bill 5764 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ENGROSSED SUBSTITUTE SENATE BILL NO. 5919

June 7, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 6, Engrossed Substitute Senate Bill No. 5919 entitled:

“AN ACT Relating to education funding.”

Section 6 requires students in the graduating class of 2015, rather than 2013, to meet the state standard on the high school assessment in order to earn a certificate of academic achievement or certificate of individual achievement.

The House of Representatives delivered Engrossed Substitute House Bill 1410 containing a similar provision on May 25, 2011. That bill is among those I sign today.

For this reason, I have vetoed Section 6 of Engrossed Substitute Senate Bill 5919.

With the exception of Section 6, Engrossed Substitute Senate Bill 5919 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON SECOND SUBSTITUTE SENATE BILL NO. 5459

June 15, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 7 and 11, Second Substitute Senate Bill No. 5459 entitled:

“AN ACT Relating to services for people with developmental disabilities.”

This bill makes a number of changes that address the increased provision of services to persons with developmental disabilities in a community setting. It reduces admissions to residential habilitation centers, closes the Frances Haddon Morgan Center by December 31, 2011, provides for relocation and alternatives, and strengthens the array of support available in communities.

Section 7 of this bill mandates that the Department of Social and Health Services provide a series of processes and services that assist successful client transitions into the community. Most provisions in this section are current practices within the Department, including the following: person-centered approaches to discharge plans, family mentoring, offering residential habilitation center employees opportunities for employment in community settings, offering residents leaving a residential habilitation center the ability to return, and maximizing federal funding. Approval of Section 7 is not required to implement these approaches. However, Section 7(2)(f)(vii) could be interpreted to mandate that the Department provide new transportation services and other supports to assist family and friends in maintaining regular contact with residents who have moved out of a residential habilitation center. While I agree that clients should maintain contact with their family and friends, this subsection could create a broad, undefined requirement that is also unfunded. The type, frequency, and costs of transportation are not easily assessed. Because these unknown elements present serious concerns about unanticipated fiscal impacts, I am vetoing Section 7.

Section 11 mandates that the Department annually submit a report to the Legislature regarding persons who have transitioned from residential habilitation centers to the community. Much of the information required for this report is

already gathered as a standard part of the client assessment and existing quality assurances processes. Aggregating and assembling client-specific information into a new report is a significant unfunded mandate.

Although I am vetoing this section, I am directing the Department to share the various reports related to the quality of client transitions and community-based services with the Legislature.

For these reasons, I have vetoed Sections 7 and 11 of Second Substitute Senate Bill 5459.

With the exception of Sections 7 and 11, Second Substitute Senate Bill 5459 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR  
PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5921

June 15, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 3 and 26, Engrossed Substitute Senate Bill No. 5921 entitled:

“AN ACT Relating to social services.”

This omnibus bill addresses redesign and policy changes to Washington’s WorkFirst program, including provisions related to eligibility, accountability, fraud detection and enforcement. During the current economic downturn the state has experienced increased utilization of safety net programs. Now is the time to redouble our focus on service delivery that meets the intended outcomes and ensures fiscal accountability for the use of limited public funds.

Sections 3 of the bill requires the Department of Social and Health Services to engage in competitive performance-based contracting for all WorkFirst activities. I strongly support government efficiency and improved performance in providing critical services to Washington residents. However, Section 3 of the bill is not needed and could create confusion about the applicable law that would govern such contracting. The Legislature enacted a law in 1997, codified as RCW 74.08A.290, that authorized the Department of Social and Health Services to engage in competitive contracting using performance-based contracts to provide all work activities. The Department of Social and Health Services would be expressly mandated to exercise its authority granted in 1997 under RCW 74.08A.290 by Second Engrossed Substitute House Bill 1087, a bill among those I sign today. I will direct the Department of Social and Health Services and the WorkFirst Subcabinet to act on the Legislature’s direction in Second Engrossed Substitute House Bill 1087 to competitively contract all work activities under the 1997 law.

Section 26 of the bill establishes a Fraud Ombudsman in the State Auditor’s Office to audit and provide oversight of the Office of Fraud and Accountability at the Department of Social and Health Services. Transparency of public funds is critically important. I remain committed to ensuring appropriate use of public funds when providing critical services for the State’s most vulnerable residents.

However, Section 26 is duplicative of the State Auditor’s Office existing authority to audit the work of the Office of Fraud and Accountability. The Department of Social and Health Services will provide the State Auditor’s Office with access to any relevant records in its possession to the fullest extent practicable upon the request of the State Auditor’s Office.

For these reasons, I have vetoed Sections 3 and 26 of Engrossed Substitute Senate Bill 5921.

With the exception of Sections 3 and 26, Engrossed Substitute Senate Bill 5921 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

MESSAGE FROM THE GOVERNOR

## PARTIAL VETO ON ENGROSSED SUBSTITUTE SENATE BILL NO. 5931

June 15, 2011

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 815 and 816 and Sections 901 through 909, Engrossed Substitute Senate Bill No. 5931 entitled:

“AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government.”

Sections 815 and 816 require the State Auditor to conduct a performance audit of the consolidated state data center during the same period that the Department of Information Services and Office of Financial Management will be fully engaged in the transformative activities associated with implementation of this bill and the consolidated data center business plan. Such activities will include designing and installing the consolidated state data center infrastructure; moving staff to the new office building; structuring the new Department of Enterprise Services, Consolidated Technology Services, and Office of the Chief Information Officer; and conducting a statewide information technology total cost of ownership study. A performance audit during this timeframe will redirect key leadership and staff capacity and attention from implementing these complex and resource intensive initiatives to reviewing the rationale for the current strategies underway.

Sections 901 through 909 transfer the Education Research Data Center (ERDC) from the Office of Financial Management’s Forecasting Division to the Legislative Evaluation and Accountability Program Committee (LEAP). The ERDC and LEAP are collaboratively involved in building a robust and informative research capability that informs decision-making for both the executive and legislative branch. This transfer would not accomplish the goals that are shared among the legislative and executive branches and may actually slow the federally funded initiatives underway. The ERDC will continue to serve our shared commitment to transparency, education data quality, and useful information for decision makers while remaining at the Office of Financial Management.

For these reasons, I have vetoed Sections 815 and 816 and Sections 901 through 909 of Engrossed Substitute Senate Bill 5931.

With the exception of Sections 815 and 816 and Sections 901 through 909, Engrossed Substitute Senate Bill 5931 is approved.

Respectfully submitted,  
Christine Gregoire, Governor

**HISTORY OF GOVERNOR'S PARDONS AND COMMUTATIONS**

May 12, 2011

To the Honorable, the Senate  
of the State of Washington

Ladies and Gentlemen:

In compliance with the provisions of Article III, Section 11, of the Constitution of the State of Washington, the Governor hereby submits her report of each case of reprieve, commutation or pardon that she has granted since her last report submitted on June 23, 2010, copies of which are attached.

Sincerely,  
Narda Pierce  
General Counsel

Cc: Jay Manning, Chief of Staff

**FULL AND UNCONDITIONAL PARDON  
OF  
STARCIA MARIE AGUE**

**To all to Whom These Presents Shall Come, Greetings:**

WHEREAS, Starcia Marie Ague, as a juvenile, pled guilty to two counts of Robbery in the First Degree and one count of Kidnapping in the First Degree after participating in a March 23, 2003, home invasion robbery in which the occupants of the home were tied up and threatened and items from the home were stolen. These offenses occurred when Ms. Ague was 15 years old. She had been removed from her parents' custody after suffering abuse, neglect and exposure to criminal activities, following which she was placed in foster homes and then lived on the streets. At sentencing, the juvenile court imposed three 103-129 week sentences to be served consecutively until Ms. Ague reached the age of 21. The juvenile court also imposed restitution and costs, which have been paid.

WHEREAS, Ms. Ague, upon confinement in the juvenile rehabilitation facilities of Naselle Youth Camp and Echo Glen Detention Center, determined to change her life and develop strong positive values and the will to succeed. During her six years in juvenile rehabilitation facilities, she earned her high school diploma and participated in a course of online studies that allowed her to earn college credit. Aided by friends and mentors, Ms. Ague developed and mastered the interpersonal and academic skills necessary to achieve a positive direction in her life.

WHEREAS, after her release at age 21, Ms. Ague entered Washington State University and, while pursuing her degree, worked as an intern with the juvenile unit of the Spokane County Defender's Office and as Residence Life Staff at Washington State University's Orton Hall. She earned a degree in Criminal Justice from the Washington State University.

WHEREAS, Ms. Ague has participated in efforts to improve juvenile rehabilitation by assisting faculty at the University of Washington and Washington State University on projects to improve alternatives to detention for juvenile status offenders and to better equip detention staff and probation officers to deal with mentally ill youthful offenders and their families. She took her passion and commitment to improving the lives of youth in the juvenile justice system to the Washington Legislature. She successfully advocated for Senate Bill 6561, allowing the sealing of juvenile records under certain circumstances, thereby helping to remove roadblocks faced by young adults trying to overcome their juvenile histories. She was awarded scholarships to attend the Georgetown University Certificate Program to Improve Outcomes for Children and Youth Involved in the Child Welfare and Juvenile Justice Systems.

WHEREAS, Ms. Ague is now 23 years old, has demonstrated her successful rehabilitation, and wants to be a mentor and role model and make positive changes in the lives of youth who have lost their way. She has a goal of obtaining employment in a field that works with at-risk youth and juvenile offenders, and her juvenile offense history is a barrier to this goal. A pardon will allow these juvenile adjudications to be removed from the criminal history record that is available to the public.

WHEREAS, there was a strong showing of support at Ms. Ague's hearing before the Clemency and Pardons Board in the form of testimony recommending a pardon by Lieutenant Don Stevens of the Tumwater Police Department, Washington State Senator James Hargrove, Regents Professor Nicholas Lovrich of the Washington State University,

and others that explained that Ms. Ague is a person with exceptional qualities that Washington needs to work with our at-risk youth.

WHEREAS, Ms. Ague's Petition for a pardon was supported by numerous letters of support, including letters from Justice Bobbe J. Bridge (Retired), the President of the Center for Children & Youth Justice, Washington State Representative Mary Lou Dickerson, Washington State Representative Susan Fagan, Professor Eric Trupin of the University of Washington School of Medicine, numerous juvenile justice and juvenile rehabilitation officials, and others. A victim of these crimes has also encouraged the grant of Ms. Ague's request for a pardon.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the offenses, and the favorable recommendation of the Washington State Clemency and Pardons Boards. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Starcia Marie Ague, this full and unconditional pardon of her adjudications of guilt for two counts of Robbery in the First Degree and one count of Kidnapping in the First Degree so she may pursue permanent and gainful employment in her chosen field. This pardon supersedes the previous pardon for these offenses date February 17, 2011.**

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia on this 24<sup>th</sup> day of March, A.D., two thousand and eleven.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

**FULL AND UNCONDITIONAL PARDON  
OF  
JAMIE LEE CRAWFORD**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, Jamie Lee Crawford was convicted of three misdemeanor charges in 2003 and 2004; Second Degree Rendering Assistance, Contempt of Court and Bail Jumping. She was convicted of one felony charge of Forgery in 2004. She has fully served her sentences of time in confinement and has satisfied all legal financial obligations. These convictions occurred when Ms. Crawford was 18 and 19 years old and addicted to methamphetamine.

WHEREAS, upon a federal felony arrest and conviction in 2005, Ms. Crawford used her days in confinement to reflect on her actions and her future and made a conscious choice to change her life for the better. She completed drug and alcohol treatment, volunteered with a non-profit organization in her community, and eventually joined with another person to form a nonprofit called "Generating Hope" to help the homeless in the Yakima Valley. She went on to obtain her General Educational Development (GED) certificate from Yakima Valley Community College and a nursing degree from Heritage University, demonstrating her dedication to positive personal change through education.

WHEREAS, Ms. Crawford has participated in efforts to increase awareness of the dangers of methamphetamine, addressing the Methamphetamine Action Team and joining the Washington Attorney General in *Operation: Allied Against Meth* school presentations, speaking to students of all ages throughout the state of Washington to share her experiences and to warn youth about the dangers of methamphetamine.

WHEREAS, Ms. Crawford is now 26 years old, the mother of two children, and has a goal of obtaining a license and employment in the health care field. Her criminal history is a barrier to this goal. Ms. Crawford also has the goal of obtaining a presidential pardon of her federal felony conviction.

WHEREAS, there was a strong showing of support at Ms. Crawford's hearing before the Clemency and Pardons Board in the form of letters recommending clemency from her federal probation officer, the Washington Attorney General, the Nursing Program Director at Heritage University, a Sergeant of the Yakima Police Department, and the testimony

of Ms. Crawford's mother that her daughter has made an extraordinary transformation from a drug-addicted lifestyle to a wonderful person and mother.

WHEREAS, Ms. Crawford understands that she must disclose her pardoned convictions to potential employers, officials or other appropriate entities that legally may request such information;

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crimes, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Jamie Lee Crawford, this full and unconditional pardon of her convictions for Second Degree Rendering Assistance, Contempt of Court, Bail Jumping, and Forgery so she may pursue permanent and gainful employment.**

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia on this 4<sup>th</sup> day of January, A.D., two thousand and eleven.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

**FULL AND UNCONDITIONAL PARDON  
OF  
STEVEN TENG ANDERSON**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, in October 1998, Steven Teng Anderson was a Private First Class in the United States Army when he was called home on emergency leave because his wife had been assaulted by a former friend. Mr. Anderson was ordered by his chain of command to refrain from contacting the former friend. Despite this order, on October 26, 1998, Mr. Anderson went to the former friend's house and talked with him at the door. The former friend closed the door when the discussion became heated. Mr. Anderson broke down the door and a physical altercation between Mr. Anderson and the former friend ensued.

WHEREAS, Mr. Anderson pled guilty to Third Degree Assault and Second Degree Burglary in March 1999, and on February 22, 2001, the Pierce County Superior Court entered an order indicating that Mr. Anderson had complied with his sentencing requirements, satisfied the Court's judgement, and was discharged from any further court supervision.

WHEREAS, Mr. Anderson has honorably served our nation in two tours of duty in support of Operation Iraqi Freedom II; has exhibited bravery and earned a Bronze Star, an Army Commendation Medal, Army Achievement Medal (3<sup>rd</sup> award), Army Good Conduct Medal, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, and other citations for service; and in 2005 was honorably discharged by the United States Army.

WHEREAS, over twelve years have elapsed since the offenses, during which time Mr. Anderson has remained a law abiding citizen and is fully rehabilitated.

WHEREAS, the Pierce County Prosecuting Attorney and the victim do not object to this full and unconditional pardon.

WHEREAS, Mr. Anderson has requested a full pardon so that he may pursue employment opportunities without barriers and may again lawfully own and carry firearms.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board and, in light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I**, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Steven Teng Anderson this FULL AND UNCONDITIONAL pardon of his 1999 convictions of Burglary in the Second Degree and Assault in the Third Degree so that he may lawfully own and possess firearms and pursue gainful employment.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 29<sup>th</sup> day of November, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

**FULL AND UNCONDITIONAL PARDON  
OF  
MANY CHOUT UCH**

**To All to Whom These Presents Shall Come, Greetings:**

WHEREAS, on May 17, 1994, Many Uch and three other men participated in the armed robbery of Yoeun Yon, her nephew and two nieces. Mr. Uch waited in a getaway car as three men entered Ms. Yon's home and held the victims at gun point, threatening them with death, while they took jewelry, cash, video cassettes, wallets and other items. Upon exiting the premises, one of the robbers kicked Ms. Yon's nephew, Sothone, several times. Sothone ran after the robbers and was able to get a description of the getaway car. He later called the police.

WHEREAS, King County police responded to the call, saw a car matching the description of the getaway vehicle, stopped it and arrested all occupants. Mr. Uch was driving the car at the time it was stopped, and the vehicle contained the items taken in the robbery, along with weapons and bandanas.

WHEREAS, Mr. Uch pled guilty to Robbery in the First Degree with a Deadly Weapon and on November 5, 1994, was sentenced to 55 months incarceration with credit for 172 days served and ordered to pay Ms. Yon \$1,128.00 in restitution.

WHEREAS, Mr. Uch came to the United States at the age of eight in 1984 as a refugee from Cambodia with his parents who were fleeing the Khmer Rouge regime.

WHEREAS, Mr. Uch served forty months of his fifty-five month sentence and was released because of good behavior in 1997.

WHEREAS, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, (Pub.L. 104-208, Div. C, 110 Stat. 3009-546) expedited deportations for immigrants convicted of certain offenses. Mr. Uch was released from the Washington State Department of Corrections to Immigration and Customs Enforcement custody on August 18, 1997. Mr. Uch was held by the Immigration and Customs Enforcement until November 1999, when he was released because the United States did not have a repatriation agreement with Cambodia.

WHEREAS, in March of 2001, the United States signed a repatriation agreement with Cambodia. As a result, Mr. Uch is now required to check in with Immigration and Customs Enforcement every six months and is at risk of being deported at any time.

WHEREAS, after his release, Mr. Uch became extremely active within his community. In 2006, Mr. Uch and a friend purchased a pool hall with the goal of creating a space that would keep community youth off the streets. It has been transformed into a neighborhood gathering spot and cultural center. Mr. Uch is also the founder of Khmer In Action, a group founded to connect local youth and young adults to address economic and political injustice impacting their community. In addition, Mr. Uch served on the Board of Dreams Across America, an organization that tells the stories of immigrants to spread awareness of their plight. Mr. Uch's story and his endeavors on behalf of others has been documented in the Emmy-nominated documentary "Sentenced Home" by Seattle filmmaker Nicole Newnham.

WHEREAS, Mr. Uch has acknowledged that he made poor choices as a young man. Since that time he has become a business owner, married and is the father of a young daughter. Mr. Uch has been described as a loving and devoted father.

WHEREAS, Mr. Uch's petition has been supported by numerous community leaders, including but not limited to Washington State Representative Bob Hasegawa; Diane Narasaki, Executive Director of the Asian Counseling & Referral Service; and Beth Takekawa, Executive Director of the Wing Luke Asian Museum.

WHEREAS, the King County Prosecutor's Office took no position regarding Mr. Uch's petition.

WHEREAS, Mr. Uch paid all his restitution and satisfied all other court requirements.

WHEREAS, I have reviewed all pertinent facts and circumstances surrounding this matter, the circumstances of the crime, and the favorable recommendation of the Washington State Clemency and Pardons Board. In light of the foregoing, I have determined that the best interests of justice will be served by this action.

**NOW, THEREFORE, I**, Christine O. Gregoire, by virtue of the power vested in me as Governor of the state of Washington, hereby grant to Many C. Uch, this full and unconditional pardon of his conviction of Robbery in the First Degree with a Deadly Weapon.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be affixed at Olympia on this 26<sup>th</sup> day of June, A.D., two thousand and ten.

Christine Gregoire  
Governor of Washington

SEAL

BY THE GOVERNOR

Sam Reed  
Secretary of State

## HISTORY OF SENATE GUBERNATORIAL APPOINTMENTS

| Appointee           | Introduction | Committee Report | Confirmed | Appointment Number |
|---------------------|--------------|------------------|-----------|--------------------|
| Harold Abbe         | 57           | 742              | 1726      | SGA 9000           |
| Raul Almeida        | 57           |                  |           | SGA 9001           |
| Max Anderson        | 57           | 155              | 498       | SGA 9002           |
| Robert Anderson     | 57           | 283              |           | SGA 9003           |
| Sherry Armijo       | 57           | 155              | 502       | SGA 9004           |
| Logan Bahr          | 57           | 155              | 531       | SGA 9005           |
| Harry Barber        | 57           | 742              |           | SGA 9006           |
| Christopher Barry   | 58           | 303              |           | SGA 9007           |
| Bruce Becker        | 58           | 175              | 1572      | SGA 9008           |
| Charley Bingham     | 58           | 155              | 636       | SGA 9009           |
| Lori Blanchard      | 58           | 175              | 1742      | SGA 9010           |
| Nathan Brockett     | 58           | 155              | 1904      | SGA 9011           |
| Marty Brown         | 58           |                  | 560       | SGA 9012           |
| June Canty          | 58           | 175              |           | SGA 9013           |
| James Carvo         | 58           | 156              | 1010      | SGA 9014           |
| Elizabeth Chen      | 58           | 156              | 744       | SGA 9015           |
| Ericka Christensen  | 58           | 156              |           | SGA 9016           |
| Sondra Clark        | 59           | 742              |           | SGA 9017           |
| Susan Cole          | 59           | 156              |           | SGA 9018           |
| Denise Colley       | 59           | 175              | 506       | SGA 9019           |
| James Cook          | 59           |                  |           | SGA 9020           |
| John Cox            | 59           | 156              |           | SGA 9021           |
| June Darling        |              |                  | 1743      | SGA 9022           |
| Lynne Delano        | 59           | 175              |           | SGA 9023           |
| Jim DePaepe         | 59           |                  |           | SGA 9024           |
| Larry Dittman       | 59           | 688              |           | SGA 9025           |
| Dan Dixon           | 60           | 156              | 641       | SGA 9026           |
| Gary L. Douvia      | 60           | 156              |           | SGA 9027           |
| Elizabeth Dunbar    | 60           |                  | 499       | SGA 9028           |
| Kim Ekker           |              | 303              |           | SGA 9029           |
| Ronald Erickson     | 60           | 156              | 1966      | SGA 9030           |
| Ramiro Espinoza     | 60           | 156              | 502       | SGA 9031           |
| Lensa Etana         | 60           |                  |           | SGA 9032           |
| Colleen Fairchild   | 60           | 175              | 1572      | SGA 9033           |
| Sharon Fairchild    | 60           | 157              | 635       | SGA 9034           |
| Elizabeth Ford      | 60           |                  |           | SGA 9035           |
| Betti Fujikado      | 61           | 157              | 1094      | SGA 9036           |
| Lawrence M. Glenn   | 61           | 157              |           | SGA 9037           |
| James Groves        | 61           | 157              |           | SGA 9038           |
| Molly Hamaker-Teals |              | 175              |           | SGA 9039           |
| Harold Hanson       | 61           | 725              | 1009      | SGA 9040           |
| Gary Harris         | 61           | 304              |           | SGA 9041           |
| Kirstin Haugen      | 61           | 157              |           | SGA 9042           |
| Tony Hey            | 61           |                  |           | SGA 9043           |
| Betsy Hollingsworth | 61           |                  |           | SGA 9044           |
| H. Jeffery Howard   | 62           |                  |           | SGA 9045           |
| Mike Hudson         | 62           | 157              |           | SGA 9046           |
| Keith Hunziker      | 62           |                  |           | SGA 9047           |
| Roger Jackson       | 62           |                  |           | SGA 9048           |
| Addison Jacobs      | 62           | 157              | 1015      | SGA 9049           |
| David Jennings      | 62           |                  |           | SGA 9050           |
| Jeff G. Johnson     | 62           | 157              |           | SGA 9051           |
| Myra Johnson        | 62           | 175              |           | SGA 9052           |
| Stephen L. Johnson  | 62           |                  |           | SGA 9053           |
| Allie Joiner        | 62           | 175              | 787       | SGA 9054           |

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| Jennifer Joly        | 63           | 107              | 409       | SGA 9055           |
| Jo Ann Kauffman      | 63           | 157              | 746       | SGA 9056           |
| Edmund Kiley         |              | 450              |           | SGA 9057           |
| Kristine A. Klaveano | 63           | 157              |           | SGA 9058           |
| Dennis Kloida        | 63           | 698              |           | SGA 9059           |
| Martha Kongsgaard    | 63           | 742              | 1051      | SGA 9060           |
| Sheryl A. Lamberton  | 63           |                  |           | SGA 9061           |
| Jonathan M. Lane     | 63           | 158              |           | SGA 9062           |
| Karen Lee            | 63           | 158              |           | SGA 9063           |
| Robert W. Lenigan    | 64           | 158              |           | SGA 9064           |
| Janet Lewis          | 64           | 158              |           | SGA 9065           |
| Shoubee Liaw         | 64           | 158              |           | SGA 9066           |
| James Lowery         | 64           | 158              | 531       | SGA 9067           |
| Mike Marave          |              | 283              |           | SGA 9068           |
| Mark Mattke          | 64           | 158              | 956       | SGA 9069           |
| Mark Mays            | 64           | 158              |           | SGA 9070           |
| Cathy McAbee         |              |                  | 1016      | SGA 9071           |
| Julie McCulloch      | 64           | 158              |           | SGA 9072           |
| Richard McCurdy      | 65           | 450              |           | SGA 9073           |
| Patrick McElligot    |              | 313              | 770       | SGA 9074           |
| Thomas McLane        | 65           | 725              | 1746      | SGA 9075           |
| Gilbert A. Mendoza   | 65           |                  |           | SGA 9076           |
| John M. Meyer        | 65           |                  |           | SGA 9077           |
| Steve S. Miller      | 65           | 159              |           | SGA 9078           |
| David Mitchell       |              |                  | 837       | SGA 9079           |
| Darrell S. Mitsunaga | 65           | 159              |           | SGA 9080           |
| Kathleen Mix         |              | 137              | 1607      | SGA 9081           |
| Sid Morrison         | 65           | 159              | 529       | SGA 9082           |
| Robert Ozuna         | 66           | 159              | 560       | SGA 9083           |
| Theresa Pan Hosley   | 66           | 159              |           | SGA 9084           |
| Charlotte Parsley    | 66           |                  |           | SGA 9085           |
| Chuck Perry          | 66           |                  |           | SGA 9086           |
| Bridget O. Piper     | 66           | 159              |           | SGA 9087           |
| Bridget Piper        | 66           | 159              | 1315      | SGA 9087           |
| Royce Pollard        |              |                  | 636       | SGA 9088           |
| Quentin Powers       | 66           | 159              | 1286      | SGA 9089           |
| Cindy Roaf           | 66           | 175              | 1536      | SGA 9090           |
| Charles Robinson     | 66           | 160              |           | SGA 9091           |
| Margaret Rojas       | 66           | 160              | 569       | SGA 9092           |
| Jada Rupley          | 67           | 160              | 1009      | SGA 9093           |
| Stephen Rushing      | 67           | 160              |           | SGA 9094           |
| Robert Ryan          | 67           |                  | 1095      | SGA 9095           |
| Ann Ryherd           |              | 725              | 1966      | SGA 9096           |
| Tom Sahlberg         | 67           |                  |           | SGA 9097           |
| Roland Schirman      | 67           | 160              | 1314      | SGA 9098           |
| Rolland Schmitten    |              | 742              |           | SGA 9099           |
| Faouzi Sefrioui      | 67           | 698              |           | SGA 9100           |
| Samuel H. Shaddox    | 67           | 160              |           | SGA 9101           |
| Albert Shen          | 68           | 160              | 568       | SGA 9102           |
| James Shipman        | 68           | 160              | 1976      | SGA 9103           |
| Manford R. Simcock   | 68           | 161              |           | SGA 9104           |
| Kathy Small          | 68           |                  | 1747      | SGA 9105           |
| Bradley Smith        |              | 742              | 1743      | SGA 9106           |
| Nancy Smith          | 68           |                  |           | SGA 9107           |
| Ronald K. Sperling   | 68           |                  |           | SGA 9108           |
| John Swanson         | 68           |                  |           | SGA 9109           |
| Barbara A. Taylor    | 68           |                  |           | SGA 9110           |

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| Cheryl Terry             | 68           |                  |           | SGA 9111           |
| Stephen Tharinger        | 69           |                  |           | SGA 9112           |
| Dennis Thaut             | 69           |                  |           | SGA 9113           |
| David Threedy            | 69           | 688              | 1877      | SGA 9114           |
| Pamela J. Tietz          | 69           |                  |           | SGA 9115           |
| Jim Tiffany              | 69           | 161              | 770       | SGA 9116           |
| Paul Trause              | 69           | 702              | 1746      | SGA 9117           |
| John Turner              | 69           |                  |           | SGA 9118           |
| Joyce Turner             | 69           | 107              |           | SGA 9119           |
| Richard Van Hollebeke    | 69           | 161              | 1726      | SGA 9120           |
| Brian Vance              | 70           | 161              | 849       | SGA 9121           |
| Linda Villegas Bremer    | 70           |                  |           | SGA 9122           |
| Lorna Walsh              | 70           |                  |           | SGA 9123           |
| Stephen L. Warner        | 70           | 161              |           | SGA 9124           |
| Patricia A. Warren       | 70           |                  |           | SGA 9125           |
| Miranda Wecker           | 70           |                  |           | SGA 9126           |
| Cindy Zehnder            | 70           | 161              | 787       | SGA 9127           |
| Amanda Zeller            | 70           | 152, 304         |           | SGA 9128           |
| Beth Thew                | 80           | 161              | 1753      | SGA 9129           |
| Debrena F. Jackson Gandy | 84           | 161              |           | SGA 9130           |
| Lorraine Lee             | 84           | 176              | 1287      | SGA 9131           |
| Robert Roegner           |              | 304              | 787       | SGA 9132           |
| Linda Cowan              | 89           | 304              | 1742      | SGA 9133           |
| Suzan Delbene            | 89           | 141              | 906       | SGA 9134           |
| Denny Heck               | 89           | 304              | 746       | SGA 9135           |
| Philip Jones             | 96           | 161              | 1572      | SGA 9136           |
| George Masten            | 108          | 313              | 770       | SGA 9137           |
| Louis Mendoza            |              | 304              |           | SGA 9138           |
| Chris Marr               | 142          | 263              | 296       | SGA 9139           |
| Elizabeth Bloomfield     | 258          | 742              |           | SGA 9140           |
| Richard Thompson         | 273          | 304              | 790       | SGA 9141           |
| Thomas Cowan             |              | 400              | 1727      | SGA 9142           |
| Yvonne Lopez Morton      | 273          |                  |           | SGA 9143           |
| Judi Owens               | 284          |                  |           | SGA 9144           |
| William Chapman          | 284          | 742              | 1877      | SGA 9145           |
| Peter Mayer              |              | 742              |           | SGA 9146           |
| Alfred Hallowell         | 305          | 702              |           | SGA 9147           |
| Frances Youn             |              | 676              |           | SGA 9148           |
| Elsie Hulsizer           | 427          |                  |           | SGA 9149           |
| Val Ogden                | 427          | 730              | 790       | SGA 9150           |
| James Mcdevitt           | 467          |                  |           | SGA 9151           |
| Doug Porter              | 631          |                  |           | SGA 9152           |
| Mike Ragan               | 683          |                  |           | SGA 9153           |
| Paul Ishii               | 688          |                  |           | SGA 9154           |
| David Troutt             | 744          |                  |           | SGA 9155           |
| Ellen Taussig            | 769          |                  |           | SGA 9156           |
| Steven Drury             | 786          |                  |           | SGA 9157           |
| Stanley M. Sorscher      | 799          |                  |           | SGA 9158           |
| Robyn J. Todd            | 799          |                  |           | SGA 9159           |
| Stuart A. Halsan         | 835          |                  |           | SGA 9160           |
| Lindsay Fiker            | 1123         |                  |           | SGA 9161           |
| Gabe P. Spencer          | 1123         |                  |           | SGA 9162           |
| Elizabeth K. Jensen      | 1219         |                  |           | SGA 9163           |
| James Glover             | 1468         |                  |           | SGA 9164           |
| Debbie J. Ahl            | 1535         |                  |           | SGA 9165           |
| Donna J. Feild           | 1535         |                  |           | SGA 9166           |
| Natasha K. Pranger       | 1722         |                  |           | SGA 9167           |

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|---------------------|---------------------|-------------------------|------------------|---------------------------|
| Jeff Johnson        | 1725                | 1760                    |                  | SGA 9168                  |
| Joshua Brown        | 1762                |                         |                  | SGA 9169                  |
| Elizabeth A. Willis | 1762                |                         |                  | SGA 9170                  |
| Anne E. Haley       | 1822                |                         |                  | SGA 9171                  |
| Lee Newgent         | 1835                |                         |                  | SGA 9172                  |
| Denise Portmann     | 1990                |                         |                  | SGA 9173                  |

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|--------|------------|------------------------------|-----------------|--------------------------|-----------------|
| 167    | E2SSB 5000 | DUI twelve-hour impound hold | 4/27/2011       |                          | 7/22/2011*      |
| 299    | ESB 5005   | Immunization exemption       | 5/10/2011       |                          | 7/22/2011       |
| 87     | SB 5011    | Victimization of homeless    | 4/15/2011       |                          | 7/22/2011       |
| 88     | SSB 5018   | Occupational therapy/wounds  | 4/15/2011       |                          | 7/22/2011       |
| 89     | ESSB 5020  | Social workers               | 4/15/2011       |                          | 1/1/2012        |
| 145    | ESSB 5021  | Election campaign disclosure | 4/22/2011       |                          | 1/1/2012        |
| 244    | SSB 5023   | Immigration-related services | 5/3/2011        |                          | 10/20/2011      |
| 300    | SSB 5025   | Inmate public record request | 5/10/2011       |                          | 7/22/2011       |
| 90     | SB 5033    | Water-sewer districts        | 4/15/2011       |                          | 7/22/2011       |
| 214    | 2SSB 5034  | Private infrastructure       | 4/29/2011       |                          | 7/1/2012*       |
| 168    | SB 5035    | Manu & mobile home landlords | 4/27/2011       |                          | 7/22/2011       |
| 169    | SSB 5036   | Vessel & species removal fee | 4/27/2011       |                          | 7/22/2011       |
| 170    | SSB 5042   | Vulnerable adults            | 4/27/2011       |                          | 7/22/2011       |
| 335    | SB 5044    | Tax preference review        | 5/12/2011       |                          | 7/22/2011       |
| 336    | SB 5045    | Gender-based terms           | 5/12/2011       | PV                       | 7/22/2011       |
| 33     | SB 5057    | Trustee income tax           | 4/13/2011       |                          | 7/22/2011       |
| 34     | ESB 5058   | Receiverships                | 4/13/2011       |                          | 7/22/2011       |
| 171    | ESB 5061   | Vehicle & vessel reg & title | 4/27/2011       |                          | 7/1/2011*       |
| 172    | SSB 5065   | Animal cruelty prevention    | 4/27/2011       |                          | 7/22/2011       |
| 301    | SSB 5067   | Mail requirements/L & I, ESD | 5/10/2011       |                          | 7/22/2011       |
| 91     | ESSB 5068  | Industr. safety & health act | 4/15/2011       |                          | 7/22/2011       |
| 92     | SSB 5070   | Prevailing wage records      | 4/15/2011       |                          | 7/22/2011       |
| 35     | SSB 5071   | UW health services library   | 4/13/2011       |                          | 7/22/2011       |
| 245    | SSB 5072   | Dept. of agriculture/gifts   | 5/3/2011        |                          | 7/22/2011       |
| 181    | E2SSB 5073 | Medical use of cannabis      | 4/29/2011       | PV                       | 7/22/2011       |
| 93     | SB 5076    | Financial institutions dept  | 4/15/2011       |                          | 7/22/2011       |
| 322    | SB 5083    | Real estate firms B&O tax    | 5/12/2011       | PV                       | 7/22/2011       |
| 25 E1  | ESSB 5091  | Family leave insurance prog. | 6/7/2011        |                          | 8/24/2011       |
|        | SSB 5097   | Juveniles w/dev disabilities | 5/10/2011       | V                        |                 |
| 173    | ESSB 5098  | Exempting personal info      | 4/27/2011       |                          | 7/22/2011       |
| 94     | ESSB 5105  | Conditional release/insane   | 4/15/2011       |                          | 7/22/2011       |
| 36     | SSB 5115   | Transfer fee obligations     | 4/13/2011       |                          | 4/13/2011       |
| 37     | SB 5116    | Public health districts      | 4/13/2011       |                          | 7/22/2011       |
| 95     | SB 5117    | Rural pub hospital districts | 4/15/2011       |                          | 7/22/2011       |
| 319    | SB 5119    | 2012 presidential primary    | 5/12/2011       |                          | 7/22/2011       |
| 314    | ESSB 5122  | Affordable care act          | 5/11/2011       |                          | 7/22/2011*      |
| 10     | ESSB 5124  | Elections by mail            | 4/5/2011        |                          | 7/22/2011*      |
| 3      | SB 5135    | Unemployment insurance prog. | 2/11/2011       |                          | 2/11/2011       |
| 246    | SB 5141    | Motorcycle instruct. permits | 5/3/2011        |                          | 7/22/2011       |
| 38     | SB 5149    | Cancer registry program      | 4/13/2011       |                          | 7/22/2011       |
| 40     | SSB 5152   | Naturopathic physicians      | 4/13/2011       |                          | 7/22/2011       |
| 325    | SSB 5156   | Airport lounges & alcohol    | 5/12/2011       |                          | 7/22/2011       |
| 11     | SSB 5157   | Foreign trade zones          | 4/5/2011        |                          | 7/22/2011       |
| 174    | SSB 5167   | Tax statute clarifications   | 4/27/2011       |                          | 7/22/2011*      |
| 96     | SSB 5168   | Gross misdemeanor sentences  | 4/15/2011       |                          | 7/22/2011       |

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| 43     | SB 5170    | Judges in Grant county       | 4/13/2011       |                          | 7/22/2011       |
| 349    | 2ESSB 5171 | Service and overseas voters  | 5/16/2011       |                          | 1/1/2012        |
| 78     | SB 5172    | Child care for employees     | 4/15/2011       |                          | 7/22/2011       |
| 44     | SB 5174    | Civil rights history         | 4/13/2011       |                          | 7/22/2011       |
| 46 E1  | SSB 5181   | State debt statutory limit   | 6/15/2011       |                          | 8/24/2011       |
| 11 E1  | E2SSB 5182 | Student financial assistance | 6/6/2011        | PV                       | 8/24/2011*      |
| 45     | SSB 5184   | 2nd-class school districts   | 4/13/2011       |                          | 7/22/2011       |
| 276    | ESSB 5186  | Areas closed to skiing       | 5/5/2011        |                          | 7/22/2011       |
| 302    | SSB 5187   | Mental health professionals  | 5/10/2011       |                          | 7/22/2011       |
| 277    | SSB 5192   | Shoreline management act     | 5/5/2011        |                          | 7/22/2011       |
| 46     | SSB 5195   | Driving w/ suspended license | 4/13/2011       |                          | 7/22/2011       |
| 337    | SSB 5203   | Sex offender registration    | 5/12/2011       |                          | 7/22/2011       |
| 338    | SSB 5204   | Juveniles/sex offenses       | 5/12/2011       |                          | 7/22/2011       |
| 47     | SB 5213    | Insurance statutes           | 4/13/2011       |                          | 7/22/2011       |
| 48     | SB 5224    | Condominium resale certifs   | 4/13/2011       |                          | 7/22/2011       |
| 303    | SSB 5232   | Prize-linked savings deposit | 5/10/2011       |                          | 7/22/2011       |
| 278    | SSB 5239   | Forest revenue/pub. schools  | 5/5/2011        |                          | 7/22/2011*      |
| 97     | SB 5241    | Watershed mgmt partnerships  | 4/15/2011       |                          | 7/22/2011       |
| 49     | ESB 5242   | Motorcycle profiling         | 4/13/2011       |                          | 7/22/2011       |
| 318    | ESSB 5253  | Landscape conservation       | 5/12/2011       |                          | 7/22/2011       |
| 247    | SSB 5271   | Vessels/abandoned, derelict  | 5/3/2011        |                          | 7/22/2011       |
| 175    | SB 5278    | Industrial insurance laws    | 4/27/2011       |                          | 7/22/2011       |
| 26 E1  | SB 5289    | Property management/B&O tax  | 6/7/2011        |                          | 8/24/2011       |
| 50     | SB 5295    | Irrigation district property | 4/13/2011       |                          | 7/22/2011       |
| 99     | SSB 5300   | Washington natural resources | 4/18/2011       |                          | 7/22/2011       |
| 304    | SB 5304    | College bound scholarship    | 5/10/2011       |                          | 7/22/2011       |
| 32     | ESSB 5307  | Military training/medical    | 4/13/2011       |                          | 7/22/2011       |
| 372    | SSB 5326   | Negligent driving            | 5/16/2011       |                          | 7/1/2012        |
| 51     | SSB 5337   | Airport financial assistance | 4/13/2011       |                          | 7/22/2011       |
| 279    | SSB 5350   | Unlawful solid waste dumping | 5/5/2011        |                          | 7/22/2011       |
| 100    | SSB 5352   | Medicaid/eyeglasses          | 4/18/2011       |                          | 4/18/2011       |
| 101    | SSB 5359   | Contiguous land/property tax | 4/18/2011       |                          | 7/22/2011       |
| 102    | SSB 5364   | Public water system permits  | 4/18/2011       |                          | 7/22/2011       |
| 176    | SB 5367    | Econ devel finance authority | 4/27/2011       |                          | 7/22/2011       |
| 315    | ESSB 5371  | Health insurance/under 19    | 5/11/2011       |                          | 7/22/2011*      |
| 103    | SSB 5374   | RCW changes/dept. of ag      | 4/18/2011       |                          | 7/22/2011       |
| 52     | SB 5375    | Trust companies              | 4/13/2011       |                          | 7/22/2011       |
| 339    | SSB 5385   | State wildlife account       | 5/12/2011       |                          | 9/1/2011*       |
| 104    | SSB 5386   | Organ donation work group    | 4/18/2011       |                          | 7/22/2011       |
| 53     | SB 5388    | Rec areas/owner liability    | 4/13/2011       |                          | 7/22/2011       |
| 177    | SB 5389    | Early learning adv. council  | 4/27/2011       |                          | 7/22/2011       |
| 280    | SSB 5392   | Technology/educational goal  | 5/5/2011        |                          | 9/1/2011        |
| 316    | SSB 5394   | Primary care health homes    | 5/11/2011       |                          | 7/22/2011       |
| 105    | SB 5395    | Domestic violence fatalities | 4/18/2011       |                          | 7/22/2011       |
| 106    | SSB 5423   | Legal financial obligations  | 4/18/2011       |                          | 7/22/2011       |

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| 340    | 2SSB 5427  | State-funded kindergarten    | 5/12/2011       |                          | 7/22/2011*      |
| 107    | SSB 5428   | Release of certain offenders | 4/18/2011       |                          | 7/22/2011       |
| 248    | SSB 5436   | Vessel antifouling paints    | 5/3/2011        |                          | 7/22/2011       |
| 108    | SSB 5442   | Three-year baccalaureate     | 4/18/2011       |                          | 7/22/2011       |
| 317    | SSB 5445   | Health benefit exchange      | 5/11/2011       |                          | 7/22/2011       |
| 323    | SSB 5451   | Shoreline structures         | 5/12/2011       |                          | 7/22/2011       |
| 305    | SSB 5452   | Persons w/ mental disorders  | 5/10/2011       |                          | 7/22/2011       |
| 373    | ESSB 5457  | Congestion reduction charge  | 5/16/2011       |                          | 7/22/2011       |
| 30 E1  | 2SSB 5459  | People w/devel. disabilities | 6/15/2011       | PV                       | 8/24/2011*      |
| 109    | SB 5463    | Common student identifiers   | 4/18/2011       |                          | 7/22/2011       |
| 178    | SB 5480    | Physicians & phys assistants | 4/27/2011       |                          | 7/22/2011       |
| 110    | SB 5482    | Human trafficking victims    | 4/18/2011       |                          | 7/22/2011       |
| 341    | ESSB 5485  | State's natural resources    | 5/12/2011       |                          | 7/22/2011**     |
| 306    | SSB 5487   | Eggs and egg products        | 5/10/2011       |                          | 8/1/2012        |
| 54     | SB 5492    | Beer commission              | 4/13/2011       |                          | 7/22/2011       |
| 42     | SSB 5495   | Corporation shareholders     | 4/13/2011       |                          | 4/13/2011       |
| 249    | SB 5500    | State economic policy/rules  | 5/3/2011        |                          | 7/22/2011       |
| 55     | SB 5501    | Taxation of employee meals   | 4/13/2011       |                          | 7/1/2011        |
| 374    | SSB 5502   | Limousine carriers           | 5/16/2011       |                          | 1/1/2012*       |
| 296    | SSB 5504   | Unlicensed child care        | 5/10/2011       |                          | 7/22/2011       |
| 342    | ESB 5505   | Federal census data          | 5/12/2011       |                          | 5/12/2011       |
| 363    | SSB 5525   | Hospital benefit zones       | 5/16/2011       |                          | 7/22/2011       |
| 179    | SB 5526    | Stirling converters          | 4/27/2011       |                          | 7/22/2011       |
| 343    | SSB 5531   | Commitments/judicial costs   | 5/12/2011       |                          | 7/1/2011        |
| 56     | SSB 5538   | Conservation corps/nonprofit | 4/13/2011       |                          | 7/22/2011       |
| 375    | SSB 5540   | School bus safety cameras    | 5/16/2011       |                          | 7/22/2011**     |
| 111    | SSB 5546   | Human trafficking            | 4/18/2011       |                          | 7/22/2011       |
| 112    | ESSB 5555  | Water rights transfers       | 4/18/2011       |                          | 7/22/2011*      |
| 57     | SSB 5574   | Collection agencies          | 4/13/2011       |                          | 7/22/2011       |
| 307    | SSB 5579   | Harassment                   | 5/10/2011       |                          | 7/22/2011       |
| 7 E1   | ESSB 5581  | Nursing homes                | 5/31/2011       |                          | 7/1/2011        |
| 308    | SB 5584    | Apprenticeship standards     | 5/10/2011       |                          | 7/22/2011       |
| 114    | ESSB 5585  | Street rod & custom vehicles | 4/18/2011       |                          | 10/1/2011       |
| 115    | SB 5589    | Heavy haul indust. corridors | 4/18/2011       |                          | 7/22/2011       |
| 364    | SSB 5590   | Foreclosure sales/liens      | 5/16/2011       |                          | 7/22/2011       |
| 39     | ESSB 5594  | Hazardous drug handling      | 4/13/2011       |                          | 7/22/2011       |
| 361    | 2SSB 5595  | PUD privilege tax            | 5/16/2011       |                          | 7/22/2011       |
| 1 E1   | E2SSB 5596 | Fed. medicaid program/DSHS   | 5/31/2011       |                          | 8/24/2011       |
| 344    | SSB 5614   | University of Washington     | 5/12/2011       |                          | 7/22/2011       |
| 320    | 2SSB 5622  | State land recreation access | 5/12/2011       |                          | 7/1/2011*       |
| 297    | SB 5625    | Early learning providers     | 5/10/2011       |                          | 7/22/2011       |
| 365    | SB 5628    | Emer medical services levy   | 5/16/2011       |                          | 7/22/2011       |
| 116    | SB 5633    | Agricultural fair premiums   | 4/18/2011       |                          | 7/22/2011       |
| 117    | SSB 5635   | Surface water right permits  | 4/18/2011       |                          | 7/22/2011       |
| 321    | 2SSB 5636  | Univ Center of No. Puget Sd  | 5/12/2011       |                          | 7/22/2011**     |

| CHPT # | BILL NO.   | TITLE                        | GOVERNOR SIGNED | VETO/<br>PARTIAL<br>VETO | EFFECTIVE DATES |
|--------|------------|------------------------------|-----------------|--------------------------|-----------------|
| 28 E1  | 2ESB 5638  | Taxing district exemptions   | 6/7/2011        |                          | 8/24/2011**     |
| 309    | ESSB 5656  | Indian child welfare act     | 5/10/2011       |                          | 7/22/2011       |
| 376    | SSB 5658   | DOT surplus real property    | 5/16/2011       |                          | 7/22/2011*      |
| 345    | 2SSB 5662  | In-state contractors         | 5/12/2011       |                          | 7/22/2011       |
| 118    | SSB 5664   | Lake Washington Institute    | 4/18/2011       |                          | 7/22/2011       |
| 324    | SSB 5688   | Shark finning activities     | 5/12/2011       |                          | 7/22/2011       |
| 346    | SSB 5691   | Crime victims' compensation  | 5/12/2011       | PV                       | 7/1/2011*       |
| 377    | SSB 5700   | Toll facilities              | 5/16/2011       | PV                       | 5/16/2011       |
| 366    | ESSB 5708  | Long-term care services      | 5/16/2011       |                          | 7/22/2011       |
| 347    | SSB 5722   | Local option sales tx moneys | 5/12/2011       |                          | 7/22/2011       |
| 310    | SB 5731    | Wash. manufacturing services | 5/10/2011       |                          | 7/22/2011       |
| 311    | SSB 5741   | Econ development commission  | 5/10/2011       |                          | 7/22/2011       |
| 16 E1  | 2ESSB 5742 | Ferry system                 | 6/7/2011        | PV                       | 6/7/2011*       |
| 12     | ESSB 5747  | Horse racing funds           | 4/5/2011        |                          | 4/5/2011        |
| 281    | ESSB 5748  | Cottage food operations      | 5/5/2011        |                          | 7/22/2011       |
| 12 E1  | ESSB 5749  | College tuition GET program  | 6/6/2011        | PV                       | 8/24/2011*      |
| 7      | SB 5763    | Nonresident sales tax exemp  | 3/14/2011       |                          | 7/1/2011        |
| 14 E1  | 2ESB 5764  | Innovate Washington          | 6/7/2011        | PV                       | 8/1/2011        |
| 180    | E2SSB 5769 | Coal-fired generation        | 4/29/2011       |                          | 7/22/2011       |
| 8 E1   | 2ESB 5773  | Health savings acct option   | 5/31/2011       |                          | 8/24/2011       |
| 250    | SSB 5784   | Regional ocean partnership   | 5/3/2011        |                          | 7/22/2011       |
| 119    | SSB 5788   | Liquor laws                  | 4/18/2011       | PV                       | 7/22/2011       |
| 378    | SSB 5791   | Park and ride lots           | 5/16/2011       |                          | 7/22/2011       |
| 120    | SSB 5797   | Urban arterial trust account | 4/18/2011       |                          | 7/22/2011       |
| 121    | SSB 5800   | Off-road motorcycles         | 4/18/2011       |                          | 1/1/2012        |
| 6      | SSB 5801   | Industrial insurance system  | 3/14/2011       |                          | 7/1/2011        |
| 352    | SB 5806    | Veteran lottery raffle       | 5/16/2011       |                          | 7/22/2011       |
| 38 E1  | ESSB 5834  | Lodging tax/arts & heritage  | 6/15/2011       |                          | 8/24/2011       |
| 379    | SSB 5836   | Public transp. facilities    | 5/16/2011       |                          | 7/22/2011       |
| 113    | SB 5849    | Estates and trusts           | 4/18/2011       |                          | 4/18/2011       |
| 39 E1  | ESSB 5860  | State employee compensation  | 6/15/2011       |                          | 7/1/2011        |
| 40 E1  | ESSB 5891  | Criminal justice savings     | 6/15/2011       |                          | 8/24/2011*      |
| 252    | ESB 5907   | Prison safety                | 5/5/2011        |                          | 7/22/2011       |
| 41 E1  | SSB 5912   | Family planning services     | 6/15/2011       |                          | 8/24/2011       |
| 27 E1  | ESSB 5919  | Education funding            | 6/7/2011        | PV                       | 6/7/2011*       |
| 42 E1  | ESSB 5921  | Social services programs     | 6/15/2011       | PV                       | 7/1/2011*       |
| 9 E1   | ESSB 5927  | State purchased health care  | 5/31/2011       |                          | 8/24/2011       |
| 43 E1  | ESSB 5931  | State government             | 6/15/2011       | PV                       | 10/1/2011*      |
| 44 E1  | SB 5941    | Judicial branch funding      | 6/15/2011       |                          | 7/1/2011        |
| 45 E1  | ESSB 5942  | Liquor warehousing           | 6/15/2011       |                          | 6/15/2011       |
| 29 E1  | SB 5956    | Collection agencies          | 6/7/2011        |                          | 7/22/2011       |

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|---------|------------|------------------------------|--------------------|---------------------------|--------------------|
| 348     | HB 1000    | Overseas and service voters  | 5/16/2011          | PV                        | 7/22/2011          |
| 254     | SHB 1008   | Elected officials' salaries  | 5/5/2011           |                           | 7/22/2011          |
| 59      | HB 1012    | Planning commissioners       | 4/14/2011          |                           | 7/22/2011          |
| 13      | HB 1016    | Firearm noise suppressors    | 4/11/2011          |                           | 7/22/2011          |
| 123     | SHB 1024   | Scenic & rec. highway system | 4/20/2011          |                           | 7/22/2011          |
| 255     | ESHB 1026  | Adverse possession claims    | 5/5/2011           |                           | 7/22/2011          |
| 14      | EHB 1028   | Correctional populations     | 4/11/2011          |                           | 7/22/2011          |
| 182     | HB 1031    | Ballot envelopes             | 4/29/2011          |                           | 7/22/2011          |
| 220     | SHB 1037   | Correctional inmate claims   | 5/3/2011           |                           | 7/22/2011          |
| 183     | HB 1040    | Electronic notices           | 4/29/2011          |                           | 7/22/2011          |
| 221     | ESHB 1041  | Correctional employees       | 5/3/2011           |                           | 7/22/2011          |
| 326     | SHB 1046   | Vehicle & vessel quick title | 5/12/2011          |                           | 1/1/2012           |
| 60      | SHB 1048   | Campaign finance provisions  | 4/14/2011          |                           | 1/1/2012           |
| 327     | SHB 1051   | Trusts and estates           | 5/12/2011          |                           | 1/1/2012           |
| 328     | HB 1052    | Shareholder & board actions  | 5/12/2011          |                           | 7/22/2011          |
| 329     | SHB 1053   | Guardianship task force      | 5/12/2011          | PV                        | 7/22/2011          |
| 15      | ESHB 1055  | Contractor appeals           | 4/11/2011          |                           | 7/22/2011          |
| 256     | SHB 1061   | Wastewater system designers  | 5/5/2011           |                           | 7/22/2011          |
| 16      | HB 1069    | Unclaimed remains            | 4/11/2011          |                           | 7/22/2011          |
| 257     | ESHB 1071  | Complete streets grant prog. | 5/5/2011           |                           | 7/22/2011          |
| 124     | HB 1074    | Water pollution committees   | 4/20/2011          |                           | 7/22/2011          |
| 355     | SHB 1084   | Board on geographic names    | 5/16/2011          | PV                        | 7/22/2011          |
| 5       | ESHB 1086  | Operating sup budget 2009-11 | 5/16/2011          | PV                        | 2/18/2011*         |
| 50 E1   | 2ESHB 1087 | Operating 2009-11 & 2011-13  | 6/15/2011          | PV                        | 6/30/2011          |
| 356     | SHB 1089   | Instructional materials      | 5/16/2011          | PV                        | 7/22/2011          |
| 4       | EHB 1091   | Unemployment insurance prog. | 2/11/2011          |                           | 2/11/2011***       |
| 368     | SHB 1103   | Vehicle television viewers   | 5/16/2011          |                           | 7/22/2011          |
| 61      | SHB 1105   | Child fatality review        | 4/14/2011          |                           | 7/22/2011          |
| 184     | HB 1106    | Seashore conservation area   | 4/29/2011          |                           | 7/22/2011          |
| 222     | SHB 1127   | Bargaining representatives   | 5/3/2011           |                           | 7/22/2011          |
| 330     | 2SHB 1128  | Extended foster care         | 5/12/2011          |                           | 7/22/2011          |
| 17      | HB 1129    | Bicycle & pedestrian safety  | 4/11/2011          |                           | 7/22/2011          |
| 17 E1   | HB 1131    | Student achievement fund     | 6/7/2011           |                           | 7/1/2011           |
| 18 E1   | 2SHB 1132  | Educational employees        | 6/7/2011           |                           | 7/1/2011           |
| 223     | SHB 1133   | Massage practitioner license | 5/3/2011           |                           | 7/22/2011          |
| 224     | SHB 1135   | Motor vehicle refrigerants   | 5/3/2011           |                           | 7/22/2011          |
| 225     | SHB 1136   | Vol. firefighter lic plates  | 5/3/2011           |                           | 1/1/2012           |
| 164     | SHB 1145   | Mail theft                   | 4/27/2011          |                           | 7/22/2011          |
| 147     | SHB 1148   | Spot shrimp license          | 4/22/2011          |                           | 7/22/2011          |
| 18      | HB 1150    | Small business violations    | 4/11/2011          |                           | 7/22/2011          |
| 125     | 2SHB 1153  | DNA sample collection costs  | 4/20/2011          |                           | 7/22/2011          |
| 185     | 2SHB 1163  | Bullying prevention          | 4/29/2011          |                           | 7/22/2011*         |
| 126     | SHB 1169   | Noxious weed lists           | 4/20/2011          |                           | 7/22/2011          |
| 148     | SHB 1170   | Triage facilities            | 4/22/2011          |                           | 4/22/2011          |
| 127     | EHB 1171   | High capacity transp. plans  | 4/20/2011          |                           | 7/22/2011          |

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|---------|------------|-------------------------------|-----------------|---------------------------|-----------------|
| 62      | SHB 1172   | Beer and wine tasting         | 4/14/2011       |                           | 7/22/2011       |
| 367     | ESHB 1175  | Trans budget 2009-11/2011-13  | 5/16/2011       | PV                        | 5/16/2011*      |
| 219     | EHB 1177   | Field investigations          | 5/3/2011        |                           | 7/22/2011       |
| 149     | HB 1178    | Regulatory assistance office  | 4/22/2011       |                           | 6/29/2011       |
| 63      | HB 1179    | Public employees/meetings     | 4/14/2011       |                           | 7/22/2011       |
| 41      | HB 1181    | Board of naturopathy          | 4/13/2011       |                           | 7/22/2011       |
| 165     | HB 1182    | Tampering with a witness      | 4/27/2011       |                           | 7/22/2011       |
| 150     | ESHB 1183  | Medical schools and students  | 4/22/2011       |                           | 7/22/2011       |
| 122     | E2SHB 1186 | State's oil spill program     | 4/20/2011       |                           | 7/22/2011       |
| 166     | SHB 1188   | Suffocation, domes. violence  | 4/27/2011       |                           | 7/22/2011       |
| 128     | HB 1190    | Anatomic pathology services   | 4/20/2011       |                           | 7/22/2011       |
| 129     | HB 1191    | Mortgage lending fraud/acct.  | 4/20/2011       |                           | 6/29/2011       |
| 186     | ESHB 1202  | Spirits sampling              | 4/29/2011       |                           | 7/22/2011       |
| 64      | E2SHB 1206 | Criminal justice participants | 4/14/2011       | PV                        | 7/22/2011       |
| 226     | SHB 1211   | Hunger programs/utilities     | 5/3/2011        |                           | 7/22/2011       |
| 65      | HB 1215    | Liens for impounded vehicles  | 4/14/2011       |                           | 7/22/2011       |
| 151     | SHB 1218   | RCW technical corrections     | 4/22/2011       |                           | 7/22/2011*      |
| 312     | ESHB 1220  | Insurance rates               | 5/11/2011       |                           | 7/22/2011       |
| 130     | EHB 1223   | Street vacation hearings      | 4/20/2011       |                           | 7/22/2011       |
| 19 E1   | 2ESHB 1224 | B&O deduction/mental health   | 6/7/2011        |                           | 8/24/2011       |
| 152     | HB 1225    | Port district commissioners   | 4/22/2011       |                           | 7/22/2011       |
| 66      | HB 1227    | Restaurant corkage fees       | 4/14/2011       |                           | 7/22/2011       |
| 227     | HB 1229    | Commercial drivers            | 5/3/2011        |                           | 7/22/2011*      |
| 350     | SHB 1237   | Selective service registr.    | 5/16/2011       |                           | 1/1/2012        |
| 131     | HB 1239    | Delinquent excise taxes/lien  | 4/20/2011       |                           | 1/1/2012        |
| 67      | SHB 1243   | Crimes against animals        | 4/14/2011       |                           | 7/22/2011       |
| 19      | SHB 1247   | Secure transition facilities  | 4/11/2011       |                           | 4/11/2011       |
| 2 E1    | EHB 1248   | Emergency rule making         | 5/31/2011       |                           | 5/31/2011       |
| 187     | SHB 1254   | Forest resources institute    | 4/29/2011       |                           | 7/22/2011       |
| 188     | SHB 1257   | Investments of insurers act   | 4/29/2011       | PV                        | 7/1/2012        |
| 68      | HB 1263    | Public corrections entities   | 4/14/2011       |                           | 7/22/2011       |
| 132     | SHB 1266   | Landlord-tenant act           | 4/20/2011       |                           | 7/22/2011       |
| 283     | E2SHB 1267 | Domestic partners/parentage   | 5/10/2011       |                           | 7/22/2011       |
| 3 E1    | ESHB 1277  | Long-term care oversight      | 5/31/2011       |                           | 8/24/2011***    |
| 251     | HB 1290    | Health care employee OT       | 5/5/2011        |                           | 7/22/2011**     |
| 20      | SHB 1294   | Puget Sound corps             | 4/11/2011       |                           | 7/22/2011       |
| 331     | ESHB 1295  | Fire sprinkler systems        | 5/12/2011       |                           | 7/22/2011       |
| 21      | HB 1298    | Child support order forms     | 4/11/2011       |                           | 7/22/2011       |
| 69      | HB 1303    | Insurance commissioner        | 4/14/2011       |                           | 7/22/2011       |
| 70      | SHB 1304   | Health care assistants/drugs  | 4/14/2011       |                           | 7/22/2011       |
| 153     | HB 1306    | Agribusiness drivers/license  | 4/22/2011       |                           | 7/1/2011        |
| 189     | ESHB 1309  | Condo & homeowners' assoc.    | 4/29/2011       |                           | 1/1/2012        |
| 313     | ESHB 1311  | Health care collaborative     | 5/11/2011       |                           | 7/22/2011       |
| 284     | SHB 1312   | Public health care/waiver     | 5/10/2011       |                           | 7/22/2011       |
| 228     | SHB 1315   | Physicians at nursing homes   | 5/3/2011        |                           | 7/22/2011       |

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|---------|------------|------------------------------|-----------------|---------------------------|-----------------|
| 332     | SHB 1328   | Operation of motorcycles     | 5/12/2011       |                           | 7/22/2011       |
| 229     | SHB 1329   | Music Matters license plates | 5/3/2011        |                           | 1/1/2012        |
| 258     | ESHB 1332  | Utility services joint mgmt  | 5/5/2011        |                           | 7/22/2011       |
| 282     | HB 1334    | Civil judgments for assault  | 5/5/2011        |                           | 7/22/2011       |
| 133     | HB 1340    | Unlawful hunting of big game | 4/20/2011       |                           | 7/22/2011       |
| 22      | HB 1345    | Unsworn foreign declarations | 4/11/2011       |                           | 7/22/2011       |
| 20 E1   | ESHB 1346  | Tax law changes              | 6/7/2011        |                           | 8/24/2011       |
| 23      | HB 1347    | Sales & use tax exemptions   | 4/11/2011       |                           | 4/11/2011       |
| 71      | HB 1353    | Pharmacy technicians         | 4/14/2011       |                           | 7/22/2011       |
| 4 E1    | ESHB 1354  | School & educ serv districts | 5/31/2011       |                           | 5/31/2011       |
| 24      | EHB 1357   | Taxes/electronic means       | 4/11/2011       |                           | 7/22/2011       |
| 230     | HB 1358    | Combination of vehicles      | 5/3/2011        |                           | 7/22/2011       |
| 58      | 2SHB 1362  | Homeowner foreclosures       | 4/14/2011       |                           | 7/22/2011*      |
| 190     | ESHB 1367  | For hire vehicles, operators | 4/29/2011       |                           | 1/1/2012*       |
| 21 E1   | E2SHB 1371 | Boards and commissions       | 6/7/2011        |                           | 7/1/2011*       |
| 369     | EHB 1382   | Express toll lanes/eastside  | 5/16/2011       |                           | 7/22/2011       |
| 231     | SHB 1384   | Public improvement contracts | 5/3/2011        |                           | 7/22/2011       |
| 72      | HB 1391    | Columbia Basin project/water | 4/14/2011       |                           | 7/22/2011       |
| 134     | SHB 1402   | Social card games            | 4/20/2011       |                           | 7/22/2011       |
| 191     | 2SHB 1405  | Loans/consumer loan act      | 4/29/2011       |                           | 7/22/2011       |
| 215     | ESHB 1406  | Building safety mutual aid   | 4/29/2011       | PV                        | 7/22/2011       |
| 285     | HB 1407    | Water system/negotiated sale | 5/10/2011       |                           | 7/22/2011       |
| 259     | EHB 1409   | Public proprty/Indian tribes | 5/5/2011        |                           | 7/22/2011       |
| 22 E1   | ESHB 1410  | H.S. science assessments     | 6/7/2011        |                           | 8/24/2011       |
| 25      | HB 1412    | H.S. math assessments        | 4/11/2011       |                           | 7/22/2011       |
| 154     | HB 1413    | Invasive species council     | 4/22/2011       |                           | 7/22/2011       |
| 351     | HB 1418    | Military training/licensing  | 5/16/2011       |                           | 7/22/2011       |
| 253     | HB 1419    | Background check information | 5/5/2011        |                           | 7/22/2011       |
| 216     | ESHB 1421  | Community forest trust       | 4/29/2011       |                           | 7/22/2011       |
| 217     | SHB 1422   | Forest biomass/aviation fuel | 4/29/2011       |                           | 7/22/2011       |
| 26      | HB 1424    | Student financial aid progs  | 4/11/2011       |                           | 7/22/2011       |
| 155     | HB 1425    | Health sciences authorities  | 4/22/2011       |                           | 7/22/2011       |
| 192     | SHB 1431   | School district insolvency   | 4/29/2011       |                           | 7/22/2011**     |
| 144     | HB 1432    | Veterans' preference         | 4/20/2011       |                           | 7/22/2011       |
| 135     | SHB 1438   | Adult offender supervision   | 4/20/2011       |                           | 7/22/2011       |
| 23 E1   | ESHB 1449  | Educator certificate fee     | 6/7/2011        |                           | 7/1/2011        |
| 194     | SHB 1453   | Shellfish enforcement        | 4/29/2011       |                           | 7/22/2011       |
| 232     | HB 1454    | Bloodborne pathogen testing  | 5/3/2011        |                           | 7/22/2011       |
| 193     | HB 1455    | Firearm possession rights    | 4/29/2011       |                           | 7/22/2011       |
| 195     | HB 1465    | Liquor licenses              | 4/29/2011       |                           | 7/22/2011       |
| 196     | SHB 1467   | Definition of a well         | 4/29/2011       |                           | 7/22/2011       |
| 197     | HB 1473    | Fees for traffic school cost | 4/29/2011       |                           | 7/22/2011       |
| 136     | HB 1477    | EWU edu specialist degrees   | 4/20/2011       |                           | 7/22/2011       |
| 353     | ESHB 1478  | City & county fiscal relief  | 5/16/2011       |                           | 7/22/2011       |
| 156     | HB 1479    | Statute law committee        | 4/22/2011       |                           | 7/22/2011       |

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|---------|------------|------------------------------|-----------------|---------------------------|-----------------|
| 233     | SHB 1483   | Traffic infraction notices   | 5/3/2011        |                           | 7/22/2011       |
| 199     | SHB 1485   | Charitable solicitations     | 4/29/2011       |                           | 7/22/2011       |
| 27      | HB 1488    | State board of health        | 4/11/2011       |                           | 7/22/2011       |
| 73      | ESHB 1489  | Fertilizer w/ phosphorus     | 4/14/2011       | PV                        | 1/1/2013        |
| 74      | ESHB 1492  | Uniform commercial code      | 4/14/2011       |                           | 7/1/2013        |
| 157     | SHB 1493   | Health profession discipline | 4/22/2011       |                           | 7/22/2011       |
| 357     | ESHB 1494  | Vulnerable adult referral    | 5/16/2011       |                           | 1/1/2012        |
| 98      | SHB 1495   | Stolen info technology       | 4/18/2011       |                           | 7/22/2011       |
| 48 E1   | ESHB 1497  | Capital 2011-2013 & sup 2011 | 6/15/2011       | PV                        | 6/15/2011       |
| 158     | SHB 1502   | Manuf housing & mobile homes | 4/22/2011       |                           | 7/22/2011       |
| 200     | SHB 1506   | Fire suppression efforts     | 4/29/2011       |                           | 7/22/2011       |
| 218     | ESHB 1509  | Forestry riparian easement   | 4/29/2011       | PV                        | 7/22/2011       |
| 159     | EHB 1517   | Oral anticancer med coverage | 4/22/2011       |                           | 7/22/2011       |
| 75      | 2SHB 1519  | Student cognitive disability | 4/14/2011       |                           | 7/22/2011       |
| 201     | HB 1520    | State route number 527       | 4/29/2011       |                           | 7/22/2011       |
| 202     | HB 1521    | Innovation schools           | 4/29/2011       |                           | 7/22/2011       |
| 203     | SHB 1524   | International baccalaureate  | 4/29/2011       |                           | 7/22/2011       |
| 204     | SHB 1538   | Animal health inspections    | 4/29/2011       | PV                        | 7/22/2011       |
| 205     | HB 1544    | Basic health pln eligibility | 4/29/2011       |                           | 4/29/2011       |
| 260     | E2SHB 1546 | Innovation schools and zones | 5/5/2011        |                           | 7/22/2011       |
| 206     | ESHB 1547  | Criminal alien offenders     | 4/29/2011       | PV                        | 4/29/2011       |
| 31 E1   | ESHB 1548  | Long-term care workers       | 6/15/2011       |                           | 6/15/2011*      |
| 287     | SHB 1560   | Health insurance partnership | 5/10/2011       |                           | 7/22/2011       |
| 137     | SHB 1565   | Domestic violence protection | 4/20/2011       |                           | 7/22/2011       |
| 234     | SHB 1567   | Peace & reserve officers     | 5/3/2011        |                           | 7/22/2011       |
| 261     | SHB 1570   | Energy facility siting       | 5/5/2011        |                           | 7/22/2011       |
| 28      | SHB 1571   | Electric vehicles            | 4/11/2011       |                           | 7/22/2011       |
| 29      | ESHB 1572  | PUD's low-income customers   | 4/11/2011       |                           | 7/22/2011       |
| 76      | SHB 1575   | Surgical facility licensing  | 4/14/2011       |                           | 1/1/2012        |
| 207     | HB 1582    | Forest practice applications | 4/29/2011       |                           | 7/22/2011       |
| 79      | SHB 1585   | Intrastate mutual aid system | 4/15/2011       |                           | 7/22/2011       |
| 208     | HB 1586    | Doctorates/branch campuses   | 4/29/2011       |                           | 7/22/2011       |
| 262     | HB 1594    | Financial education          | 5/5/2011        |                           | 7/22/2011       |
| 138     | SHB 1595   | Foreign med school grads     | 4/20/2011       |                           | 7/22/2011       |
| 139     | SHB 1596   | Cities w/ambulance utilities | 4/20/2011       |                           | 7/22/2011       |
| 288     | E2SHB 1599 | Actual student success prog  | 5/10/2011       | PV                        | 7/22/2011**     |
| 209     | SHB 1600   | Elementary math specialists  | 4/29/2011       |                           | 7/22/2011       |
| 143     | SHB 1614   | Traumatic brain injury       | 4/20/2011       |                           | 7/22/2011       |
| 30      | HB 1618    | PUDs/deferred compensation   | 4/11/2011       |                           | 7/22/2011       |
| 80      | HB 1625    | Plan 3 retirement systems    | 4/15/2011       |                           | 7/22/2011       |
| 263     | E2SHB 1634 | Underground utilities        | 5/5/2011        | PV                        | 1/1/2013        |
| 370     | ESHB 1635  | Driver licenses, identicards | 5/16/2011       |                           | 7/22/2011       |
| 264     | ESHB 1636  | Amateur sports officials     | 5/5/2011        |                           | 7/22/2011       |
| 235     | HB 1640    | Respiratory care             | 5/3/2011        |                           | 7/22/2011       |
| 9       | HB 1649    | Domestic partnerships        | 4/5/2011        |                           | 7/22/2011       |

| CHPT. # | BILL NO.    | SUBJECT                      | GOVERNOR SIGNED | VETO/<br>PARTIAL<br>VETOS | EFFECTIVE DATES |
|---------|-------------|------------------------------|-----------------|---------------------------|-----------------|
| 198     | SHB 1663    | Higher education purchasing  | 4/29/2011       | PV                        | 7/22/2011       |
| 265     | SHB 1691    | Embalmers                    | 5/5/2011        |                           | 7/22/2011       |
| 31      | HB 1694     | Unauthorized insurance       | 4/11/2011       |                           | 7/21/2011*      |
| 160     | SHB 1697    | Dependency system            | 4/22/2011       |                           | 7/22/2011       |
| 266     | HB 1698     | Recreational fishing         | 5/5/2011        |                           | 7/22/2011       |
| 140     | EHB 1703    | Fiscal notes/schools         | 4/20/2011       |                           | 7/22/2011       |
| 81      | HB 1709     | Group disability insurance   | 4/15/2011       |                           | 7/22/2011       |
| 267     | SHB 1710    | Career & technical education | 5/5/2011        |                           | 7/22/2011       |
| 289     | ESHB 1716   | Secondhand dealers/metal     | 5/10/2011       |                           | 7/22/2011       |
| 236     | SHB 1718    | Offenders w/devel disability | 5/3/2011        |                           | 7/22/2011       |
| 82      | SHB 1719    | Vehicle passengers/liability | 4/15/2011       |                           | 7/22/2011       |
| 268     | ESHB 1721   | Coal tar sealant pollution   | 5/5/2011        |                           | 7/22/2011       |
| 290     | ESHB 1725   | Workers' compensation        | 5/10/2011       |                           | 7/22/2011       |
| 291     | HB 1726     | Voc rehab subcommittee       | 5/10/2011       |                           | 7/22/2011       |
| 237     | SHB 1728    | Service animals/businesses   | 5/3/2011        |                           | 7/22/2011       |
| 210     | EHB 1730    | Local government bonds       | 4/29/2011       |                           | 7/22/2011       |
| 141     | ESHB 1731   | Fire protection authorities  | 4/20/2011       |                           | 7/22/2011       |
| 15 E1   | 2E2SHB 1738 | Medicaid single state agency | 6/7/2011        |                           | 7/1/2011        |
| 211     | SHB 1761    | Private activity bond issues | 4/29/2011       |                           | 7/22/2011       |
| 358     | HB 1770     | State purchasing             | 5/16/2011       | PV                        | 7/22/2011**     |
| 292     | ESHB 1774   | Dependency matters           | 5/10/2011       |                           | 7/22/2011       |
| 359     | E2SHB 1776  | Child care center licensing  | 5/16/2011       |                           | 7/22/2011       |
| 212     | SHB 1783    | Houseboats and moorages      | 4/29/2011       |                           | 7/22/2011       |
| 293     | E2SHB 1789  | DUI accountability           | 5/10/2011       |                           | 7/22/2011*      |
| 269     | ESHB 1790   | School district contracts    | 5/5/2011        |                           | 7/22/2011       |
| 333     | SHB 1793    | Access to juvenile records   | 5/12/2011       |                           | 7/22/2011       |
| 238     | HB 1794     | Assault/court-related empl.  | 5/3/2011        |                           | 7/22/2011       |
| 10 E1   | E2SHB 1795  | Higher ed opportunity act    | 6/6/2011        | PV                        | 8/24/2011       |
| 83      | 2SHB 1803   | Columbia R. basin mgmt prog  | 4/15/2011       |                           | 7/22/2011       |
| 77      | E2SHB 1808  | Postsecondary credit         | 4/15/2011       |                           | 7/22/2011       |
| 239     | SHB 1811    | Homelessness services access | 5/3/2011        |                           | 7/22/2011       |
| 146     | SHB 1822    | Nonprofit online university  | 4/22/2011       |                           | 7/22/2011       |
| 84      | ESHB 1826   | Taxpayer appeal protections  | 4/15/2011       |                           | 7/22/2011       |
| 270     | SHB 1829    | Office of Native education   | 5/5/2011        |                           | 7/22/2011       |
| 8       | ESHB 1846   | Aerospace student loans      | 5/5/2011        |                           | 7/22/2011       |
| 271     | SHB 1854    | Fire protection authorities  | 5/5/2011        |                           | 7/22/2011       |
| 240     | SHB 1858    | DSHS authority               | 5/3/2011        |                           | 7/22/2011       |
| 161     | SHB 1861    | State railroad property      | 4/22/2011       | PV                        | 7/22/2011       |
| 162     | ESHB 1864   | Debt collection              | 4/22/2011       |                           | 7/22/2011*      |
| 213     | HB 1867     | Prepaid wireless services    | 4/29/2011       |                           | 7/22/2011       |
| 241     | SHB 1874    | Sexual exploitation/children | 5/3/2011        |                           | 8/1/2011        |
| 360     | ESHB 1886   | Ruckelshaus Center process   | 5/16/2011       |                           | 7/22/2011       |
| 272     | SHB 1897    | Rural mobility grant program | 5/5/2011        |                           | 7/22/2011       |
| 273     | SHB 1899    | Public records violations    | 5/5/2011        |                           | 7/22/2011       |
| 163     | ESHB 1902   | Child welfare service/B&O tx | 4/22/2011       |                           | 7/22/2011       |

| CHPT. # | BILL NO.   | SUBJECT                      | GOVERNOR<br>SIGNED | VETO/<br>PARTIAL<br>VETOS | EFFECTIVE<br>DATES |
|---------|------------|------------------------------|--------------------|---------------------------|--------------------|
| 295     | 2SHB 1903  | Child care background checks | 5/10/2011          |                           | 7/22/2011          |
| 274     | 2SHB 1909  | Community & tech colleges    | 5/5/2011           |                           | 7/22/2011          |
| 286     | HB 1916    | Associate development orgs   | 5/10/2011          |                           | 7/22/2011          |
| 242     | ESHB 1922  | Vehicles/port of entry       | 5/3/2011           |                           | 7/22/2011          |
| 294     | SHB 1923   | Concealed pistol license     | 5/10/2011          |                           | 7/22/2011          |
| 243     | SHB 1933   | Collector vehicle lic. plate | 5/3/2011           |                           | 7/22/2011*         |
| 85      | HB 1937    | Innovation partnership zones | 4/15/2011          |                           | 7/22/2011          |
| 86      | HB 1939    | Tribes as agencies           | 4/15/2011          |                           | 7/22/2011          |
| 354     | HB 1953    | Real estate excise taxes     | 5/16/2011          |                           | 7/22/2011*         |
| 32 E1   | E2SHB 1965 | Adverse experiences/children | 6/15/2011          |                           | 8/24/2011*         |
| 142     | SHB 1966   | Commercial drivers' licenses | 4/20/2011          |                           | 7/22/2011          |
| 371     | ESHB 1967  | Public transportation systms | 5/16/2011          | PV                        | 7/22/2011          |
| 275     | EHB 1969   | Flood control zone districts | 5/5/2011           |                           | 7/22/2011          |
| 47 E1   | ESHB 1981  | Public & higher ed employees | 6/15/2011          |                           | 7/1/2011*          |
| 33 E1   | EHB 2003   | Children's health coverage   | 6/15/2011          |                           | 4/1/2011**         |
| 298     | SHB 2017   | Master license program       | 5/10/2011          |                           | 7/1/2011           |
| 334     | HB 2019    | Additional cigarette tax     | 5/12/2011          |                           | 5/12/2011          |
| 49 E1   | ESHB 2020  | Capital projects             | 6/15/2011          |                           | 6/15/2011          |
| 362     | SHB 2021   | PERS and TRS plan 1          | 5/16/2011          |                           | 6/30/2011          |
| 34 E1   | ESHB 2065  | Alternative learning funding | 6/15/2011          |                           | 8/24/2011*         |
| 35 E1   | EHB 2069   | Hospital payments/safety net | 6/15/2011          |                           | 7/1/2011           |
| 5 E1    | HB 2070    | Avg. salary/pension purposes | 5/31/2011          |                           | 7/1/2011           |
| 36 E1   | ESHB 2082  | Disability lifeline program  | 6/15/2011          |                           | 6/15/2011*         |
| 13 E1   | ESHB 2088  | Opportunity scholarship brd  | 6/6/2011           |                           | 6/6/2011           |
| 6 E1    | ESHB 2115  | Statewide student assessment | 5/31/2011          |                           | 5/31/2011          |
| 24 E1   | SHB 2119   | Default notices/beneficiary  | 6/7/2011           |                           | 6/7/2011           |
| 37 E1   | EHB 2123   | Workers' compensation system | 6/15/2011          |                           | 6/15/2011          |

**SENATE MEMORIALS AND RESOLUTIONS PASSED  
BY BOTH SENATE AND HOUSE**

Sixty-Second Legislature  
2011 Regular Session and Special Session

| <b>Senate Bill No.</b>               | <b>Status Title</b>          |
|--------------------------------------|------------------------------|
| <b>SENATE JOINT MEMORIALS</b>        |                              |
| SSJM 8004                            | North Cascades National Park |
| SJM 8008                             | Unemployment tax relief      |
| <b>SENATE JOINT RESOLUTIONS</b>      |                              |
| SJR 8205                             | Presidential election/voting |
| SJR 8206                             | Extraordinary revenue growth |
| <b>SENATE CONCURRENT RESOLUTIONS</b> |                              |
| HCR 8400                             | Deceased former leg. members |
| HCR 8401                             | Adjourning SINE DIE          |
| HCR 8402                             | Bills/house of origin        |
| HCR 8403                             | Bills/house of origin        |
| HCR 8404                             | Adjourning SINE DIE          |

**HOUSE MEMORIALS AND RESOLUTIONS PASSED  
BY BOTH SENATE AND HOUSE**

Sixty-Second Legislature  
2011 Regular Session and Special Session

| <b>House Bill No.</b>               | <b>Status Title</b>          |
|-------------------------------------|------------------------------|
| <b>HOUSE JOINT MEMORIALS</b>        |                              |
| HJM 4004                            | Honor and remember flag      |
| <b>HOUSE CONCURRENT RESOLUTIONS</b> |                              |
| HCR 4400                            | Legislature organized        |
| HCR 4401                            | Legislature joint sessions   |
| HCR 4402                            | Legislature cut-off dates    |
| HCR 4403                            | Legislative joint rules      |
| ESHCR 4404                          | Health reform implementation |
| HCR 4405                            | Special session/bill status  |

## HISTORY OF SENATE BILLS

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                       | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|------------------------------------|--------------------|
| 5000     | 25                                     | 270, 427         | 539                                |                                       | 273                                | C167               |
| 5000-S2  |  |                  | 539                                | 539                                   | 1222, 1223, 260(P), 1313(S),       | C167               |
| 5001     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5002     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5003     | 26                                     | 107              |                                    |                                       | 693                                |                    |
| 5004     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5005     | 26                                     | 107              | 411                                | 411                                   | 1625, 1715(P), 1716(S),            | C299               |
| 5006     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5007     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5008     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5009     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5010     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5011     | 26                                     | 253              | 503                                | 503                                   | 885, 937(P), 1093(S)               | C87                |
| 5012     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5013     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5014     | 26                                     |                  |                                    |                                       |                                    |                    |
| 5015     | 27                                     | 107              |                                    |                                       | 693                                |                    |
| 5016     | 27                                     | 168              |                                    |                                       |                                    |                    |
| 5017     | 27                                     | 440              |                                    |                                       | 693                                |                    |
| 5018     | 27                                     | 107              | 418                                |                                       |                                    | C88                |
| 5018-S   |  |                  | 418                                | 418                                   | 953, 955(P), 1094(S)               | C88                |
| 5019     | 27                                     | 392              |                                    |                                       | 400                                |                    |
| 5020     | 27                                     | 392              | 614                                |                                       |                                    | C89                |
| 5020-S   |  |                  | 614                                | 614                                   | 885, 937(P), 1093(S)               | C89                |
| 5021     | 27                                     | 293, 440         | 529                                |                                       |                                    | C145               |
| 5021-S   |  |                  | 529                                | 530                                   | 1223, 1227, 1228, 1260(P), 1313(S) | C145               |
| 5022     | 27                                     | 270              | 572                                |                                       |                                    |                    |
| 5022-S   |  |                  | 573                                | 573                                   | 1719                               |                    |
| 5023     | 27                                     | 253              | 476                                |                                       |                                    | C244               |
| 5023-S   |  |                  | 477                                | 477                                   | 1659, 1661, 1715(P), 1716(S),      | C244               |
| 5024     | 27                                     | 392              |                                    |                                       | 693                                |                    |
| 5025     | 27                                     | 253              | 500                                |                                       |                                    | C300               |
| 5025-S   |  |                  | 500                                | 500                                   | 1273, 1306(P), 1718(S),            | C300               |
| 5026     | 28                                     | 130              |                                    |                                       | 693                                |                    |
| 5027     | 28                                     | 130              |                                    |                                       | 693                                |                    |
| 5028     | 28                                     | 287              |                                    |                                       | 29, 693                            |                    |
| 5029     | 28                                     | 115              | 411                                |                                       |                                    |                    |
| 5029-S   |  |                  | 411                                | 411                                   | 1719                               |                    |
| 5030     | 28                                     | 253              | 430                                | 430                                   | 1719                               |                    |
| 5031     | 28                                     |                  |                                    |                                       |                                    |                    |
| 5032     | 28                                     | 96               | 165                                | 165                                   | 1719                               |                    |
| 5033     | 28                                     | 96               | 410                                | 410                                   | 885, 937(P), 1093(S)               | C90                |
| 5034     | 28                                     | 253, 392         | 464                                |                                       |                                    | C214               |
| 5034-S2  |  |                  | 464                                | 464                                   | 1228, 1238, 1239, 1260(P), 1313(S) | C214               |
| 5035     | 28                                     | 115              | 501                                | 501                                   | 1239, 1260(P), 1313(S),            | C168               |
| 5036     | 28                                     | 141              | 410                                |                                       |                                    | C169               |
| 5036-S   |  |                  | 410                                | 410                                   | 1239, 1241, 1260(P), 1313(S),      | C169               |
| 5037     | 51                                     | 107              |                                    |                                       | 693                                |                    |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                            | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|---|--------------------|
| 5038     | 51                                     | 299              |                                    |                                       | 693                                     |                    |
| 5039     | 51                                     | 253              | 554                                |                                       |   |                    |
| 5039-S   |  |                  | 554                                | 613                                   | 555, 613, 1719                          |                    |
| 5040     | 51                                     |                  |                                    |                                       |   |                    |
| 5041     | 51                                     |                  |                                    |                                       |   | 51                 |
| 5042     | 51                                     | 253              | 490                                |                                       |   | C170               |
| 5042-S   |  |                  | 490                                | 490                                   | 1241, 1244, 1260(P), 1313(S),           | C170               |
| 5043     | 51                                     | 262              |                                    |                                       | 693                                     |                    |
| 5044     | 70                                     | 441              | 537                                | 537                                   | 1581, 1582, 1715(P), 1716(S),           | C335               |
| 5045     | 71                                     | 115              | 492                                | 493                                   | 953, 955(P), 1094(S)                    | C336PV             |
| 5046     | 72                                     | 101              | 493                                | 493                                   | 1719                                    |                    |
| 5047     | 72                                     | 253              |                                    |                                       | 693                                     |                    |
| 5048     | 72                                     |                  |                                    |                                       |   |                    |
| 5049     | 72                                     | 168              |                                    |                                       | 693                                     |                    |
| 5050     | 72                                     |                  |                                    |                                       |   |                    |
| 5051     | 72                                     | 401              |                                    |                                       | 693                                     |                    |
| 5052     | 72                                     |                  |                                    |                                       |   |                    |
| 5053     | 72                                     | 89               |                                    |                                       |   |                    |
| 5054     | 72                                     |                  |                                    |                                       |   |                    |
| 5055     | 72                                     |                  |                                    |                                       |   |                    |
| 5056     | 73                                     | 282              |                                    |                                       | 283                                     |                    |
| 5057     | 73                                     | 101              | 493                                | 493                                   | 835, 837(P), 953(S)                     | C33                |
| 5058     | 73                                     | 101              | 439                                | 440                                   | 799, 804(P), 953(S)                     | C34                |
| 5059     | 73                                     |                  |                                    |                                       |   |                    |
| 5060     | 73                                     |                  |                                    |                                       |   |                    |
| 5061     | 73                                     | 107              | 280                                | 280                                   | 280, 1244, 1245, 1260(P), 1313(S),      | C171               |
| 5062     | 73                                     |                  |                                    |                                       |   |                    |
| 5063     | 73                                     | 137              |                                    |                                       | 693                                     |                    |
| 5064     | 73                                     | 115              |                                    |                                       | 693                                     |                    |
| 5065     | 74                                     | 270              | 458                                |                                       |   | C172               |
| 5065-S   |  |                  | 458                                | 459                                   | 1253, 1255, 1260(P), 1313(S),           | C172               |
| 5066     | 74                                     | 125              |                                    |                                       | 693                                     |                    |
| 5067     | 74                                     | 125              | 493                                |                                       |   | C301               |
| 5067-S   |  |                  | 494                                | 494                                   | 1311, 1312, 1474(P), 1716(S),           | C301               |
| 5068     | 74                                     | 299              | 611                                |                                       |   | C91                |
| 5068-S   |  |                  | 611                                | 613                                   | 612, 885, 937(P), 1093(S)               | C91                |
| 5069     | 74                                     | 125              | 477                                |                                       |   |                    |
| 5069-S   |  |                  | 477                                | 477                                   | 1719                                    |                    |
| 5070     | 74                                     | 125              | 494                                |                                       |   | C92                |
| 5070-S   |  |                  | 494                                | 494                                   | 953, 955(P), 1094(S)                    | C92                |
| 5071     | 74                                     | 307              | 463                                |                                       |   | C35                |
| 5071-S   |  |                  | 463                                | 464                                   | 799, 804(P), 953(S)                     | C35                |
| 5072     | 74                                     | 125              | 475                                |                                       |   | C245               |
| 5072-S   |  |                  | 475                                | 475                                   | 1273, 1306(P), 1718(S),                 | C245               |
| 5073     | 74                                     | 270, 441         | 517                                |                                       |   | C181PV             |
| 5073-S2  |  |                  | 517, 518                           | 520                                   | 518, 1595, 1607, 1607, 1715(P), 1716(S) | C181PV             |
| 5074     | 74                                     | 392              |                                    |                                       | 693                                     |                    |
| 5075     | 74                                     | 115              | 423                                | 424                                   | 1719                                    |                    |
| 5076     | 74                                     | 115              | 165                                | 165                                   | 953, 955(P), 1093(S)                    | C93                |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                            | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|---|--------------------|
| 5077     | 80                                     | 254              | 663                                |                                       |   |                    |
| 5077-S   |  |                  | 663                                | 664                                   | 1719                                    |                    |
| 5078     | 80                                     | 254              |                                    |                                       | 693                                     |                    |
| 5079     | 80                                     | 299              |                                    |                                       | 693                                     |                    |
| 5080     | 80                                     | 262, 441         | 507                                | 507                                   | 263, 1719                               |                    |
| 5081     | 80                                     |                  |                                    |                                       |   |                    |
| 5082     | 80                                     | 151              |                                    |                                       | 693                                     |                    |
| 5083     | 80                                     | 441              | 504                                | 504                                   | 1030, 1079(P), 1718(S)                  | C322PV             |
| 5084     | 80                                     | 254              |                                    |                                       | 693                                     |                    |
| 5085     | 81                                     | 137              |                                    |                                       | 693                                     |                    |
| 5086     | 81                                     | 254              |                                    |                                       | 693                                     |                    |
| 5087     | 81                                     | 287              |                                    |                                       | 693                                     |                    |
| 5088     | 81                                     |                  |                                    |                                       |   |                    |
| 5089     | 81                                     |                  |                                    |                                       |   |                    |
| 5090     | 81                                     | 141              |                                    |                                       | 693                                     |                    |
| 5091     | 81                                     | 115              | 2059                               |                                       |   | C 25 L 11<br>E1    |
| 5091-S   |  |                  | 2059                               | 2059                                  | 2059, 2147(P), 2147, 2148(S)            | C 25 L 11<br>E1    |
| 5092     | 81                                     | 282, 785         |                                    |                                       |   |                    |
| 5093     | 81                                     | 168              |                                    |                                       |   |                    |
| 5094     | 81                                     |                  |                                    |                                       |   |                    |
| 5095     | 81                                     |                  |                                    |                                       |   |                    |
| 5096     | 82                                     |                  |                                    |                                       |   |                    |
| 5097     | 82                                     | 392              | 505                                |                                       |   | Vetoed             |
| 5097-S   |  |                  | 505                                | 505                                   | 1273, 1274, 1306(P), 1718(S),           | Vetoed             |
| 5098     | 82                                     | 168              | 666                                |                                       |   | C173               |
| 5098-S   |  |                  | 667                                | 667                                   | 667, 1255, 1256, 1256, 1260(P), 1313(S) | C173               |
| 5099     | 82                                     |                  |                                    |                                       |   |                    |
| 5100     | 82                                     | 392              |                                    |                                       | 400                                     |                    |
| 5101     | 82                                     | 270              |                                    |                                       | 693                                     |                    |
| 5102     | 82                                     | 392              |                                    |                                       | 693                                     |                    |
| 5103     | 82                                     |                  |                                    |                                       |   |                    |
| 5104     | 82                                     |                  |                                    |                                       | 83                                      |                    |
| 5105     | 82                                     | 287              | 486                                |                                       |   | C94                |
| 5105-S   |  |                  | 486                                | 487                                   | 885, 937(P), 1093(S)                    | C94                |
| 5106     | 82                                     |                  |                                    |                                       |   |                    |
| 5107     | 82                                     |                  |                                    |                                       |   |                    |
| 5108     | 83                                     |                  |                                    |                                       |   |                    |
| 5109     | 83                                     |                  |                                    |                                       |   |                    |
| 5110     | 83                                     | 402              |                                    |                                       | 693                                     |                    |
| 5111     | 84                                     |                  |                                    |                                       |   |                    |
| 5112     | 85                                     | 270              |                                    |                                       | 693                                     |                    |
| 5113     | 85                                     | 254              |                                    |                                       | 693                                     |                    |
| 5114     | 85                                     | 393              | 460                                |                                       |   |                    |
| 5114-S   |  |                  | 460                                | 460, 1866                             | 1719, 1866, 2148                        |                    |
| 5115     | 85                                     | 254              | 432                                |                                       |   | C36                |
| 5115-S   |  |                  | 432                                | 432                                   | 799, 804(P), 953(S)                     | C36                |
| 5116     | 85                                     | 168              | 503                                | 503                                   | 799, 804(P), 953(S)                     | C37                |
| 5117     | 85                                     | 168              | 479                                | 479                                   | 885, 937(P), 1093(S)                    | C95                |
| 5118     | 85                                     |                  |                                    |                                       |   |                    |
| 5119     | 85                                     | 125, 720         | 906                                | 906                                   | 126, 1535, 1537(P), 1718(S)             | C319               |
| 5120     | 85                                     | 115              |                                    |                                       |   |                    |

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| 5121     | 85                                     | 137              |                                    |                                       | 693                              |                    |
| 5122     | 85                                     | 254              | 642                                |                                       |                                  | C314               |
| 5122-S   |  |                  | 642                                | 643                                   | 1256, 1260(P),<br>1313(S),       | C314               |
| 5123     | 85                                     | 254              |                                    |                                       | 693                              |                    |
| 5124     | 85                                     | 151              | 578                                |                                       |                                  | C10                |
| 5124-S   |  |                  | 578, 587                           | 588                                   | 587, 744, 768(P),<br>799(S)      | C10                |
| 5125     | 86                                     |                  |                                    |                                       |                                  |                    |
| 5126     | 86                                     | 441              |                                    |                                       | 87                               |                    |
| 5127     | 86                                     |                  |                                    |                                       |                                  |                    |
| 5128     | 86                                     | 393              | 732                                |                                       |                                  |                    |
| 5128-S   |  |                  | 732                                | 732                                   | 1719                             |                    |
| 5129     | 86                                     |                  |                                    |                                       | 87                               |                    |
| 5130     | 86                                     |                  |                                    |                                       |                                  |                    |
| 5131     | 86                                     | 168              |                                    |                                       | 87, 693                          |                    |
| 5132     | 86                                     |                  |                                    |                                       | 87                               |                    |
| 5133     | 86                                     | 168              |                                    |                                       | 693                              |                    |
| 5134     | 87                                     |                  |                                    |                                       |                                  |                    |
| 5135     | 87                                     | 151              | 166, 179                           | 179                                   | 166, 179, 274, 278(P),<br>281(S) | C3                 |
| 5135-S   |  |                  | 166                                |                                       |                                  | C3                 |
| 5136     | 87                                     | 307, 441         |                                    |                                       | 313, 693                         |                    |
| 5137     | 87                                     | 287              |                                    |                                       | 693                              |                    |
| 5138     | 89                                     |                  |                                    |                                       |                                  |                    |
| 5139     | 89                                     | 393              |                                    |                                       | 400                              |                    |
| 5140     | 89                                     | 282              |                                    |                                       |                                  |                    |
| 5141     | 89                                     | 130              | 267                                | 268                                   | 1259, 1260, 1306(P),<br>1718(S), | C246               |
| 5142     | 90                                     | 299              | 460                                |                                       |                                  |                    |
| 5142-S   |  |                  | 460                                | 460                                   | 1719                             |                    |
| 5143     | 90                                     | 174              | 577                                | 577                                   | 1719                             |                    |
| 5144     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5145     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5146     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5147     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5148     | 90                                     | 254, 720         |                                    |                                       |                                  |                    |
| 5149     | 90                                     | 270              | 461                                | 462                                   | 799, 804(P), 953(S)              | C38                |
| 5150     | 90                                     | 393              |                                    |                                       | 693                              |                    |
| 5151     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5152     | 90                                     | 277              | 490                                |                                       |                                  | C40                |
| 5152-S   |  |                  | 490                                | 490                                   | 835, 837(P), 953(S)              | C40                |
| 5153     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5154     | 90                                     | 169              | 503                                |                                       |                                  |                    |
| 5154-S   |  |                  | 503                                | 503                                   | 1719                             |                    |
| 5155     | 90                                     |                  |                                    |                                       |                                  |                    |
| 5156     | 91                                     | 249              | 536                                |                                       |                                  | C325               |
| 5156-S   |  |                  | 536                                | 537                                   | 1275, 1306(P),<br>1718(S),       | C325               |
| 5157     | 91                                     | 174              | 434                                |                                       |                                  | C11                |
| 5157-S   |  |                  | 435                                | 435                                   | 744, 768(P), 799(S)              | C11                |
| 5158     | 91                                     |                  |                                    |                                       |                                  |                    |
| 5159     | 91                                     | 169              |                                    |                                       | 693                              |                    |
| 5160     | 91                                     | 441              |                                    |                                       | 693                              |                    |
| 5161     | 91                                     | 442              | 553                                | 553                                   | 1719                             |                    |
| 5162     | 91                                     |                  |                                    |                                       |                                  |                    |
| 5163     | 91                                     | 442              |                                    |                                       | 693                              |                    |

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| 5164     | 91                                     | 282              |                                    |                                       | 693  |                    |
| 5165     | 91                                     | 151              |                                    |                                       | 693  |                    |
| 5166     | 91                                     | 169              |                                    |                                       | 693  |                    |
| 5167     | 91                                     | 442              | 718                                |                                       |  | C174               |
| 5167-S   |  |                  | 718                                | 719                                   | 1123, 1138(P),<br>1313(S)                  | C174               |
| 5168     | 91                                     | 270              | 430                                |                                       |  | C96                |
| 5168-S   |  |                  | 430                                | 430                                   | 885, 937(P), 1093(S)                       | C96                |
| 5169     | 92                                     | 282, 442         | 667                                | 667                                   | 283, 1719                                  |                    |
| 5170     | 92                                     | 147              | 387                                | 388                                   | 799, 804(P), 953(S)                        | C43                |
| 5171     | 92                                     | 287              | 543                                |                                       |  | C349               |
| 5171-S   |  |                  | 543, 566                           | 566                                   | 550, 565, 1245, 1253,<br>1260(P), 1313(S), | C349               |
| 5172     | 92                                     | 282              | 459                                | 459                                   | 94, 885, 937(P),<br>1094(S)                | C78                |
| 5173     | 92                                     | 255              |                                    |                                       | 693  |                    |
| 5174     | 92                                     | 249              | 424                                | 425                                   | 835, 837(P), 953(S)                        | C44                |
| 5175     | 92                                     |                  |                                    |                                       |  |                    |
| 5176     | 92                                     | 736              |                                    |                                       |  |                    |
| 5177     | 92                                     |                  |                                    |                                       |  |                    |
| 5178     | 92                                     |                  |                                    |                                       |  |                    |
| 5179     | 92                                     |                  |                                    |                                       |  |                    |
| 5180     | 93                                     | 151              |                                    |                                       | 693  |                    |
| 5181     | 93                                     | 1992             | 1996                               |                                       | 1993                                       | C 46 L 11<br>E1    |
| 5181-S   |  |                  | 1997                               | 1997                                  | 2004(P), 2004,<br>2063(S)                  | C 46 L 11<br>E1    |
| 5182     | 93                                     | 307, 690         | 1749                               |                                       |  | C 11 L 11<br>E1    |
| 5182-S2  |  |                  | 1749, 1752,<br>1753                | 1753                                  | 1925, 1957, 1958,<br>1966(P), 1993(S)      | C 11 L 11<br>E1    |
| 5183     | 93                                     | 141              |                                    |                                       | 693  |                    |
| 5184     | 93                                     | 169              | 475                                |                                       |  | C45                |
| 5184-S   |  |                  | 475                                | 476                                   | 835, 837(P), 953(S)                        | C45                |
| 5185     | 94                                     | 130              | 268                                |                                       |  |                    |
| 5185-S   |  |                  | 268                                | 269                                   | 1719                                       |                    |
| 5186     | 94                                     | 299              | 563                                |                                       |  | C276               |
| 5186-S   |  |                  | 563                                | 564                                   | 563, 1260, 1306(P),<br>1718(S),            | C276               |
| 5187     | 94                                     | 393              | 509                                |                                       |  | C302               |
| 5187-S   |  |                  | 509                                | 509                                   | 1573, 1574, 1715(P),<br>1716(S),           | C302               |
| 5188     | 94                                     | 393              | 562                                |                                       | 693  |                    |
| 5189     | 96                                     | 271              |                                    |                                       | 693  |                    |
| 5190     | 96                                     | 255              |                                    |                                       | 693  |                    |
| 5191     | 96                                     | 169              |                                    |                                       | 693  |                    |
| 5192     | 96                                     | 271              | 436                                |                                       |  | C277               |
| 5192-S   |  |                  | 436                                | 436                                   | 1260, 1261, 1306(P),<br>1718(S),           | C277               |
| 5193     | 97                                     |                  |                                    |                                       |  |                    |
| 5194     | 97                                     | 293              |                                    |                                       | 693  |                    |
| 5195     | 97                                     | 137              | 267                                |                                       |  | C46                |
| 5195-S   |  |                  | 267                                | 267                                   | 835, 837(P), 953(S)                        | C46                |
| 5196     | 97                                     |                  |                                    |                                       |  |                    |
| 5197     | 97                                     | 125              |                                    |                                       | 693  |                    |
| 5198     | 97                                     | 277              |                                    |                                       | 693  |                    |
| 5199     | 97                                     |                  |                                    |                                       |  |                    |
| 5200     | 97                                     |                  |                                    |                                       |  |                    |

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| 5201     | 97                                     | 271              | 508                                |                                       |                                    |                    |
| 5201-S   |  |                  | 508                                | 508                                   | 1719                               |                    |
| 5202     | 97                                     | 393              | 477                                |                                       |                                    |                    |
| 5202-S   |  |                  | 477                                | 477                                   |                                    |                    |
| 5203     | 97                                     | 393              | 476                                |                                       |                                    | C337               |
| 5203-S   |  |                  | 476                                | 476                                   | 1276, 1283, 1306(P), 1718(S),      | C337               |
| 5204     | 97                                     | 393              | 476                                |                                       |                                    | C338               |
| 5204-S   |  |                  | 476                                | 476                                   | 1627, 1632, 1633, 1715(P), 1716(S) | C338               |
| 5205     | 98                                     | 271              | 461, 464, 465                      | 465                                   | 1719                               |                    |
| 5206     | 98                                     | 287              |                                    |                                       | 693                                |                    |
| 5207     | 98                                     |                  |                                    |                                       |                                    |                    |
| 5208     | 98                                     | 174              |                                    |                                       | 693                                |                    |
| 5209     | 98                                     |                  |                                    |                                       |                                    |                    |
| 5210     | 98                                     |                  |                                    |                                       |                                    |                    |
| 5211     | 98                                     | 287              |                                    |                                       | 693                                |                    |
| 5212     | 98                                     |                  |                                    |                                       |                                    |                    |
| 5213     | 98                                     | 116              | 389                                | 390                                   | 799, 804(P), 953(S)                | C47                |
| 5214     | 98                                     | 271              |                                    |                                       | 273                                |                    |
| 5215     | 98                                     | 271              |                                    |                                       | 693                                |                    |
| 5216     | 98                                     |                  |                                    |                                       |                                    |                    |
| 5217     | 98                                     | 307              |                                    |                                       | 693                                |                    |
| 5218     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5219     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5220     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5221     | 99                                     | 293              |                                    |                                       | 693                                |                    |
| 5222     | 99                                     | 287, 442         | 562                                |                                       | 289                                |                    |
| 5222-S   |  |                  | 563                                | 563, 1822                             | 1719, 1822, 1823, 2148             |                    |
| 5223     | 99                                     | 169              |                                    |                                       | 693                                |                    |
| 5224     | 99                                     | 169              | 487                                | 487                                   | 799, 804(P), 953(S)                | C48                |
| 5225     | 99                                     | 249, 307         |                                    |                                       | 693                                |                    |
| 5226     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5227     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5228     | 99                                     | 307              |                                    |                                       | 693                                |                    |
| 5229     | 99                                     |                  |                                    |                                       |                                    |                    |
| 5230     | 99                                     | 141              | 418                                |                                       |                                    |                    |
| 5230-S   |  |                  | 418, 419                           | 423                                   | 423, 1719                          |                    |
| 5231     | 100                                    | 262              |                                    |                                       | 693                                |                    |
| 5232     | 100                                    | 255              | 418                                |                                       |                                    | C303               |
| 5232-S   |  |                  | 418                                | 418                                   | 1261, 1265, 1306(P), 1718(S),      | C303               |
| 5233     | 100                                    |                  |                                    |                                       |                                    |                    |
| 5234     | 100                                    | 255              |                                    |                                       | 693                                |                    |
| 5235     | 100                                    | 151              |                                    |                                       | 693                                |                    |
| 5236     | 100                                    | 394              |                                    |                                       |                                    |                    |
| 5237     | 101                                    |                  |                                    |                                       |                                    |                    |
| 5238     | 101                                    |                  |                                    |                                       |                                    |                    |
| 5239     | 101                                    | 169, 262         | 614                                |                                       |                                    | C278               |
| 5239-S   |  |                  | 614                                | 615                                   | 1266, 1306(P), 1718(S),            | C278               |
| 5240     | 102                                    |                  |                                    |                                       |                                    |                    |
| 5241     | 102                                    | 262              | 570                                | 571                                   | 953, 955(P), 1094(S)               | C97                |
| 5242     | 102                                    | 174              | 615                                | 615                                   | 615, 799, 804(P), 953(S)           | C49                |
| 5243     | 102                                    |                  |                                    |                                       |                                    |                    |
| 5244     | 102                                    | 308              | 456                                |                                       |                                    |                    |

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| 5244-S   |  |                  | 456                                | 456                                   | 1719                                     |                    |
| 5245     | 102                                    |                  |                                    |                                       |  |                    |
| 5246     | 102                                    | 442              |                                    |                                       | 693                                      |                    |
| 5247     | 102                                    |                  |                                    |                                       |  |                    |
| 5248     | 102                                    | 293              |                                    |                                       | 693                                      |                    |
| 5249     | 102                                    |                  |                                    |                                       |  |                    |
| 5250     | 102                                    | 169              | 540                                |                                       |  |                    |
| 5250-S   |  |                  | 541                                | 541                                   | 1719                                     |                    |
| 5251     | 102                                    | 414              | 736                                |                                       |  |                    |
| 5251-S   |  |                  | 736, 1725                          | 768, 1726                             | 768, 1719, 1725, 1725, 2148              |                    |
| 5252     | 102                                    | 147              |                                    |                                       | 693                                      |                    |
| 5253     | 102                                    | 299              | 480                                |                                       |  | C318               |
| 5253-S   |  |                  | 480                                | 486                                   | 486, 1266, 1272, 1306(P), 1718(S),       | C318               |
| 5254     | 103                                    |                  |                                    |                                       |  |                    |
| 5255     | 103                                    |                  |                                    |                                       |  |                    |
| 5256     | 103                                    |                  |                                    |                                       |  |                    |
| 5257     | 103                                    |                  |                                    |                                       |  |                    |
| 5258     | 103                                    |                  |                                    |                                       |  |                    |
| 5259     | 103                                    | 255, 442         |                                    |                                       |  |                    |
| 5260     | 103                                    | 147              | 268                                | 268                                   | 1719                                     |                    |
| 5261     | 103                                    | 299              |                                    |                                       | 693                                      |                    |
| 5262     | 103                                    |                  |                                    |                                       |  |                    |
| 5263     | 103                                    | 249              |                                    |                                       | 693                                      |                    |
| 5264     | 103                                    | 255              | 664                                |                                       |  |                    |
| 5264-S   |  |                  | 664                                | 664                                   | 1719                                     |                    |
| 5265     | 103                                    | 293              | 465                                | 465                                   | 1719                                     |                    |
| 5266     | 103                                    | 300              |                                    |                                       | 693                                      |                    |
| 5267     | 103                                    |                  |                                    |                                       |  |                    |
| 5268     | 104                                    | 308, 414         |                                    |                                       | 693                                      |                    |
| 5269     | 104                                    |                  |                                    |                                       |  |                    |
| 5270     | 104                                    |                  |                                    |                                       |  |                    |
| 5271     | 104                                    | 255              | 457                                |                                       |  | C247               |
| 5271-S   |  |                  | 457                                | 457                                   | 1633, 1634, 1635, 1715(P), 1716(S)       | C247               |
| 5272     | 104                                    | 287              |                                    |                                       |  |                    |
| 5273     | 104                                    | 402              |                                    |                                       | 105, 693                                 |                    |
| 5274     | 104                                    |                  |                                    |                                       |  |                    |
| 5275     | 104                                    | 300, 442         |                                    |                                       | 693                                      |                    |
| 5276     | 104                                    |                  |                                    |                                       |  |                    |
| 5277     | 104                                    |                  |                                    |                                       |  |                    |
| 5278     | 105                                    | 255              | 499                                | 499                                   | 1199, 1260(P), 1313(S)                   | C175               |
| 5279     | 105                                    |                  |                                    |                                       |  |                    |
| 5280     | 105                                    |                  |                                    |                                       |  |                    |
| 5281     | 108                                    | 293              |                                    |                                       | 693                                      |                    |
| 5282     | 108                                    | 271              |                                    |                                       | 693                                      |                    |
| 5283     | 108                                    | 300              |                                    |                                       |  |                    |
| 5284     | 108                                    |                  |                                    |                                       |  |                    |
| 5285     | 108                                    |                  |                                    |                                       |  |                    |
| 5286     | 108                                    | 255              |                                    |                                       | 693                                      |                    |
| 5287     | 108                                    |                  |                                    |                                       |  |                    |
| 5288     | 108                                    | 414              |                                    |                                       | 693                                      |                    |
| 5289     | 108                                    | 736              | 788                                | 788, 1742                             | 1719, 1742, 1846, 1965, 1966(P), 1993(S) | C 26 L 11<br>E1    |
| 5290     | 109                                    |                  |                                    |                                       |  |                    |

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| 5291     | 109                                    | 255              |                                    |                                       | 693                              |                    |
| 5292     | 109                                    | 300              |                                    |                                       | 693                              |                    |
| 5293     | 109                                    | 256              |                                    |                                       | 693                              |                    |
| 5294     | 109                                    | 293              |                                    |                                       | 693                              |                    |
| 5295     | 109                                    | 174              | 474                                | 474                                   | 113, 799, 804(P),<br>953(S)      | C50                |
| 5296     | 109                                    |                  |                                    |                                       |                                  |                    |
| 5297     | 109                                    | 394, 443         |                                    |                                       | 693                              |                    |
| 5298     | 109                                    | 271              | 569                                |                                       |                                  |                    |
| 5298-S   |  |                  | 569                                | 569                                   | 1719                             |                    |
| 5299     | 109                                    |                  |                                    |                                       |                                  |                    |
| 5300     | 109                                    | 402              | 561                                |                                       |                                  | C99                |
| 5300-S   |  |                  | 561                                | 561                                   | 953, 955(P), 1094(S)             | C99                |
| 5301     | 109                                    |                  |                                    |                                       |                                  |                    |
| 5302     | 109                                    | 249              |                                    |                                       | 693                              |                    |
| 5303     | 110                                    | 271              |                                    |                                       | 693                              |                    |
| 5304     | 110                                    | 414              | 552                                | 552                                   | 1636, 1637, 1715(P),<br>1716(S), | C304               |
| 5305     | 110                                    |                  |                                    |                                       |                                  |                    |
| 5306     | 110                                    | 288              |                                    |                                       | 693                              |                    |
| 5307     | 110                                    | 141              | 456                                |                                       |                                  | C32                |
| 5307-S   |  |                  | 456                                | 456                                   | 799, 804(P), 953(S)              | C32                |
| 5308     | 110                                    | 282              |                                    |                                       | 693                              |                    |
| 5309     | 110                                    | 125              |                                    |                                       | 693                              |                    |
| 5310     | 110                                    | 300              |                                    |                                       |                                  |                    |
| 5311     | 110                                    | 402              |                                    |                                       | 693                              |                    |
| 5312     | 110                                    |                  |                                    |                                       |                                  |                    |
| 5313     | 110                                    |                  |                                    |                                       |                                  |                    |
| 5314     | 110                                    | 288              |                                    |                                       | 693                              |                    |
| 5315     | 111                                    | 308              |                                    |                                       | 693                              |                    |
| 5316     | 111                                    |                  |                                    |                                       |                                  |                    |
| 5317     | 111                                    |                  |                                    |                                       |                                  |                    |
| 5318     | 111                                    | 308, 443         |                                    |                                       |                                  |                    |
| 5319     | 111                                    | 256              |                                    |                                       | 693                              |                    |
| 5320     | 111                                    | 256              |                                    |                                       | 693                              |                    |
| 5321     | 111                                    | 249              |                                    |                                       | 693                              |                    |
| 5322     | 111                                    | 288, 308         |                                    |                                       |                                  |                    |
| 5323     | 111                                    |                  |                                    |                                       |                                  |                    |
| 5324     | 111                                    | 308, 443         |                                    |                                       | 693                              |                    |
| 5325     | 111                                    | 282              |                                    |                                       | 693                              |                    |
| 5326     | 111                                    | 256              | 430                                |                                       |                                  | C372               |
| 5326-S   |  |                  | 430                                | 431                                   | 1287, 1289, 1474(P),<br>1716(S), | C372               |
| 5327     | 111                                    | 394, 443         |                                    |                                       | 400                              |                    |
| 5328     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5329     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5330     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5331     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5332     | 112                                    | 288              |                                    |                                       | 693                              |                    |
| 5333     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5334     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5335     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5336     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5337     | 112                                    | 272              | 536                                |                                       |                                  | C51                |
| 5337-S   |  |                  | 536                                | 536                                   | 835, 837(P), 953(S)              | C51                |
| 5338     | 112                                    |                  |                                    |                                       |                                  |                    |
| 5339     | 112                                    |                  |                                    |                                       |                                  |                    |

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| 5340     | 113                                    | 288              |                                    |                                       | 693                                |                    |
| 5341     | 113                                    | 249              |                                    |                                       | 693                                |                    |
| 5342     | 113                                    | 308              |                                    |                                       | 313                                |                    |
| 5343     | 113                                    | 308              | 572                                |                                       |                                    |                    |
| 5343-S   |  |                  | 572                                | 572                                   | 1719                               |                    |
| 5344     | 116                                    | 427              |                                    |                                       | 693                                |                    |
| 5345     | 116                                    |                  |                                    |                                       |                                    |                    |
| 5346     | 116                                    |                  |                                    |                                       |                                    |                    |
| 5347     | 116                                    |                  |                                    |                                       |                                    |                    |
| 5348     | 116                                    | 308              |                                    |                                       |                                    |                    |
| 5349     | 116                                    |                  |                                    |                                       |                                    |                    |
| 5350     | 116                                    | 294              | 479                                |                                       |                                    | C279               |
| 5350-S   |  |                  | 479                                | 479                                   | 1289, 1290, 1291, 1474(P), 1716(S) | C279               |
| 5351     | 116                                    | 394              |                                    |                                       | 693                                |                    |
| 5352     | 116                                    | 256              | 613                                |                                       | 119                                | C100               |
| 5352-S   |  |                  | 613                                | 614                                   | 953, 955(P), 1094(S)               | C100               |
| 5353     | 117                                    |                  |                                    |                                       |                                    |                    |
| 5354     | 117                                    | 394              |                                    |                                       |                                    |                    |
| 5355     | 117                                    | 300              |                                    |                                       | 693                                |                    |
| 5356     | 117                                    | 300              | 665                                |                                       |                                    |                    |
| 5356-S   |  |                  | 665                                | 665                                   | 1719                               |                    |
| 5357     | 117                                    |                  |                                    |                                       |                                    |                    |
| 5358     | 117                                    |                  |                                    |                                       |                                    |                    |
| 5359     | 117                                    | 256, 443         | 576                                |                                       | 119, 257                           | C101               |
| 5359-S   |  |                  | 576                                | 576                                   | 1008, 1029(P), 1094(S)             | C101               |
| 5360     | 117                                    | 294, 402         |                                    |                                       | 693                                |                    |
| 5361     | 117                                    | 277              |                                    |                                       | 693                                |                    |
| 5362     | 117                                    | 262              | 461                                | 461                                   | 1719                               |                    |
| 5363     | 117                                    | 256, 443         |                                    |                                       | 257, 693                           |                    |
| 5364     | 117                                    | 262, 443         | 505                                |                                       |                                    | C102               |
| 5364-S   |  |                  | 505                                | 506                                   | 1008, 1029(P), 1094(S)             | C102               |
| 5365     | 117                                    | 444              |                                    |                                       | 693                                |                    |
| 5366     | 118                                    | 169              | 539                                |                                       |                                    |                    |
| 5366-S   |  |                  | 539, 540                           | 540                                   | 540, 1719                          |                    |
| 5367     | 118                                    | 256              | 641                                | 641                                   | 1123, 1138(P), 1313(S)             | C176               |
| 5368     | 118                                    | 402              |                                    |                                       |                                    |                    |
| 5369     | 118                                    | 256              |                                    |                                       | 693                                |                    |
| 5370     | 118                                    |                  |                                    |                                       |                                    |                    |
| 5371     | 118                                    | 256              | 501                                |                                       |                                    | C315               |
| 5371-S   |  |                  | 501                                | 501                                   | 1291, 1474(P), 1716(S),            | C315               |
| 5372     | 118                                    |                  |                                    |                                       |                                    |                    |
| 5373     | 118                                    | 300              |                                    |                                       | 693                                |                    |
| 5374     | 118                                    | 155              | 573                                |                                       |                                    | C103               |
| 5374-S   |  |                  | 573                                | 573                                   | 953, 955(P), 1094(S)               | C103               |
| 5375     | 118                                    | 170              | 455                                | 455                                   | 799, 804(P), 953(S)                | C52                |
| 5376     | 118                                    |                  |                                    |                                       |                                    |                    |
| 5377     | 118                                    | 155              | 552                                | 552                                   | 1719                               |                    |
| 5378     | 119                                    |                  |                                    |                                       |                                    |                    |
| 5379     | 119                                    |                  |                                    |                                       |                                    |                    |
| 5380     | 122                                    |                  |                                    |                                       |                                    |                    |
| 5381     | 122                                    |                  |                                    |                                       |                                    |                    |
| 5382     | 122                                    |                  |                                    |                                       |                                    |                    |

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| 5383     | 122                                    | 272              |                                    |                                       | 693                              |                    |
| 5384     | 122                                    |                  |                                    |                                       |                                  |                    |
| 5385     | 122                                    | 1258             | 1553                               |                                       |                                  | C339               |
| 5385-S   |  |                  | 1553                               | 1553                                  | 1665, 1715(P),<br>1716(S)        | C339               |
| 5386     | 122                                    | 283              | 542                                |                                       |                                  | C104               |
| 5386-S   |  |                  | 542                                | 543                                   | 885, 937(P), 1094(S)             | C104               |
| 5387     | 122                                    | 300              |                                    |                                       | 693                              |                    |
| 5388     | 122                                    | 288              | 478                                | 478                                   | 799, 804(P), 953(S)              | C53                |
| 5389     | 122                                    | 272              | 489                                | 489                                   | 1123, 1138(P),<br>1313(S)        | C177               |
| 5390     | 122                                    |                  |                                    |                                       |                                  |                    |
| 5391     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5392     | 123                                    | 272              | 491                                |                                       |                                  | C280               |
| 5392-S   |  |                  | 491                                | 492                                   | 1291, 1292, 1474(P),<br>1718(S), | C280               |
| 5393     | 123                                    | 394              |                                    |                                       | 693                              |                    |
| 5394     | 123                                    | 288, 444         | 489                                |                                       |                                  | C316               |
| 5394-S   |  |                  | 489                                | 489                                   | 1292, 1296, 1474(P),<br>1718(S), | C316               |
| 5395     | 123                                    | 263              | 643                                | 643                                   | 953, 955(P), 1094(S)             | C105               |
| 5396     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5397     | 123                                    | 155              |                                    |                                       | 693                              |                    |
| 5398     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5399     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5400     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5401     | 123                                    | 256              |                                    |                                       | 693                              |                    |
| 5402     | 123                                    |                  |                                    |                                       |                                  |                    |
| 5403     | 123                                    | 257              | 435                                | 435                                   | 1719                             |                    |
| 5404     | 124                                    | 257              |                                    |                                       | 257                              |                    |
| 5405     | 124                                    | 444              |                                    |                                       |                                  |                    |
| 5406     | 124                                    | 444              |                                    |                                       |                                  |                    |
| 5407     | 124                                    | 301              |                                    |                                       | 693                              |                    |
| 5408     | 124                                    |                  |                                    |                                       |                                  |                    |
| 5409     | 124                                    |                  |                                    |                                       |                                  |                    |
| 5410     | 124                                    | 394              |                                    |                                       | 693                              |                    |
| 5411     | 124                                    | 444              |                                    |                                       | 693                              |                    |
| 5412     | 124                                    | 402              |                                    |                                       | 693                              |                    |
| 5413     | 124                                    | 288              |                                    |                                       | 693                              |                    |
| 5414     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5415     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5416     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5417     | 126                                    | 288              | 500                                |                                       |                                  |                    |
| 5417-S   |  |                  | 500                                | 501                                   | 1719                             |                    |
| 5418     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5419     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5420     | 126                                    | 294              |                                    |                                       | 693                              |                    |
| 5421     | 126                                    | 402              |                                    |                                       | 693                              |                    |
| 5422     | 126                                    |                  |                                    |                                       |                                  |                    |
| 5423     | 126                                    | 394              | 560                                |                                       |                                  | C106               |
| 5423-S   |  |                  | 560                                | 561                                   | 1008, 1029(P),<br>1094(S)        | C106               |
| 5424     | 127                                    |                  |                                    |                                       |                                  |                    |
| 5425     | 127                                    |                  |                                    |                                       |                                  |                    |
| 5426     | 127                                    | 283              |                                    |                                       | 693                              |                    |
| 5427     | 127                                    | 301, 444         | 550                                |                                       |                                  | C340               |
| 5427-S   |  |                  |                                    |                                       | 1297,                            | C340               |

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| 5427-S2  |  |                  | 551                                | 551                                   | 1296, 1474(P), 1718(S)                        | C340               |
| 5428     | 127                                    | 395              | 506                                |                                       |   | C107               |
| 5428-S   |  |                  | 506                                | 506                                   | 1008, 1029(P), 1094(S)                        | C107               |
| 5429     | 127                                    |                  |                                    |                                       |   |                    |
| 5430     | 127                                    | 301              |                                    |                                       | 693   |                    |
| 5431     | 127                                    | 395              |                                    |                                       | 693   |                    |
| 5432     | 127                                    | 301              | 551                                |                                       |   |                    |
| 5432-S   |  |                  | 551                                | 552                                   | 1719  |                    |
| 5433     | 127                                    | 309              | 474                                |                                       |   |                    |
| 5433-S   |  |                  | 474                                | 475                                   | 1719  |                    |
| 5434     | 127                                    |                  |                                    |                                       |   |                    |
| 5435     | 127                                    | 257              |                                    |                                       | 693   |                    |
| 5436     | 127                                    | 289              | 488                                |                                       |   | C248               |
| 5436-S   |  |                  | 488                                | 488                                   | 1297, 1298, 1474(P), 1718(S),                 | C248               |
| 5437     | 127                                    |                  |                                    |                                       |   |                    |
| 5438     | 128                                    | 289              |                                    |                                       | 693   |                    |
| 5439     | 128                                    | 309              | 488                                |                                       |   |                    |
| 5439-S   |  |                  | 488                                | 488                                   | 1719  |                    |
| 5440     | 128                                    | 263              |                                    |                                       | 693   |                    |
| 5441     | 128                                    |                  |                                    |                                       |   |                    |
| 5442     | 128                                    | 309              | 668                                |                                       | 668   | C108               |
| 5442-S   |  |                  | 668, 1858                          | 668                                   | 953, 955(P), 1094(S)                          | C108               |
| 5443     | 128                                    |                  |                                    |                                       |   |                    |
| 5443-S   |  |                  |                                    |                                       | 474   |                    |
| 5444     | 128                                    | 272              |                                    |                                       | 693   |                    |
| 5445     | 128                                    | 402              | 509                                |                                       | 408   | C317               |
| 5445-S   |  |                  | 509                                | 509                                   | 1298, 1301, 1474(P), 1718(S),                 | C317               |
| 5446     | 130                                    | 272              |                                    |                                       | 693   |                    |
| 5447     | 130                                    |                  |                                    |                                       |   |                    |
| 5448     | 131                                    | 301              |                                    |                                       | 693   |                    |
| 5449     | 131                                    | 403              | 531                                |                                       |   |                    |
| 5449-S   |  |                  | 532                                | 536                                   | 535, 1719                                     |                    |
| 5450     | 131                                    |                  |                                    |                                       |   |                    |
| 5451     | 131                                    | 263, 403         | 465                                |                                       |   | C323               |
| 5451-S   |  |                  | 465                                | 465                                   | 1301, 1302, 1474(P), 1718(S),                 | C323               |
| 5452     | 131                                    | 395              | 561                                |                                       |   | C305               |
| 5452-S   |  |                  | 561                                | 561                                   | 1302, 1306, 1474(P), 1718(S),                 | C305               |
| 5453     | 131                                    |                  |                                    |                                       |   |                    |
| 5454     | 131                                    |                  |                                    |                                       |   |                    |
| 5455     | 131                                    |                  |                                    |                                       |   |                    |
| 5456     | 131                                    |                  |                                    |                                       |   |                    |
| 5457     | 131                                    | 444              | 640                                |                                       |   | C373               |
| 5457-S   |  |                  | 640                                | 641                                   | 641, 1275, 1546, 1693, 1694, 1718(S), 1718(P) | C373               |
| 5458     | 131                                    | 277, 444         | 1754                               |                                       |   |                    |
| 5458-S2  |  |                  | 1754, 1755                         |                                       | 1755  |                    |
| 5459     | 131                                    | 309, 1868        | 1869                               |                                       |   | C 30 L 11<br>E1    |
| 5459-S2  |  |                  | 1869                               | 1870                                  | 1872, 2053, 2057, 2057, 2063(P), 2148(S)      | C 30 L 11<br>E1    |

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| 5460     | 132                                    |                  |                                    |                                       |                                    |                    |
| 5461     | 132                                    |                  |                                    |                                       |                                    |                    |
| 5462     | 132                                    | 309              |                                    |                                       | 313                                |                    |
| 5463     | 132                                    | 309              | 570                                | 570                                   | 885, 937(P), 1094(S)               | C109               |
| 5464     | 132                                    | 403              |                                    |                                       | 693                                |                    |
| 5465     | 132                                    | 151, 795         |                                    |                                       |                                    |                    |
| 5466     | 132                                    |                  |                                    |                                       | 134                                |                    |
| 5467     | 132                                    |                  |                                    |                                       |                                    |                    |
| 5468     | 132                                    | 294              |                                    |                                       |                                    |                    |
| 5469     | 132                                    |                  |                                    |                                       |                                    |                    |
| 5470     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5471     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5472     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5473     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5474     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5475     | 133                                    | 137, 301         |                                    |                                       |                                    |                    |
| 5476     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5477     | 133                                    |                  |                                    |                                       |                                    |                    |
| 5478     | 134                                    | 395              |                                    |                                       | 693                                |                    |
| 5479     | 134                                    |                  |                                    |                                       |                                    |                    |
| 5480     | 134                                    | 257              | 388                                | 388                                   | 1123, 1138(P), 1313(S)             | C178               |
| 5481     | 134                                    |                  |                                    |                                       |                                    |                    |
| 5482     | 134                                    | 272              | 643                                | 643                                   | 134, 953, 955(P), 1094(S)          | C110               |
| 5483     | 134                                    | 309              |                                    |                                       | 693                                |                    |
| 5484     | 134                                    | 309              | 460                                | 461                                   | 1719                               |                    |
| 5485     | 134                                    | 294              | 639                                |                                       |                                    | C341               |
| 5485-S   |  |                  | 639                                | 639                                   | 639, 1316, 1317, 1537(P), 1718(S), | C341               |
| 5486     | 134                                    |                  |                                    |                                       |                                    |                    |
| 5487     | 137                                    | 309              | 665                                |                                       |                                    | C306               |
| 5487-S   |  |                  | 665                                | 665                                   | 1608, 1611, 1715(P), 1716(S),      | C306               |
| 5488     | 137                                    | 301, 445         |                                    |                                       | 693                                |                    |
| 5489     | 138                                    |                  |                                    |                                       |                                    |                    |
| 5490     | 138                                    |                  |                                    |                                       |                                    |                    |
| 5491     | 138                                    | 309              |                                    |                                       | 693                                |                    |
| 5492     | 138                                    | 257              | 589                                | 589                                   | 799, 804(P), 953(S)                | C54                |
| 5493     | 138                                    | 301              | 492                                |                                       |                                    |                    |
| 5493-S   |  |                  | 492                                | 492                                   | 1719                               |                    |
| 5494     | 138                                    | 445              | 637                                | 637                                   | 1719                               |                    |
| 5495     | 138                                    | 395              | 502                                |                                       |                                    | C42                |
| 5495-S   |  |                  | 502                                | 502                                   | 799, 804(P), 953(S)                | C42                |
| 5496     | 138                                    |                  |                                    |                                       |                                    |                    |
| 5497     | 138                                    | 272              | 666                                | 666                                   | 1719                               |                    |
| 5498     | 138                                    | 403              |                                    |                                       | 693                                |                    |
| 5499     | 138                                    | 310              |                                    |                                       | 693                                |                    |
| 5500     | 138                                    | 283              | 431                                | 431                                   | 1093, 1121(P), 1313(S)             | C249               |
| 5501     | 138                                    | 414              | 575                                | 576                                   | 799, 804(P), 953(S)                | C55                |
| 5502     | 139                                    | 395              | 487                                |                                       |                                    | C374               |
| 5502-S   |  |                  | 487                                | 487                                   | 1317, 1320, 1537(P), 1718(S),      | C374               |
| 5503     | 139                                    |                  |                                    |                                       |                                    |                    |
| 5504     | 139                                    | 395              | 463                                |                                       |                                    | C296               |
| 5504-S   |  |                  | 463                                | 463                                   | 1292, 1474(P), 1718(S),            | C296               |

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| 5505     | 139                                    | 403              | 437                                | 439                                   | 439, 1320, 1321, 1537(P), 1718(S),  | C342               |
| 5505-S   |  |                  |                                    |                                       | 437                                 | C342               |
| 5506     | 139                                    |                  |                                    |                                       |                                     |                    |
| 5507     | 139                                    | 395              |                                    |                                       |                                     |                    |
| 5508     | 139                                    | 283              |                                    |                                       | 693                                 |                    |
| 5509     | 139                                    | 294              |                                    |                                       | 693                                 |                    |
| 5510     | 140                                    |                  |                                    |                                       |                                     |                    |
| 5511     | 140                                    |                  |                                    |                                       |                                     |                    |
| 5512     | 140                                    |                  |                                    |                                       |                                     |                    |
| 5513     | 140                                    |                  |                                    |                                       |                                     |                    |
| 5514     | 142                                    | 403              |                                    |                                       | 693                                 |                    |
| 5515     | 142                                    | 395              |                                    |                                       | 693                                 |                    |
| 5516     | 142                                    | 310              | 616                                | 616                                   | 1719                                |                    |
| 5517     | 142                                    | 310, 445         |                                    |                                       | 313, 693                            |                    |
| 5518     | 142                                    |                  |                                    |                                       |                                     |                    |
| 5519     | 142                                    | 310, 414         | 666                                |                                       |                                     |                    |
| 5519-S   |  |                  | 666                                | 666                                   | 1719                                |                    |
| 5520     | 142                                    |                  |                                    |                                       |                                     |                    |
| 5521     | 142                                    | 310              | 490                                | 490                                   | 1719                                |                    |
| 5522     | 142                                    |                  |                                    |                                       |                                     |                    |
| 5523     | 142                                    | 415              |                                    |                                       |                                     |                    |
| 5524     | 143                                    | 272, 310         |                                    |                                       | 693                                 |                    |
| 5525     | 143                                    | 310, 445         | 577                                |                                       |                                     | C363               |
| 5525-S   |  |                  | 577                                | 577                                   | 1321, 1323, 1537(P), 1718(S),       | C363               |
| 5526     | 143                                    | 273, 445         | 504                                | 504                                   | 1093, 1121(P), 1313(S)              | C179               |
| 5527     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5528     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5529     | 143                                    |                  |                                    |                                       | 145                                 |                    |
| 5530     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5531     | 143                                    | 396, 445         | 505                                |                                       |                                     | C343               |
| 5531-S   |  |                  | 505                                | 505                                   | 1541, 1666, 1667, 1715(P), 1716(S), | C343               |
| 5532     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5533     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5534     | 143                                    | 1468             | 1754                               |                                       |                                     |                    |
| 5534-S   |  |                  | 1754                               | 1754                                  | 2148                                |                    |
| 5535     | 143                                    |                  |                                    |                                       |                                     |                    |
| 5536     | 143                                    | 403              |                                    |                                       |                                     |                    |
| 5537     | 143                                    | 310              |                                    |                                       | 693                                 |                    |
| 5538     | 144                                    | 289              | 457                                |                                       |                                     | C56                |
| 5538-S   |  |                  | 457                                | 457                                   | 799, 804(P), 953(S)                 | C56                |
| 5539     | 144                                    | 283, 736         | 1872                               |                                       |                                     |                    |
| 5539-S2  |  |                  | 1872                               | 1872                                  | 2148                                |                    |
| 5540     | 144                                    | 396              | 575                                |                                       |                                     | C375               |
| 5540-S   |  |                  | 575                                | 575                                   | 1474, 1478, 1566(P), 1718(S),       | C375               |
| 5541     | 144                                    | 445              |                                    |                                       | 693                                 |                    |
| 5542     | 144                                    | 680, 1759        | 1857                               |                                       |                                     |                    |
| 5542-S   |  |                  | 1857, 1858, 1859                   | 1861                                  | 1859, 1861, 2148                    |                    |
| 5543     | 144                                    |                  |                                    |                                       |                                     |                    |
| 5544     | 144                                    |                  |                                    |                                       |                                     |                    |
| 5545     | 144                                    | 396              | 568                                |                                       |                                     |                    |
| 5545-S   |  |                  | 568                                | 568                                   | 1719                                |                    |
| 5546     | 144                                    | 403              | 568                                |                                       |                                     | C111               |

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|----------|---|---------------------|---|--|---------------------------------------|-----------------------|
| 5546-S   |   |                     | 568                                     | 568                                      | 885, 937(P), 1094(S)                  | C111                  |
| 5547     | 144                                       | 301                 |   |  | 668, 693                              |                       |
| 5548     | 144                                       |                     |   |  |                                       |                       |
| 5549     | 144                                       |                     |   |  |                                       |                       |
| 5550     | 144                                       | 302                 |   |  | 693                                   |                       |
| 5551     | 145                                       |                     |   |  |                                       |                       |
| 5552     | 145                                       |                     |   |  |                                       |                       |
| 5553     | 145                                       | 310                 | 642                                     |  |                                       |                       |
| 5553-S   |   |                     | 642                                     | 642                                      | 1719                                  |                       |
| 5554     | 145                                       |                     |   |  |                                       |                       |
| 5555     | 145                                       | 294                 | 564                                     |  |                                       | C112                  |
| 5555-S   |   |                     | 564                                     | 565                                      | 953, 955(P), 1094(S)                  | C112                  |
| 5556     | 145                                       | 396                 | 554                                     |  |                                       |                       |
| 5556-S   |   |                     | 554                                     | 554                                      | 1719                                  |                       |
| 5557     | 145                                       | 686                 |   |  |                                       |                       |
| 5558     | 147                                       | 396                 |   |  | 400, 693                              |                       |
| 5559     | 147                                       |                     |   |  | 150                                   |                       |
| 5560     | 147                                       |                     |   |  |                                       |                       |
| 5561     | 147                                       | 302                 |   |  | 693                                   |                       |
| 5562     | 147                                       |                     |   |  |                                       |                       |
| 5563     | 147                                       |                     |   |  |                                       |                       |
| 5564     | 147                                       |                     |   |  |                                       |                       |
| 5565     | 148                                       |                     |   |  |                                       |                       |
| 5566     | 148                                       | 403                 | 617, 621                                | 622                                      | 621, 1719,                            |                       |
| 5567     | 148                                       |                     |   |  |                                       |                       |
| 5568     | 148                                       |                     |   |  |                                       |                       |
| 5569     | 148                                       | 311, 445            |   |  | 693                                   |                       |
| 5570     | 148                                       |                     |   |  |                                       |                       |
| 5571     | 148                                       |                     |   |  | 150                                   |                       |
| 5572     | 148                                       | 396, 446            |   |  | 693                                   |                       |
| 5573     | 148                                       | 396                 |   |  |                                       |                       |
| 5574     | 148                                       | 302                 | 478                                     |  |                                       | C57                   |
| 5574-S   |   |                     | 478                                     | 478                                      | 799, 804(P), 953(S)                   | C57                   |
| 5575     | 148                                       | 257                 | 520, 521, 522,<br>523, 524, 525,<br>537 | 538                                      | 537, 538, 1719                        |                       |
| 5576     | 148                                       | 446                 | 565                                     |  |                                       |                       |
| 5576-S   |   |                     | 565                                     | 565                                      | 1719                                  |                       |
| 5577     | 148                                       | 250                 |   |  |                                       |                       |
| 5578     | 149                                       | 302                 |   |  | 693                                   |                       |
| 5579     | 149                                       | 302                 | 478                                     |  |                                       | C307                  |
| 5579-S   |   |                     | 478                                     | 479                                      | 1478, 1479, 1480,<br>1566(P), 1718(S) | C307                  |
| 5580     | 149                                       | 396                 |   |  | 693                                   |                       |
| 5581     | 149                                       | 795                 | 1809                                    |  | 150                                   | C 7 L 11<br>E1        |
| 5581-S   |   |                     | 1809                                    | 1821                                     | 1817, 1820, 1864,<br>1866(P), 1965(S) | C 7 L 11<br>E1        |
| 5582     | 149                                       | 404                 |   |  | 693                                   |                       |
| 5583     | 149                                       | 250                 |   |  | 693                                   |                       |
| 5584     | 149                                       | 250                 | 506                                     | 507                                      | 1030, 1079(P),<br>1718(S)             | C308                  |
| 5585     | 149                                       | 302                 | 462                                     |  |                                       | C114                  |
| 5585-S   |   |                     | 462                                     | 463                                      | 885, 937(P), 1094(S)                  | C114                  |
| 5586     | 149                                       | 404                 |   |  | 693                                   |                       |
| 5587     | 149                                       | 1759                | 1867                                    |  |                                       |                       |
| 5587-S   |   |                     | 1867                                    | 1867                                     | 2148                                  |                       |
| 5588     | 149                                       |                     |   |  |                                       |                       |

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| 5589     | 149                                    | 273              | 541                                | 541                                   | 885, 937(P), 1094(S)                           | C115               |
| 5590     | 149                                    | 302              | 576                                |                                       |  | C364               |
| 5590-S   |  |                  | 576                                | 576                                   | 1480, 1481, 1566(P), 1718(S),                  | C364               |
| 5591     | 150                                    |                  |                                    |                                       |  |                    |
| 5592     | 150                                    |                  |                                    |                                       |  |                    |
| 5593     | 150                                    | 404              |                                    |                                       |  |                    |
| 5594     | 150                                    | 283              | 490                                |                                       |  | C39                |
| 5594-S   |  |                  | 490, 491                           | 491                                   | 491, 799, 804(P), 953(S)                       | C39                |
| 5595     | 150                                    | 311, 446         | 615                                |                                       |  | C361               |
| 5595-S2  |  |                  | 615                                | 615                                   | 1536, 1537, 1572(P), 1718(S),                  | C361               |
| 5596     | 150                                    | 404, 446         | 637                                |                                       |  | C 1 L 11<br>E1     |
| 5596-S2  |  |                  | 637                                | 638, 1722                             | 1719, 1722, 1803, 1803, 1804, 1820(P), 1965(S) | C 1 L 11<br>E1     |
| 5597     | 150                                    | 396              |                                    |                                       | 693  |                    |
| 5598     | 150                                    |                  |                                    |                                       |  |                    |
| 5599     | 150                                    | 404              |                                    |                                       | 693  |                    |
| 5600     | 152                                    | 302              |                                    |                                       | 693  |                    |
| 5601     | 152                                    |                  |                                    |                                       |  |                    |
| 5602     | 152                                    |                  |                                    |                                       |  |                    |
| 5603     | 152                                    |                  |                                    |                                       |  |                    |
| 5604     | 152                                    |                  |                                    |                                       |  |                    |
| 5605     | 152                                    | 397              | 638                                |                                       |  |                    |
| 5605-S   |  |                  | 638                                | 639                                   | 638, 1719                                      |                    |
| 5606     | 152                                    | 404              |                                    |                                       |  |                    |
| 5607     | 152                                    | 302              |                                    |                                       | 693  |                    |
| 5608     | 153                                    |                  |                                    |                                       |  |                    |
| 5609     | 153                                    |                  |                                    |                                       |  |                    |
| 5610     | 153                                    | 311              |                                    |                                       | 693  |                    |
| 5611     | 153                                    | 404              |                                    |                                       | 693  |                    |
| 5612     | 153                                    | 257, 404         |                                    |                                       |  |                    |
| 5613     | 153                                    | 257, 404         |                                    |                                       |  |                    |
| 5614     | 153                                    | 289              | 570                                |                                       |  | C344               |
| 5614-S   |  |                  | 570                                | 570                                   | 1537, 1572(P), 1718(S),                        | C344               |
| 5615     | 153                                    |                  |                                    |                                       |  |                    |
| 5616     | 153                                    | 303, 446         |                                    |                                       | 693  |                    |
| 5617     | 153                                    | 303              |                                    |                                       | 693  |                    |
| 5618     | 153                                    | 311              | 617                                |                                       |  |                    |
| 5618-S   |  |                  | 617                                | 617                                   |  |                    |
| 5619     | 153                                    |                  |                                    |                                       |  |                    |
| 5620     | 153                                    | 303              |                                    |                                       | 693  |                    |
| 5621     | 154                                    | 170              |                                    |                                       |  |                    |
| 5622     | 154                                    | 311, 1258        | 1543                               |                                       |  | C320               |
| 5622-S2  |  |                  | 1543                               | 1544                                  | 1665, 1715(P), 1716(S)                         | C320               |
| 5623     | 154                                    |                  |                                    |                                       |  |                    |
| 5624     | 154                                    |                  |                                    |                                       |  |                    |
| 5625     | 162                                    | 289              | 459                                | 459                                   | 1469, 1658, 1659, 1715(P), 1716(S),            | C297               |
| 5626     | 162                                    | 397              |                                    |                                       | 163  |                    |
| 5627     | 162                                    | 397              |                                    |                                       | 693  |                    |
| 5628     | 162                                    | 446              | 480                                | 480                                   | 1635, 1636, 1715(P), 1716(S),                  | C365               |

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| 5629     | 162                                    |                  |                                    |                                       |   |                    |
| 5630     | 162                                    | 397              |                                    |                                       | 693   |                    |
| 5631     | 162                                    | 289              | 564                                | 564                                   | 1719  |                    |
| 5632     | 162                                    | 273              |                                    |                                       |   |                    |
| 5633     | 162                                    | 311              | 554                                | 554                                   | 885, 937(P), 1094(S)                          | C116               |
| 5634     | 162                                    | 397              |                                    |                                       | 693   |                    |
| 5635     | 162                                    | 294              | 489                                |                                       |   | C117               |
| 5635-S   |  |                  | 489                                | 489                                   | 885, 937(P), 1094(S)                          | C117               |
| 5636     | 162                                    | 397, 446         | 509                                |                                       |   | C321               |
| 5636-S2  |  |                  | 509                                | 509                                   | 1593, 1595, 1715(P), 1716(S),                 | C321               |
| 5637     | 162                                    |                  |                                    |                                       |   |                    |
| 5638     | 163                                    | 447              | 571, 1848                          | 572, 1850                             | 1719, 1848, 1850, 1965, 1966(P), 1993(S),     | C 28 L 11<br>E1    |
| 5639     | 163                                    | 303              |                                    |                                       |   |                    |
| 5640     | 163                                    |                  |                                    |                                       |   |                    |
| 5641     | 163                                    |                  |                                    |                                       |   |                    |
| 5642     | 170                                    | 250              |                                    |                                       |   |                    |
| 5643     | 170                                    |                  |                                    |                                       |   |                    |
| 5644     | 170                                    |                  |                                    |                                       |   |                    |
| 5645     | 170                                    |                  |                                    |                                       |   |                    |
| 5646     | 170                                    | 397              |                                    |                                       | 693   |                    |
| 5647     | 170                                    | 311              | 616, 617                           | 617                                   | 1719  |                    |
| 5648     | 170                                    |                  |                                    |                                       |   |                    |
| 5649     | 171                                    | 405              |                                    |                                       | 693   |                    |
| 5650     | 171                                    | 405              |                                    |                                       | 693   |                    |
| 5651     | 171                                    |                  |                                    |                                       |   |                    |
| 5652     | 171                                    |                  |                                    |                                       |   |                    |
| 5653     | 171                                    |                  |                                    |                                       |   |                    |
| 5654     | 171                                    |                  |                                    |                                       |   |                    |
| 5655     | 171                                    | 405              |                                    |                                       | 693   |                    |
| 5656     | 171                                    | 397              | 593                                |                                       |   | C309               |
| 5656-S   |  |                  | 593                                | 606                                   | 606, 1202, 1611, 1624, 1625, 1715(P), 1716(S) | C309               |
| 5657     | 171                                    |                  |                                    |                                       |   |                    |
| 5658     | 171                                    | 415              | 553                                |                                       |   | C376               |
| 5658-S   |  |                  | 553                                | 553                                   | 1538, 1572(P), 1718(S),                       | C376               |
| 5659     | 171                                    |                  |                                    |                                       |   |                    |
| 5660     | 171                                    | 397              |                                    |                                       |   |                    |
| 5661     | 171                                    | 311              |                                    |                                       | 693   |                    |
| 5662     | 171                                    | 405, 447         | 553                                |                                       |   | C345               |
| 5662-S2  |  |                  | 553                                | 554                                   | 1215, 1637, 1638, 1715(P), 1716(S),           | C345               |
| 5663     | 172                                    | 405              |                                    |                                       | 693   |                    |
| 5664     | 172                                    | 397              | 475                                |                                       |   | C118               |
| 5664-S   |  |                  | 475                                | 475                                   | 885, 937(P), 1094(S)                          | C118               |
| 5665     | 172                                    |                  |                                    |                                       |   |                    |
| 5666     | 172                                    |                  |                                    |                                       |   |                    |
| 5667     | 172                                    |                  |                                    |                                       |   |                    |
| 5668     | 176                                    |                  |                                    |                                       |   |                    |
| 5669     | 176                                    | 405, 1868        | 1872                               |                                       |   |                    |
| 5669-S2  |  |                  | 1873                               | 1873                                  | 1873, 2148                                    |                    |
| 5670     | 177                                    |                  |                                    |                                       |   |                    |
| 5671     | 177                                    | 311              | 435                                |                                       |   |                    |
| 5671-S   |  |                  | 435                                | 435                                   | 1719  |                    |

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| 5672     | 177                                    |                  |                                    |                                       |                                    |                    |
| 5673     | 177                                    | 398              |                                    |                                       | 693                                |                    |
| 5674     | 177                                    | 312              | 459                                | 460                                   | 1719                               |                    |
| 5675     | 177                                    |                  |                                    |                                       |                                    |                    |
| 5676     | 177                                    | 312              | 666                                |                                       |                                    |                    |
| 5676-S   |  |                  | 666                                | 666                                   | 1719                               |                    |
| 5677     | 177                                    | 405              |                                    |                                       | 408, 693                           |                    |
| 5678     | 177                                    |                  |                                    |                                       |                                    |                    |
| 5679     | 177                                    |                  |                                    |                                       |                                    |                    |
| 5680     | 178                                    |                  |                                    |                                       |                                    |                    |
| 5681     | 178                                    | 398              |                                    |                                       | 693                                |                    |
| 5682     | 178                                    | 447              |                                    |                                       | 693                                |                    |
| 5683     | 250                                    | 312              |                                    |                                       |                                    |                    |
| 5684     | 250                                    |                  |                                    |                                       |                                    |                    |
| 5685     | 250                                    | 303              |                                    |                                       | 693                                |                    |
| 5686     | 250                                    | 398              |                                    |                                       | 693                                |                    |
| 5687     | 250                                    | 312              |                                    |                                       | 313, 693                           |                    |
| 5688     | 250                                    | 405              | 664                                |                                       |                                    | C324               |
| 5688-S   |  |                  | 664                                | 665                                   | 1538, 1540, 1541, 1572(P), 1718(S) | C324               |
| 5689     | 251                                    | 447              |                                    |                                       | 693                                |                    |
| 5690     | 251                                    | 398              |                                    |                                       | 693                                |                    |
| 5691     | 251                                    | 398              | 561                                |                                       |                                    | C346PV             |
| 5691-S   |  |                  | 561                                | 562                                   | 1642, 1658, 1715(P), 1716(S),      | C346PV             |
| 5692     | 251                                    |                  |                                    |                                       |                                    |                    |
| 5693     | 251                                    | 405              |                                    |                                       | 693                                |                    |
| 5694     | 251                                    |                  |                                    |                                       |                                    |                    |
| 5695     | 251                                    | 406              | 576                                |                                       |                                    |                    |
| 5695-S   |  |                  | 576                                | 577                                   |                                    |                    |
| 5696     | 251                                    | 303              |                                    |                                       | 693                                |                    |
| 5697     | 251                                    |                  |                                    |                                       |                                    |                    |
| 5698     | 251                                    |                  |                                    |                                       |                                    |                    |
| 5699     | 251                                    |                  |                                    |                                       |                                    |                    |
| 5700     | 251                                    | 273              | 388                                |                                       |                                    | C377PV             |
| 5700-S   |  |                  | 388                                | 391                                   | 1544, 1545, 1546, 1572(P), 1718(S) | C377PV             |
| 5701     | 258                                    |                  |                                    |                                       |                                    |                    |
| 5702     | 258                                    |                  |                                    |                                       |                                    |                    |
| 5703     | 258                                    | 398              |                                    |                                       | 693                                |                    |
| 5704     | 258                                    |                  |                                    |                                       |                                    |                    |
| 5705     | 258                                    | 312              |                                    |                                       | 313                                |                    |
| 5706     | 258                                    | 398              |                                    |                                       | 693                                |                    |
| 5707     | 258                                    |                  |                                    |                                       |                                    |                    |
| 5708     | 258                                    | 406              | 507                                |                                       |                                    | C366               |
| 5708-S   |  |                  | 507                                | 508                                   | 1638, 1715(P), 1716(S),            | C366               |
| 5709     | 259                                    | 398              |                                    |                                       | 693                                |                    |
| 5710     | 259                                    |                  |                                    |                                       |                                    |                    |
| 5711     | 259                                    | 406              |                                    |                                       | 693                                |                    |
| 5712     | 259                                    |                  |                                    |                                       |                                    |                    |
| 5713     | 259                                    | 312, 447         |                                    |                                       | 693                                |                    |
| 5714     | 259                                    | 398              |                                    |                                       | 693                                |                    |
| 5715     | 259                                    | 289              |                                    |                                       | 693                                |                    |
| 5716     | 259                                    |                  |                                    |                                       |                                    |                    |
| 5717     | 259                                    | 312              |                                    |                                       |                                    |                    |
| 5718     | 259                                    |                  |                                    |                                       |                                    |                    |

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| 5719     | 259                                    |                  |                                    |                                       |  |                    |
| 5720     | 263                                    |                  |                                    |                                       |  |                    |
| 5721     | 263                                    |                  |                                    |                                       |  |                    |
| 5722     | 263                                    | 398              | 461                                |                                       |  | C347               |
| 5722-S   |  |                  | 461                                | 461                                   | 1638, 1639, 1715(P),<br>1716(S),                                     | C347               |
| 5723     | 263                                    | 406              |                                    |                                       | 693  |                    |
| 5724     | 263                                    |                  |                                    |                                       |  |                    |
| 5725     | 263                                    |                  |                                    |                                       |  |                    |
| 5726     | 263                                    | 399              |                                    |                                       | 693  |                    |
| 5727     | 264                                    |                  |                                    |                                       |  |                    |
| 5728     | 264                                    |                  |                                    |                                       |  |                    |
| 5729     | 264                                    |                  |                                    |                                       | 266  |                    |
| 5730     | 264                                    | 303              | 588                                | 589                                   | 304, 588, 589, 1719  |                    |
| 5731     | 264                                    | 312              | 566                                | 567                                   | 567, 1546, 1547,<br>1547, 1572(P),<br>1718(S)                        | C310               |
| 5732     | 264                                    | 312              |                                    |                                       | 313  |                    |
| 5733     | 264                                    |                  |                                    |                                       |  |                    |
| 5734     | 264                                    |                  |                                    |                                       |  |                    |
| 5735     | 264                                    | 313              |                                    |                                       | 313  |                    |
| 5736     | 264                                    |                  |                                    |                                       |  |                    |
| 5737     | 264                                    |                  |                                    |                                       |  |                    |
| 5738     | 264                                    |                  |                                    |                                       |  |                    |
| 5739     | 264                                    |                  |                                    |                                       |  |                    |
| 5740     | 265                                    | 399              | 606                                |                                       |  |                    |
| 5740-S   |  |                  | 606                                | 611                                   | 611, 1306  |                    |
| 5741     | 265                                    | 313, 447         | 563                                |                                       | 313  | C311               |
| 5741-S   |  |                  | 563                                | 563                                   | 1547, 1551, 1552,<br>1572(P), 1718(S)                                | C311               |
| 5742     | 265                                    | 447              | 1104                               |                                       |  | C 16 L 11<br>E1    |
| 5742-S   |  |                  | 1104, 1823                         | 1111, 1833                            | 1111, 1823, 1832,<br>1847, 1864, 1967,<br>1977, 1991(P),<br>2063(S), | C 16 L 11<br>E1    |
| 5743     | 265                                    |                  |                                    |                                       |  |                    |
| 5744     | 265                                    |                  |                                    |                                       |  |                    |
| 5745     | 265                                    |                  |                                    |                                       |  |                    |
| 5746     | 265                                    | 406              |                                    |                                       | 693  |                    |
| 5747     | 265                                    | 399              | 464                                |                                       |  | C12                |
| 5747-S   |  |                  | 464                                | 464                                   | 744, 768(P), 799(S)  | C12                |
| 5748     | 265                                    | 289              | 573                                |                                       |  | C281               |
| 5748-S   |  |                  | 573                                | 575                                   | 575, 1639, 1641, 1642,<br>1715(P), 1716(S)                           | C281               |
| 5749     | 265                                    | 399, 447         | 569                                |                                       |  | C 12 L 11<br>E1    |
| 5749-S   |  |                  | 569, 1918                          | 570, 1921                             | 1470, 1546, 1719,<br>1918, 1921, 1991,<br>1991(P), 2063(S),          | C 12 L 11<br>E1    |
| 5750     | 265                                    |                  |                                    |                                       |  |                    |
| 5751     | 265                                    |                  |                                    |                                       |  |                    |
| 5752     | 265                                    | 399              |                                    |                                       | 693  |                    |
| 5753     | 265                                    |                  |                                    |                                       |  |                    |
| 5754     | 266                                    |                  |                                    |                                       |  |                    |
| 5755     | 274                                    | 406              |                                    |                                       | 693  |                    |
| 5756     | 274                                    |                  |                                    |                                       |  |                    |
| 5757     | 274                                    | 406              |                                    |                                       |  |                    |

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| 5758     | 274                                    | 448              |                                    |                                       | 275, 693  |                    |
| 5759     | 274                                    |                  |                                    |                                       |   |                    |
| 5760     | 274                                    |                  |                                    |                                       |   |                    |
| 5761     | 274                                    |                  |                                    |                                       |   |                    |
| 5762     | 274                                    |                  |                                    |                                       |   |                    |
| 5763     | 274                                    | 448              | 479                                | 480                                   | 681(P), 681, 683(S)   | C7                 |
| 5764     | 274                                    | 399, 448         | 510, 1727                          | 517, 1733                             | 400, 510, 516, 1719, 1727, 1727, 1733, 1977, 1983, 1984, 1991(P), 2063(S) | C 14 L 11<br>E1    |
| 5765     | 274                                    |                  |                                    |                                       |   |                    |
| 5766     | 275                                    | 406              |                                    |                                       | 693   |                    |
| 5767     | 275                                    |                  |                                    |                                       |   |                    |
| 5768     | 275                                    |                  |                                    |                                       |   |                    |
| 5769     | 275                                    | 399, 448         | 622                                |                                       |   | C180               |
| 5769-S2  |  |                  | 622, 629                           | 630                                   | 629, 1574, 1581, 1715(P), 1716(S),  | C180               |
| 5770     | 275                                    |                  |                                    |                                       |   |                    |
| 5771     | 275                                    | 448              |                                    |                                       | 693   |                    |
| 5772     | 275                                    |                  |                                    |                                       |   |                    |
| 5773     | 277                                    | 448              | 661, 1722, 1723                    | 663, 1723                             | 1719, 1722, 1836, 1837, 1837, 1845(P), 1965(S),                           | C 8 L 11<br>E1     |
| 5774     | 277                                    |                  |                                    |                                       |   |                    |
| 5775     | 277                                    |                  |                                    |                                       |   |                    |
| 5776     | 278                                    |                  |                                    |                                       |   |                    |
| 5777     | 278                                    |                  |                                    |                                       |   |                    |
| 5778     | 278                                    |                  |                                    |                                       |   |                    |
| 5779     | 278                                    | 406              |                                    |                                       | 693   |                    |
| 5780     | 278                                    |                  |                                    |                                       |   |                    |
| 5781     | 278                                    |                  |                                    |                                       |   |                    |
| 5782     | 278                                    |                  |                                    |                                       |   |                    |
| 5783     | 278                                    |                  |                                    |                                       |   |                    |
| 5784     | 278                                    | 407              | 488                                |                                       |   | C250               |
| 5784-S   |  |                  | 488                                | 488                                   | 1473, 1474, 1566(P), 1718(S),   | C250               |
| 5785     | 278                                    | 448              | 565                                |                                       |   |                    |
| 5785-S   |  |                  | 565                                | 565                                   | 1719  |                    |
| 5786     | 278                                    |                  |                                    |                                       |   |                    |
| 5787     | 285                                    |                  |                                    |                                       |   |                    |
| 5788     | 285                                    | 407              | 643                                |                                       |   | C119PV             |
| 5788-S   |  |                  | 643, 660                           | 661                                   | 660, 953, 955(P), 1094(S)   | C119PV             |
| 5789     | 285                                    |                  |                                    |                                       |   |                    |
| 5790     | 285                                    | 399              |                                    |                                       | 693   |                    |
| 5791     | 285                                    | 449              | 541                                |                                       |   | C378               |
| 5791-S   |  |                  | 541                                | 541                                   | 1582, 1715(P), 1716(S),   | C378               |
| 5792     | 285                                    |                  |                                    |                                       |   |                    |
| 5793     | 285                                    |                  |                                    |                                       |   |                    |
| 5794     | 285                                    |                  |                                    |                                       |   |                    |
| 5795     | 286                                    | 449              |                                    |                                       | 693   |                    |
| 5796     | 286                                    | 449              | 541                                |                                       |   |                    |
| 5796-S   |  |                  | 541                                | 542                                   | 1719  |                    |
| 5797     | 286                                    | 449              | 542                                |                                       |   | C120               |
| 5797-S   |  |                  | 542                                | 542                                   | 885, 937(P), 1094(S)  | C120               |
| 5798     | 286                                    | 303              | 492                                |                                       |   |                    |
| 5798-S   |  |                  | 492                                | 492                                   | 1719  |                    |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                              | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|---|--------------------|
| 5799     | 286                                    |                  |                                    |                                       |   |                    |
| 5800     | 286                                    | 449              | 572                                |                                       |   | C121               |
| 5800-S   |  |                  | 572                                | 572                                   | 885, 937(P), 1094(S)                      | C121               |
| 5801     | 286                                    | 407              | 429                                |                                       |   | C6                 |
| 5801-S   |  |                  | 429                                | 430                                   | 631, 643(P), 683(S)                       | C6                 |
| 5802     | 286                                    |                  |                                    |                                       |   |                    |
| 5803     | 290                                    | 407              |                                    |                                       | 693                                       |                    |
| 5804     | 290                                    |                  |                                    |                                       |   |                    |
| 5805     | 290                                    |                  |                                    |                                       |   |                    |
| 5806     | 290                                    | 399, 690         | 876                                | 938                                   | 938, 1535, 1537(P), 1718(S)               | C352               |
| 5807     | 290                                    | 313              |                                    |                                       |   |                    |
| 5808     | 290                                    |                  |                                    |                                       |   |                    |
| 5809     | 295                                    |                  |                                    |                                       |   |                    |
| 5810     | 295                                    |                  |                                    |                                       |   |                    |
| 5811     | 295                                    |                  |                                    |                                       |   |                    |
| 5812     | 295                                    |                  |                                    |                                       |   |                    |
| 5813     | 295                                    | 400              |                                    |                                       | 693                                       |                    |
| 5814     | 295                                    |                  |                                    |                                       |   |                    |
| 5815     | 295                                    | 407              |                                    |                                       | 693                                       |                    |
| 5816     | 295                                    |                  |                                    |                                       |   |                    |
| 5817     | 295                                    | 449              |                                    |                                       | 693                                       |                    |
| 5818     | 295                                    |                  |                                    |                                       |   |                    |
| 5819     | 295                                    | 407              | 592                                | 593                                   | 1719                                      |                    |
| 5820     | 305                                    |                  |                                    |                                       |   |                    |
| 5821     | 305                                    |                  |                                    |                                       |   |                    |
| 5822     | 305                                    |                  |                                    |                                       |   |                    |
| 5823     | 305                                    |                  |                                    |                                       |   |                    |
| 5824     | 305                                    | 407              |                                    |                                       | 693                                       |                    |
| 5825     | 305                                    |                  |                                    |                                       |   |                    |
| 5826     | 305                                    |                  |                                    |                                       |   |                    |
| 5827     | 305                                    |                  |                                    |                                       |   |                    |
| 5828     | 305                                    |                  |                                    |                                       |   |                    |
| 5829     | 313                                    |                  |                                    |                                       |   |                    |
| 5830     | 313                                    |                  |                                    |                                       |   |                    |
| 5831     | 314                                    |                  |                                    |                                       |   |                    |
| 5832     | 314                                    |                  |                                    |                                       |   |                    |
| 5833     | 314                                    |                  |                                    |                                       |   |                    |
| 5834     | 314                                    | 449              | 613                                |                                       |   | C 38 L 11<br>E1    |
| 5834-S   |  |                  | 613, 1993                          | 613, 1996                             | 1719, 1993, 1996, 2147, 2147(P), 2148(S), | C 38 L 11<br>E1    |
| 5835     | 400                                    |                  |                                    |                                       |   |                    |
| 5836     | 400                                    | 449              | 542                                |                                       |   | C379               |
| 5836-S   |  |                  | 542                                | 542                                   | 1216, 1543, 1707, 1709, 1718(S), 1718(P)  | C379               |
| 5837     | 400                                    | 449              |                                    |                                       | 693                                       |                    |
| 5838     | 400                                    | 450              |                                    |                                       | 693                                       |                    |
| 5839     | 400                                    |                  |                                    |                                       |   |                    |
| 5840     | 400                                    |                  |                                    |                                       |   |                    |
| 5841     | 400                                    |                  |                                    |                                       |   |                    |
| 5842     | 400                                    |                  |                                    |                                       |   |                    |
| 5843     | 400                                    |                  |                                    |                                       |   |                    |
| 5844     | 401                                    | 737              | 1045                               |                                       |   |                    |
| 5844-S   |  |                  | 1045                               | 1046, 1091, 1723                      | 1049, 1091, 1719, 1723, 2148              |                    |

| Bill No. | Introduction<br>& 1 <sup>st</sup> Reading | Committee<br>Report | 2 <sup>nd</sup> Reading<br>Amendments | 3 <sup>rd</sup> Reading<br>Final Passage | Other Action                                   | Action by<br>Governor |
|----------|---|---------------------|---------------------------------------|--|--|-----------------------|
| 5845     | 409                                       |                     |                                       |  |  |                       |
| 5846     | 409                                       | 1258                | 1903                                  |  |  |                       |
| 5846-S   |   |                     | 1903                                  | 1903                                     | 2002   |                       |
| 5847     | 409                                       |                     |                                       |  |  |                       |
| 5848     | 409                                       |                     |                                       |  |  |                       |
| 5849     | 409                                       | 450                 | 577                                   | 577                                      | 409, 953, 955(P),<br>1094(S)                   | C113                  |
| 5850     | 409                                       |                     |                                       |  |  |                       |
| 5851     | 415                                       |                     |                                       |  |  |                       |
| 5852     | 415                                       | 450                 | 637                                   | 637, 1743                                | 1719, 1743, 2148                               |                       |
| 5853     | 415                                       |                     |                                       |  |  |                       |
| 5854     | 416                                       |                     |                                       |  |  |                       |
| 5855     | 428                                       |                     |                                       |  |  |                       |
| 5856     | 428                                       |                     |                                       |  |  |                       |
| 5857     | 428                                       |                     |                                       |  |  |                       |
| 5858     | 434                                       |                     |                                       |  |  |                       |
| 5859     | 453                                       |                     |                                       |  |  |                       |
| 5860     | 467                                       | 1984                | 2003                                  |  |  | C 39 L 11<br>E1       |
| 5860-S   |   |                     | 2003                                  | 2003                                     | 2063, 2145(P),<br>2148(S)                      | C 39 L 11<br>E1       |
| 5861     | 468                                       |                     |                                       |  |  |                       |
| 5862     | 495                                       | 835                 |                                       |  |  |                       |
| 5863     | 526                                       |                     |                                       |  |  |                       |
| 5864     | 590                                       |                     |                                       |  |  |                       |
| 5865     | 590                                       |                     |                                       |  |  |                       |
| 5866     | 590                                       |                     |                                       |  |  |                       |
| 5867     | 632                                       |                     |                                       |  |  |                       |
| 5868     | 632                                       | 705                 |                                       |  |  |                       |
| 5869     | 670                                       |                     |                                       |  |  |                       |
| 5870     | 676                                       |                     |                                       |  |  |                       |
| 5871     | 681                                       |                     |                                       |  |  |                       |
| 5872     | 683                                       |                     |                                       |  |  |                       |
| 5873     | 683                                       | 1821                | 1822, 1823                            | 1823                                     | 1823, 2148                                     |                       |
| 5874     | 683                                       |                     |                                       |  |  |                       |
| 5875     | 684                                       | 737                 |                                       |  |  |                       |
| 5876     | 692                                       |                     |                                       |  |  |                       |
| 5877     | 692                                       | 737                 |                                       |  |  |                       |
| 5878     | 702                                       |                     |                                       |  |  |                       |
| 5879     | 707                                       |                     |                                       |  |  |                       |
| 5880     | 714                                       |                     |                                       |  |  |                       |
| 5881     | 714                                       |                     |                                       |  |  |                       |
| 5882     | 714                                       | 785                 |                                       |  |  |                       |
| 5883     | 725                                       |                     |                                       |  |  |                       |
| 5884     | 725                                       |                     |                                       |  |  |                       |
| 5885     | 725                                       |                     |                                       |  |  |                       |
| 5886     | 725                                       |                     |                                       |  |  |                       |
| 5887     | 725                                       |                     |                                       |  |  |                       |
| 5888     | 725                                       |                     |                                       |  |  |                       |
| 5889     | 725                                       |                     |                                       |  |  |                       |
| 5890     | 725                                       |                     |                                       |  |  |                       |
| 5891     | 725                                       | 1868                | 1870                                  |  |  | C 40 L 11<br>E1       |
| 5891-S   |   |                     | 1870                                  | 1872                                     | 1872, 1999, 1999,<br>2000, 2004(P),<br>2063(S) | C 40 L 11<br>E1       |
| 5892     | 725                                       |                     |                                       |  |  |                       |
| 5893     | 726                                       |                     |                                       |  |  |                       |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                             | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 5894     | 726                                    |                  |                                    |                                       |  |                    |
| 5895     | 726                                    |                  |                                    |                                       |  |                    |
| 5896     | 726                                    |                  |                                    |                                       |  |                    |
| 5897     | 726                                    |                  |                                    |                                       |  |                    |
| 5898     | 726                                    |                  |                                    |                                       |  |                    |
| 5899     | 726                                    |                  |                                    |                                       |  |                    |
| 5900     | 726                                    |                  |                                    |                                       |  |                    |
| 5901     | 726                                    |                  |                                    |                                       |  |                    |
| 5902     | 726                                    |                  |                                    |                                       |  |                    |
| 5903     | 726                                    |                  |                                    |                                       |  |                    |
| 5904     | 726                                    |                  |                                    |                                       |  |                    |
| 5905     | 726                                    |                  |                                    |                                       |  |                    |
| 5906     | 726                                    |                  |                                    |                                       |  |                    |
| 5907     | 726                                    | 737, 795         | 1030, 1089                         | 1090                                  | 1076, 1089, 1090, 1535, 1537(P), 1718(S) | C252               |
| 5908     | 731                                    |                  |                                    |                                       |  |                    |
| 5909     | 744                                    |                  |                                    |                                       |  |                    |
| 5910     | 744                                    |                  |                                    |                                       |  |                    |
| 5911     | 750                                    | 796              |                                    |                                       |  |                    |
| 5912     | 786                                    | 1759             | 1857                               |                                       |  | C 41 L 11<br>E1    |
| 5912-S   |  |                  | 1857                               | 1857                                  | 1965, 1966(P), 1993(S)                   | C 41 L 11<br>E1    |
| 5913     | 835                                    |                  |                                    |                                       |  |                    |
| 5914     | 835                                    |                  |                                    |                                       | 836                                      |                    |
| 5915     | 836                                    |                  |                                    |                                       |  |                    |
| 5916     | 836                                    |                  |                                    |                                       |  |                    |
| 5917     | 836                                    |                  |                                    |                                       |  |                    |
| 5918     | 885                                    |                  |                                    |                                       |  |                    |
| 5919     | 885                                    | 1990             | 2051                               |                                       |  | C 27 L 11<br>E1    |
| 5919-S   |  |                  | 2051                               | 2053                                  | 2147(P), 2147, 2148(S)                   | C 27 L 11<br>E1    |
| 5920     | 885                                    | 1468             |                                    |                                       |  |                    |
| 5921     | 954                                    | 1285             |                                    |                                       |  | C 42 L 11<br>E1    |
| 5921-S   |  |                  | 1734                               | 1740                                  | 1740, 1837, 1844, 1845(P), 1993(S),      | C 42 L 11<br>E1    |
| 5922     | 954                                    |                  |                                    |                                       |  |                    |
| 5923     | 954                                    |                  |                                    |                                       |  |                    |
| 5924     | 954                                    | 1741             | 1758                               |                                       |  |                    |
| 5924-S   |  |                  | 1758                               | 1758                                  | 2148                                     |                    |
| 5925     | 1008                                   |                  |                                    |                                       |  |                    |
| 5926     | 1008                                   | 1285             |                                    |                                       | 1009                                     |                    |
| 5927     | 1050                                   | 1285             | 1755                               |                                       |  | C 9 L 11<br>E1     |
| 5927-S   |  |                  | 1755, 1756                         | 1756                                  | 1756, 1804, 1807, 1808, 1820(P), 1965(S) | C 9 L 11<br>E1     |
| 5928     | 1050                                   |                  |                                    |                                       |  |                    |
| 5929     | 1092                                   | 1468             |                                    |                                       |  |                    |
| 5930     | 1092                                   |                  |                                    |                                       |  |                    |
| 5931     | 1092                                   | 1845             | 1861                               |                                       |  | C 43 L 11<br>E1    |
| 5931-S   |  |                  | 1861, 1862                         | 1863                                  | 2063, 2142, 2143, 2145(P), 2148(S)       | C 43 L 11<br>E1    |
| 5932     | 1123                                   |                  |                                    |                                       |  |                    |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action                                   | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 5933     | 1199                                   |                  |                                    |                                       |  |                    |
| 5934     | 1199                                   |                  |                                    |                                       | 1200   |                    |
| 5935     | 1220                                   | 1759             | 1801                               |                                       |  |                    |
| 5935-S   |  |                  | 1801                               | 1801                                  | 2148   |                    |
| 5936     | 1220                                   |                  |                                    |                                       |  |                    |
| 5937     | 1220                                   |                  |                                    |                                       |  |                    |
| 5938     | 1220                                   |                  |                                    |                                       |  |                    |
| 5939     | 1220                                   |                  |                                    |                                       |  |                    |
| 5940     | 1220                                   |                  |                                    |                                       |  |                    |
| 5941     | 1221                                   | 1741             | 1754                               | 1754                                  | 1958, 1960, 1966(P),<br>1993(S),               | C 44 L 11<br>E1    |
| 5942     | 1221                                   | 1868             | 1921                               |                                       |  | C 45 L 11<br>E1    |
| 5942-S   |  |                  | 1921, 1922                         | 1923                                  | 2000, 2002, 2057,<br>2058, 2063(P),<br>2148(S) | C 45 L 11<br>E1    |
| 5943     | 1221                                   |                  |                                    |                                       |  |                    |
| 5944     | 1221                                   |                  |                                    |                                       |  |                    |
| 5945     | 1221                                   |                  |                                    |                                       |  |                    |
| 5946     | 1221                                   |                  |                                    |                                       |  |                    |
| 5947     | 1221                                   |                  |                                    |                                       |  |                    |
| 5948     | 1259                                   |                  |                                    |                                       |  |                    |
| 5949     | 1259                                   |                  |                                    |                                       |  |                    |
| 5950     | 1259                                   |                  |                                    |                                       |  |                    |
| 5951     | 1286                                   |                  |                                    |                                       |  |                    |
| 5952     | 1535                                   |                  |                                    |                                       | 1535   |                    |
| 5953     | 1741                                   |                  |                                    |                                       |  |                    |
| 5954     | 1746                                   |                  |                                    |                                       |  |                    |
| 5955     | 1802                                   |                  |                                    |                                       |  |                    |
| 5956     | 1819                                   |                  | 1819                               | 1820                                  | 1819, 1924, 1925(P),<br>1993(S)                | C 29 L 11<br>E1    |
| 5957     | 1819                                   |                  |                                    |                                       |  |                    |
| 5958     | 1834                                   | 1864             | 1874, 1875                         | 1875                                  | 1875   |                    |
| 5959     | 1845                                   |                  |                                    |                                       |  |                    |
| 5960     | 1864                                   | 1868             | 1873                               |                                       |  |                    |
| 5960-S   |  |                  | 1873, 1874                         | 1874                                  | 2148   |                    |
| 5961     | 1924                                   |                  |                                    |                                       |  |                    |
| 5962     | 1998                                   |                  |                                    |                                       |  |                    |
| 5963     | 1998                                   |                  |                                    |                                       |  |                    |
| 5964     | 1998                                   |                  |                                    |                                       |  |                    |
| 6892     | 1                                      | 2                |                                    |                                       |  |                    |
| 6892-S   |  |                  | 2                                  | 3                                     | 6(P), 6, 7(S)                                  |                    |
| 6893     | 1                                      | 2                |                                    |                                       |  |                    |
| 6893-S   |  |                  | 3                                  | 3                                     | 6(P), 6, 7(S)                                  |                    |

**HISTORY OF SENATE JOINT MEMORIALS**

| <b>Bill No.</b> | <b>Introduction &amp;<br/>1<sup>st</sup> Reading</b> | <b>Committee<br/>Report</b> | <b>2<sup>nd</sup> Reading<br/>Amendments</b> | <b>3<sup>rd</sup> Reading Final<br/>Passage</b> | <b>Other Action</b>                   |
|-----------------|--|-----------------------------|--|---|---------------------------------------|
| 8000            | 113  |                             |  |   |                                       |
| 8001            | 113  |                             |  |   |                                       |
| 8002            | 172  |                             |  |   |                                       |
| 8003            | 172  | 427                         |  |   | 693                                   |
| 8004            | 172  | 407                         | 503  |   |                                       |
| 8004-S          |  |                             | 504  | 504   | 1008, 1029(P), 1094(S)                |
| 8005            | 178  | 273                         |  |   | 693                                   |
| 8006            | 278  | 407                         |  |   | 693                                   |
| 8007            | 295  |                             |  |   |                                       |
| 8008            | 314  | 408                         | 716  | 717   | 693, 1611, 1611,<br>1715(P), 1716(S), |
| 8009            | 1221   | 1759                        | 1801   | 1801  | 2148                                  |
| 8010            | 1469   |                             |  |   |                                       |
| 8011            | 1998   |                             | 2058   | 2059  | 1999, 2149                            |

## HISTORY OF SENATE JOINT RESOLUTIONS

| Bill No. | Introduction<br>& 1 <sup>st</sup> Reading | Committee<br>Report | 2 <sup>nd</sup> Reading<br>Amendments | 3 <sup>rd</sup> Reading<br>Final Passage | Other Action                                 |
|----------|---|---------------------|---------------------------------------|--|--|
| 8200     | 87  |                     |                                       |  |  |
| 8201     | 87  |                     |                                       |  |  |
| 8202     | 87  | 450                 |                                       |  |  |
| 8203     | 87  |                     |                                       |  |  |
| 8204     | 94  |                     |                                       |  |  |
| 8205     | 94  | 151                 | 410                                   | 410                                      | 1008, 1029(P), 1199(S)                       |
| 8206     | 113                                       | 450                 | 562                                   | 562, 1723                                | 1719, 1723, 1960, 1960,<br>1966(P), 1993(S), |
| 8207     | 113                                       |                     |                                       |  |  |
| 8208     | 113                                       |                     |                                       |  |  |
| 8209     | 119                                       |                     |                                       |  |  |
| 8210     | 128                                       |                     |                                       |  |  |
| 8211     | 128                                       |                     |                                       |  |  |
| 8212     | 145                                       |                     |                                       |  |  |
| 8213     | 259                                       | 313                 |                                       |  | 313  |
| 8214     | 259                                       |                     |                                       |  |  |
| 8215     | 401                                       | 737                 | 1010                                  |  |  |
| 8215-S   |   |                     | 1010                                  | 1010, 1724                               | 1719, 1724, 2148                             |
| 8216     | 428                                       |                     |                                       |  |  |

**HISTORY OF SENATE CONCURRENT RESOLUTIONS**

| <b>Bill No.</b> | <b>Introduction &amp;<br/>1<sup>st</sup> Reading</b> | <b>Committee<br/>Report</b> | <b>2<sup>nd</sup> Reading<br/>Amendments</b> | <b>3<sup>rd</sup> Reading<br/>Final Passage</b> | <b>Other Action</b>           |
|-----------------|--|-----------------------------|--|---|-------------------------------|
| 8400            | 172  |                             | 252  |   | 172, 252, 274, 278(P), 281(S) |
| 8401            | 1716   |                             | 1717   |   | 1716, 1717, 1718(S), 1718(P)  |
| 8402            | 1716   |                             | 1717   |   | 1716, 1717, 1718(S), 1718(P), |
| 8403            | 2147   |                             | 2147   |   | 2147, 2148(S), 2148(P),       |
| 8404            | 2147   |                             | 2147   |   | 2147, 2148(S), 2148(P)        |
| 8415            | 2  |                             | 6  |   | 2, 6(P), 6, 7(S)              |

## HISTORY OF SENATE FLOOR RESOLUTIONS

| NUMBER | SUBJECT                      | ACTION |
|--------|------------------------------|--------|
| 8600   | Senator Bob McCaslin         | 121    |
| 8601   | 38th distr. senator election |        |
| 8602   | Civil air patrol             | 164    |
| 8603   | Zillah and its citizens      | 173    |
| 8604   | Adopting senate rules        | 25     |
| 8605   | Slavery & human trafficking  | 88     |
| 8606   | Dr. Martin Luther King, Jr.  | 95     |
| 8607   | Polly Rosmond                | 105    |
| 8608   | Rainier Connect centennial   | 146    |
| 8609   | Billy "Bud" Rhynalds         | 136    |
| 8610   | Valoria Loveland             | 114    |
| 8611   | Senate rules                 | 120    |
| 8612   | Lloyd and Catherine Beebe    | 114    |
| 8613   | Constitution/citizenshp days | 173    |
| 8614   | Washington National Guard    | 179    |
| 8615   | Jeannette Hayner             | 637    |
| 8616   | Eastern Wash. University     | 315    |
| 8617   | Catholic schools             | 678    |
| 8618   | South Bend H.S. football     | 279    |
| 8619   | Ronald Reagan                | 401    |
| 8620   | Boy Scouts of America        | 266    |
| 8621   | Norway                       | 276    |
| 8622   | Civic education & educators  | 292    |
| 8623   | YMCA                         | 453    |
| 8624   | 4-H youth development prog   | 712    |
| 8625   | Senator Margarita Prentice   | 412    |
| 8626   | Consul-general Haryong Lee   | 434    |
| 8627   | Chinese-Americans            | 433    |
| 8628   | Tahoma High School students  | 474    |
| 8629   | Sheriff William Cumming      | 567    |
| 8630   | Home education families      | 689    |
| 8631   | Jay Maebori                  | 530    |
| 8632   | Blessing of the fleet        | 675    |
| 8633   | Skagit Valley tulip festival | 684    |
| 8634   | Turkey & the Turkish people  | 708    |
| 8635   | Washington public ports      | 685    |
| 8636   | Kato City & city of Olympia  | 685    |
| 8637   | Women in sports              | 694    |
| 8638   | Tina MacRae                  | 699    |
| 8639   | Parliamentary internship     | 727    |
| 8640   | Olympia                      | 708    |
| 8641   | Brain injury awareness month | 703    |
| 8642   | Japan earthquake survivors   | 704    |
| 8643   | 2011 daffodil festival       | 715    |
| 8644   | Individuals with autism      | 886    |
| 8645   | Workers' compensation system | 731    |
| 8646   | 100 years of Camp Fire USA   | 1014   |
| 8647   | Peace Corps                  | 836    |
| 8648   | Granite Falls ShopGirls team | 800    |
| 8649   | National donate life month   | 1051   |
| 8650   | Workers' memorial day        | 1093   |
| 8651   | Michael Reagan/Fallen Heroes | 955    |
| 8652   | Blanca Gonzalez Torres       | 1283   |
| 8653   | Apple blossom festival       | 1125   |
| 8654   | Yakima health district       | 1202   |
| 8655   | Civil War                    | 1138   |

| <b>NUMBER</b> | <b>SUBJECT</b>               | <b>ACTION</b> |
|---------------|------------------------------|---------------|
| 8656          | Red Hat Society              | 1222          |
| 8657          | Shaken baby syndrome         | 1312          |
| 8658          | Lewis & Clark HS/Gonzaga Pr. | 1536          |
| 8659          | Janet Haag                   | 1534          |
| 8660          | Sheridan McDonald            | 1693          |
| 8661          | Counter-terrorism service    | 1757          |

## HISTORY OF HOUSE BILLS

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action   | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 1000     | 251                                    | 728              | 1125, 1127                         | 1127                                  | 250, 1127, 1285, 1718(S), 1718(P)                        | C348PV             |
| 1001-S   | 416                                    |                  |                                    |                                       | 415, 1719  |                    |
| 1003-S   | 468                                    | 696              |                                    |                                       | 452, 1720  |                    |
| 1008-S   | 526                                    | 696              | 1142, 1143                         | 1143                                  | 495, 529, 1143, 1285, 1718(S), 1718(P)                   | C254               |
| 1009-S   | 632                                    | 737              |                                    |                                       | 616, 1720  |                    |
| 1012     | 260                                    | 686              | 794                                | 794                                   | 258, 953(S), 956(P)                                      | C59                |
| 1014     | 429                                    | 690              |                                    |                                       | 427, 1720  |                    |
| 1015     | 290                                    |                  |                                    |                                       | 289, 1719  |                    |
| 1016     | 260                                    | 682              | 761                                | 761                                   | 258, 800(S), 803(P)                                      | C13                |
| 1019-S   | 290                                    | 737              |                                    |                                       | 289, 1720  |                    |
| 1021     | 676                                    | 737              |                                    |                                       | 670, 1720  |                    |
| 1024-S   | 260                                    | 709              | 968                                | 968                                   | 258, 1094(S), 1095(P)                                    | C123               |
| 1026-S   | 429                                    | 737              | 792, 1682                          | 792, 1683                             | 428, 792, 1682, 1682, 1683, 1692, 1717(S), 1718(P)       | C255               |
| 1028     | 416                                    | 686              | 789                                | 789                                   | 415, 800(S), 803(P)                                      | C14                |
| 1031     | 429                                    | 686              | 1030                               | 1030                                  | 427, 1313(S), 1315(P)                                    | C182               |
| 1037-S   | 590                                    | 738              | 818                                | 818                                   | 556, 818, 1560, 1717(S), 1718(P)                         | C220               |
| 1039     | 260                                    | 680              |                                    |                                       | 258, 1720  |                    |
| 1040     | 260                                    | 728              | 1131                               | 1133                                  | 258, 1132, 1258, 1313(S), 1315(P)                        | C183               |
| 1041-S   | 632                                    | 738              | 847, 849                           | 849                                   | 616, 849, 1219, 1313(S), 1315(P)                         | C221               |
| 1042-S   | 670                                    |                  |                                    |                                       | 631  |                    |
| 1046-S   | 670                                    | 728              | 1074, 1561                         | 1075, 1563                            | 631, 1075, 1561, 1561, 1562, 1607, 1717(S), 1718(P)      | C326               |
| 1048-S   | 590                                    | 700              | 832                                | 832                                   | 556, 953(S), 956(P)                                      | C60                |
| 1050     | 416                                    | 738              |                                    |                                       | 415, 1720  |                    |
| 1051-S   | 526                                    | 738              | 922                                | 935                                   | 495, 935, 1219, 1313(S), 1315(P)                         | C327               |
| 1052     | 526                                    | 728              | 1119                               | 1120                                  | 495, 1314(S), 1315(P)                                    | C328               |
| 1053-S   | 677                                    | 738              | 838, 845, 846, 1668                | 846, 1676                             | 670, 846, 1473, 1668, 1668, 1676, 1692, 1717(S), 1718(P) | C329PV             |
| 1055-S   | 670                                    | 686              | 746                                | 746                                   | 631, 800(S), 803(P)                                      | C15                |
| 1057-S   | 590                                    | 686              |                                    |                                       | 556, 1720  |                    |
| 1061-S   | 416                                    | 676              | 1121                               | 1121                                  | 415, 1314(S), 1315(P)                                    | C256               |
| 1069     | 468                                    | 686              | 767                                | 767                                   | 452, 800(S), 803(P)                                      | C16                |
| 1071-S   | 495                                    | 750              | 805, 833                           | 806                                   | 467, 805, 1219, 1313(S), 1315(P)                         | C257               |
| 1074     | 260                                    | 686              | 979                                | 979                                   | 258, 1094(S), 1095(P)                                    | C124               |
| 1075     | 260                                    |                  |                                    |                                       | 258, 1719  |                    |
| 1078-S   | 260                                    | 690              |                                    |                                       | 258, 1720  |                    |
| 1081-S   | 556                                    | 720              | 793, 794                           | 794                                   | 530, 794, 1563, 1676, 1676, 1716                         |                    |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments       | 3 <sup>rd</sup> Reading Final Passage | Other Action   | Action by Governor |
|----------|--|------------------|--|---------------------------------------|--|--------------------|
| 1084-S   | 590                                    | 720              | 1138                                     | 1139                                  | 556, 1258, 1314(S), 1315(P)  | C355PV             |
| 1086-S   | 128                                    | 174              | 179, 180, 247                            | 247                                   | 126, 247, 296, 387, 391(P), 391                                      | C5PV               |
| 1087-S   | 1124, 1998                             | 1285             | 1323, 1462, 1463, 1464, 2144             | 1467, 2145                            | 1094, 1466, 1998, 1999, 2148(S), 2148(P)                             | C 50 L 11<br>E1    |
| 1089-S   | 556                                    | 705              | 1113                                     | 1114                                  | 530, 1114, 1258, 1314(S), 1315(P)                                    | C356PV             |
| 1091     | 275                                    |                  | 279                                      | 280                                   | 275, 281(S), 281(P)  | C4                 |
| 1094-S   | 632                                    |                  |  |                                       | 616, 1719  |                    |
| 1103-S   | 416                                    | 709              | 795                                      | 795                                   | 415, 795, 1258, 1314(S), 1315(P)                                     | C368               |
| 1104-S   | 429                                    |                  |  |                                       | 427, 1719  |                    |
| 1105-S   | 468                                    | 738              | 819                                      | 819                                   | 452, 953(S), 956(P)  | C61                |
| 1106     | 495                                    | 705              | 1120                                     | 1120                                  | 467, 1314(S), 1315(P)  | C184               |
| 1127-S   | 429                                    | 738              | 1130, 1131                               | 1131                                  | 427, 1131, 1285, 1718(S), 1718(P)                                    | C222               |
| 1128-S2  | 556                                    | 738              | 1553                                     | 1559                                  | 530, 1559, 1607, 1717(S), 1718(P)                                    | C330               |
| 1129     | 260                                    | 686              | 718                                      | 718                                   | 258, 800(S), 803(P)  | C17                |
| 1131     | 1802                                   | 1984             | 1992                                     | 1992                                  | 1802, 2063(S), 2143(P)   | C 17 L 11<br>E1    |
| 1132-S2  | 1802                                   | 1984             | 1992                                     | 1992                                  | 1802, 2063(S), 2143(P)   | C 18 L 11<br>E1    |
| 1133-S   | 556                                    | 720              | 1031                                     | 1031                                  | 530, 1313(S), 1315(P)  | C223               |
| 1135-S   | 670                                    | 696              | 1140                                     | 1141                                  | 631, 1259, 1314(S), 1315(P)  | C224               |
| 1136-S   | 416                                    | 796              | 1052                                     | 1055                                  | 415, 1055, 1219, 1313(S), 1315(P)                                    | C225               |
| 1144-S2  | 590                                    | 720              |  |                                       | 556  |                    |
| 1145-S   | 526                                    | 696              | 864                                      | 866                                   | 495, 866, 1219, 1313(S), 1315(P)                                     | C164               |
| 1148-S   | 526                                    | 738              | 1045                                     | 1045                                  | 495, 1313(S), 1315(P)  | C147               |
| 1150     | 590                                    | 687              | 781                                      | 781                                   | 556, 800(S), 803(P)  | C18                |
| 1153-S2  | 526                                    | 738              | 960                                      | 960                                   | 495, 1094(S), 1095(P)  | C125               |
| 1163-S2  | 556                                    | 709, 785         | 813                                      | 814                                   | 530, 814, 1219, 1313(S), 1315(P)                                     | C185               |
| 1166     | 677                                    | 728              |  |                                       | 670, 1720  |                    |
| 1167-S   | 671                                    | 739              |  |                                       | 631, 743, 1719   |                    |
| 1168     | 495                                    | 696              |  |                                       | 467, 1720  |                    |
| 1169-S   | 526                                    | 690              | 905                                      | 905                                   | 495, 1094(S), 1095(P)  | C126               |
| 1170-S   | 526                                    | 739              | 1019, 1022                               | 1024                                  | 495, 1024, 1259, 1314(S), 1315(P)                                    | C148               |
| 1171     | 591                                    | 769              | 942                                      | 942                                   | 556, 1094(S), 1095(P)  | C127               |
| 1172-S   | 591                                    | 720              | 882                                      | 882                                   | 556, 954(S), 956(P)  | C62                |
| 1175-S   | 750                                    |                  | 1481, 1533, 1552, 1566, 1567, 1568, 1570 | 1570                                  | 744, 751, 1533, 1541, 1552, 1566, 1567, 1570, 1716, 1717(S), 1717(P) | C367PV             |
| 1176     | 290                                    | 705              |  |                                       | 290, 1720  |                    |

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|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 1177     | 671                                    | 709              | 789                                | 789                                   | 670, 789, 1314(S), 1315(P)                         | C219               |
| 1178     | 591                                    | 684              | 938                                | 940                                   | 556, 940, 1258, 1314(S), 1315(P)                   | C149               |
| 1179     | 671                                    | 709              | 864                                | 864                                   | 631, 954(S), 956(P)                                | C63                |
| 1181     | 468                                    | 682              | 791                                | 791                                   | 452, 953(S), 956(P)                                | C41                |
| 1182     | 290                                    | 690              | 1029                               | 1029                                  | 290, 1313(S), 1315(P)                              | C165               |
| 1183-S   | 416                                    | 709              | 788                                | 788                                   | 415, 1219, 1313(S), 1315(P)                        | C150               |
| 1184     | 632                                    | 690              |                                    |                                       | 616, 1720  |                    |
| 1186-S2  | 496                                    | 739, 796         | 850, 856, 860                      | 863                                   | 467, 860, 863, 1219, 1313(S), 1316(P)              | C122               |
| 1188-S   | 468                                    | 709              | 1025                               | 1029                                  | 452, 1028, 1259, 1314(S), 1315(P)                  | C166               |
| 1190     | 291                                    | 721              | 975                                | 975                                   | 290, 1094(S), 1095(P)                              | C128               |
| 1191     | 468                                    | 680              | 1002                               | 1002                                  | 452, 1094(S), 1095(P)                              | C129               |
| 1194-S   | 468                                    | 728              | 906                                |                                       | 452, 1720  |                    |
| 1195     | 527                                    |                  |                                    |                                       | 495, 1719  |                    |
| 1202-S   | 591                                    | 721              | 778                                | 780                                   | 556, 780, 1219, 1313(S), 1316(P)                   | C186               |
| 1205-S   | 468                                    | 739              |                                    |                                       | 452, 1720  |                    |
| 1206-S2  | 591                                    | 728              | 804                                | 804                                   | 556, 953(S), 956(P)                                | C64PV              |
| 1207     | 416                                    | 729              |                                    |                                       | 415, 1720  |                    |
| 1211-S   | 416                                    | 680              | 1051                               | 1052                                  | 415, 1051, 1219, 1313(S), 1316(P)                  | C226               |
| 1212     | 416                                    | 691              |                                    |                                       | 415, 1720  |                    |
| 1214-S   | 468                                    |                  |                                    |                                       | 453, 1719  |                    |
| 1215     | 527                                    | 721              | 818                                | 818                                   | 495, 953(S), 956(P)                                | C65                |
| 1217-S   | 260                                    |                  |                                    |                                       | 258, 1719  |                    |
| 1218-S   | 496                                    | 682              | 1010                               | 1010                                  | 467, 1313(S), 1315(P)                              | C151               |
| 1220-S   | 632                                    | 709              | 962                                | 963                                   | 616, 962, 963, 1219, 1313(S), 1316(P)              | C312               |
| 1221     | 291                                    | 705              |                                    |                                       | 290, 1720  |                    |
| 1222     | 527                                    |                  |                                    |                                       | 495, 1719  |                    |
| 1223     | 677                                    | 710              | 983                                | 983                                   | 670, 1094(S), 1095(P)                              | C130               |
| 1224-S   | 671, 1835                              | 796              | 1902                               | 1902                                  | 631, 1720, 1835, 1836, 1924, 1993(S), 1993(P)      | C 19 L 11 E1       |
| 1225     | 291                                    | 687              | 1052                               | 1052                                  | 290, 1313(S), 1315(P)                              | C152               |
| 1227     | 416                                    | 680              | 867                                | 867                                   | 415, 954(S), 956(P)                                | C66                |
| 1229     | 291                                    | 687              | 762, 1677                          | 767, 1682                             | 290, 767, 1676, 1677, 1682, 1692, 1717(S), 1718(P) | C227               |
| 1231     | 468                                    | 705              |                                    |                                       | 452, 1720  |                    |
| 1234     | 468                                    | 700              |                                    |                                       | 452, 1720  |                    |
| 1236     | 469                                    |                  |                                    |                                       | 452, 1719  |                    |
| 1237-S   | 417                                    | 796              | 1014                               | 1014                                  | 415, 1313(S), 1316(P)                              | C350               |
| 1239     | 469                                    | 785              | 1002                               | 1002                                  | 452, 1094(S), 1095(P)                              | C131               |

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|----------|---|---------------------|---------------------------------------|--|---|-----------------------|
| 1243-S   | 469                                       | 739                 | 868                                   | 869                                      | 452, 954(S), 956(P)                                       | C67                   |
| 1244     | 469                                       | 721                 |                                       |  | 452, 1720   |                       |
| 1247-S   | 527                                       | 696                 | 731                                   | 732                                      | 495, 529, 800(S),<br>803(P)                               | C19                   |
| 1248     | 1819                                      | 1845                | 1857                                  | 1857                                     | 1819, 1965(S),<br>1966(P)                                 | C 2 L 11<br>E1        |
| 1249-S   | 527                                       | 696                 |                                       |  | 495, 1720   |                       |
| 1250-S   | 1924                                      |                     |                                       |  | 1924, 2149,   |                       |
| 1253-S   | 671                                       | 739                 |                                       |  | 631, 1720   |                       |
| 1254-S   | 496                                       | 705                 | 1115                                  | 1116                                     | 467, 1116, 1220,<br>1313(S), 1316(P)                      | C187                  |
| 1257-S   | 671                                       | 696                 | 1116                                  | 1117                                     | 631, 1116, 1259,<br>1314(S), 1315(P)                      | C188PV                |
| 1263     | 469                                       | 691                 | 802                                   | 802                                      | 452, 953(S), 956(P)                                       | C68                   |
| 1265-S   | 591                                       | 729                 |                                       |  | 556, 1720   |                       |
| 1266-S   | 469                                       | 691                 | 984                                   | 984                                      | 452, 1094(S),<br>1095(P)                                  | C132                  |
| 1267-S2  | 496                                       | 713                 | 1149, 1158,<br>1159, 1160,<br>1583    | 1161, 1593                               | 467, 1161, 1582,<br>1582, 1592, 1692,<br>1717(S), 1718(P) | C283                  |
| 1274     | 291                                       |                     |                                       |  | 290, 1719   |                       |
| 1277-S   | 1008, 1747                                | 1759                | 1808                                  | 1808                                     | 956, 1747, 1965(S),<br>1966(P)                            | C 3 L 11<br>E1        |
| 1280     | 260                                       |                     |                                       |  | 258, 1719   |                       |
| 1281     | 469                                       |                     |                                       |  | 452, 1719   |                       |
| 1286     | 429                                       |                     |                                       |  | 427   |                       |
| 1290     | 591                                       | 700, 785            | 1012                                  | 1013                                     | 556, 1013, 1220,<br>1313(S), 1316(P)                      | C251                  |
| 1293     | 291                                       |                     |                                       |  | 290, 1719   |                       |
| 1294-S   | 496                                       | 705                 | 768                                   | 768                                      | 467, 800(S), 803(P)                                       | C20                   |
| 1295-S   | 469                                       | 687                 | 1117, 1118                            | 1119                                     | 453, 1118, 1285,<br>1718(S), 1718(P)                      | C331                  |
| 1298     | 469                                       | 739                 | 783                                   | 784                                      | 452, 800(S), 803(P)                                       | C21                   |
| 1303     | 417                                       | 697                 | 817                                   | 817                                      | 415, 418, 953(S),<br>956(P)                               | C69                   |
| 1304-S   | 291                                       | 682                 | 874                                   | 874                                      | 290, 954(S), 956(P)                                       | C70                   |
| 1306     | 291                                       | 687                 | 980                                   | 981                                      | 290, 981, 1220,<br>1313(S), 1316(P)                       | C153                  |
| 1309-S   | 591                                       | 713                 | 895                                   | 901                                      | 556, 901, 1220,<br>1313(S), 1316(P)                       | C189                  |
| 1311-S   | 632                                       | 721                 | 902, 903, 905                         | 905                                      | 616, 905, 1285,<br>1718(S), 1718(P)                       | C313                  |
| 1312-S   | 954                                       | 1258                | 1560                                  | 1560                                     | 885, 1717(S),<br>1718(P)                                  | C284                  |
| 1315-S   | 469                                       | 700                 | 984                                   | 985                                      | 452, 985, 1220,<br>1314(S), 1315(P)                       | C228                  |
| 1327     | 469                                       |                     |                                       |  | 452, 1720   |                       |
| 1328-S   | 469                                       | 710                 | 1055, 1056                            | 1058                                     | 452, 1057, 1259,<br>1314(S), 1315(P)                      | C332                  |
| 1329-S   | 417                                       | 796                 | 1060                                  | 1063                                     | 415, 1063, 1220,<br>1314(S), 1315(P)                      | C229                  |
| 1332-S   | 417                                       | 687                 | 996                                   | 1000                                     | 415, 1000, 1285,<br>1717(S), 1718(P)                      | C258                  |
| 1334     | 417                                       | 739                 | 819                                   | 822                                      | 415, 418, 822,<br>1258, 1314(S),<br>1315(P)               | C282                  |
| 1336-S   | 470                                       |                     |                                       |  | 452, 1720   |                       |
| 1339-S   | 591                                       |                     |                                       |  | 556, 1720   |                       |

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|---|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 1340                                      | 496                                    | 721              | 984                                | 984                                   | 467, 1094(S), 1095(P)                  | C133               |
| 1343                                      | 470                                    |                  |                                    |                                       | 452, 1720                              |                    |
| 1345                                      | 291                                    | 682              | 747                                | 747                                   | 290, 800(S), 803(P)                    | C22                |
| 1346-S                                    | 671, 1965                              | 691, 1984        | 2058                               | 2058                                  | 1720, 1965, 2148(S), 2148(P)           | C 20 L 11<br>E1    |
| 1347                                      | 671                                    | 691              | 716                                | 716                                   | 631, 800(S), 803(P)                    | C23                |
| 1353                                      | 470                                    | 687              | 792                                | 792                                   | 452, 954(S), 956(P)                    | C71                |
| 1354-S                                    | 1835                                   | 1869             | 1901                               | 1901                                  | 1835, 1965(S), 1966(P)                 | C 4 L 11<br>E1     |
| 1357                                      | 677                                    | 691              | 716                                | 716                                   | 670, 800(S), 803(P)                    | C24                |
| 1358                                      | 291                                    | 769              | 1063                               | 1063                                  | 290, 1313(S), 1315(P)                  | C230               |
| 1362-S2                                   | 557                                    | 697              | 751                                | 759                                   | 530, 758, 799, 954(S), 956(P)          | C58                |
| 1364                                      | 557                                    |                  |                                    |                                       | 530, 670, 1720                         |                    |
| 1365-S                                    | 470                                    | 721              |                                    |                                       | 453, 1720, 2148                        |                    |
| 1365-S<br>Other<br>Action .<br>. . . 2149 |  |                  |                                    |                                       |  |                    |
| 1367-S                                    | 677                                    | 721              | 1046                               | 1048                                  | 670, 1047, 1220, 1314(S), 1315(P)      | C190               |
| 1371-S2                                   | 1747                                   | 1864             | 1877, 1878                         | 1901                                  | 1747, 1900, 1977, 1993(S), 1993(P)     | C 21 L 11<br>E1    |
| 1381                                      | 632                                    |                  |                                    |                                       | 616, 1720                              |                    |
| 1382                                      | 671                                    | 796              | 1063, 1066, 1067                   | 1067                                  | 631, 1067, 1285, 1718(S), 1718(P)      | C369               |
| 1384-S                                    | 672                                    | 750              | 1068                               | 1068                                  | 631, 1068, 1313(S), 1315(P)            | C231               |
| 1391                                      | 557                                    | 680              | 801                                | 801                                   | 530, 954(S), 956(P)                    | C72                |
| 1392                                      | 260                                    |                  |                                    |                                       | 258, 1720                              |                    |
| 1395                                      | 496                                    | 705              |                                    |                                       | 467, 1720                              |                    |
| 1398                                      | 417                                    | 713              |                                    |                                       | 415, 1720                              |                    |
| 1401-S                                    | 557                                    | 697              |                                    |                                       | 530, 1720                              |                    |
| 1402-S                                    | 496                                    | 721              | 921                                | 922                                   | 467, 1094(S), 1095(P)                  | C134               |
| 1405-S2                                   | 557                                    | 691              | 1058, 1059                         | 1060                                  | 530, 1059, 1258, 1314(S), 1315(P)      | C191               |
| 1406-S                                    | 470                                    | 700              | 1029                               | 1029                                  | 453, 1313(S), 1315(P)                  | C215PV             |
| 1407                                      | 470                                    | 697              | 801                                | 801                                   | 452, 801, 1220, 1258, 1314(S), 1315(P) | C285               |
| 1409                                      | 672                                    | 710              | 958, 959                           | 959                                   | 631, 959, 1220, 1314(S), 1315(P)       | C259               |
| 1410-S                                    | 2146                                   |                  | 2146                               | 2146                                  | 2146, 2148(S), 2148(P)                 | C 22 L 11<br>E1    |
| 1412                                      | 632                                    | 721              | 762                                | 762                                   | 616, 800(S), 803(P)                    | C25                |
| 1413                                      | 497                                    | 706              | 1120                               | 1120                                  | 467, 1314(S), 1316(P)                  | C154               |
| 1418                                      | 261                                    | 722              | 1143, 1144                         | 1145                                  | 258, 1145, 1285, 1718(S), 1718(P)      | C351               |
| 1419                                      | 497                                    | 739              | 1133                               | 1135                                  | 467, 1286, 1718(S), 1718(P)            | C253               |
| 1421-S                                    | 672                                    | 722, 796         | 1088                               | 1089                                  | 631, 1313(S), 1315(P)                  | C216               |

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|-----------------|--|-----------------------------|---|---|--|-------------------------------|
| 1422-S          | 417  | 739                         | 802   | 803   | 415, 803, 1220,<br>1314(S), 1315(P)                      | C217                          |
| 1424            | 291  | 706                         | 747   | 747   | 290, 800(S), 803(P)                                      | C26                           |
| 1425            | 470  | 706                         | 1141  | 1141  | 452, 1314(S),<br>1316(P)                                 | C155                          |
| 1431-S          | 633  | 722, 797                    | 1024  | 1025  | 616, 1025, 1220,<br>1314(S), 1315(P)                     | C192                          |
| 1432            | 470  | 722                         | 907   | 907   | 452, 1094(S),<br>1095(P)                                 | C144                          |
| 1438-S          | 470  | 740                         | 942   | 942   | 452, 1094(S),<br>1095(P)                                 | C135                          |
| 1440            | 470  | 722                         |   |   | 452, 1720  |                               |
| 1443-S2         | 557  | 729, 797                    | 1161, 1172,<br>1182, 1192,<br>1193, 1195,<br>1196, 1197 | 1198  | 530, 1159, 1172,<br>1182, 1197                           |                               |
| 1449-S          | 1050, 1835   | 1869                        | 1901  | 1902  | 1008, 1835, 1902,<br>1965, 1993(S),<br>1993(P)           | C 23 L 11<br>E1               |
| 1453-S          | 470  | 706                         | 1030  | 1031  | 452, 1313(S),<br>1315(P)                                 | C194                          |
| 1454            | 291  | 682                         | 1012  | 1012  | 290, 1313(S),<br>1315(P)                                 | C232                          |
| 1455            | 417  | 710                         | 1079  | 1080  | 415, 1079, 1220,<br>1314(S), 1315(P)                     | C193                          |
| 1465            | 470  | 722                         | 876   | 882   | 452, 882, 1220,<br>1314(S), 1315(P)                      | C195                          |
| 1466            | 527  | 680                         |   |   | 495, 1720  |                               |
| 1467-S          | 471  | 691                         | 781   | 782   | 452, 782, 1220,<br>1314(S), 1315(P)                      | C196                          |
| 1469-S          | 633  | 729                         |   |   | 616, 1720  |                               |
| 1470-S          | 471  | 710                         |   |   | 452, 1720  |                               |
| 1473            | 672  | 769                         | 804   | 805   | 631, 804, 1220,<br>1314(S), 1316(P)                      | C197                          |
| 1477            | 497  | 706                         | 887   | 888   | 467, 1094(S),<br>1095(P)                                 | C136                          |
| 1478-S          | 633  | 729                         | 822, 829, 830,<br>831                                   | 832   | 616, 832, 1541,<br>1706, 1709, 1716,<br>1717(S), 1717(P) | C353                          |
| 1479            | 471  | 692                         | 747   | 747   | 452, 747, 1220,<br>1314(S), 1316(P)                      | C156                          |
| 1483-S          | 672  | 769                         | 1068  | 1068  | 631, 1313(S),<br>1315(P)                                 | C233                          |
| 1485-S          | 471  | 740                         | 943, 951  | 952   | 452, 951, 1220,<br>1314(S), 1316(P)                      | C199                          |
| 1486            | 291  | 697                         |   |   | 290, 1720  |                               |
| 1487-S          | 672  |                             |   |   | 631, 1720  |                               |
| 1488            | 292  | 700                         | 748   | 748   | 290, 800(S), 803(P)                                      | C27                           |
| 1489-S          | 497  | 697                         | 732, 734, 735   | 735   | 467, 734, 735, 799,<br>954(S), 956(P)                    | C73PV                         |
| 1490            | 557  | 680, 740                    |   |   | 531, 1720  |                               |
| 1491            | 557  | 729                         |   |   | 530, 1720  |                               |
| 1492-S          | 527  | 740                         | 869   | 869   | 495, 954(S), 956(P)                                      | C74                           |
| 1493-S          | 527  | 729                         | 1001  | 1002  | 495, 1001, 1220,<br>1314(S), 1316(P)                     | C157                          |
| 1494-S          | 677  | 722                         | 990, 993, 996   | 996   | 670, 678, 993, 996,<br>1259, 1314(S),<br>1315(P)         | C357                          |

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|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 1495-S   | 417                                    | 700              | 807, 811                           | 812                                   | 415, 702, 812, 885, 1094(S), 1095(P)               | C98                |
| 1497-S   | 2038                                   |                  | 2145                               | 2145                                  | 2038, 2148(S), 2148(P),                            | C 48 L 11<br>E1    |
| 1498     | 591                                    | 692              |                                    |                                       | 556, 1720  |                    |
| 1502-S   | 557                                    | 692              | 782                                | 783                                   | 530, 783, 1220, 1314(S), 1316(P)                   | C158               |
| 1506-S   | 497                                    | 729              | 940, 959                           | 960                                   | 467, 1220, 1314(S), 1316(P)                        | C200               |
| 1507-S2  | 527                                    | 697              |                                    |                                       | 495, 1720  |                    |
| 1509-S   | 633                                    | 722, 797         | 976                                | 979                                   | 616, 978, 1220, 1314(S), 1316(P)                   | C218PV             |
| 1510-S2  | 557                                    |                  |                                    |                                       | 530, 1720  |                    |
| 1516-S   | 591                                    | 797              | 1099, 1104, 1710                   | 1104, 1715                            | 556, 1104, 1473, 1709, 1710, 1715                  |                    |
| 1517     | 633                                    | 710              | 940                                | 941                                   | 616, 941, 1220, 1314(S), 1316(P)                   | C159               |
| 1518-S   | 672                                    | 710              |                                    |                                       | 631, 1720  |                    |
| 1519-S2  | 558                                    | 710              | 875                                | 875                                   | 530, 954(S), 956(P)                                | C75                |
| 1520     | 471                                    | 710              | 1012                               | 1012                                  | 452, 1313(S), 1315(P)                              | C201               |
| 1521     | 429                                    | 722              | 806                                | 807                                   | 428, 807, 1220, 1314(S), 1316(P)                   | C202               |
| 1522-S   | 558                                    |                  |                                    |                                       | 530, 1720  |                    |
| 1524-S   | 471                                    | 697              | 1048                               | 1048                                  | 452, 1313(S), 1315(P)                              | C203               |
| 1538-S   | 471                                    | 692              | 956                                | 958                                   | 452, 958, 1220, 1314(S), 1316(P)                   | C204PV             |
| 1542-S   | 527                                    |                  |                                    |                                       | 495, 1720  |                    |
| 1543-S   | 497                                    | 710              |                                    |                                       | 467, 1720  |                    |
| 1544     | 527                                    | 697              | 717                                | 718                                   | 495, 718, 1469, 1717(S), 1718(P)                   | C205               |
| 1546-S2  | 677                                    | 729              | 815, 1564                          | 817, 1566                             | 670, 816, 1563, 1563, 1566, 1607, 1718(S), 1718(P) | C260               |
| 1547-S   | 558                                    | 740              | 837, 1683                          | 838, 1685                             | 531, 838, 1683, 1683, 1684, 1692, 1717(S), 1719(P) | C206PV             |
| 1548-S   | 1991                                   |                  | 2003                               | 2003                                  | 1991, 2063(S), 2143(P),                            | C 31 L 11<br>E1    |
| 1549-S   | 497                                    |                  |                                    |                                       | 467, 1720  |                    |
| 1559     | 528                                    |                  |                                    |                                       | 495, 1720  |                    |
| 1560-S   | 633                                    | 711              | 1076, 1078                         | 1078                                  | 616, 1078, 1469, 1717(S), 1719(P)                  | C287               |
| 1563-S   | 633                                    |                  |                                    |                                       | 616, 1720  |                    |
| 1564-S   | 497                                    | 692              |                                    |                                       | 467, 1720  |                    |
| 1565-S   | 528                                    | 740              | 942                                | 943                                   | 495, 1094(S), 1095(P)                              | C137               |
| 1567-S   | 471                                    | 740              | 907                                | 909                                   | 452, 909, 1220, 1314(S), 1316(P)                   | C234               |
| 1568-S   | 471                                    |                  |                                    |                                       | 453, 1720  |                    |
| 1570-S   | 417                                    | 713              | 1145                               | 1147                                  | 415, 1147, 1286, 1718(S), 1719(P)                  | C261               |
| 1571-S   | 292                                    | 676              | 748                                | 748                                   | 290, 800(S), 803(P)                                | C28                |
| 1572-S   | 471                                    | 676              | 783                                | 783                                   | 452, 800(S), 803(P)                                | C29                |
| 1575-S   | 633                                    | 711              | 791                                | 791                                   | 616, 954(S), 956(P)                                | C76                |
| 1582     | 497                                    | 706              | 775                                | 778                                   | 467, 778, 1220, 1314(S), 1316(P)                   | C207               |

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|-----------------|--|-------------------------|--|---|---|---------------------------|
| 1585-S          | 471  | 700                     | 793                                      | 793   | 452, 954(S), 956(P)                           | C79                       |
| 1586            | 558  | 706                     | 1121                                     | 1121  | 530, 1314(S),<br>1316(P)                      | C208                      |
| 1593-S2         | 558  | 722                     |  |   | 530   |                           |
| 1594            | 497  | 723                     | 1139                                     | 1140  | 467, 1140, 1286,<br>1718(S), 1719(P)          | C262                      |
| 1595-S          | 497  | 711                     | 961                                      | 962   | 467, 1094(S),<br>1095(P)                      | C138                      |
| 1596-S          | 471  | 701                     | 1000                                     | 1001  | 453, 1094(S),<br>1095(P)                      | C139                      |
| 1599-S2         | 558  | 723, 797                | 1662                                     | 1665  | 530, 1665, 1692,<br>1717(S), 1719(P)          | C288PV                    |
| 1600-S          | 472  | 723                     | 1140                                     | 1140  | 452, 725, 1314(S),<br>1316(P)                 | C209                      |
| 1608-S          | 472  |                         |  |   | 453, 1720                                     |                           |
| 1613            | 497  |                         |  |   | 467, 1720                                     |                           |
| 1614-S          | 498  | 723                     | 975                                      | 975   | 467, 1094(S),<br>1095(P)                      | C143                      |
| 1615-S          | 472  | 682                     |  |   | 452, 1720                                     |                           |
| 1618            | 498  | 697                     | 787                                      | 788   | 467, 800(S), 803(P)                           | C30                       |
| 1621-S          | 498  | 729                     |  |   | 467, 1720                                     |                           |
| 1625            | 677  | 692                     | 867                                      | 867   | 670, 954(S), 956(P)                           | C80                       |
| 1626-S          | 528  | 723                     |  |   | 495, 1720                                     |                           |
| 1631            | 558  | 706                     |  |   | 530   |                           |
| 1632-S          | 954, 1748  |                         |  |   | 885, 1747, 2149                               |                           |
| 1634-S2         | 633  | 723                     | 909, 915                                 | 921   | 616, 915, 921,<br>1259, 1313(S),<br>1316(P)   | C263PV                    |
| 1635-S          | 672  | 797                     | 1068, 1070                               | 1071  | 631, 1071, 1286,<br>1718(S), 1719(P)          | C370                      |
| 1636-S          | 417  | 723                     | 1015                                     | 1015  | 415, 1313(S),<br>1316(P)                      | C264                      |
| 1640            | 472  | 687                     | 1031                                     | 1031  | 452, 1313(S),<br>1316(P)                      | C235                      |
| 1649            | 633  | 713                     | 780                                      | 780   | 616, 800(S), 803(P)                           | C9                        |
| 1650-S          | 558  | 706, 785                |  |   | 530, 1720                                     |                           |
| 1652-S          | 472  | 711                     |  |   | 452, 1720                                     |                           |
| 1657            | 528  |                         |  |   | 495, 1720                                     |                           |
| 1662-S2         | 633  | 698                     | 1005                                     | 1007  | 616, 1006                                     |                           |
| 1663-S          | 677  | 706                     | 886                                      | 887   | 670, 887, 1258,<br>1314(S), 1315(P)           | C198PV                    |
| 1667            | 472  |                         |  |   | 452, 1720                                     |                           |
| 1669            | 472  | 711                     | 1048                                     |   | 452, 1720                                     |                           |
| 1674            | 592  | 701                     |  |   | 556, 1720                                     |                           |
| 1676-S          | 672  |                         |  |   | 631, 1720                                     |                           |
| 1677            | 498  |                         |  |   | 467, 1720                                     |                           |
| 1689-S          | 677  |                         |  |   | 670, 1720                                     |                           |
| 1691-S          | 472  | 698                     | 1195                                     | 1196  | 452, 1159, 1195,<br>1286, 1717(S),<br>1719(P) | C265                      |
| 1694            | 672  | 698                     | 748                                      | 748   | 631, 800(S), 803(P)                           | C31                       |
| 1697-S          | 528  | 740                     | 966                                      | 968   | 495, 967, 1220,<br>1314(S), 1316(P)           | C160                      |
| 1698            | 498  | 707                     | 1120                                     | 1121  | 467, 1314(S),<br>1316(P)                      | C266                      |
| 1699-S          | 558  | 723                     |  |   | 530, 1720                                     |                           |
| 1700-S          | 672  | 797                     |  |   | 631, 1720                                     |                           |

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|----------|--|------------------|------------------------------------|---------------------------------------|---|--------------------|
| 1701-S   | 634, 1835                              | 701              | 832, 833                           | 834                                   | 616, 833, 1720, 1835, 1836, 2149                    |                    |
| 1702     | 634                                    | 713              |                                    |                                       | 616, 1720   |                    |
| 1703     | 558                                    | 723              | 937                                | 937                                   | 531, 1094(S), 1095(P)                               | C140               |
| 1708-S   | 634                                    | 740              |                                    |                                       | 616, 1720   |                    |
| 1709     | 472                                    | 680              | 803                                | 803                                   | 452, 954(S), 956(P)                                 | C81                |
| 1710-S   | 472                                    | 676, 723         | 867                                | 868                                   | 452, 868, 1220, 1314(S), 1316(P)                    | C267               |
| 1712-S   | 472                                    | 714              |                                    |                                       | 452, 1720   |                    |
| 1716-S   | 672                                    | 724              | 759                                | 761                                   | 631, 761, 1220, 1314(S), 1316(P)                    | C289               |
| 1718-S   | 673                                    | 740              | 1147                               | 1148                                  | 631, 1148, 1259, 1314(S), 1315(P)                   | C236               |
| 1719-S   | 528                                    | 711              | 864                                | 864                                   | 495, 954(S), 956(P)                                 | C82                |
| 1721-S   | 498                                    | 724              | 936                                | 937                                   | 467, 936, 1220, 1314(S), 1316(P)                    | C268               |
| 1725-S   | 673                                    | 701              | 869, 1685                          | 874, 1691                             | 631, 874, 1685, 1685, 1690, 1692, 1717(S), 1719(P)  | C290               |
| 1726     | 673                                    | 687              | 1136                               | 1136                                  | 631, 1314(S), 1316(P)                               | C291               |
| 1728-S   | 472                                    | 687              | 1049                               | 1049                                  | 453, 1313(S), 1316(P)                               | C237               |
| 1730     | 528                                    | 698              | 1128                               | 1128                                  | 495, 1314(S), 1316(P)                               | C210               |
| 1731-S   | 558                                    | 701              | 975                                | 975                                   | 531, 1094(S), 1095(P)                               | C141               |
| 1737-S   | 634                                    | 724              | 1111, 1626                         | 1112, 1627                            | 616, 1112, 1625, 1626, 1627                         |                    |
| 1738-S2  | 1008, 1748                             | 1219, 1285, 1760 | 1762, 1800                         | 1800                                  | 956, 1747, 1800, 1965(S), 1966(P)                   | C 15 L 11 E1       |
| 1740-S   | 634                                    | 711              |                                    |                                       | 616, 1720   |                    |
| 1745-S   | 473                                    |                  |                                    |                                       | 453, 1720   |                    |
| 1756-S   | 559                                    | 740              |                                    |                                       | 531, 560, 1720                                      |                    |
| 1761-S   | 559                                    | 698              | 979                                | 980                                   | 530, 1259, 1314(S), 1315(P)                         | C211               |
| 1770     | 673                                    | 701              | 985, 987                           | 989                                   | 631, 986, 989, 1220, 1314(S), 1316(P)               | C358PV             |
| 1774-S   | 559                                    | 741              | 968, 970                           | 974                                   | 531, 970, 974, 1286, 1717(S), 1719(P)               | C292               |
| 1775     | 473                                    | 741              | 1095                               | 1099                                  | 453, 1099, 1573                                     |                    |
| 1776-S2  | 559                                    | 741              | 882, 883                           | 883                                   | 530, 883, 1220, 1314(S), 1316(P)                    | C359               |
| 1782-S   | 634                                    |                  |                                    |                                       | 616, 1720   |                    |
| 1783-S   | 592                                    | 724              | 964, 965                           | 966                                   | 556, 965, 1259, 1314(S), 1315(P)                    | C212               |
| 1789-S2  | 677                                    | 730, 797         | 1034, 1044                         | 1044                                  | 670, 730, 1044, 1259, 1314(S), 1315(P)              | C293               |
| 1790-S   | 634                                    | 797              | 1010, 1011                         | 1012                                  | 616, 1011, 1286, 1717(S), 1719(P)                   | C269               |
| 1792-S2  | 634                                    |                  |                                    |                                       | 616, 1720   |                    |
| 1793-S   | 673                                    | 741              | 1016, 1018                         | 1019                                  | 631, 1019, 1473, 1546, 1697, 1716, 1717(S), 1717(P) | C333               |

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|----------|--|------------------|------------------------------------|---------------------------------------|---|--------------------|
| 1794     | 592                                    | 741              | 1127                               | 1127                                  | 556, 1314(S), 1316(P)                   | C238               |
| 1795-s2  |  |                  |                                    |                                       | 1803                                    | C 10 L 11<br>E1    |
| 1795-S2  | 1802                                   |                  | 1808                               | 1808                                  | 1802, 1993(S), 1993(P)                  | C 10 L 11<br>E1    |
| 1803-S2  | 634                                    | 698              | 803                                | 804                                   | 616, 954(S), 956(P)                     | C83                |
| 1805     | 673                                    |                  |                                    |                                       | 631, 1720                               |                    |
| 1808-S2  | 559                                    | 730              | 813                                | 813                                   | 530, 730, 954(S), 956(P)                | C77                |
| 1811-S   | 473                                    | 741              | 963                                | 964                                   | 452, 964, 1259, 1314(S), 1315(P)        | C239               |
| 1812     | 473                                    |                  |                                    |                                       | 452, 1720                               |                    |
| 1815-S   | 592, 1748                              | 724              |                                    |                                       | 556, 1720, 1747, 2149                   |                    |
| 1822-S   | 473                                    | 707              | 1045                               | 1045                                  | 453, 1313(S), 1316(P)                   | C146               |
| 1826-S   | 678                                    | 786              | 875                                | 875                                   | 670, 954(S), 956(P)                     | C84                |
| 1829-S   | 559                                    | 724              | 982                                | 983                                   | 531, 982, 1259, 1313(S), 1316(P)        | C270               |
| 1832-S   | 559                                    |                  |                                    |                                       | 530, 1720                               |                    |
| 1833     | 498                                    | 711              |                                    |                                       | 467, 1720                               |                    |
| 1846-S   | 678                                    | 707              | 715                                | 715                                   | 670, 719(S), 719(P)                     | C8                 |
| 1849-S   | 559                                    |                  |                                    |                                       | 531, 1720                               |                    |
| 1854-S   | 673                                    | 730              | 1078                               | 1079                                  | 631, 1313(S), 1316(P)                   | C271               |
| 1858-S   | 634                                    | 741              | 1003                               | 1005                                  | 616, 1004, 1259, 1314(S), 1315(P)       | C240               |
| 1860-S   | 673                                    |                  |                                    |                                       | 631, 1720                               |                    |
| 1861-S   | 673                                    | 711              | 960                                | 961                                   | 631, 961, 1259, 1314(S), 1315(P)        | C161PV             |
| 1864-S   | 592                                    | 730              | 1080                               | 1088                                  | 556, 1088, 1259, 1314(S), 1315(P)       | C162               |
| 1867     | 528                                    | 692              | 1148                               | 1148                                  | 495, 1314(S), 1316(P)                   | C213               |
| 1869-S   | 473                                    |                  |                                    |                                       | 453, 1720                               |                    |
| 1874-S   | 678                                    | 741              | 1031                               | 1034                                  | 670, 1034, 1661, 1692, 1717(S), 1719(P) | C241               |
| 1875     | 635                                    |                  |                                    |                                       | 616, 1720                               |                    |
| 1885-S   | 528                                    | 724              |                                    |                                       | 495, 1720                               |                    |
| 1886-S   | 498                                    | 692, 798         | 888                                | 895                                   | 467, 894, 1259, 1313(S), 1316(P)        | C360               |
| 1897-S   | 673                                    | 724              | 1071                               | 1071                                  | 631, 1313(S), 1316(P)                   | C272               |
| 1899-S   | 528                                    | 711              | 901, 902                           | 902                                   | 495, 902, 1685, 1718(S), 1719(P)        | C273               |
| 1900     | 473                                    |                  |                                    |                                       | 452, 1720                               |                    |
| 1901-S2  | 635                                    | 730              |                                    |                                       | 616, 1720                               |                    |
| 1902-S   | 673                                    | 786              | 1119                               | 1119                                  | 632, 1119, 1259, 1314(S), 1315(P)       | C163               |
| 1903-S2  | 559                                    | 741, 798         | 1128                               | 1130                                  | 531, 1130, 1286, 1717(S), 1719(P)       | C295               |
| 1909-S2  | 559                                    | 707, 786         | 1148                               | 1148                                  | 531, 1314(S), 1316(P)                   | C274               |
| 1916     | 528                                    | 701              | 1136                               | 1138                                  | 495, 1137, 1286, 1717(S), 1719(P)       | C286               |

| Bill No. | Introduction & 1 <sup>st</sup> Reading | Committee Report | 2 <sup>nd</sup> Reading Amendments | 3 <sup>rd</sup> Reading Final Passage | Other Action   | Action by Governor |
|----------|--|------------------|------------------------------------|---------------------------------------|--|--------------------|
| 1922-S   | 674                                    | 750              | 981                                | 982                                   | 631, 981, 1259, 1313(S), 1316(P)                                 | C242               |
| 1923-S   | 559                                    | 724              | 1117                               | 1117, 1121                            | 530, 1121, 1314(S), 1316(P)                                      | C294               |
| 1926     | 498                                    | 701              |                                    |                                       | 467, 1720  |                    |
| 1933-S   | 674                                    | 712              | 1071, 1072                         | 1072                                  | 631, 1072, 1259, 1313(S), 1316(P)                                | C243               |
| 1937     | 592                                    | 701              | 817                                | 817                                   | 556, 954(S), 956(P)  | C85                |
| 1939     | 592                                    | 702              | 875                                | 875                                   | 556, 954(S), 956(P)  | C86                |
| 1952-S2  | 674                                    |                  |                                    |                                       | 670, 1720  |                    |
| 1953     | 635                                    | 730              | 1015                               | 1015                                  | 616, 1717(S), 1719(P)  | C354               |
| 1965-S2  | 1199, 1748                             | 1821             | 1851, 1853, 1961                   | 1856, 1964                            | 1123, 1747, 1853, 1856, 1960, 1961, 1963, 1977, 1993(S), 1993(P) | C 32 L 11<br>E1    |
| 1966-S   | 674                                    | 725              | 1002                               | 1003                                  | 631, 1094(S), 1095(P)  | C142               |
| 1967-S   | 674                                    | 769              | 1072                               | 1073                                  | 631, 1073, 1259, 1313(S), 1316(P)                                | C371PV             |
| 1969     | 635                                    | 730, 798         | 1112                               | 1113                                  | 616, 730, 1112, 1469, 1717(S), 1719(P)                           | C275               |
| 1981-S   | 1748                                   | 1760             | 1905, 1911                         | 1917                                  | 1747, 1911, 1917, 1991, 2063(S), 2143(P)                         | C 47 L 11<br>E1    |
| 1997-S   | 635                                    | 688              |                                    |                                       | 616  |                    |
| 1998-S   | 674                                    |                  |                                    |                                       | 632  |                    |
| 2002-S   | 674                                    | 742              |                                    |                                       | 631, 1720  |                    |
| 2003     | 560, 1991                              |                  | 2003                               | 2004                                  | 530, 1991, 1991, 2063(S), 2143(P)                                | C 33 L 11<br>E1    |
| 2011     | 678                                    |                  |                                    |                                       | 670, 1720  |                    |
| 2017-S   | 1050                                   | 1219             | 1559                               | 1559                                  | 1008, 1717(S), 1719(P)   | C298               |
| 2019     | 954                                    | 1219             | 1559                               | 1560                                  | 885, 1717(S), 1719(P)  | C334               |
| 2020-S   | 2038                                   |                  | 2145                               | 2145                                  | 2038, 2148(S), 2148(P)   | C 49 L 11<br>E1    |
| 2021-S   | 1692                                   |                  | 1709                               | 1709                                  | 1692, 1718(S), 1719(P),  | C362               |
| 2026-S   | 1221                                   |                  |                                    |                                       | 1199   |                    |
| 2048-S   |  |                  |                                    |                                       | 2004, 2149   |                    |
| 2053-S   | 2004                                   |                  |                                    |                                       | 2004, 2149,  |                    |
| 2065-S   | 1819                                   | 1904             | 2038, 2044, 2050                   | 2051                                  | 1819, 2044, 2050, 2148(S), 2148(P)                               | C 34 L 11<br>E1    |
| 2069     | 1803                                   | 1821             | 2143                               | 2143                                  | 1802, 2148(S), 2148(P)   | C 35 L 11<br>E1    |
| 2070     | 1748                                   | 1760             | 1800                               | 1801                                  | 1747, 1965(S), 1966(P)   | C 5 L 11<br>E1     |
| 2082-S   | 1836                                   | 1990             | 2004, 2005, 2018                   | 2032                                  | 1835, 2018, 2032, 2063, 2148(S), 2148(P)                         | C 36 L 11<br>E1    |
| 2088-S   | 1869                                   | 1904             | 2033, 2036, 2037                   | 2038                                  | 1864, 2037, 2063, 2148(S), 2148(P)                               | C 13 L 11<br>E1    |
| 2111     | 1836                                   | 1990             |                                    |                                       | 1835, 2149   |                    |
| 2115-S   | 1836                                   |                  | 1866                               | 1866                                  | 1835, 1836, 1965(S), 1966(P)                                     | C 6 L 11<br>E1     |

| <b>Bill No.</b> | <b>Introduction<br/>&amp; 1<sup>st</sup> Reading</b> | <b>Committee<br/>Report</b> | <b>2<sup>nd</sup> Reading<br/>Amendments</b> | <b>3<sup>rd</sup> Reading<br/>Final Passage</b> | <b>Other Action</b>              | <b>Action by<br/>Governor</b> |
|-----------------|--|-----------------------------|--|---|----------------------------------|-------------------------------|
| 2119-S          | 1924   |                             | 1991   | 1992  | 1924, 2063(S),<br>2143(P),       | C 24 L 11<br>E1               |
| 2123            | 1977   |                             | 1985, 1986                                   | 1989  | 1977, 1986,<br>1993(S), 1993(P), | C 37 L 11<br>E1               |
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|-----------------|--|-----------------------------|--|---|-----------------------|
| 4004            | 292  | 682                         | 1013   | 1014  | 290, 1313(S), 1316(P) |

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|-----------------|--|-----------------------------|--|---|--------------------------------------|
| 4400            | 28   |                             | 29   |   | 25, 29, 84(S), 88(P),                |
| 4401            | 28   |                             | 29   |   | 25, 29, 84(S), 88(P),                |
| 4402            | 28   |                             | 119  |   | 25, 29, 130, 152(S), 154(P)          |
| 4403            | 28   |                             | 29   |   | 25, 29, 84(S), 88(P),                |
| 4404-S          | 635  | 714                         | 1141   | 1142  | 616, 1142, 1286, 1717(S),<br>1719(P) |
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- Providers, early learning, implementing nonexpiring license: SHB 1756, \***SB 5625, CH 297 (2011)**
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- Abuse, public school education child abuse prevention program: SB 5853
- Adverse childhood experiences, nongovernmental public-private initiative: \***E2SHB 1965, CH 32 (2011)**
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- Child welfare services, fatality and near fatality reviews, role of department of social and health services: \***SHB 1105, CH 61 (2011)**, SB 5043
- Child welfare services, organizations providing, modifying business and occupation tax deduction: \***ESHB 1902, CH 163 (2011)**
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- Custody, parenting plans, residential provisions for children of parents with military duties: EHB 1050
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 Infrastructure, local infrastructure development through transfer of development rights marketplace: ESHB 1469, SB 5253  
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Malpractice, medical, comprehensive health care liability reform: SB 5672

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Uniform commercial code, article 9A, developing legislation to update references in secured transaction provisions: **\*ESHB 1492, CH 74 (2011)**

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Baccalaureate funding formula, establishing joint select legislative task force on formula: **\*E2SHB 1795, CH 10 (2011) PV**

Biomass, development of forest biomass to aviation fuel by University of Washington and Washington State University: **\*SHB 1422, CH 217 (2011)**

Building fees, regional universities and TESC, deposit in capital projects accounts created as local accounts: SB 5758

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Child care for higher education students, using certain lottery moneys to fund: SB 5795

College efficiency and savings act: SB 5268

Commute trip reduction program, exemptions from local option transportation tax for higher education institutions having: SB 5541

Consolidation of colleges and universities to form Washington state college and university system: SB 5107

Council of presidents, abolishing: SB 5108

Courses, lower division, establishment of common course numbering and descriptions by work group: **\*E2SHB 1795, CH 10 (2011) PV**, SB 5654

Credit for prior learning, higher education coordinating board to convene academic credit for prior learning work group: SHB 1522, **\*E2SHB 1795, CH 10 (2011) PV**

Credits, excess, charging higher tuition rates: SB 5868

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Doctoral programs, development at branch campuses of University of Washington and Washington State University: **\*HB 1586, CH 208 (2011)**, SB 5315

Eastern Washington University, authorizing educational specialist degrees: **\*HB 1477, CH 136 (2011)**

Eastern Washington University, deposit of building fees in capital projects accounts created as local accounts: SB 5758

Employees, health care insurance benefits to include wellness incentives: SB 5869

Employees, higher education employee annuities and retirement income plans: **\*ESHB 1981, CH 47 (2011)**, SB 5162, SB 5474

Employees, higher education postretirement employment provisions: **\*ESHB 1981, CH 47 (2011)**, SB 5569

Employees, labor organization membership or nonmembership requirement by employer prohibited: SB 5347

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Evergreen State College, The, deposit of building fees in capital projects accounts created as local accounts: SB 5758

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Financial aid, forecasting caseload of college bound scholarship program: **\*SB 5304, CH 304 (2011)**

Financial aid, revising provisions of health professional loan repayment and scholarship program: **\*HB 1424, CH 26 (2011)**, SB 5483

Financial aid, state need grant eligibility provisions: SHB 1650, SB 5787

Financial aid, state need grant eligibility, considering student merit: SB 5787

Financial aid, Washington pledge scholarship program, establishment: SB 5717

Firearms, unlawful carrying or handling, on premises of higher education institution or at college-sponsored event: SB 5592

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Higher education employees, implementing three percent salary reduction: SB 5860

Higher education opportunity act: **\*E2SHB 1795, CH 10 (2011) PV**

Illegal immigrants, preventing from qualifying as resident students for in-state tuition and financial aid purposes: SB 5828

Instructional materials, specialized format version for students with print access disabilities: **\*SHB 1089, CH 356 (2011) PV**

Kidnapping offenders, registered, notice to college when offender will be attending or be an employee: SB 5203

Lake Washington Institute of Technology, renaming Lake Washington Technical College as, expansion of programs: SB 5664

Medical students, grant program to encourage training to work with adult patients with developmental disabilities: SB 5443

Medical students, provisions concerning certain student clinical rotations and residencies: **\*ESHB 1183, CH 150 (2011)**, SB 5548

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Military reserve members, rights of members who are students: HB 1221

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Online university, nonprofit, state to partner with Western Governors University: **\*SHB 1822, CH 146 (2011)**

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Opportunity internship program, revising provisions: SHB 1608

Opportunity scholarship act, provisions: **\*ESHB 2088, CH 13 (2011)**

Opportunity scholarship program, board, and match transfer account, creation: **\*ESHB 2088, CH 13 (2011)**

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Polytechnical college, independent four-year, creation of college and higher education investment district: SB 5287

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Prior learning, academic credit for, convening academic credit for prior learning work group: SHB 1522

Purchasing, removing requirement that higher education institutions purchase from correctional industries: **\*SHB 1663, CH 198 (2011) PV**

Purchasing, revising requirement that higher education institutions purchase from correctional industries: SB 5519

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Running start program, limiting enrollment: SB 5572

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 Technology, commercialization of, creation of innovation database and newsletter: SB 5736  
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 Tuition, ensuring high-value return through higher education opportunity act: **\*E2SHB 1795, CH 10 (2011) PV**  
 Tuition, resident undergraduates, increases to be set by four-year institutions: **\*E2SHB 1795, CH 10 (2011) PV, SB 5679**  
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 University of Washington, forest resources institute and school, addressing forest sector issues: **\*SHB 1254, CH 187 (2011), SB 5123**  
 University of Washington, funding programs for state university technology commercialization: SB 5521  
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 Washington State University, duties within Washington state college and university system: SB 5107  
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 Western Governors University, state to partner with: **\*SHB 1822, CH 146 (2011)**  
 Western Washington University, coordinating program that leverages leadership of returning veterans: SB 5608  
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 Aviation fuel, department consulting role in development of forest biomass to aviation fuel: **\*SHB 1422, CH 217 (2011)**  
 Biomass, department consulting role in development of forest biomass to aviation fuel: **\*SHB 1422, CH 217 (2011)**

Building communities fund program, modifying competitive process provisions: HB 1440  
 Business information system, web-based, use by department to coordinate economic development work: HB 1926  
 Businesses, recruitment and retention, department to establish protocols: SB 5321  
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 Essential needs and housing support program, department role in funds distribution: **\*ESHB 2082, CH 36 (2011)**  
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 Homeless housing and assistance, telephonic consent for homeless client management information system: **\*SHB 1811, CH 239 (2011)**, SB 5646  
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 Motion picture competitiveness program, revising program and tax provisions: SB 5539  
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 Annuities and retirement income plans for higher education employees, provisions: **\*ESHB 1981, CH 47 (2011)**, SB 5162, SB 5474  
 Archives and records management division, fee and charge exemption for institutions not using division services: SB 5517

Boards of trustees, members, appointment of students: SHB 1568, SB 5217

Career and technical education, acceptance of high school courses for college credit: HB 1168

Cascadia Community College, consolidating with Lake Washington Technical College: SB 5774

Child care for higher education students, using certain lottery moneys to fund: SB 5795

College efficiency and savings act: SB 5268

Community and technical college innovation account, creation: **\*2SHB 1909, CH 274 (2011)**

Commute trip reduction program, exemptions from local option transportation tax for higher education institutions having: SB 5541

Courses, college level, publication in admissions materials and coordination with four-year institutions: SB 5717, SB 5915

Courses, lower division, establishment of common course numbering and descriptions by work group: **\*E2SHB 1795, CH 10 (2011) PV**, SB 5654

Credit for prior learning, higher education coordinating board to convene academic credit for prior learning work group: SHB 1522, **\*E2SHB 1795, CH 10 (2011) PV**

Credits, excess, charging higher tuition rates: SB 5868

Customized employment training program, repealing expiration date for program: SB 5324

Developmental disabilities, adult patients with, grant program to encourage medical training to work with: SB 5443

Disabilities, students with, specialized format instructional materials for students with print access disabilities: **\*SHB 1089, CH 356 (2011) PV**

Employees, academic, authorizing additional compensation: SB 5434

Employees, academic, awarding salary increments: HB 1631, SB 5507

Employees, health care insurance benefits to include wellness incentives: SB 5869

Employees, higher education employee annuities and retirement income plans: **\*ESHB 1981, CH 47 (2011)**, SB 5162, SB 5474

Employees, higher education postretirement employment provisions: **\*ESHB 1981, CH 47 (2011)**, SB 5569

Employees, labor organization membership or nonmembership requirement by employer prohibited: SB 5347

Employees, ongoing suspension of cost-of-living increases: **\*2SHB 1132, CH 18 (2011)**, SB 5470

Equipment maintenance services, public funds for, disbursement in advance by state treasurer: SB 5516

Financial aid, awarding aid only to citizens or permanent residents of U.S.: SB 5334

Financial aid, college bound scholarship program, closing entry to program: SB 5843

Financial aid, creation of office of student financial assistance: SB 5182

Financial aid, forecasting caseload of college bound scholarship program: **\*SB 5304, CH 304 (2011)**

Financial aid, revising provisions of health professional loan repayment and scholarship program: **\*HB 1424, CH 26 (2011)**, SB 5483

Financial aid, state board for community and technical colleges to serve as clearinghouse for all state and federal aid: SB 5462

Financial aid, state need grant eligibility provisions: SHB 1650, SB 5787

Financial aid, state need grant eligibility, considering student merit: SB 5787

Firearms, unlawful carrying or handling, on premises of higher education institution or at college-sponsored event: SB 5592

Higher education employees, implementing three percent salary reduction: SB 5860

Higher education opportunity act: **\*E2SHB 1795, CH 10 (2011) PV**

Illegal immigrants, preventing from qualifying as resident students for in-state tuition and financial aid purposes: SB 5828

Innovation, promoting through community and technical college innovation account: **\*2SHB 1909, CH 274 (2011)**

Instructional materials, specialized format version for students with print access disabilities: **\*SHB 1089, CH 356 (2011) PV**

Internships, workforce training and education coordinating board to create profile-based web application to connect students and employers: SB 5637

Kidnapping offenders, registered, notice to college when offender will be attending or be an employee: SB 5203

Laboratory equipment, business and occupation tax credit for donations to community and technical colleges: SB 5535

Lake Washington Technical College, consolidating with Cascadia Community College: SB 5774

Lake Washington Technical College, renaming as Lake Washington Institute of Technology and expansion of programs: SB 5664

Meetings, use of private facilities, special approval for certain groups not required: SB 5268

Military reserve members, rights of members who are students: HB 1221

Opportunity expansion program, establishment: **\*ESHB 2088, CH 13 (2011)**

Opportunity internship program, revising provisions: SHB 1608

Opportunity scholarship act, provisions: **\*ESHB 2088, CH 13 (2011)**  
 Opportunity scholarship program, board, and match transfer account, creation: **\*ESHB 2088, CH 13 (2011)**  
 Police officers for higher education institutions, using interest arbitration panels to settle labor disputes: SB 5606  
 Prior learning, academic credit for, convening academic credit for prior learning work group: SHB 1522  
 Purchasing, removing requirement that higher education institutions purchase from correctional industries: **\*SHB 1663, CH 198 (2011) PV**  
 Purchasing, revising requirement that higher education institutions purchase from correctional industries: SB 5519  
 Regional mobility grant program, establishing to aid public higher education institutions: SB 5541  
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 Students, common identifiers for, board to establish minimum standards: **\*SB 5463, CH 109 (2011)**  
 Students, rights when member of national guard or other military reserve component: HB 1221  
 Technical and career education, acceptance of high school courses for college credit: HB 1168  
 Transferring to four-year institutions, provisions: SB 5915  
 Tuition, ensuring high-value return through higher education opportunity act: **\*E2SHB 1795, CH 10 (2011) PV**  
 Tuition, resident undergraduates, reductions or increases to be as provided in omnibus appropriations act: SB 5679, SB 5915  
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 Courses, lower division, establishment of common course numbering and descriptions by work group: **\*E2SHB 1795, CH 10 (2011) PV, SB 5654**  
 Customized employment training program, repealing expiration date for program: SB 5324  
 Financial aid, board to serve as clearinghouse for all state and federal financial aid for community and technical colleges: SB 5462  
 Higher education funding and performance, state board role: SB 5915  
 Higher education opportunity act, state board role: **\*E2SHB 1795, CH 10 (2011) PV**  
 Lake Washington Technical College, consolidating with Cascadia Community College: SB 5774  
 Membership, appointing student members: SHB 1568  
 Running start program, tuition and fees, board role in determining rate: SB 5924  
 Statewide salary allocation model, board to recommend: SB 5507  
 Students, common identifiers for, board to establish minimum standards: **\*SB 5463, CH 109 (2011)**

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 Digital goods and codes, nonresident retail sales tax exemption, amending: **\*SB 5763, CH 7 (2011)**  
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 Information technology portfolio, each state agency to develop: SB 5761, SB 5931

Information technology, misappropriated and used for manufacturing and sales, unfair competition statutes: **\*SHB 1495, CH 98 (2011)**, SB 5449

Online education, state to partner with nonprofit online university: SB 5136

Online education, state to partner with Western Governors University: **\*SHB 1822, CH 146 (2011)**

Online learning, provisions concerning approved online courses in public schools: SB 5603

Server equipment businesses, sales and use tax exemption for certain businesses: ESB 5873

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Sine Die, special session: **\*SCR 8404 (2011)**

Special session, reintroduction of bills, memorials, and resolutions for 2011 first special session: **\*HCR 4405 (2011)**

### CONSERVATION (See also CONSERVATION COMMISSION; RECREATION AND CONSERVATION OFFICE; WATER; WATER RIGHTS)

Conservation corps, administration by department of ecology and creation of Puget Sound corps: **\*SHB 1294, CH 20 (2011)**, SB 5230

Conservation corps, certain nonprofit programs, exemption from rates of compensation provisions in certain cases: SB 5538

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Land, agricultural and forest, conserving through transfer of development rights marketplace: ESHB 1469, SB 5145, SB 5253

Livestock nutrient management, provisions concerning investigations and corrective actions, conservation district role: SB 5723

Puget Sound corps, creation: **\*SHB 1294, CH 20 (2011)**, SB 5230

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Wolves, gray wolves, urging delisting from federal endangered species act: SJM 8002

### CONSERVATION COMMISSION

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Land, agricultural, commission to administer agriculture and critical areas voluntary stewardship program: SB 5713

Land, agricultural, commission to administer voluntary stewardship program: **\*ESHB 1886, CH 360 (2011)**

Livestock nutrient management, provisions concerning investigations and corrective actions, commission role: SB 5723

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Farm labor contractor licensing program, creation of farm labor contractor account: SHB 1057

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 Nonprofit, establishment of an association as a nonprofit product stewardship organization for unwanted drug disposal: SB 5234  
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 Notices from secretary of state's office, electronic mail option: \***HB 1040, CH 183 (2011)**, SB 5082  
 People, urging constitutional amendment to provide that corporations are not people: SJM 8007  
 Shareholders, authority for certain actions under business corporation act: \***HB 1052, CH 328 (2011)**  
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Adult offender supervision, interstate compact for, examination and addressing of issues: \***SHB 1438, CH 135 (2011)**  
 Alien offenders, release by department for deportation: \***ESHB 1547, CH 206 (2011) PV**, SB 5140  
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 Chemical dependency, helping persons with, improving collaboration between providers, service delivery, law enforcement, and criminal justice agencies: SB 5452  
 Community corrections officers, harassment as criminal justice participants: \***E2SHB 1206, CH 64 (2011) PV**  
 Correctional facilities, body alarms and proximity cards, study of feasibility of statewide use: \***ESB 5907, CH 252 (2011)**  
 Correctional facilities, department authority to initiate pepper spray pilot project: \***ESB 5907, CH 252 (2011)**  
 Correctional facilities, department to establish statewide security advisory committee: \***ESB 5907, CH 252 (2011)**  
 Correctional facilities, safety of, implementing national institute of corrections policy recommendations to improve: \***ESB 5907, CH 252 (2011)**  
 Correctional industries, removing higher education institutions purchasing requirement: \***SHB 1663, CH 198 (2011) PV**  
 Correctional industries, revising higher education institutions purchasing requirement: SB 5519  
 Criminal justice agencies, employees and workers, exemption of address in voter registration records from public disclosure: SB 5007  
 Criminal justice participants, harassment: \***E2SHB 1206, CH 64 (2011) PV**  
 Employees, collective bargaining provisions: EHB 2011  
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 Employees, limiting liability for errors of judgment: SB 5605  
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 Facilities, transfer communications, persons with developmental disabilities or traumatic brain injury: \***SHB 1718, CH 236 (2011)**  
 Firearm restrictions, partial exemption for community corrections officers under certain conditions: \***ESHB 1041, CH 221 (2011)**  
 Firearm restrictions, partial exemption for correctional personnel completing firearms training: SB 5031  
 Firearm restrictions, partial exemption for correctional personnel under certain conditions: \***ESHB 1041, CH 221 (2011)**

Firearm safety devices and gun safes, use by government agencies and agents, standards: SB 5697  
 First time offender waiver, offenders sentenced to, department to recalculate term of community custody: SB 5875  
 Interstate compact for adult offender supervision, examination and addressing of issues: **\*SHB 1438, CH 135 (2011)**  
 Liability, limiting for employee errors of judgment: SB 5605  
 Mental health disorders, helping persons with, improving collaboration between providers, service delivery, law enforcement, and criminal justice agencies: SB 5452  
 Offenders, inmate assault of correctional officer or department of corrections employee, civil judgments: **\*HB 1334, CH 282 (2011)**, SB 5030  
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 Supervision, department to charge offender the supervision intake fee: SHB 1632  
 Wrongful conviction and imprisonment, department role in civil judgment and award process: SB 5139

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 Social worker, definition and degree requirements: SB 5020  
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 Community empowerment zones, counties with, eligibility for rural county investment projects: SB 5665  
 Community trail advisory authority, establishment and grant program: SB 5786  
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 Courts, assault of various court-related employees to be considered assault in the third degree: **\*HB 1794, CH 238 (2011)**, SB 5046  
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 Deaths, inquests, for law enforcement agency members who died while in performance of duties: SB 5270  
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- Forest land compensating tax, exempting certain counties: ESB 5169
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- Fuel usage requirements for counties, shifting to electricity or biofuel, delaying requirements to provide fiscal relief: **\*ESHB 1478, CH 353 (2011)**, SB 5360
- Grant county, increasing number of district judges: HB 1236, **\*SB 5170, CH 43 (2011)**
- Human remains, disposition when unclaimed, entrusting body to preferred funeral home by county: **\*HB 1069, CH 16 (2011)**
- Indian tribes, state or municipal sale or lease of public property to tribes: **\*EHB 1409, CH 259 (2011)**, SB 5208
- Infrastructure projects, prioritization, roles of department of commerce and community economic revitalization board: SB 5320
- Infrastructure, revising provisions concerning state assistance for local government infrastructure projects: SB 5745
- Investment projects in rural counties, tax deferrals, eligible areas to include qualifying county and innovation partnership zone: SB 5402
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- Local homeless housing and assistance surcharge, increasing: SB 5645, SB 5952
- Manufactured home communities, new, siting requirements: SB 5496
- Manufactured/mobile homes, entry or removal, prohibiting county from acting due to nonconforming use: **\*SHB 1502, CH 158 (2011)**, SB 5446
- Minerals, creating and imposing a local mineral severance tax: SB 5450
- MLK workforce housing, arts and preservation, tourism, convention and trade center, and community development fund, use of revenues: ESB 5958, SB 5961
- Mobile home parks, new, siting requirements: SB 5496
- Motor vehicles, collecting and restoring, prohibiting zoning or other controls that prohibit collecting and restoring: SB 5586
- Motorsports, creating public speedway authority for professional motorsports entertainment and family recreation facility: SB 5856
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- Parking charges, tax on charges at certain facilities, use of revenues by public facilities district for baseball stadium: ESB 5958, SB 5961
- Parks, recreation, trails, and open space allocation, local sales and use tax to provide funding: SB 5786
- Planning, expansion of urban growth areas into one hundred year floodplains: HB 1222
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- Property, state or municipal, sale or lease to Indian tribes: **\*EHB 1409, CH 259 (2011)**, SB 5208
- Real estate excise tax, additional taxing authority: SB 5755
- Real estate excise taxes, county and city, limitations on amount to be used for operations and maintenance of capital projects: **\*HB 1953, CH 354 (2011)**
- Regulatory and statutory requirements for counties, delaying or modifying certain requirements to provide fiscal relief: **\*ESHB 1478, CH 353 (2011)**, SB 5360
- Roads, vacation by country road administration board, landowner petitions for vacation and abandonment of frontage: SB 5413
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- Rural county investment projects, eligibility of certain business projects for tax credits: SB 5734
- Sales and use taxes, use for chemical dependency and mental health treatment, as well as therapeutic courts: SB 5559
- Special MLK workforce housing, arts and preservation, convention and trade center, and community development fund, use of revenue: SHB 1997
- Special MLK workforce housing, arts and preservation, tourism, convention and trade center, and community development fund, use of revenues: ESB 5958, SB 5961
- Stadium tax on certain retail car rentals in county, deposit in special MLK fund: ESB 5958, SB 5961
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State environmental policy act, local government agencies to share lead agency responsibilities in certain cases: ESHB 1265

State environmental policy act, modifying categorical exemptions for development: SB 5657

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Traffic schools, county, using fees collected for cost of attending: \***HB 1473, CH 197 (2011)**

Urban growth areas, expansion into one hundred year floodplains: HB 1222

Urban growth areas, maximum residential density of unincorporated portion: SB 5421

Utilities, authority of county to impose county utility tax: SB 5441

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Bar association, membership fee, waiver for public agency attorneys: SB 5668

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Court reporters, court reporter and court reporter firm licensing provisions: SHB 1205

Court reporters, court reporting firm and agency licensing: SB 5052

Criminal history record information, privacy of nonconviction records: SB 5019

Criminal justice agencies, employees and workers, exemption of address in voter registration records from public disclosure: SB 5007

Declarations, uniform unsworn foreign declarations act, provisions: \***HB 1345, CH 22 (2011)**

District courts, judicial integrity surcharge for deposit in judicial election reform act fund: SB 5010

DUI courts, establishment: SHB 1167, \***E2SHB 1789, CH 293 (2011)**

Employees of state judicial branch, implementing three percent salary reduction: SB 5860

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Evidence, criminal informants, disclosure and regulation of evidence and testimony: SB 5004

Family court, appointment of guardian ad litem, special advocate, or investigator: HB 1021

Fee surcharges, imposition and use of certain surcharges for judicial branch funding: \***SB 5941, CH 44 (2011)**

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Superior court, adoption, report by dependency court attorney or guardian ad litem: HB 1021

Superior court, filing of claims for wrongful conviction and imprisonment: SB 5139

Superior court, subpoenas, authority of department of financial institutions: HB 1039, \***SB 5076, CH 93 (2011)**

Supreme court, campaigns, public funding through judicial election reform act: SB 5010

Supreme court, pro se defendants questioning victims, formulation of procedures by court: SHB 1001, SB 5014

Therapeutic courts, funding from local option sales tax to support: SB 5722

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- Aliens, unlawful transportation or harboring of, violation and penalty: SB 5338
- Animal cruelty, prevention and penalties: SB 5065
- Assault, inmate assault of correctional officer or department of corrections employee, civil judgments: **\*HB 1334, CH 282 (2011)**, SB 5030
- Assault, second degree, suffocation as: **\*SHB 1188, CH 166 (2011)**
- Assault, third degree, assault of various court-related employees: **\*HB 1794, CH 238 (2011)**, SB 5046
- Boards and commissions, crime-related, amending various provisions: SB 5790
- Campaign disclosure laws, provisions concerning violations and penalties: SB 5021
- Cannabis, eliminating penalties for possession and consumption: SB 5598
- Commercial sexual exploitation of children, investigating, use of informants who are alleged victims: **\*SHB 1874, CH 241 (2011)**, SB 5545
- Dogs, unlawful tethering and inhumane treatment: SB 5649
- Domestic violence offenses, repetitive, offender scores: **\*SHB 1188, CH 166 (2011)**
- Felony, person charged with, determination of citizenship status: SB 5338
- Felony, wrongful conviction and imprisonment for, claims for compensation and damages against the state: SB 5139, SB 5460
- Firearms, juvenile firearms and weapons crimes, provisions: SB 5313
- Firearms, noise suppressors, legal use restrictions: **\*HB 1016, CH 13 (2011)**, SB 5112
- Firearms, unlawful carrying or handling, on premises of higher education institution or at college-sponsored event: SB 5592
- Force, use in self-defense, provisions concerning lawful use: SB 5418
- Gangs, criminal street gang prevention and intervention programs, grants for local projects: SB 5799
- Gangs, criminal street gang-related offenses: SB 5799
- Harassment, of criminal justice participants, description and definition: **\*E2SHB 1206, CH 64 (2011) PV**
- Harassment, protection orders and other provisions, revising: SHB 1626, SB 5579
- Homeless persons, victimization of, sentences outside standard range: **\*SB 5011, CH 87 (2011)**
- Human trafficking, sexual exploitation of children, investigating with help of informants who are alleged victims: **\*SHB 1874, CH 241 (2011)**, SB 5545
- Human trafficking, sexual exploitation, revising classification and description of crime: SB 5546
- Human trafficking, victims and their families, using existing funding to provide housing: **\*SB 5482, CH 110 (2011)**
- Intimidating a witness, unit of prosecution: **\*HB 1182, CH 165 (2011)**
- Livestock, killing or harming with malice when livestock belongs to another person, class C felony: **\*SHB 1243, CH 67 (2011)**
- Mail theft, theft of mail and possession of stolen mail to be class C felonies: **\*SHB 1145, CH 164 (2011)**, SB 5060
- Marijuana, eliminating penalties for possession and consumption: SB 5598
- Medicaid theft, class B felony, penalty: SB 5960
- Misdemeanors, gross, reducing sentence by one day: SB 5168
- Motorcycle theft tools, possession, criminalizing as gross misdemeanor: SHB 1542
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- Prostitution crimes, increasing fee assessments: SB 5813
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- Service animals, interfering with, provisions and definition of service animal: **\*SHB 1728, CH 237 (2011)**, SB 5680
- Shark finning activities to constitute unlawful trade in shark fins, penalties: SB 5688
- Small loans, making unlicensed loans, increasing criminal penalty: HB 1805
- Tampering with a witness, unit of prosecution: **\*HB 1182, CH 165 (2011)**
- Vehicle prowling, second degree, class C felony in certain cases: SB 5154
- Voters' pamphlets, false statements of material fact in, violation and penalty: SB 5655
- Weapons, juvenile firearms and weapons crimes, provisions: SB 5313
- Wildlife, killing or harming with malice, class C felony: **\*SHB 1243, CH 67 (2011)**

**CRIMINAL JUSTICE TRAINING COMMISSION**

- Motorcycles, profiling by law enforcement, defining and addressing: **\*ESB 5242, CH 49 (2011)**

**CRIMINAL OFFENDERS (See also BAIL AND BAIL BONDS; CRIMINAL PROCEDURE; INDETERMINATE SENTENCE REVIEW BOARD; JUVENILE COURT AND JUVENILE OFFENDERS; SENTENCING; SEX OFFENSES AND OFFENDERS)**

- Adult offender supervision, interstate compact for, examination and addressing of issues: \***SHB 1438, CH 135 (2011)**
- Alien offenders, deportation: \***ESHB 1547, CH 206 (2011) PV**, SB 5140
- Animal abuser registry, requirements: SB 5144
- Booking photographs and electronic images, at jails, to be open to the public: SB 5721
- Booking photographs, at jails, to be open to the public: SHB 1689
- Chemical dependency, helping persons with, improving collaboration between providers, service delivery, law enforcement, and criminal justice agencies: SB 5452
- Civil actions by offenders in correctional facilities, restricting ability to initiate legal claims: \***SHB 1037, CH 220 (2011)**, SB 5024
- Criminal history record information, privacy of nonconviction records: SB 5019
- Criminally insane, persons committed as, conditional release to county of origin: SB 5105
- Deferred prosecution, criminal history or court record information, prohibiting dissemination after successful completion of program: SB 5591
- Developmental disabilities, offender with, mental health courts and transfer communication requirements: \***SHB 1718, CH 236 (2011)**
- DNA identification system, collection of samples from adults arrested for a violent offense or sex offense: SB 5240
- DNA identification system, offender payment of fee to help offset costs for collection of samples: \***2SHB 1153, CH 125 (2011)**
- Early release, reducing sentences for certain offenders to reduce correctional costs: SB 5866
- Firearms, right to possess, petitioning to restore: \***HB 1455, CH 193 (2011)**
- First time offender waiver, offenders sentenced to, revising terms of supervision: SB 5875
- Inmate assault of correctional officer or department of corrections employee, civil judgments: \***HB 1334, CH 282 (2011)**, SB 5030
- Insanity, persons acquitted by reason of, exclusion from benefitting from unlawful killing: SB 5103
- Interstate compact for adult offender supervision, examination and addressing of issues: \***SHB 1438, CH 135 (2011)**
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Victims, questioning by pro se defendants, procedures: SB 5014

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Service animals, interfering with, provisions and definition of service animal: \***SHB 1728, CH 237 (2011)**, SB 5680

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Civil marriage licenses, right of all couples to obtain: SB 5793

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 Family leave insurance program, delaying implementation: SB 5091, \***ESSB 5091, CH 25 (2011)**  
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 Vulnerable adult and elder referral agencies, regulation: \***ESHB 1494, CH 357 (2011)**

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Medical assistance, transfer of medical assistance and medicaid purchasing to health care authority: \***2E2SHB 1738, CH 15 (2011)**, SB 5477

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Mental health disorders, helping persons with, improving collaboration between providers, service delivery, law enforcement, and criminal justice agencies: SB 5452

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Nursing homes, employment of physicians by, conditions: \***SHB 1315, CH 228 (2011)**

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Pregnant women assistance program, creation in connection with termination of disability lifeline program: **\*ESHB 2082, CH 36 (2011)**

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Department of education, creation as an executive branch agency: SB 5639

Economic policy, state agency and local government rule making to consider economic impact: **\*SB 5500, CH 249 (2011)**

Education, department of, creation as an executive branch agency: SB 5639

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Cosmetic surgery, imposing sales and use tax to fund basic health plan enrollment: SB 5816

County sales and use taxes, use for chemical dependency and mental health treatment, as well as therapeutic courts: SB 5559

Exemptions, repealing various: SB 5857, SB 5947

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Fishing charter vessels, bait used by, sales and use tax exemption: SB 5290

Fuel, use of motor vehicle and special fuel, exemption for fuel purchased for state-owned ferries: SB 5742  
 Joint municipal utility services authorities, exemption for certain sales, uses, and transfers: **\*ESHB 1332, CH 258 (2011)**  
 Local sales and use, authorizing city utility infrastructure tax for certain small cities: SB 5683  
 Local sales and use, certain retail sales and uses of food and beverages, deposit of proceeds in special MLK fund: ESB 5958, SB 5961  
 Local sales and use, funding for parks, recreation, trails, and open space allocation: SB 5786  
 Local sales and use, hospital benefit zone provisions: SB 5525  
 Local sales and use, imposition by public speedway authority with taxpayer credit against state sales and use tax: SB 5856  
 Local sales and use, lowering annexed area population threshold for tax to offset municipal service costs: **\*ESHB 1478, CH 353 (2011)**  
 Local sales and use, proceeds for certain public facilities in innovation partnership zones: SB 5401  
 Local sales and use, retail car rentals, deposit of proceeds in special MLK fund: ESB 5958, SB 5961  
 Local sales and use, retail car rentals, deposit of revenue in special account: SHB 1997, ESB 5958, SB 5961  
 Local sales and use, special stadium taxes, deposit of revenues in special MLK fund: ESB 5958, SB 5961  
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 Zoological facilities, exemption for use of certain objects by zoological facilities: SB 5391

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 Traffic safety, promoting through regulation of yellow change interval and other matters: SB 5301  
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 Smoking in vehicles containing children, prohibition: SB 5016  
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 Budget, 2009-2011 and 2011-2013: **\*ESHB 1175, CH 367 (2011) PV**  
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 Budgets, requirements, department to present proposed budget to legislature biennially: SB 5128  
 Bus rapid transit, local planning requirements when part of high capacity transportation system planning: **\*EHB 1171, CH 127 (2011)**  
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 Funding for transportation services, adjustments to fees for drivers and motor vehicles to provide: ESHB 2053, SB 5925  
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Express toll lanes, system for I-405 and SR-167 corridor, commission to conduct traffic and revenue analysis: **\*EHB 1382, CH 369 (2011)**  
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Facilities, electric generating, narrowing utility purchase requirement: SB 5964

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